

AGREEMENT
for
MECHANICAL, ELECTRICAL AND PLUMBING (MEP) ENGINEERING SERVICES
on
MISCELLANEOUS MINOR PROJECTS OF LIMITED SCOPE
for
HEALTHCARE FACILITIES

MD Anderson Agreement No. _____

This Agreement is made as of _____, 201__ (the “Effective Date”), by and between:

The Owner: The University of Texas M. D. Anderson Cancer Center
 c/o Sourcing and Contract Management
 7007 Bertner, Suite 10.3212
 Houston, Texas 77030

and

The Engineer: _____

This Agreement is for the provision of miscellaneous mechanical engineering services, electrical engineering services, plumbing engineering services, or some combination thereof, for renovation, repair, minor construction and maintenance projects, and other miscellaneous engineering assignments (“Project(s)”) of limited scope, to be performed on a non-exclusive, indefinite quantity basis, as requested by Owner in accordance with the terms of this Agreement. Engineer represents that Engineer has the knowledge, ability, skills and resources to provide such services in accordance with the terms and requirements of this Agreement.

Owner and Engineer agree as follows:

ARTICLE 1
TERM OF AGREEMENT

1.01 **Initial Term:** The initial term of this Agreement shall begin on the Effective Date and shall expire twenty-four (24) months after that date unless renewed or terminated in accordance with the terms of this Agreement.

1.02 **Renewal Option:** Owner has the option to renew the term of this Agreement for three (3) successive twelve (12) month periods upon written notice to Engineer at least sixty (60) days prior to the expiration of the initial term or any subsequent renewal term.

1.03 **Completion of Work in Progress:** Owner has the option to extend the term of this Agreement, or any renewal term, as necessary for Engineer to complete work on any project approved by Owner prior to the expiration of this Agreement.

ARTICLE 2 MAXIMUM AUTHORIZED CONTRACT SUM

2.01 **Maximum Contract Sum:** The overall maximum value of this contract is indefinite, subject to the contractual authority delegated by The University of Texas System Board of Regents to Owner, which is set at \$5,000,000. Allowable fees and expenditures for each specifically authorized Project will be set forth in a Purchase Order issued by Owner to Engineer. Invoices for authorized services performed by Engineer shall not exceed the amounts established for any portion of the authorized services. Established amounts shall not be increased except by mutual agreement between Owner and Engineer and confirmed by a revised Purchase Order issued by Owner to Engineer.

2.02 **No Minimum Amount of Work:** Owner makes no representations regarding the amount or type of services, if any, that Engineer will be asked to provide to Owner during the term(s) of this Agreement. It is expressly understood that Owner is under no obligation to request any services from Engineer and no minimum amount of work is required or contemplated under this Agreement. All service requests will be made by Owner on an as-needed basis, subject to future agreement on the scope of the work and the fee.

ARTICLE 3 SCOPE OF SERVICES

3.01 **In General:** Engineer agrees to provide engineering and related technical services on a per-project basis as requested by Owner in accordance with the terms of this Agreement. These services are generally described as, but are not limited to, mechanical, electrical, plumbing (MEP) engineering services, or some combination thereof, for the renovation, alteration, repair or maintenance of Owner's healthcare and related administrative office facilities and their infrastructure systems or portions thereof, which generally include inpatient and outpatient – also referred to as ambulatory clinical – facilities. Services to be provided are expected to be those associated with mechanical engineering, electrical engineering, plumbing engineering, as well as their respective traditional sub-disciplines. Depending on the nature of the Project, needed services may include but will not necessarily be limited to:

- engineering design or conceptual design, including the preparation, or supervising and controlling the preparation, of drawings and specifications, for a specific Project to renovate, alter, repair, or maintain Owner's facilities, associated infrastructure equipment or system, or a portion thereof;
- engineering design coordination or conceptual design coordination to include the review and coordination of technical submissions prepared by others, including the work of other professionals working with or under the direction of Engineer or Owner for a specific Project with regard for the ability of each professional involved in the multidisciplinary effort;
- recommending and overseeing construction or maintenance project delivery systems appropriate to the nature of the Project;
- observing the renovation, alteration, repair or maintenance construction or installation work to evaluate conformance with engineering plans and specifications;
- services associated with the assembly, review and acceptance of operating or maintenance manuals;

- consultation, investigation, evaluation, analysis, planning, engineering for program management, providing expert opinions, completing studies and providing technical reports, testing or evaluating materials for construction or other engineering use;
- consulting, investigating, and analyzing the design, form, materials, and construction technology to be used for the renovation, alteration, repair or maintenance of Owner's healthcare facilities and providing expert opinion as necessary;
- any other service necessary for the planning, progress, or completion of any of the engineering services generally described above.

3.02 **Project Scope:** The specific scope of work for each Project shall be determined in advance and in writing between Owner and Engineer.

3.03 **Project RFP:**

3.03.1 Owner will prepare a Project Request for Proposal ("Project RFP") identifying the Project by describing, in general, the intended scope and character of the Project or assignment, the preliminary cost estimate (when appropriate and available), the schedule for the Project, the services to be provided by Engineer, and, when appropriate to the nature of the Project and services to be rendered, the maximum amount Owner is willing to pay to a contractor to complete the construction or installation work needed to complete the Project ("Construction Cost Limitation" or "CCL").

3.03.2 In lieu of issuing a Project RFP, Owner may elect to provide the initial scope definition by preparing the initial draft of the Project Proposal, a form for which is included as an Exhibit hereto, and submitting it to Engineer.

3.04 **Project Proposal:**

- 3.04.1 In response to a Project RFP, Engineer shall provide Owner with a written Project Proposal. The Project Proposal shall include the following:
- a. A narrative description of Engineer's understanding of the required scope of services;
 - b. A detailed statement of the services to be provided by Engineer including, when appropriate to the nature of the project or assignment, whether each particular service is considered by Engineer to be a Basic Service or an Additional Service, and a list of deliverables;
 - c. A description of particular phases of the scope of the services, if applicable;
 - d. A Fee Proposal detailing:
 1. the total fee for providing the Basic Services expressed as a "not-to-exceed" amount;
 2. the total fee for providing Additional Services expressed as a "not-to-exceed" amount; and
 3. the total estimated amount for Reimbursable Expenses;
 - e. A proposed date to commence providing the services;
 - f. A list of all consultants, persons and firms that Engineer proposes to use in the performance of Engineer's scope of services;
 - g. A schedule of hourly billing rates for any consultants that Engineer proposes to use in the performance of Engineer's scope of services;

- h. A HUB Subcontracting plan, if required;
- i. Any qualifications or conditions applicable to the Project Proposal; and
- j. A summary statement of the amount of all previous Projects initiated under this Agreement as of the date of the Project Proposal.

3.04.2 For Projects for which Owner has prepared the initial draft of the Project Proposal as the means for providing the initial scope definition, Engineer shall clearly and conspicuously mark the draft Project Proposal and submit it to Owner for approval of any proposed modifications.

3.05 **Project Proposal Review:** Owner and Engineer shall review Engineer's Project Proposal and negotiate any changes, clarifications or modifications thereto. Engineer shall submit a revised Project Proposal incorporating any changes, clarifications or modifications made in the review process. Owner may accept, reject or seek modification of any Project Proposal.

3.06 **Notice to Proceed:** Upon approval of a Project Proposal by Owner, Owner will issue a written Purchase Order to Engineer. Subsequent to or concurrent with the issuing of the Purchase Order, Owner will issue a written Notice to Proceed, which will authorize Engineer to begin rendering the services identified in the Project Proposal on the date specified in the Notice to Proceed. The Notice to Proceed will include the Purchase Order number specific to the Project.

ARTICLE 4 ENGINEER'S GENERAL SERVICES AND RESPONSIBILITIES

4.01 **Project Manager:** Engineer shall manage Engineer's services and administer any Project authorized pursuant to this Agreement. Engineer shall provide and/or coordinate all services necessary and reasonably inferable for the complete performance of any Project authorized pursuant to this Agreement.

4.02 **Standard of Care:** Engineer agrees to use its best professional efforts, skill, judgment, and abilities to perform Engineer's services in an expeditious and timely manner as is consistent with professional standards of care and the orderly progress of any Project authorized pursuant to this Agreement. Engineer shall at all times provide a sufficient number of qualified personnel to fulfill Engineer's obligation to provide services within the time limits set forth in the Project schedule.

4.03 **Compliance with Laws:** Engineer shall endeavor to perform Engineer's services in compliance with all applicable national, federal, state, and municipal laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction over a specific Project.

4.04 **Existing Conditions:** Engineer shall use reasonable efforts to verify the accuracy and suitability of any drawings, plans, sketches, instructions, information, requirements, procedures, requests for action, and other data supplied to Engineer by Owner, or any other party, that Engineer uses in rendering services for a specific Project.

4.05 **Correction of Work:** Engineer's services shall be reasonably accurate and free from material errors or omissions. Upon notice, Engineer shall promptly correct any known or discovered error, omission, or other defect without any additional cost or expense to Owner.

4.06 **Phasing:** Engineer shall not proceed beyond any previously authorized phase of the services for a Project unless authorized by Owner in writing, except at Engineer's own financial risk. Applicable phases of the scope of services shall be identified in the Project Proposal.

4.07 **Representative:** Engineer shall designate a representative primarily responsible for Engineer's services under this Agreement. The designated representative shall act on behalf of Engineer with respect to all phases of Engineer's services and shall be available as required for the benefit of any Project and Owner. The designated representative shall not be changed without prior approval of Owner, which approval shall not be unreasonably withheld.

4.08 **Documentation:** Engineer shall fully document its Project activities, in drawings, reports or other methods as appropriate to the nature and scope of each specific Project and as identified in the Project Proposal. Engineer shall bear the cost of providing all plans, specifications and other documents used by Engineer and its consultants.

4.09 **Owner's Design Guidelines and Master Construction Specification:** Unless otherwise expressly approved by Owner's Executive Director of Facilities Planning, Design and Construction, for each Project implemented under this Agreement Engineer shall adhere to requirements set forth in Owner's Design Guidelines and Master Construction Specifications in effect as of the date Owner issues the Project RFP to Engineer.

ARTICLE 5 OWNER'S RESPONSIBILITIES

5.01 **Project Scope Definition:** Generally, as provided above, for each Project Owner will initiate the Project scope definition process by submitting a Project RFP to Engineer.

5.02 **Representative:** In the Project RFP, Owner will designate an individual to serve on Owner's behalf as the administrator for the Project. Owner designates and authorizes its Executive Director of Facilities Planning, Design and Construction, or her or his designee, as Owner's representative for the purpose of administering this Agreement.

5.03 **Special Information:** Owner shall furnish available property, boundary, easement, right-of-way, topographic and utility surveys; plans and specifications; and special data and conditions relevant to a given Project. Owner shall furnish other special investigations of the Project site as requested by Engineer and as reasonably necessary for the Project. Engineer shall exercise reasonable care in relying upon this information in the performance of its services under this Agreement. Owner makes no warranties or representations as to the accuracy or suitability of information provided to Engineer by Owner or by others.

5.04 **Entry on Land:** Owner shall assist Engineer in gaining entry to state owned or controlled property as necessary for Engineer to perform its services under this Agreement.

5.05 **Administrative Services:** Owner shall furnish all legal, accounting, auditing and insurance counseling services that it requires for each Project to be implemented under this Agreement and for the administration of this Agreement.

