Form No. OGC S – 99 - 23

UNIVERSITY OF HOUSTON SYSTEM
Office of Facilities Planning and Construction

CONTRACT FOR PROFESSIONAL SERVICES

Contract No. _____ **Account No.** _____

****

Project No.: _____
Project Name: _____
Project Address: _____
_____
_____

THIS AGREEMENT, made this _____ day of _____, 20__, by and between the UNIVERSITY OF HOUSTON SYSTEM (hereinafter, "UNIVERSITY"), an agency of the State of Texas pursuant to Chapter 111, Texas Education Code, and,

_____
CONTRACTOR NAME

_____
ADDRESS

_____
CITY, STATE ZIP CODE

hereinafter referred to as CONTRACTOR, to perform the following services:

1. SCOPE OF WORK:

2. COMPENSATION: CONTRACTOR's compensation will be a charge for services as defined below, plus Reimbursable Expenses, as defined below:

a. Check one box only:

☐ This is a fixed price contract. UNIVERSITY will pay CONTRACTOR the amount of $_____.

☐ This is not a fixed price contract. UNIVERSITY will pay CONTRACTOR an amount not to exceed $_____ based on *an hourly rate not to exceed* the amount of _____ dollars and ___ cents ($_____).

b. Reimbursable Expenses: Not to exceed $ _____, which will include but not be limited to the following:

(i) Expense of transportation and living when traveling in connection with the project, at UNIVERSITY's prior request, for other than regular trips within the Houston Metropolitan area.

(i) Actual cost for long distance calls and/or Telex charges in connection with the project.

(ii) Actual cost of printing and copying in connection with the project.

The above costs will be processed for reimbursement upon receipt of original invoice or other acceptable verification.

c. The CONTRACTOR will invoice UNIVERSITY monthly for unpaid compensation earned under this Agreement. Invoices shall reference Contract No. _____ and Account No. _____.

UNIVERSITY agrees to promptly process for payment to CONTRACTOR each invoice, as approved by UNIVERSITY, upon receipt. Payment terms for amounts due from UNIVERSITY to CONTRACTOR under this Agreement (including due dates and late fees) are governed by Chapter 2251 of the Texas Government Code.

3. SCHEDULE: The work to be performed under this contract shall be commenced on _____ and shall be completed within _____ calendar days. CONTRACTOR agrees that the aforesaid completion date is a material consideration in the award of this Agreement.

4. DELAY: Should CONTRACTOR be delayed in the prosecution or completion of the WORK by other contractors employed by UNIVERSITY, or by any damage caused by fire, weather conditions or casualty for which the CONTRACTOR is not responsible, or by general strikes

or lockouts caused by reason of any or all of the causes aforesaid, an extended period shall be determined and fixed at the sole but good faith discretion of UNIVERSITY; but no such allowance shall be made unless a claim therefore is presented in writing to UNIVERSITY within ten (10) days of the occurrence of such delay. Contract time may be extended only through a written change order.

5. OWNERSHIP OF DOCUMENTS: All documents, including original drawings, estimates, specifications, field notes and data are and shall remain property of UNIVERSITY. The CONTRACTOR will be furnished reproducible copies of such drawings and other documents needed for implementation of the required work. UNIVERSITY and CONTRACTOR agree that these drawings and documents will be used solely in connection with the assignment covered by this Agreement and for no other purpose without prior negotiation.

6. INDEMNITY: To the fullest extent permitted by law, the CONTRACTOR shall indemnify and hold harmless the UNIVERSITY OF HOUSTON SYSTEM BOARD OF REGENTS, the UNIVERSITY OF HOUSTON, the UNIVERSITY OF HOUSTON SYSTEM, the UNIVERSITY OF HOUSTON-CLEAR LAKE, the UNIVERSITY OF HOUSTON-DOWNTOWN, and the UNIVERSITY OF HOUSTON-VICTORIA, their agents, employees, officers, administrators, component institutions, successors and assigns from and against all claims, injuries, damages, losses, costs, expenses and liability, including but not limited to reasonable attorneys' fees, whether arising before, during or after completion of the CONTRACTOR'S work, caused by or arising out of or resulting from performance of work, of whatever nature, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent or intentional act or omission by the CONTRACTOR, and subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, but only to that extent, proportion or degree that the claims, damages, losses and expenses are attributable to the act or omission of the CONTRACTOR or its subcontractors.

Notwithstanding anything to the contrary herewithin, neither party shall be liable to the other for consequential damages incurred by one another or their subsidiaries or successors, regardless of whether such damages are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them; *provided*, however, loss of use and loss of profits are acknowledged and agreed for all purposes hereunder to constitute direct and not consequential damages.