5.06 **Review of Services:** Owner will review Engineer's documents at the completion of each stage of development as described in the Project Proposal. Owner's review comments or decisions regarding the documents will be furnished to Engineer in a reasonably prompt manner. Owner will notify

Engineer in writing of any material error or omission or other defect in the services or documents provided or any conflict in the documents of which Owner becomes aware, but Owner shall have no obligation or duty to investigate whether such faults, defects, or conflicts exist.

5.07 **Time for Response:** Owner shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of Engineer's services and of the work associated with a specific Project.

ARTICLE 6 ACCEPTANCE OF SERVICES

6.01 **Owner's Satisfaction:** All services provided for a Project being implemented under this Agreement shall be completed to the satisfaction of Owner's representative designated for that Project. Owner's representative shall decide all questions regarding Engineer's performance under this Agreement as it relates to that Project and such decisions shall be final and conclusive.

6.02 **Correction of Services:** Should Engineer's services not conform to the requirements of this Agreement and the Project Proposal as determined by Owner's Project representative, Owner's Project representative may order Engineer to re-perform such services at no additional expense to Owner or deduct the fees for such services from any other fees payable to Engineer under the terms of this Agreement.

6.03 **Liability:** Owner's approval or acceptance of Engineer's services will not release Engineer from any liability for such services because Owner is, at all times, relying upon Engineer's skill and knowledge in performing Engineer's services.

ARTICLE 7 COMPENSATION FOR SERVICES RENDERED

7.01 **Owner's Approval Required:** Owner agrees to pay Engineer for those services rendered at Owner's specific request, in advance and in writing.

7.02 **Scheduled Billing Rates:** Attached as an Exhibit, and incorporated herein, is Engineer's Schedule of Billing Rates, including hourly billing rates and/or per service billing rates as applicable. The Billing Rates include all costs for any identified services and Engineer shall not be entitled to any additional compensation for providing those services. The Schedule of Billing rates shall remain in full force and effect for the term of this Agreement, including all renewal terms.

7.03 **Basic Services:** For Basic Services rendered in connection with any project authorized pursuant to this Agreement, Engineer shall be compensated as follows:

7.03.1 For Projects for which Owner establishes a Construction Cost Limitation, Owner shall compensate Engineer an amount equal to the CCL times an agreed fee percentage, with said agreed fee percentage being as proposed by Engineer in the Project Proposal and accepted by Owner but no greater than the maximum fee percentage allowed as set forth in the Architect/Engineer Fee Schedule included as an Exhibit hereto.

7.03.2 For Projects for which Owner does not establish a CCL, Engineer shall be compensated on an hourly rate basis or on a per-service fee basis in accordance with Engineer's Project Proposal, up to the maximum "not-to-exceed" amount approved in Engineer's Project Proposal and as confirmed in the subsequent Purchase Order issued by Owner to Engineer.

7.04 **Additional Services:** Additional Services are services not identified or reasonably inferable as Basic Services included in a Project Proposal. Additional Services shall be provided only if authorized or confirmed in writing by Owner. For approved Additional Services provided in connection with any Project implemented pursuant to the terms of this Agreement, Engineer shall be compensated on an hourly rate basis or on a per-service fee basis in accordance with Engineer's Additional Services Proposal, up to the maximum "not-to-exceed" amount approved in Engineer's Additional Services Proposal, as confirmed in the subsequent revised Purchase Order issued by Owner to Engineer.

7.05 **Consultant Costs:** Unless approved in advance by Owner, Engineer shall pay for all consultant services and costs associated with Engineer's services under this Agreement, whether Basic Services or Additional Services, out of Engineer's fees. Owner is not responsible for any such consultant fees or costs unless otherwise agreed to in writing.

ARTICLE 8 REIMBURSABLE EXPENSES

8.01 **Reimbursable Expenses:** Reimbursable Expenses are in addition to compensation for Basic Services and Additional Services. These include actual out-of-pocket reasonable expenditures made by the Engineer and the Engineer's employees and consultants incurred solely and directly in connection with Engineer's performance of its services hereunder. Reimbursable Expenses recoverable by Engineer under this Agreement are limited to the following:

- a. Expenses in connection with out-of-state travel, including coach class air fare and reasonable living expenses, as directed and approved in advance and in writing by Owner. Said expenses to be reimbursed per Owner's Rider 107, Travel Policy, a copy of which is included as an Exhibit hereto;
- b. Expenses in connection with in-state travel, including reasonable travel and living expenses, for Engineer's employees and consultants when a Project is located more than 50 miles from the place where they are usually and customarily assigned, but only as directed and approved in advance and in writing by Owner. Said expenses to be reimbursed per Owner's Rider 107, Travel Policy, a copy of which is included as an Exhibit hereto;
- c. Fees paid for securing approval of authorities having jurisdiction over a particular Project;
- d. Expenses of reproductions, printing, collating, postage and handling of drawings, specifications, reports and other documents or other Project related work product, but excluding plotting costs of drawings, reproductions for the use of Engineer and Engineer's consultants as well as up to three (3) review sets as necessary for progress reviews by Owner in accordance with the Project Proposal.

- e. Communication expenses such as long distance telephone, facsimile transmissions, express delivery charges and postage that are directly attributable to a particular Project;
- f. Disbursements made by Engineer under approved subcontracts if approved in advance and in writing by Owner;
- g. Reasonable costs for rental or use of special equipment, tools, and electronic data processing equipment required in connection with a particular Project if approved in advance and in writing by Owner;
- h. Expense of any additional insurance coverage or limits, requested by Owner but excluding professional liability and errors and omissions insurance required under this Agreement, that exceed those normally carried by Engineer and Engineer's consultants;
- i. Expenses not allowed for reimbursement include alcoholic beverages, laundry, valet service, entertainment and any expenses not directly related to the implementation of a specific Project. All tips must be included within the per diem allowances.

8.02 Compensation for Reimbursable Expenses: Engineer and its employees and consultants, shall be compensated for the actual, out-of-pocket, reasonable costs for all approved Reimbursable Expenses that are incurred solely and directly in connection with the performance of Engineer's services and duties under this Agreement or in the interest of any particular Project. Engineer shall submit receipts for all expenses along with any reimbursement request. Owner shall not pay a mark-up on Reimbursable Expenses. Unless expressly directed and approved in advance in writing by Owner, Engineer shall not invoice Owner for any Reimbursable Expense which is not expressly listed in this Article.

8.03 Proposal Costs Not Recoverable: Engineer is solely responsible for any expenses or costs, including expenditures of time, incurred by Engineer and its employees and consultants in the development of Project Proposals or Additional Services Proposals. Such expenses or costs are not Reimbursable Expenses.

ARTICLE 9 REQUESTS FOR PAYMENT

9.01 Monthly Statements: Unless Owner and Engineer expressly agree otherwise, for each Project implemented under this Agreement Engineer shall submit a monthly record or statement of services rendered under this Agreement identifying all fees earned and Reimbursable Expenses incurred in the previous month. Statements shall be submitted in a format approved by Owner and must contain at least the following information:

- a. Owner's Project Name and Owner's Project Number;
- b. Owner's Agreement Number;
- c. Owner's Purchase Order Number;
- d. Engineer's Tax Identification Number;
- e. Name of Owner's Project Representative;
- f. Identification of billing period, by calendar month, to which the statement applies;

- g. Itemized description of services provided including the names, billing rates and amount of time per task expended by all persons who performed services on the Project during the billing period;
- h. Completion status of Project by percentage;
- i. Total amount of payment requested;
- j. Total amount of prior requests for payment and Purchase Order Amount;
- k. Copy of all receipts in support of any Reimbursable Expenses for which Engineer requests compensation.

9.02 Limited to Owner's Purchase Order Amount: For each Project, it is the responsibility of Engineer not to provide services or submit requests for payment that exceed Owner's Purchase Order Amount. Services provided, and/or expenses incurred that exceed Owner's Purchase Order Amount will be at Engineer's financial risk and Owner shall not be obligated to compensate Engineer for any such services or expenses.

9.03 Prompt Payment by Owner: For purposes of Texas Government Code § 2251.021(a)(2), the date the performance of service is completed is the date when Owner's Project representative approves the Engineer's request for payment. Payment shall be made within 30 days of Owner's approval.

9.04 Submittal of Requests for Payment: Requests for payment shall be submitted to:

MD Anderson Cancer Center
 Accounts Payable – Box 199
 P. O. Box 301401
 Houston, TX 77230-1401
 The email address is: mdaccap@mdanderson.org

9.05 Exceptions to Payment: Regardless of any other provision of this Agreement, Owner shall not be obligated to make any payment requested by Engineer under this Agreement if any of the following conditions precedent exist:

- a. Engineer is in breach or default under this Agreement;
- b. The requested payment includes services not performed in accordance with this Agreement; provided, however, payment shall be made on the balance of the services that are performed in accordance with this Agreement;
- c. The total of Engineer's requests for payment exceed Owner's Purchase Order Amount;
- d. Engineer has failed to make payments promptly to consultants or other third parties used in connection with the services for which Owner has made payment to Engineer;
- e. Engineer becomes insolvent, makes a general assignment of its rights or obligations for the benefit of its creditors, or voluntarily or involuntarily files for protection under the bankruptcy laws; or
- f. If Owner, in its good faith judgment, determines that the balance of unpaid compensation for a specific Project is insufficient to complete the services required under this Agreement for that Project.

9.06 Partial Payment: No partial payment by Owner shall constitute or be construed as final acceptance or approval of any services or as a release of any of Engineer's obligations or liabilities with respect to such services.

9.07 **Prompt Payment by Engineer:** Engineer shall promptly pay all bills for labor and material performed and furnished by others in connection with the performance of the services.

9.08 **Final Payment and Release:** The acceptance by Engineer or Engineer's successors of final payment under this Agreement, shall constitute a full and complete release of Owner from any and all claims, demands, and causes of action whatsoever that Engineer or Engineer's successors have or may have against Owner pursuant to this Agreement except those claims specifically identified in writing by Engineer as unsettled at the time of the final request for payment.

ARTICLE 10 ACCOUNTING RECORDS

10.01 Engineer shall maintain records of costs, expenses and billings pertaining to services performed under this Agreement in accordance with generally accepted accounting principles. Such records shall be available to Owner or Owner's authorized representative at mutually convenient times for a period of at least three (3) years after expiration or termination of this Agreement. Owner shall have the right to audit and to verify the details set forth in Engineer's billings, certificates, and statements, either before or after payment. The terms of this paragraph shall survive any termination of the Agreement.

ARTICLE 11 OWNERSHIP AND USE OF DOCUMENTS

11.01 All documents prepared by Engineer are instruments of service and shall remain the property of Engineer. Owner shall be permitted to retain copies, including reproducible copies, of all documents prepared by Engineer for information and reference in connection with Owner's use and occupancy of the Project. Owner shall have an irrevocable, fully paid-up perpetual license and right, which shall survive the termination of this Agreement, to use the documents, including the originals thereof, and the ideas and designs contained therein, for the completion of, and in connection with, the Project for which they were developed, regardless of Engineer involvement. The documents shall not be used by Owner or Engineer on other projects, except by agreement in writing.

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

ARTICLE 12 TERMINATION

12.01 **Termination for Cause:** This Agreement, any Project being implemented pursuant to the terms of this Agreement, or both may be terminated by either party upon ten (10) days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the terminating party and such failure is not fully cured prior to the expiration of the notice period. If a termination for cause under this section is later determined to be improper, the termination shall automatically convert to a termination for convenience under section 12.02 and Engineer's recovery for termination shall be strictly limited to the compensation allowable under section 12.03.

12.02 **Termination for Convenience:** This Agreement, any Project being implemented pursuant to the terms of this Agreement, or both may be terminated for convenience by Owner in whole or in part, upon at least ten (10) days' written notice to Engineer.

12.03 **Compensation:** In the event of termination not the fault of Engineer, Engineer shall be entitled to compensation for all services satisfactorily performed to the termination date, together with approved Reimbursable Expenses then due, provided Engineer delivers to Owner statements, accounts, reports and other materials as required for payment along with all reports, documents and other materials prepared by Engineer prior to termination.

ARTICLE 13 DISPUTE RESOLUTION

13.01 To the extent that it is applicable, the dispute resolution process provided for in Chapter 2260 of the Texas Government Code ("Chapter 2260") shall be used by Engineer to resolve any claim for breach of contract made by Engineer that is not resolved in the ordinary course of business between Engineer and Owner.

13.02 **Alternative Dispute Resolution Process.** Owner may establish a dispute resolution process to be utilized in advance of that outlined in Chapter 2260.

13.03 Nothing herein shall hinder, prevent, or be construed as a waiver of Owner's right to seek redress on any disputed matter in a court of competent jurisdiction.

13.04 In any litigation between Owner and Engineer arising from this Agreement or any Project implemented pursuant to the terms of this Agreement, neither party will be entitled to an award of legal fees or costs in any judgment regardless which one is deemed the prevailing party.

13.05 Nothing herein shall waive or be construed as a waiver of the State's sovereign immunity.

13.06 Neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Engineer, in whole or in part. Owner and Engineer agree that any periods set forth in this Agreement for notice and cure of defaults are not waived, delayed, or suspended by Chapter 2260 or this section.

13.07 In accordance with Chapter 2260, Owner designates its Chief Financial Officer as its representative for the purpose of reviewing Engineer's claim(s) and negotiating with Engineer in an effort to resolve such claim(s).

ARTICLE 14 INSURANCE

14.01 **Coverage:** Engineer shall carry such professional liability (errors & omissions) insurance, covering the services provided under this Agreement and other coverages as further described, acceptable to and approved by the Owner. The cost for such insurance will be at Engineer's sole expense, which shall not be considered a Reimbursable Expense. The insurance policy shall remain in force for a period of five (5) years beyond the final completion date of the last Project implemented under this Agreement. A Certificate of Insurance indicating the expiration date, and existence, of Engineer's insurance coverages

is required prior to commencement or continuation of performance of the services under this Agreement. Each request for payment by Engineer shall include the expiration date of the insurance. Engineer shall deliver to Owner replacement certificates not less than thirty (30) days prior to the expiration of any such insurance. If, however, Engineer fails to pay any of the renewal premiums for the expiring policies, Owner shall have the right (but not the obligation) to make such payments and set off the amount thereof against the next payment coming due to Engineer under this Agreement.

14.01.01 Professional Liability (Errors & Omissions) Insurance shall have limits of not less than \$1,000,000 each occurrence, \$3,000,000 aggregate. Such insurance shall cover all professional services rendered by or on behalf of Engineer and its consultants under the Agreement. Renewal policies written on claims-made basis will maintain the same retroactive date as is in effect at the inception of this Agreement. If coverage is written on a claims-made basis, Engineer agrees to purchase an Extended Reporting Period Endorsement, effective for two (2) full years after the expiration or cancellation of the policy. No professional liability policy written on an occurrence form will include a sunset or similar clause that limits coverage unless such clause provides coverage for at least two years after the expiration or cancellation of the policy.

14.01.02 On Site Insurance: For services performed on Owner's premises, Engineer shall furnish to Owner Certificates of Insurance as set forth below prior to the commencement of any work hereunder and shall maintain such coverage during the full term of the Agreement.

Worker's Compensation	Statutory Limits
Employer's Liability	
Bodily Injury by Accident	\$1,000,000 each accident
Bodily Injury by Disease	\$1,000,000 policy limit
Bodily Injury by Disease	\$1,000,000 each employee
Commercial General Liability	\$1,000,000 each occurrence \$2,000,000 aggregate
Business Auto Liability	
Combined Single Limit	Single Limit of \$1,000,000 each accident for owned, non-owned and hired vehicles

14.01.03 Notice of Cancellation: Required insurance shall not be cancelable without thirty (30) days' prior written notice to Owner.

14.02 Engineer shall include Owner as an additional insured on the General Liability policy, and the Worker's Compensation policy shall include a waiver of subrogation in favor of the Owner.

ARTICLE 15 INDEMNITY

15.01 Engineer shall hold Owner, The University of Texas System, and the Regents, officers, agents and employees of both institutions harmless and free from any loss, damage or expense arising out of any occurrence relating to this Agreement or its performance and shall indemnify Owner and The University of Texas System, their Regents, officers, employees, customers, agents, successors and assigns against any damage or claim of any type arising from the negligent or intentional acts or omission of Engineer, its employees, agents and/or assigns.

ARTICLE 16 HISTORICALLY UNDERUTILIZED BUSINESSES

16.01 Owner has adopted its Policy on Utilization of Historically Underutilized Businesses ("Policy"), which is included as an Exhibit hereto. Engineer, as a material provision of this Agreement, must comply with the requirements of the Policy and submit a HUB Subcontracting Plan for owner's approval for each Project for which Engineer's total compensation is to be \$100,000 or more. Engineer shall adhere to each approved HUB Subcontracting Plan. No changes to an approved HUB Subcontracting Plan can be made by Engineer without the prior written approval of Owner in accordance with the Policy.

All HUB forms are attached hereto as Rider 104B. Engineer's interest in this Agreement (including Engineer's duties and obligations under this Agreement, and the fees due to Engineer under this Agreement) may not be subcontracted, assigned, delegated, or otherwise transferred to a third party, in whole or in part, and any attempt to do so will (a) not be binding on Owner; and (b) be a breach of this Agreement for which Engineer will be subject to all remedial actions provided by Texas law, including Chapter 2161, *Texas Government Code*, and 34 *Texas Administrative Code* ("TAC") Chapter 20, §§20.101 – 20.108. The benefits and burdens of this Agreement are assignable by Owner.

Engineer agrees to maintain business records documenting its compliance with the HUB Subcontracting Plan ("HSP") and to submit a monthly compliance report to Owner in the format required by Texas Procurement and Support Services Division of the Texas Comptroller of Public Accounts or any successor agency (collectively, "TPASS"). Submission of compliance reports will be required as a condition for payment under this Agreement.

Changes to the HSP. If at any time during the term of this Agreement, Engineer desires to change the HSP, before the proposed changes become effective (a) Engineer must comply with 34 TAC Section 20.14; (b) the changes must be reviewed and approved by Owner; and (c) if Owner approves changes to the HSP, this Agreement will be amended to replace the HSP with the revised subcontracting plan. Except as specifically provided in the HSP, Engineer will not subcontract any of its duties or obligations under the Agreement, in whole or in part.

Expansion of the Work. If Owner expands the scope of the goods or services provided by Engineer under this Agreement through a change order or any other amendment, Owner will determine if the additional goods or services contain probable subcontracting opportunities not identified in the initial solicitation for this Agreement. If Owner determines additional probable subcontracting opportunities exist, Engineer will submit an amended subcontracting plan covering those opportunities. The amended subcontracting plan must comply with the provisions of 34 TAC Section 20.14 before (a) this Agreement may be amended to include the additional goods or services; or (b) Engineer may perform the additional goods or services. If Engineer subcontracts any of the additional subcontracting opportunities identified by Owner without prior authorization and without complying with 34 TAC Section 20.14, Engineer will be deemed to be in breach

of this Agreement and will be subject to any remedial actions provided by Texas law including Chapter 2161, *Texas Government Code* and 34 TAC Section 20.14. Owner may report nonperformance under this Agreement to the TPSS in accordance with 34 TAC Chapter 20, §§20.101 – 20.108.

ARTICLE 17 MISCELLANEOUS PROVISIONS

17.01 Appointment of Representative: Owner will designate a representative to act partially or wholly for Owner in connection with this Agreement, as well as a representative to act on Owner's behalf for each Project being implemented under this Agreement. Engineer shall coordinate its services for a particular Project solely through the representative designated by Owner for that Project.

17.02 Independent Contractor: Engineer acknowledges that it is engaged as an independent contractor and that Owner shall have no responsibility to provide Engineer or its employees with transportation, insurance or other fringe benefits normally associated with employee status. Engineer is responsible for all income taxes required by applicable law.

17.03 Confidentiality: Engineer shall treat any Owner supplied information or information pertaining to Owner's business as confidential and shall not disclose any such information to others except as necessary for the performance of this Agreement or as authorized by Owner in writing.

17.04 Successors and Assigns. Owner and Engineer, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to the terms and conditions of this Agreement. This Agreement is a personal service contract for the services of Engineer, and Engineer's interest in this Agreement, duties hereunder and/or fees due hereunder may not be assigned or delegated to a third party without written consent of Owner. The benefits and burdens of this Agreement are, however, assignable by Owner.

17.05 Subcontracting: Engineer agrees not to subcontract any part of the services to be rendered hereunder without the prior written consent of Owner. If subcontracting is permitted, Engineer must identify the subcontractor(s) to Owner prior to any subcontractor beginning work. Submission and approval of a Historically Underutilized Businesses (HUB) Subcontracting Plan is considered consent under this Article.

17.06 Loss of Funding: Performance by Owner under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of The University of Texas System (the "Board"), or both. If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then Owner shall issue written notice to Engineer and Owner may terminate this Agreement or any Project being implemented pursuant to the terms of this Agreement without further duty or obligation hereunder. Engineer acknowledges that appropriation, allotment, and allocation of funds are beyond the control of Owner.

17.07 Open Records: All information, documentation and other material submitted by Engineer may be subject to public disclosure under the Public Information Act, Texas Government Code Chapter 552.

17.08 Family Code Child Support Certification: Pursuant to Section 231.006, *Texas Family Code*, Engineer certifies that it is not ineligible to receive the award of or payments under this Agreement and

acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

17.09 Franchise Tax Certification. If Engineer is a taxable entity as defined by Chapter 171, Texas Tax Code (“Chapter 171”), then Engineer certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, or that Engineer is exempt from the payment of such taxes, or that Engineer is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.

17.10 Payment of Debt or Delinquency to the State: Pursuant to Sections 2107.008 and 2252.093, *Texas Government Code*, Engineer agrees that any payments owing to Engineer under this Agreement may be applied directly toward any debt or delinquency that Engineer owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

17.11 Taxes: The University of Texas System is a tax exempt State of Texas Agency under Chapter 151, Texas Tax Code and an institution of higher education. Engineer shall avail itself of all tax exemptions applicable to Engineer’s services or expenses.

17.12 Eligibility Certification. Pursuant to Section 2155.004, *Texas Government Code*, Engineer certifies that the individual or business entity named in this Agreement is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

17.13 Captions: The captions of paragraphs in this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

17.14 Severability: Should any provisions(s) of this Agreement be held invalid or unenforceable in any respect, that provision shall not affect any other provisions and this Agreement shall be construed as if the invalid or unenforceable provision(s) had not been included.

17.15 Waivers: No delay or omission by either party in exercising any right or power provided under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver of the right or power. A written waiver granted by either of the parties of any provision of this Agreement shall not be construed as a future waiver of that provision or a waiver of any other provision of the Agreement.

17.16 Force Majeure: No party shall be liable or responsible to the other for any loss or damage or for any delays or failure to perform under this Agreement due to causes beyond its reasonable control, including, but not limited to, acts of God, employee strikes, epidemics, war, riots, flood, fire, sabotage, terrorist acts or any other circumstances of like character.

17.17 Governing Law: This Agreement shall be construed, interpreted and applied in accordance with the laws of the State of Texas without regard for choice of law principles. All obligations of the parties created hereunder are enforceable in Harris County, Texas.

17.18 Entire Agreement. This Agreement constitutes the sole and only agreement between the parties with respect to the services contracted for and supersedes any prior understandings, written or oral. No modification, alteration or waiver of this Agreement or any of its provisions shall be effective unless in writing and signed by both parties. No course of prior dealings, no usage of trade, and no course of performance shall be used to modify, supplement or explain any terms used in this Agreement.

17.19 Ethics Matters/No Financial Interest. Engineer and its employees, agents, representatives, subcontractors and consultants have read and understand Owner’s Conflicts of Interest

Policy available at <http://www.mdanderson.org/about-us/compliance-program/conflict-of-interest-policy-no.-adm0255.pdf>, Owner's Standards of Conduct Guide available at <http://www.mdanderson.org/about-us/compliance-program/do-the-right-thing.pdf>, and applicable state ethics laws and rules available at www.utsystem.edu/ogc/ethics. Neither Engineer nor its employees, agents, representatives, subcontractors or consultants will assist or cause Owner's employees to violate Owner's Conflicts of Interest Policy, provisions described by Owner's Standards of Conduct Guide, or applicable state ethics laws or rules. Engineer represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

17.20 179 D Benefit Allocation. Owner may decide to seek the allocation of certain tax benefits pursuant to Section 179D of the Internal Revenue Code of 1986, as amended, (the "Code") through this Agreement with Engineer.

17.20.1 If the Owner and the Internal Revenue Service (IRS) determine that the Engineer is eligible to receive the 179D deduction allocation as a "Designer" for the purposes of Section 179D of the Code or that Engineer could otherwise profit financially from the monetization of the benefit (separately and collectively, the "Rebate"), Engineer hereby agrees to allocate to Owner a portion of the Rebate in an amount to be determined and contracted for on mutually agreeable terms when the value of the Rebate becomes ascertainable, net of associated costs realized by Owner and Engineer. At its sole discretion, Owner shall determine whether to receive its portion of the Rebate in cash, discounted Engineer fees or both.

17.20.2 Owner reserves the right to retain a third party consultant (the "Consultant") to manage and administer the process of obtaining and monetizing the Rebate derived from the Project(s).

17.20.3 Project Engineer agrees to cooperate in all reasonable respects with the Consultant's efforts to obtain and monetize any such Rebates derived from the Project(s) on behalf of the Owner. Certification of eligibility and negotiation of the Rebates should be facilitated by the Owner's 179D Consultant.

17.21 Disclosure of Interested Parties. By signature hereon, Engineer certifies that, if the value of this Agreement exceeds \$1 Million, it has complied with Section 2252.908 of the Texas Government Code and Part 1 Texas Administrative Code Sections 46.1 through 46.3 as implemented by the Texas Ethics Commission (TEC), if applicable, and has provided the Owner with a fully executed TEC Form 1295, certified by the TEC and signed and notarized by the Engineer.

ARTICLE 18 NOTICES

18.1 All notices, consents, approvals, demands, requests or other binding communications under this Agreement shall be in writing. Written notice may be delivered in person to the designated representative of Engineer or Owner; mailed by U. S. mail to the last known business address of the designated representative; or transmitted by fax machine to the last known business fax number of the designated representative. Mail notices are deemed effective three business days after the date of mailing. Fax notices are deemed effective the next business day after faxing.

18.2 The initially designated representatives of the parties for receipt of notices are as follows. Either party may change their designated representative for receipt of notices by written notice.

If to Owner:

Chris McKee
Vice President, Business Operations
1515 Holcombe Blvd., Unit 1495
Houston, Texas 77030

With Copies to:

William E. Bailey, J.D., C.P.A.
Executive Director, Facilities Finance
Operations and Facilities Management
6900 Fannin, Suite 11.1022
Houston, Texas 77030

If to Engineer:

Balance of page intentionally left blank. Signature page follows.

BY SIGNING BELOW, Engineer has executed and bound itself to this Agreement upon the execution of the Agreement by both parties. No modification, alteration or waiver of this Agreement or any of its provisions shall be effective unless in writing and signed by both parties. Substantive changes in the services generally to be provided by Engineer under this Agreement shall become effective only upon the execution of a written Amendment to this Agreement. Substantive changes in the services to be provided by Engineer or the compensation to be paid to Engineer for any Project implemented pursuant to the terms of this Agreement shall become effective only upon the issuance of a revised Purchase Order by Owner to Engineer. Only duly authorized representatives of Owner's Division of Supply Chain Management are authorized to award official agreements, execute amendments to this Agreement and issue Purchase Orders to bind Owner for any Project implemented pursuant to the terms of this Agreement.

SEAL:

[Engineer's Name]
(Engineer)

WITNESS:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

CONTENT APPROVED:

THE UNIVERSITY OF TEXAS
M. D. ANDERSON CANCER CENTER
(Owner)

Office of Vice President
Operations and Facilities Management

By: _____
(original signature)

By: _____
(original signature)

Name: Spencer Moore

Name: _____

Title: Vice President for Operations and Facilities
Management

Title: _____

Date: _____

Date: _____

EXHIBITS

Exhibit A -	Architect/Engineer Fee Schedule
Exhibit B -	Engineer's Schedule of Billing Rates
Exhibit C -	Project Request for Proposal Form
Exhibit D -	General Project Proposal Form
Exhibit E -	Design Project Proposal Form
Exhibit F -	Additional Services Proposal Form
Exhibit G -	Notice to Proceed Form
Exhibit H -	Statement of Services Rendered Form
Exhibit I -	Rider 104B, Policy on Utilization of Historically Underutilized Businesses
Exhibit J -	Engineer's Letter of HUB Commitment
Exhibit K -	Rider 105, Contractor's Affirmations and Warranties
Exhibit L -	Rider 106, Premises Rules
Exhibit M -	Rider 107, Travel Policy
Exhibit N -	Rider 117, Institutional Policies
Exhibit O -	Owner's Sales Tax Exemption Certificate
Exhibit P -	Execution of Offer

EXHIBIT A

ARCHITECT / ENGINEER FEE SCHEDULE

EXHIBIT A

ARCHITECT/ENGINEER FEE SCHEDULE

THE UNIVERSITY OF TEXAS SYSTEM
OFFICE OF FACILITIES PLANNING AND CONSTRUCTION

ARCHITECT/ENGINEER FEE SCHEDULE*
DECEMBER 1987

(*As modified for use with MD Anderson Indefinite Delivery/Indefinite Quantity (ID/IQ) programs for professional design services on projects with an estimated Total Project Cost of \$4 million or less.)

<u>Construction Cost of Project</u>	<u>Dormitories Garages Warehouses</u>	<u>Classrooms Offices Other Buildings</u>	<u>Health Research Special Education</u>
Over \$15,000,000	5.0%	5.5%	6.0% NOT USED
Up to 10,000,000	5.5%	6.0%	6.5%
Over 1,000,000	6.0%	6.5%	7.0%
Up to 200,000	7.0%	7.5%	8.0%

Remodeling and Renovation

Over \$5,000,000	7.0%	7.5%	8.0%
Over 1,000,000	8.0%	8.5%	9.0%
Up to 200,000	9.0%	9.5%	10.0%

NOTES:

- (1) This fee schedule is to be used to determine Engineer's compensation for Basic Services for Projects for which Owner has established a Construction Cost Limitation.
- (2) For Projects for which Owner has established a Construction Cost Limitation, the "Construction Cost of Project" will be the Construction Cost Limitation set forth in the Project RFP. When the Construction Cost Limitation falls between the tabular limits above, the fee percentage shall be determined by direct interpolation.
- (3) The agreed fee percentage for Basic Services shall not exceed the maximum fee allowed as interpolated from the appropriate Board of Regents table above.
- (4) For Projects for which Owner has established a Construction Cost Limitation, Engineer's compensation for Basic Services will be based on the Construction Cost Limitation, which may be adjusted – at Owner's sole discretion – to equal the contract amount accepted by Owner for construction or installation services, less any Owner allowances included therein, provided that the resulting fee, when expressed as a percentage of the actual construction (installation) contract amount, shall not exceed the maximum fee allowed as a percentage of the actual construction (installation) contract amount interpolated from the appropriate table above.
- (5) If the definition of Engineer's Basic Services for a particular Project is changed materially, the applicable fee percentage may be adjusted equitably, subject to the maximum fee limitation described above.

EXHIBIT B

ENGINEER'S SCHEDULE OF BILLING RATES

EXHIBIT C

PROJECT REQUEST FOR PROPOSAL FORM

REQUEST FOR PROJECT PROPOSAL

Date: [Month d, yyyy]

To: [Engineer]

Attn: [Engineer's representative]

From: [Sender's Name]
 [Sender's Position Title], and
 Owner's Project Representative

Ref.: Request for Project Proposal
 MD Anderson Project Name: [Enter MD Anderson project name]
 MD Anderson Project Number [Enter MD Anderson project number]
 MD Anderson Agreement No. [Enter MD Anderson agreement no.]

Pursuant to the terms of the referenced MD Anderson Agreement, Owner hereby requests a written Project Proposal for the project referenced above and further described below.

Project Location: Enter project location information

Scope of Work:

This Project shall include [provide general description of the nature of the Project and the services to be provided by Engineer.]

Initial Schedule: The initial key milestone dates for this Project are as follows:

Activity:	Date
Project Proposal Submitted	mm/dd/yy
Project Proposal Accepted	mm/dd/yy
Purchase Order Issued by Owner	mm/dd/yy
Project Start	mm/dd/yy
Project Complete	mm/dd/yy
Draft Documents Submitted to Owner	mm/dd/yy
Final Documents Submitted to Owner	mm/dd/yy

HUB Requirements: Owner anticipates that the Total Fee associated with this Project will be less than \$100,000. Therefore, Owner does not anticipate that a HUB Subcontracting Plan will be required for this Project. As set forth in Article 16 of the Agreement, in the event the proposed not-to-exceed Total Fee equals or exceeds \$100,000, the

Project Proposal must include a HUB Subcontracting Plan (HSP) for the proposed not-to-exceed amount for the Total Fee.

OR

Owner anticipates that the Total Fee associated with this Project will equal or exceed \$100,000 and has determined that subcontracting opportunities are probable in connection with this Project. As set forth in Article 16 of the Agreement, in the event the proposed not-to-exceed Total Fee equals or exceeds \$100,000, the Project Proposal must include a HUB Subcontracting Plan (HSP) for the proposed not-to-exceed amount for the Total Fee.

Additional Services: Within your Project Proposal, please expressly itemize and identify any services that you propose to provide as Additional Services. Your proposal is to include a description of the Additional Service to be provided and a detailed breakdown of the personnel, by Classification as listed in Exhibit B of the Agreement, who will be engaged in providing the Additional Service, the Hourly Rate for that Classification, an estimate of the number of work-hours that will be required in providing the Additional Service, and an extended line item amount. Your Project Proposal is to include a summary not-to-exceed amount for each proposed Additional Service and the detailed breakdown is to be included as an attachment to your Project Proposal.

Consultant Costs: Within your Project Proposal, please expressly itemize and identify any Consultant Costs that you propose not to be included within your proposed Basic Services Fees or Additional Services Fees. The Project Proposal is to include a summary amount for each such Consultant Cost and is to include a detailed breakdown for each such Consultant Cost as an attachment to the Project Proposal.

Reimbursable Expenses: Within your Project Proposal, please include a proposed not-to-exceed allowance for Reimbursable Expenses.

Please submit your Project Proposal, including any proposed adjustments to the Initial Schedule, to the undersigned no later than the date included in the Initial Schedule that is set forth above.

Attachments: [list attachments as appropriate]

Copy: [include a destination or path to where an image of this Request for Project Proposal is to be uploaded.]

Editorial guidelines:

- *Blue text indicates information to be provided by the project manager when preparing to issue this Request for Project Proposal to the Engineer.*
- *For the section on HUB Requirements, only one of the optional paragraphs should be included. The paragraph to be used will vary from project to project. All unused paragraphs should be deleted along with all "OR"s.*
- *All text color should be changed to **black**.*
- *All editorial guidelines, including these paragraphs, should be deleted prior to sending this document to the Engineer.*

EXHIBIT D

GENERAL PROJECT PROPOSAL FORM

[TO BE SUBMITTED ON ENGINEER'S LETTERHEAD]

INITIAL PROJECT PROPOSAL

MD Anderson Agreement Number: _____

MD Anderson Project Name: _____

MD Anderson Project Number: _____

Date Month d, yyyy

To: Owner's Representative: _____

Street Address: _____

City, State, Zip: _____

From: Engineer: _____

Street Address: _____

City, State, Zip: _____

Please refer to the Agreement with an Effective Date of _____ between MD Anderson Cancer Center ("Owner") and the undersigned ("Engineer") as amended to the date hereof (such agreement as so modified and amended being hereafter called the "Agreement") pursuant to which Engineer is to perform certain services. Capitalized terms used herein, which are defined in the Agreement, shall have the same meanings when used in this Project Proposal.

In response to Owner's Request for Project Proposal, dated _____, _____, Engineer proposes the following:

Basic Services:

[Using Exhibit B to the Agreement, identify the classifications for the personnel to be involved in providing Basic Services for the Project and the not-to-exceed amount of work-hours each person in that classification will be involved in the Project. Provide the not-to-exceed extended amount for each classification and the total not-to-exceed amount for Basic Services.]

Worker Classification	Hourly Rate	Not-to-Exceed Hours	Not-to-Exceed Extended Amt.
Total:			

Additional Services: Owner has requested the performance of the services described below which, in accord with the terms of the Agreement, Engineer proposes to provide as Additional Services. A detailed breakdown for each Additional Service summarized below is included as an attachment to this Project Proposal.

Description of Proposed Additional Service	Proposed Not-to-Exceed Amount
Proposed Not-to-Exceed Amount for Additional Services	

Consultant Costs: Engineer proposes to engage consultants, as described below, for this Project and proposes that the costs associated with these consultants not be included within the Basic Services or Additional Services Fees set forth above. A detailed breakdown for each of these Consultant Costs is included as an attachment to this Project Proposal.

Description of Proposed Consultant Cost	Proposed Not-to-Exceed Amount
Proposed Not-to-Exceed Amount for Consultants	

Reimbursable Expenses: Engineer anticipates incurring certain Reimbursable Expenses in completing the work associated with this Project. The estimate for these expenses is as follows:

Description of Reimbursable Expense	Proposed Not-to-Exceed Amount
Proposed Not-to-Exceed Amount for Reimbursable Expenses	

Project Schedule: Engineer will perform the services by the dates set forth in the Owner's Request for Project Proposal, except as follows.

Project Proposal Fee Summary:

Not-to-Exceed Amount for:	Proposed Amount
Basic Services Fee	
Additional Services Fee	
Consultant Costs	
Reimbursable Expenses	
Total Not-to-Exceed Amount for this Project Proposal	

Engineer

By: _____

Name: _____

Title: _____

Date: _____

Summary of Projects implemented under the Agreement through this Project Proposal:

	Basic Services	Additional Services	Consultant Costs	Reimbursable Expenses	Project Total
This Project Proposal					
Previous Project Proposals					
Totals:					

EXHIBIT E

DESIGN PROJECT PROPOSAL FORM

Click here to enter a date.

[Enter Engineer Company Name]

[Enter Street Address]

[Enter City, State Zip]

Attn: [Enter Engineer's Representative]

Re: Request for Project Proposal

[Enter MD Anderson Project Name]

[Enter MD Anderson Project Number]

Dear [Enter name of Engineer's Representative]:

As prescribed in MD Anderson Agreement Number [enter MD Anderson agreement No.] with [enter Engineer's firm name as it appears in the Agreement], (Engineer), The University of Texas MD Anderson Cancer Center (Owner) hereby requests a written Project Proposal to perform professional services for the project described in the attached Draft Project Proposal (Draft Proposal).

To expedite the development of the Project Proposal, Owner is providing certain key project information by way of the attached Draft Proposal. It is expected that [enter Engineer's firm name] will begin preparation of [enter Engineer's firm name] Project Proposal, by reviewing the Draft Proposal, requesting additional information as required to confirm [enter Engineer's firm name] understanding of the Project and the scope of services [enter Engineer's firm name] is to provide, updating the Draft Proposal in "Track Changes" mode, and submitting a red-lined version of the Draft Proposal as required to finalize the scope of the Project. Upon review and approval of the red-lined Draft Proposal by Owner, [enter Engineer's firm name] will submit the Project Proposal for formal acceptance by Owner.

Please do not hesitate to contact me should you have any questions on any of the above.

Sincerely,

[Enter name of MD Anderson Project Representative]

[Enter position title of MD Anderson Project Representative] and Owner's Project Representative

Attachments: Draft Project Proposal

cc: XXXXX

[To be submitted on Engineer's letterhead.]

Date: mm/dd/yyyy

To: The University of Texas MD Anderson Cancer Center
6900 Fannin, Suite _____
Houston, TX 77030

Attn: [Owner's Project Representative]

From: [Name of Engineer's Representative]
[Title] and Engineer's Representative

Ref.: MD Anderson Project Name: _____
MD Anderson Project No.: _____
MD Anderson Agreement No.: ____ - ____ - _____
Project Proposal

Pursuant to the terms of the referenced MD Anderson Agreement, Engineer hereby submits its Project Proposal for the project referenced above and further described below.

Project Location: [Enter project location information.]

Project Scope: [Enter general description of the project scope.]

Construction Cost Limitation: [Enter Construction Cost Limitation.]

Initial Schedule: The initial key milestone dates for this Project are as follows:

Activity:	Date
Proposal Submitted	mm/dd/yy
Proposal Accepted	mm/dd/yy
Purchase Order issued by Owner	mm/dd/yy
Pre-Design Report Completed	mm/dd/yy
Schematic Design Completed	mm/dd/yy
Design Development Completed	mm/dd/yy
Construction Documents Completed	mm/dd/yy
Construction Start	mm/dd/yy
Substantial Completion	mm/dd/yy
Final Completion	mm/dd/yy

HUB Requirements: Owner has determined that subcontracting opportunities are probable in connection with this Project. In the event the combination of your proposed fees for Basic Services and Additional Services and proposed allowance for Reimbursable Expenses (Fee Proposal) equals or exceeds \$100,000, the Proposal must include a HUB Subcontracting Plan (HSP) for the full amount of the Fee Proposal. The HSP

may indicate that all work associated with the Project will be self-performed. If the Fee Proposal is less than \$100,000, then you are not required to submit an HSP with your Proposal. The HSP for all items associated with the Fee Proposal for this Project shall be developed, submitted and administered in accordance with Owner's Rider 104-A, Policy on Utilization of Historically Underutilized Businesses (HUB). This HSP must be submitted to, and approved by, Owner before the Purchase Order for this Project can be formally issued.

Pre-Design Report: If a copy of the Owner's preliminary Pre-Design Report for this Project is attached. Engineer, as an Additional Service, is to review and assist the Owner's Representative in completing and obtaining final approval of the Pre-Design Report for the Project.

Basic Services: Basic Services shall be as follows:

1. In General:
 - 1.1. Engineer shall review the Pre-Design Report and Owner's Construction Cost Limitation with Owner to confirm Engineer clearly understands the Project requirements.
 - 1.2. Engineer shall conduct periodic design meetings with Owner's designated staff throughout the design phase(s) of the Project. Engineer shall prepare an Agenda and Minutes for each meeting and publish minutes within 48 hours of the meeting.
 - 1.3. Engineer shall visit the Project site and become familiar with facilities, systems and conditions at the site.
 - 1.4. Engineer, at its discretion, shall proceed with design using background drawings, surveys and record drawings furnished by Owner in accordance with the terms of Sections 4.04 and 5.03 of the Agreement.
 - 1.5. Engineer shall develop and prepare Schematic Design documents, Design Development documents, and Construction Documents as required by applicable Owner's Design Guidelines, the Pre-Design Report and additional information gathered or supplied in meetings with Owner. A summary list of the Owner's Design Guidelines applicable to this Project is attached hereto.
2. Schematic Design Phase (to be initiated after Owner's approval of the Pre-Design Report):
 - 2.1. Engineer shall develop and review alternate approaches to the Project with Owner.
 - 2.2. For review and concurrence by Owner, Engineer shall prepare Schematic Design documents that describe the Project.
 - 2.3. Unless Owner directs otherwise, Engineer shall deliver to Owner, as a Reimbursable Expense, four (4) complete copies of Schematic Design documents for review in addition to a PDF set of the Schematic Design documents uploaded to Owner's Project Workspace. Engineer shall incorporate into the documents such changes as are necessary to satisfy Owner's review comments.
3. Design Development Phase:
 - 3.1. Based on the approved Schematic Design documents, Engineer shall prepare Design Development documents consisting of adequate drawings, outline specifications to fix and describe the size and character of the Project. Design Development documents shall include plans, sections, and elevations with full dimensions, as well as the outline of the Project Manual in addition to other deliverables as defined by the Owner's Design Guidelines.

- 3.2. Unless Owner directs otherwise, Engineer shall deliver to Owner, as a reimbursable expense, four (4) complete copies of Design Development documents for review in addition to a PDF set of the same documents uploaded to Project Workspace. Engineer shall incorporate into the documents such changes as are necessary to satisfy Owner's review comments. Owner will review the Design Development documents, provide comments that may adjust the scope or quality of the Project and authorize the Engineer to proceed with the Construction Document. Changes to the scope of the Project initiated by Owner after the Design Development approval will be considered as Additional Services.
4. Construction Document Phase:
 - 4.1. Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the project budget authorized by Owner, Engineer shall prepare, for approval by Owner, Construction Documents and a Project Manual setting forth the requirements of construction for the Project.
 - 4.2. Unless Owner directs otherwise, Engineer shall deliver to Owner, as a Reimbursable Expense, complete ELECTRONIC (PDF) and printed copies of Construction Documents for review. Engineer shall incorporate into the documents such changes as are necessary to satisfy Owner's review comments.
 - 4.3. Engineer shall prepare a Project Manual, which shall include the Technical Specifications for the construction work. Template documents are available for Engineer's use. However, Engineer shall review with Owner's Project Representative whether the application of these available documents, in whole or in part, is appropriate for specific Project requirements. Engineer is ultimately responsible for the content of the Project Manual.
 - 4.4. Engineer shall assist Owner in obtaining approval of authorities having jurisdiction over the Project. Projects owned by Owner are usually subject to internal reviews and review by the Texas Department of Licensing and Regulation (TDLR) only.
 - 4.5. Engineer shall assist Owner in preparing the necessary construction services procurement information and issuing any addenda to the Construction documents that may be needed during the solicitation of proposals for construction services needed for the Project.
 - 4.6. Upon Owner's request, Engineer shall furnish, as a Reimbursable Expense, (___) sets of Construction Documents for construction services procurement purposes. Owner as a Reimbursable Expense shall pay the cost of any additional sets. In addition, a complete electronic (PDF and Autocad) set of drawings will be uploaded to Owner's Project Workspace.
5. Construction Services Procurement Phase:
6. Engineer shall participate in the Construction Services Procurement phase of the Project by attending the Pre-submittal Conference, issuing Addenda to the Construction Documents as required, and by assisting Owner in evaluating proposed alternate materials or approaches for completing the work associated with the Project.
7. Construction Phase:
 - 7.1. Engineer's obligation during the Construction Phase will commence with the award of the construction services contract and terminate with the final payment to the contractor or 60 days after the Date of Completion of the Warranty Work, whichever occurs last.
 - 7.2. Engineer shall assist the Owner's Project Representative in administering the construction services contract.
 - 7.3. Engineer and its Consultants shall visit the site at intervals appropriate to the stage of construction, generally at least twice a month. Engineer shall at all times have access to the Project site.

- 7.4. Engineer shall, jointly with the Owner's Project Representative, review the progress of the maintenance of the Record Documents each month as part of the approval process of the Contractor's Applications for Payment.
- 7.5. Engineer shall be the interpreter of the technical requirements of the Construction Documents, shall judge the performance thereunder by the Contractor, and shall render, within a reasonable time, interpretations and recommendations necessary for the proper execution or progress of the work for the Project.
- 7.6. Engineer shall have the responsibility to recommend to the Owner's Project Representative that work not conforming to the Construction Documents be rejected.
- 7.7. Engineer and its Consultants shall review and take appropriate action upon Contractor's submittals such as shop drawings, product data and samples.
- 7.8. Engineer shall prepare change proposal and Change Order documentation for action as appropriate by the Owner's Project Representative.
- 7.9. Engineer shall prepare revised Construction Documents, where appropriate to illustrate and document a change. Revisions due to changes in scope ordered by Owner and not due to errors and omissions on the part of the Engineer will be considered to be Additional Services.
- 7.10. Engineer and its Consultants shall attend appropriate overhead, cover-up and Substantial Completion inspections and forward review comments to the Owner's Project Representative.
- 7.11. Engineer shall be available after Final Payment to advise Owner regarding warranty items and to inspect the work during the warranty period.

Additional Services: For this Project, Owner considers the following to be Additional Services.

1. Items for which proposed costs are to be included in your Project Proposal include the following:
 - 1.1. Finalization of the Pre-design Report.
 - 1.2. Detailed estimates of Construction Cost, which are to include all costs of the construction work that are typically included within the amount of the construction contract. Engineer is to propose a cost for providing the estimated Construction Cost at each of the following milestones.
 - 1.2.1. Completion of Schematic Design documents
 - 1.2.2. Completion of Design Development documents
 - 1.2.3. 50% completion of Construction Documents
 - 1.2.4. 95% completion of Construction Documents
 - 1.3. Revise the Drawings and Specifications upon completion of the Project to incorporate all Addenda, Change Orders and any modifications recorded by the Contractor on the Record Documents maintained at the Project site. Engineer shall label the revised drawings and specifications as "Final Drawings" and "Final Specifications" and shall deliver copies to Owner for record purposes as follows:

Final Drawings and Final Specifications (printed)	2 sets
--	--------

Electronic copies of
documents (Drawings,

Specifications, and others)
as required in Owner's
Design Guidelines in
Indexed Adobe PDF Format

Final Drawings in AutoCAD
Files as required in
Attachment F: CAD

Issued for Construction
Documents in AutoCAD
Files as required in
Attachment F: CAD

Final Specifications in
Indexed Adobe PDF Format

- 1.4. Making investigations, surveys, or detailed appraisals of existing facilities for the purpose of identifying any existing conditions that do not comply with current Life Safety Code and other applicable code requirements and for including the correction of any such non-compliant items or conditions in the design documents.
2. Services of Consultants for other than normal Engineering for the Project shall be considered Additional Services for this Project. Any tasks or activities that Engineer deems to be Additional Services shall be addressed as set forth in the Agreement.

Fee Proposal: Propose compensation for the services requested herein. Submit the proposed compensation according to the following format.

1. Basic Services Compensation.
 - 1.1. Propose compensation for Basic Services as a not-to-exceed amount. For Basic Services rendered in connection with this work, Engineer shall be compensated up to the maximum not-to-exceed amount negotiated and approved in accordance with the U.T. System Fee Schedule.
 - 1.2. Compensation for Basic Services shall be in proportion to the services performed within each phase of service, the proportion of compensation and phases being set as follows:

Phase	Proportion	
Schematic Design Phase	20%	\$ _____.
Design Development Phase	20%	\$ _____.
Construction Document Phase	30%	\$ _____.
Construction Services Procurement Phase	10%	\$ _____.
Construction Phase	20%	\$ _____.
Total Proposed N-T-E Basic Services Fee Amount	100%	\$ _____.

2. Additional Services Compensation
 - 2.1. Propose compensation for each Additional Services item requested herein as a separate not-to-exceed amount. For Additional Services rendered in connection with this Project, Engineer shall be compensated on an hourly rate basis according to the terms of the Agreement up to the not-

to-exceed amount negotiated and approved under the response to this Project Request for Proposal.

Item	Proposed N-T-E
Field investigation to identify non-compliant existing conditions	\$ _____.__
Pre-Design Report Completion	\$ _____.__
Estimated Construction Cost @ SD	\$ _____.__
Estimated Construction Cost @ DD	\$ _____.__
Estimated Construction Cost @ 50% CD	\$ _____.__
Estimated Construction Cost @ 95% CD	\$ _____.__
Total Proposed N-T-E Add. Services Fee Amt.	\$ _____.__

Note – With respect to the estimates of the Construction Cost, Owner may elect to have any, all or none of the cost estimates completed.

3. Reimbursable Expenses

3.1. Propose an allowance for Reimbursable Expenses as a not-to-exceed amount. Reimbursable Expenses shall be compensated as set forth in Article 8 of the Agreement.

Start Date: Provide the proposed date to start work on this Project.

Consultants:

1. Provide a list of all the Consultants, persons or firms that you propose to use in the execution of this Project.
2. Provide a schedule of hourly billing rates for each Consultant.

Qualifying Conditions: Describe any qualifying terms of your proposal.

Your Project Proposal should follow the format above and should fully comply with the requirements set forth in paragraph 3.04 of the Agreement. Please submit your Project Proposal, including your HSP, to me no later than the date included in the Initial Schedule that is set forth above.

Attachments: Owner's Preliminary Pre-Design Report

Copy: [\[include a destination or path to where an image of this Project Request for Proposal is to be uploaded.](#)

EXHIBIT F

ADDITIONAL SERVICES PROPOSAL FORM

[To be submitted on Engineer's letterhead.]

ADDITIONAL SERVICES PROPOSAL

MD Anderson Agreement Number: _____

MD Anderson Purchase Order Number: _____

MD Anderson Project Name: _____

MD Anderson Project Number: _____

Date **Month dd, yyyy**

To: Owner's Representative: _____
Street Address: _____
City, State, Zip: _____

From: Engineer: _____
Street Address: _____
City, State, Zip: _____

Please refer to the Agreement with an Effective Date of _____ between MD Anderson Cancer Center ("Owner") and the undersigned ("Engineer") as amended to the date hereof (such agreement as so modified and amended being hereafter called the "Agreement") pursuant to which Engineer is to perform certain services. Capitalized terms used herein, which are defined in the Agreement, shall have the same meanings when used in this Additional Services Proposal.

Owner has requested the performance of the services described below which, in accord with the terms of the Agreement, Engineer deems to be Additional Services. A detailed breakdown for each Additional Service summarized below is included as an attachment to this Additional Services Proposal.

Description of Proposed Additional Service	Proposed Not-to-Exceed Amount
Proposed Not-to-Exceed Amount for Additional Services	

Consultant Costs: Engineer proposes to engage consultants, as described below, in order to deliver these proposed Additional Services and proposes that the costs associated with these consultants not be included within the Additional Services fees set forth above. A detailed breakdown for each of these Consultant Costs is included as an attachment to this Additional Services Proposal.

Description of Proposed Consultant Cost	Proposed Not-to-Exceed Amount
Proposed Not-to-Exceed Amount for Consultants	

Reimbursable Expenses: Engineer anticipates incurring certain Reimbursable Expenses in completing the work associated with these proposed Additional Services. The estimate for these expenses is as follows:

Description of Reimbursable Expense	Proposed Not-to-Exceed Amount
Proposed Not-to-Exceed Amount for Reimbursable Expenses	

Schedule: Engineer will provide these services as set forth below.

Milestone/Task Description	Proposed Completion Date

Additional Services Proposal Fee Summary:

Not-to-Exceed Amount for:	Proposed Amount
Additional Services Fee	
Consultant Costs	
Reimbursable Expenses	
Total Not-to-Exceed Amount for these Additional Services	

Current Project Summary: MD Anderson PO No. _____

Description	Basic Services	Additional Services	Reimbursable Expenses	Total Amount
Original Purchase Order				
Purchase Order Revisions:				
Cumulative through PO Revision ____, dated; / /				
Original PO + PO Revisions				
Pending Adjustments:				
None				
Proposed Adjustments:				
This Additional Svcs Proposal				
Proposed Adjusted PO Amounts				

Engineer

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT G

NOTICE to PROCEED FORM

NOTICE TO PROCEED WITH SERVICES

Date: Month dd, yyyy

To: [Enter name of Engineer]

Attn: [Enter Name of Engineer's Project Manager]

From: [Enter name and position of Owner's representative]

Ref.: Notice to Proceed

MD Anderson Project Name: [_____]

MD Anderson Project Number: [_____]

MD Anderson Agreement No. [_____]

Engineer's Project Proposal No.: [_____]

Pursuant to the terms of the referenced MD Anderson Agreement, MD Anderson hereby authorizes, effective [Month dd, yyyy], [enter name of Engineer as it appears in the Agreement] to proceed with rendering services.

Please be advised that the MD Anderson Purchase Order Number specific to this Project is _____.

Please do not hesitate to contact me if you have any questions concerning this Project.

Copy: [Enter copy recipients or filing directions as appropriate.]

EXHIBIT H

STATEMENT of SERVICES RENDERED FORM

[TO BE SUBMITTED ON ENGINEER'S LETTERHEAD.]

Date:
MD Anderson Project No.:
MD Anderson Purchase Order No.:
Engineer's Project No.:
Engineer's Invoice No.:
Engineer's Tax ID No.:

The University of Texas M.D. Anderson Cancer Center
Facilities Planning, Design & Construction, Unit 0703
1515 Holcombe Blvd.,
Houston, Texas 77030-4095

Attention: [Insert Name of Project Manager]

STATEMENT FOR SERVICES RENDERED

Statement No. for the Month of

Application is made for payment, as shown below, in connection with Owner's Project identified above.
Information in support of this application is attached.

Invoice Items	A Fee	B Amount Due this Period	A – B Balance Remaining
Basic Services	\$	\$	\$
Additional Services	\$		
Add. Serv. #1 – Description			
Add. Serv. #2 – Description			
Reimbursable Expenses	\$	\$	\$
Totals	\$	\$ 	\$

ENGINEER CERTIFICATION

I, the Engineer, do hereby certify that all insurances required by the Agreement are in full force and effect as of this date.
I, the Engineer, do furthermore certify that all amounts shown are correct and now due.

By: _____ Date: _____
(Signature of Authorized Agent of Engineer)

Title: _____

Attachments: Basic Services - Detail
 Additional Services – Detail
 Reimbursable Expenses – Detail
 Purchase Order Summary

Basic Services - Detail

	% of Fee	(A) Fee Proportion	%	(B) Total Fee Earned to Date	(C) Fees Invoiced to Date	(B-C) Fee Invoiced this Period	(A-B) Amount Remainin g
Schematic Design Phase	%	\$	%	\$	\$	\$	\$
Design Development Phase	%	\$	%	\$	\$	\$	\$
Construction Document Phase	%	\$	%	\$	\$	\$	\$
Construction Procurement Phase	%	\$	%	\$	\$	\$	\$
Construction Phase **	%	\$	%	\$	\$	\$	\$
	100%	\$	100%	\$	\$	\$	\$

(** The following section must be completed for the first period following receipt of proposals for construction services)

Basic Services – U.T. Board of Regents Fee Schedule Adjustment

1.0	Basic Services – P.O. Amount	\$
2.0	Construction Cost	\$
3.0	Interpolated Fee	X %
4.0	Basic Services – B.O.R. Amount	= \$
5.0	Line 1.0 or 4.0, whichever is less	\$
6.0	Total Basic Services Fee Earned to Date	- \$
7.0	Basic Services Fee Balance	\$

Basic Services – Detail (Continued)

Phase Name	Position	Rate	Hours	Amount
Schematic Design Phase (S.D.)				
				\$ Sub-total
Design Development Phase (D.D.)				
				\$ Sub-total
Construction Document Phase (C.D.)				
				\$ Sub-total
Construction Procurement Phase				
				\$ Sub-total
Construction Administration Phase (C.A.)				
				\$ Sub-total
Basic Services – This Invoice				\$ Total

Firm Name
Statement for Services Rendered
Statement No.:
Date
Page 4 of 6 – Additional Services

Additional Services #1 - Detail

	(A) P.O. Amount	% Complete	(B) Fee Earned to Date	(C) Invoiced to Date	(B – C) Fee Invoiced this Period	(A – B) Balance Remaining
Add. Serv. #1- Description	\$		\$	\$	\$	\$
	\$		\$	\$	\$	\$

Additional Services #1

Name	Position	Rate	Hours	Amount
------	----------	------	-------	--------

Additional Services #1 – This Invoice

\$

Total

Reimbursable Expenses - Detail

Item	(A) Reimbursement Allowance	(B) Invoiced to Date	(C) Amount Due*	(A – B – C) Balance Remaining
Description	\$	\$	\$	\$
Description	\$	\$	\$	\$
Description	\$	\$	\$	\$
	\$	\$	\$	\$

* Supporting documentation (receipts) is attached in support of these expenses.

Firm Name
Statement for Services Rendered
Statement No.:
Date
Page 6 of 6 – Purchase Order Summary

Purchase Order – Summary

MD Anderson PO No. _____

Description	Basic Services	Additional Services	Reimbursable Expenses	Total Amount
Original Purchase Order				
Purchase Order Revisions:				
Cumulative through PO Revision ____, dated; ____ / ____ / ____				
Original PO + PO Revisions				
Payments Received to Date				
Payment Requested This Statement				
Balance Remaining				

EXHIBIT I

**RIDER 104B, POLICY on UTILIZATION of HISTORICALLY
UNDERUTILIZED BUSINESSES**

EXHIBIT J

ENGINEER'S LETTER of HUB COMMITMENT

EXHIBIT K

RIDER 105, CONTRACTOR'S AFFIRMATIONS and WARRANTIES

RIDER 105
CONTRACTOR'S AFFIRMATIONS AND WARRANTIES

Contractor affirms, certifies, and warrants that the information set forth in this Rider is current, complete, and accurate. Contractor agrees that in the event Contractor makes a false statement by affirming, certifying, or warranting the information set forth in this Rider, MD Anderson may, at its option, terminate the Agreement/Purchase Order to which this Rider is attached without further liability, and Contractor shall be removed from all MD Anderson bid lists.

Contractor agrees to notify MD Anderson in writing within thirty (30) days of any changes in the affirmations, certifications, and warranties made by Contractor under this Rider.

1. Contractor has neither given, offered to give, and has no intention 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 this Agreement/Purchase Order.
2. Neither Contractor nor the firm, corporation, partnership or institution represented by Contractor, or anyone acting for such firm, corporation, or institution, has violated the antitrust laws of the State of Texas, codified in Section 15.01, et. seq. *Texas Business and Commerce Code*, or the federal antitrust laws, nor communicated directly or indirectly Contractor's bid or proposal made to MD Anderson to any competitor or any other person engaged in such line of business. Contractor has not received compensation for participation in the preparation of the specifications for this Agreement or of the request for proposal on which this Agreement is based.
3. Contractor is not excluded, debarred, or otherwise suspended from participating in the Federal Healthcare programs, as defined in 42 U.S.C. §1320a – 7b(f), or listed in the U.S. System for Award Management's ("SAM") List of Parties Excluded From Federal Procurement or Non-Procurement Programs, or the United States Office of Inspector General's List of Excluded Individuals/Entities ("LEIE"). Contractor further acknowledges that MD Anderson is prohibited by federal regulations and arrangements with third party payors from allowing any employee, subcontractor or agent of Contractor to provide services to MD Anderson if such employee, subcontractor, or agent is eligible to participate in the Federal Healthcare programs. Therefore, Contractor shall not assign any employee, subcontractor or agent that is excluded from participating in any Federal Healthcare program, including but not limited to Medicare, Medicaid, or Tricare, to work on an MD Anderson engagement. Contractor shall perform an LEIE, SAM, and State Medicaid sanction check monthly on each of its employees, subcontractors and agents during the time such employees, subcontractors and agents are assigned to work on an MD Anderson engagement. Contractor acknowledges that MD Anderson will require immediate removal of any employee, subcontractor or agent of Contractor assigned to work on an MD Anderson engagement if such employee, subcontractor or agent is found to be excluded from participating in any Federal Healthcare program. Upon request, Contractor will provide MD Anderson a letter signed by an authorized officer of Contractor that certifies compliance with this Section.
4. Contractor certifies it qualifies status in one of the below as defined by the State of Texas:
 - A. Contractor **is a Small Business** (as defined by Chapter 2155 of the Texas Government Code), and claims the following status:
 - _____ (100) Small Business, Non-HUB
 - _____ (100N) Disabled Person, Small Business
 - _____ (141) Black American, Male, Small Business
 - _____ (142) Black American, Female, Small Business
 - _____ (151) Hispanic American, Male, Small Business
 - _____ (152) Hispanic American, Female, Small Business
 - _____ (160) Non-minority, Female, Small Business
 - _____ (171) Asian Pacific American, Male, Small Business
 - _____ (172) Asian Pacific American, Female, Small Business
 - _____ (181) Native American, Male, Small Business
 - _____ (182) Native American, Female, Small Business
 - B. Contractor **is not a Small Business** as defined above and claims the following status:

_____ (900N) Disabled Person	_____ (971) Asian Pacific American, Male
_____ (941) Black American, Male	_____ (972) Asian Pacific American, Female
_____ (942) Black American, Female	_____ (981) Native American, Male
_____ (951) Hispanic American, Male	_____ (982) Native American, Female
_____ (952) Hispanic American, Female	_____ (900) None of the above

RIDER 105
CONTRACTOR'S AFFIRMATIONS AND WARRANTIES

_____ (960) Non-minority, Female

- C. Contractor is to indicate below if it is not certified by the Texas Procurement and Support Services Division of the Texas Comptroller's Office as a Historically Underutilized Business.

_____ **YES**, Contractor is certified by the Texas Procurement and Support Services Division of the Texas Comptroller's Office.

_____ **NO**, Contractor is not certified by the Texas Procurement and Support Services Division of the Texas Comptroller's Office.

- D. Contractor is:

_____ A Non-Resident Contractor (e.g., does not maintain a permanently staffed full time office in Texas).

_____ A Resident Contractor (e.g., does maintain a permanently staffed full time office in Texas).

_____ Anticipating the use of Texas Non-Resident firms as sub-contractors and will provide information of such contracts, when requested.

_____ Not anticipating the use of Texas Non-Resident firms as sub-contractors.

[Sourcing, item 5 should only be included if the Contractor is a franchise.]

5. If Contractor is a franchise, then:

- A. Contractor affirms, certifies, and warrants that it shall maintain such franchise in full force and effect at all times during the existence of this Agreement/Purchase Order; and

- B. Contractor shall provide MD Anderson with all data that MD Anderson, in its sole discretion, deems necessary to identify Contractor's franchise, the date on which Contractor's franchise will expire, and to certify that Contractor's franchise remains in good standing at all times during the existence of the Agreement/Purchase Order.

6. (1) No relationship (whether by blood, marriage, business association, capital funding agreement or by any other kinship or connection) exists between Contractor and an employee of MD Anderson, and (2) Contractor has not been an employee of MD Anderson within the twelve (12) month period immediately prior to the date of this Agreement/Purchase Order, or (3) in the event such a relationship does exist, full written disclosure of the relationship has been made by Contractor to MD Anderson prior the execution of this Agreement, or acceptance of Purchase Order. Contractor understands that all such disclosures will be subject to administrative review, and approval by MD Anderson prior to MD Anderson's execution of this Agreement/Purchase Order. Subsection (2) of this item does not prohibit MD Anderson from entering into a contract with a corporation, firm, or other business entity that employs a former or retired employee of MD Anderson within 12 months of the employee's leaving MD Anderson, provided that the former or retired employee does not perform services on projects for the corporation, firm, or other business entity that the employee worked on while employed by MD Anderson.
7. (1) Contractor is not a party to any agreement with MD Anderson whereby it has licensed from MD Anderson any technology, invention, or other intellectual property that relates to or is used with any goods or services being acquired by MD Anderson hereunder; and (2) as a result of the sale to MD Anderson of the goods or services hereunder, Contractor will not owe, directly or indirectly, any royalties, fees, or other consideration of any kind to MD Anderson or any employee of MD Anderson under the terms of any license agreement with MD Anderson. Contractor will advise MD Anderson in writing of any change in status with respect to the foregoing items (1)-(2), by sending written notice within ten (10) days of such status change to: Legal Services, Unit 537, The University of Texas MD Anderson Cancer Center, P.O. Box 301439, Houston TX 77230-1439, ATTENTION: Chief Legal Officer.
8. OSHA COMPLIANCE: By signing the Agreement, or accepting the Purchase Order, Contractor affirms, certifies, and warrants that all goods and services furnished under this Agreement/Purchase Order will meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and its regulations in effect as of the date on which the goods or services are furnished.
9. AFFIRMATIVE ACTION COMPLIANCE: In addition to the Contractor's affirmation, certification, and warranty under section 8 of this Rider, if this Agreement exceeds \$50,000.00 in value, Contractor shall provide

RIDER 105
CONTRACTOR'S AFFIRMATIONS AND WARRANTIES

a copy of its written Civil Rights "Affirmative Action Compliance Program" which shall be incorporated into Exhibit A to this Rider. If Contractor is NOT required to have such a written Civil Rights "Affirmative Action Compliance Program", Contractor must state the reasons why it is not required to have such a written program in Exhibit A to this Rider.

EXHIBIT A

Civil Rights "Affirmative Action Compliance Program"

EXHIBIT L

RIDER 106, PREMISES RULES

RIDER 106 PREMISES RULES

If this Agreement requires Contractor's presence on MD Anderson's premises, buildings, grounds, facilities, or campus, whether owned, leased or otherwise controlled by MD Anderson (collectively, "MD Anderson's campus"), Contractor represents and warrants that it will ensure that its representatives, agents, employees, and permitted subcontractors are aware of, fully informed about and in full compliance with Contractor's obligations under the following rules:

- A. Contractor (and its representatives, agents, employees and permitted subcontractors) will comply with all applicable MD Anderson rules and policies, including, without limitation, those related to environmental quality, safety, fire prevention, noise, information security, and architectural barriers issued by MD Anderson's Department of Environmental Health and Safety, (713) 792-2888, and those that restrict the use of alcohol on MD Anderson's campus.
- B. MD Anderson is a smoke-free institution. Smoking, or use of smokeless tobaccos, is prohibited throughout MD Anderson's campus.
- C. Contractor will have the right to access only those areas in MD Anderson's campus that are public areas or areas that it is necessary for Contractor to access in order to provide the products and perform the services under this Agreement. Cellular telephones and two-way radios are prohibited in some areas of MD Anderson's campus and Contractor affirms, certifies, and warrants that its representatives, agents, employees, and permitted subcontractors will abide by such prohibitions.
- D. It is the policy of MD Anderson to maintain a safe environment free from violence on MD Anderson's campus. Any direct or indirect threats or acts of violent behavior are prohibited. Violence includes, but is not limited to, intimidating, threatening, or hostile behavior; physical or verbal abuse; harassment, stalking, vandalism, arson, sabotage, use of weapons, possession of weapons on institutional property, the threat of any of the above, or any other act inconsistent with MD Anderson's campus violence policy. Intentionally bringing a prohibited weapon including a licensed, concealed handgun on MD Anderson's campus is a violation of MD Anderson's campus violence policy. Furthermore, any violation of a law prohibiting violence and violent behavior (including, but not limited to, the violation of Section 37.125 of the Texas Education Code or of Section 46.03 of the Texas Penal Code) also constitutes a violation of MD Anderson's campus violence policy. Violators of MD Anderson's campus violence policy or of any law prohibiting violence or violent behavior may be removed from or refused further access to MD Anderson's campus. Contractor represents and warrants that Contractor and all of its representatives, agents, employees, and permitted subcontractors will comply with MD Anderson's campus violence policy and all laws prohibiting violence and violent behavior. MD Anderson reserves the right to pursue criminal or civil actions against violators of MD Anderson's campus violence policy or of any law prohibiting violence and violent behavior. Contractor will remove from the performance of any work under this Agreement any Contractor representative, agent, employee, or permitted subcontractor that MD Anderson, in its sole discretion, finds has violated MD Anderson's campus violence policy or any law prohibiting violence and violent behavior.
- E. Contractor will ensure all personnel sent to work at MD Anderson's campus that have direct patient care/contact under this Agreement will be able to show proof of a tuberculosis screening having been completed within ninety (90) calendar days prior to starting work at MD Anderson's campus and every two years thereafter. Contractor will also be able to show proof that these same personnel do not have active tuberculosis. Contractor will ensure all personnel with direct patient care/contact will be able to show proof of current immunization to influenza and proof of immunization or immunity to varicella (chicken pox) prior to active duty at MD Anderson. Records of screenings, vaccinations, immunity and related reports will be made immediately available to M.D. Anderson upon request. This paragraph does not apply to contractors deemed by MD Anderson to not have direct patient care/contact.
- F. Contractor will be solely responsible for ensuring that all of its agents, employees, personnel, permitted subcontractors, or representatives abide by the provisions set forth in this Rider 106.
- G. The University of Texas Police Department ("UTPD") & Security Equipment:

The UTPD is the law enforcement agency of record for all property and premises owned, leased, or otherwise under the control of MD Anderson. The UTPD will be notified in matters relating to the following:
 - 1. Reporting of criminal incidents, including those occurring to or involving Contractor property and personnel if the incident occurs on MD Anderson campus;
 - 2. The investigation of crimes, including those involving Contractor's property and personnel, if the incident occurs on MD Anderson campus; and
 - 3. Reporting of security problems.
- H. Contractor will not retain the services of outside guard or law enforcement services in connection with work on MD Anderson's campus without the specific prior written approval of the Chief of the UTPD.
- I. Contractor will not install or operate any system intended to electronically control access and/or detect and report intrusion, hold-up or duress on any MD Anderson property, any MD Anderson leased premises or any premises otherwise under the control of MD Anderson. Where such systems are required due to the nature of the Contractor's operation, the UTPD will be responsible for approval, design and installation. Once approved by UTPD, the system's cost will be Contractor's responsibility.

**RIDER 106
PREMISES RULES**

these Premises Rules, MD Anderson will have the right to deny Contractor and its personnel access to MD Anderson's campus.

J. Installation by Contractor of any security system is subject to the review and approval of UTPD. If Contractor desires to install an electronic security system in accordance with the terms of this Agreement, Contractor will contact the UTPD - Crime Prevention Component of UTPD at (713) 792-2890 and request that UTPD establish design criteria for the application. Contractor will provide written evidence of the estimated cost of the electronic security system to the Technical Services Component of UTPD located at 7777 Knight Road and, if the electronic security system is approved by UTPD, the Technical Services Component of UTPD will coordinate the installation of the approved system. Upon written approval of the UTPD Chief, Contractor may use a commercial installation company to install the electronic security system under the coordination of the UTPD.

P. MD Anderson will not be obligated to pay for labor hours supplied by any individual(s) upon whom a background check and records check is not completed or who fails to meet the standards described in this Rider.

K. All security related systems must be monitored and controlled by the UTPD and UTPD must be the primary monitoring station. If Contractor utilizes the services of a commercial alarm company or a proprietary alarm monitoring station, the system may report to such location after first transmitting the alarm to the UTPD.

L. Contractor is responsible for the performance of the persons Contractor assigns to provide services for MD Anderson on MD Anderson's campus. Contractor will not knowingly assign individuals to provide services on MD Anderson's campus who have a history of violent, unacceptable, or grossly negligent behavior or who have a felony conviction. Prior to supplying labor services under this Agreement, MD Anderson may require Contractor to provide a list identifying the individuals that may be assigned to MD Anderson along with a letter signed by an appropriate officer of Contractor that affirms compliance with this Rider. Contractor will revise such letter each time there is a change in Contractor's personnel assigned to MD Anderson's campus, but in any case, annually on the anniversary date of this Agreement.

M. Contractor will ensure that all individuals assigned by Contractor to perform services on MD Anderson's campus will display in plain view a photo identification badge provided by MD Anderson while on MD Anderson's campus.

N. Contractor will retain resumes of all Contractor's employees assigned to this project. Contractor will ensure the proper maintenance of these documents for a minimum of one (1) year after contract completion. Contractor will maintain all documentation, including the results of any background checks, during the term of this Agreement.

O. MD Anderson will have the right to reject any individual(s) that Contractor offers to assign to MD Anderson's account for any reason. In addition, if Contractor and/or its personnel fail to abide by

EXHIBIT M

RIDER 107, TRAVEL POLICY

RIDER 107 TRAVEL POLICY

All travel and expense costs will be calculated as follows:

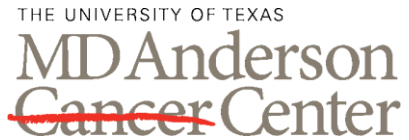
1. Contractor must use regular coach air transportation (state rate or corporate rate, whichever is lower) for travel in excess of two hundred (200) miles, unless otherwise agreed in advance by MD Anderson. In order to maximize discounted airfares, Contractor, with the cooperation of MD Anderson, will schedule on-site visits far enough in advance to take advantage of most advance-purchase offers. In the event meetings or on-site visits are cancelled by MD Anderson, Contractor may charge for any advance-purchase cancellation penalties imposed by the airline.
2. Corporate or state rate discounts (whichever is higher) will be used for hotel accommodations.
3. Maximum billable amount per person per day for meals will be \$36.00. Departing from MD Anderson prior to 12:01 p.m. negates any billing for meals for that day. Meal expenses are reimbursable for Contractor personnel who travel fifty (50) miles or more, and stay overnight.
4. Rental cars will be the least expensive, air-conditioned, automatic transmission, mid-size car available to Contractor under corporate rate programs. Full coverage collision insurance may be used for rental cars, but personal protection plans will not be reimbursed.
5. Ground transportation, parking costs and tolls may be invoiced at cost.
6. Personal automobile mileage charges will be computed based upon actual miles to and from the appropriate Contractor office to and from the applicable MD Anderson facility. Mileage charges will be invoiced at the standard mileage rate recognized by the State of Texas at the time of invoicing.
7. Miscellaneous expenses (i.e., tips, transfers, etc.) will be invoiced in an amount not to exceed \$5.00 per person per day, if deemed reasonable.

All travel or miscellaneous expenses must receive prior written approval by the Project Coordinator. Contractor will not be reimbursed for expenses that do not receive this prior written approval.

All travel or miscellaneous expenses must be submitted with an original receipt. All approved expenses will be reimbursed at "actual cost" only. Contractor will not be reimbursed for expenses that are not accompanied by original receipts.

EXHIBIT N

RIDER 117, INSTITUTIONAL POLICIES



RIDER 117

Institutional Policies

In accordance with the education requirements set forth in Section 6032 of the Deficit Reduction Act of 2005 (Act), MD Anderson has implemented, and Contractor agrees to abide by, the following policies, as may be subsequently amended, that are available at: <http://www.mdanderson.org/about-us/doing-business/vendors-and-suppliers/index.html>

1. Fraud, Waste, and Abuse Policy
2. Hospital Compliance Plan
3. Non-Retaliation Policy

EXHIBIT O

OWNER'S SALES TAX EXEMPTION CERTIFICATE

Texas Sales and Use Tax Exemption Certification

This certificate does not require a number to be valid.

Name of purchaser, firm or agency The University of Texas MD Anderson Cancer Center	
Address (Street & number, P.O. Box or Route number) 1515 Holcombe Boulevard, Unit 1695	Phone (Area code and number) (713) 792-6161
City, State, ZIP code Houston, Texas 77030-7009	

I, the purchaser named above, claim an exemption from payment of sales and use taxes (for the purchase of taxable items described below or on the attached order or invoice) from:

Seller: _____

Street address: _____ City, State, ZIP code: _____

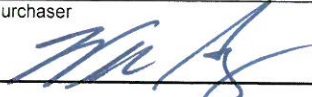
Description of items to be purchased or on the attached order or invoice:

Purchaser claims this exemption for the following reason:

EXEMPT UNDER SUBCHAPTER H. SEC. 151.309 GOVERNMENTAL ENTITIES. PURCHASER IS AN AGENCY OF THE STATE OF TEXAS. FEDERAL I.D. 74-6001118; TEXAS TAXPAYER I.D. 35065065068.

I understand that I will be liable for payment of all state and local sales or use taxes which may become due for failure to comply with the provisions of the Tax Code and/or all applicable law.

I understand that it is a criminal offense to give an exemption certificate to the seller for taxable items that I know, at the time of purchase, will be used in a manner other than that expressed in this certificate, and depending on the amount of tax evaded, the offense may range from a Class C misdemeanor to a felony of the second degree.

sign here ▶	Purchaser 	Title Vice President & Chief Financial Officer	Date 1/26/2015
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NOTE: This certificate cannot be issued for the purchase, lease, or rental of a motor vehicle.

THIS CERTIFICATE DOES NOT REQUIRE A NUMBER TO BE VALID.

Sales and Use Tax "Exemption Numbers" or "Tax Exempt" Numbers do not exist.

This certificate should be furnished to the supplier.

Do not send the completed certificate to the Comptroller of Public Accounts.

EXHIBIT P
EXECUTION of OFFER