7. INSURANCE: Prior to commencing performance, the CONTRACTOR shall secure, and maintain in force until final acceptance of the project, the following kinds of insurance in the following amounts:

TYPE OF COVERAGE	LIMITS OF LIABILITY	
Worker's Compensation	Statutory Limit - State of Texas	
Employer's Liability		
Bodily Injury By Accident	$500,000 Ea. Accident	
Bodily Injury By Disease	$500,000 Ea. Employee	
Bodily Injury By Disease	$500,000 Policy Limit	
Commercial General Liability	$1,000,000 Ea. Occurrence/ $2,000,000 Aggregate	
Includes: Comprehensive Form		
Premises/Operations		
Products/Completed Operations		
Contractual Independent Contractors		
Broad Form Property Damage		
Personal Injury		
Fire Damage	Any One Fire	$500,000
Medical Expense	Any One Person	$20,000
Comprehensive Auto Liability	$1,000,000 Combined Single Limit	
Professional Liability	$1,000,000(if applicable)	
Umbrella Coverage	When specified by University, Contractor may provide the following minimum coverage limits, as recommended by the advice and counsel of Contractor's insurance provider: • When contract amount equals less than $5,000,000. Excess or Umbrella Policy of $1,000,000. • When contract amount exceeds $5,000,000. Excess or Umbrella Policy of $5,000,000.	

UNIVERSITY and the UNIVERSITY OF HOUSTON SYSTEM shall, with the exception of Workers Compensation, Employers Liability and Professional Liability, be named as an additional insured under each of the above policies, and the Contractor and its insurer agree to provide a complete waiver of subrogation against UNIVERSITY. Certificates of Insurance evidencing the proper coverage must be provided and accepted by UNIVERSITY prior to the start of work and any change in coverage must be reported 30 days prior to taking effect. The insurance carrier must be an "A +" rated carrier. The CONTRACTOR'S policy must also state that it is primary over any other available insurance that it may carry.

CONTRACTOR agrees that all work on the project pursuant to this contract shall be at the CONTRACTOR'S exclusive risk until final and complete acceptance thereof by

UNIVERSITY, and in case of any loss or damage thereto, in whole or in part, prior to such acceptance, however cause, such loss and/or damage shall be borne by the CONTRACTOR.

8. RELATIONSHIP OF THE PARTIES: It is agreed and understood that the CONTRACTOR is an independent contractor and not an agent or employee of UNIVERSITY. Nothing in this Contract shall be construed to create a joint venture, partnership, association, or like relationship between the parties. CONTRACTOR accepts the relationship of trust and confidence established between it and UNIVERSITY by this Agreement and covenants to use CONTRACTOR's best professional efforts, skill, judgment, and abilities in performing the Services and to further the interests of UNIVERSITY in accordance with the usual and customary high standards of CONTRACTOR'S profession and in compliance with all applicable laws.

9. TERMINATION: UNIVERSITY reserves and has the right and privilege of canceling, suspending, or abandoning the execution of all or any service in connection with this Agreement at any time upon seven (7) days' written notice to the CONTRACTOR; provided, however, if the termination is for cause, CONTRACTOR may vitiate UNIVERSITY's notice of termination by curing such cause within such seven (7) day period. CONTRACTOR may terminate this Agreement upon seven (7) days' written notice to UNIVERSITY should UNIVERSITY substantially fail to perform their obligations under the terms of this Agreement. UNIVERSITY's liability in case of early termination will be limited to paying for the work already performed and the expenses already incurred as of the date of the termination, less any and all foreseen or unforeseen damages sustained by UNIVERSITY as a result of any default or consequence of termination.

10. SUCCESSORS AND ASSIGNS: UNIVERSITY and CONTRACTOR each binds himself, and his partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement. The CONTRACTOR shall not assign, sublet or transfer his interest in this Agreement without written consent of UNIVERSITY. Nothing herein shall be construed as giving any rights or benefits hereunder to anyone other than UNIVERSITY and CONTRACTOR.

11. INVALIDATION: If this Agreement is not executed by CONTRACTOR within 10 days, it shall become invalid unless UNIVERSITY extends the time in writing.

12. CORPORATE FRANCHISE TAX: Contractor (or "Seller" or other designation of contracting party) certifies that, upon the effective date of this agreement, either (1) it is not delinquent in payment of State of Texas corporate franchise taxes, or (2) it is not subject to the payment of such taxes. Contractor (or other designation of contracting party) agrees that any false statement with respect to franchise tax status shall be a material breach hereof, and UNIVERSITY shall be entitled to terminate this Agreement upon written notice thereof to Contractor (or other designation).

13. COMPLIANCE: CONTRACTOR agrees to abide by and perform the work under this Contract in compliance with all applicable City, State of Texas and Federal laws, rules, regulations and policies. While on the premises of the System or its components, CONTRACTOR agrees to abide by the policies and procedures of the System and its components relative to conduct on its premises.

14. VENUE: It is mutually agreed by the parties that if litigation should arise concerning all or any part of this contract, venue shall lie in Harris County, Texas.

15. MISCELLANIOUS:

a. By signing this Contract, CONTRACTOR certifies as follows: "Under Section 231.006, Texas Family Code, CONTRACTOR certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."

b. Nothing in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against UNIVERSITY. It is agreed by UNIVERSITY and the CONTRACTOR that this Agreement is intended for the benefit of UNIVERSITY and CONTRACTOR only and not for the benefit of architects, engineers, contractors, subcontractors, including suppliers or any of their employees or agents, or any other person.

c. This Agreement shall be governed by the laws of the State of Texas.

d. This instrument contains the entire Agreement between UNIVERSITY and the CONTRACTOR and can be modified only by written instrument signed by authorized representatives of UNIVERSITY and the CONTRACTOR.

EXECUTED in the year and day referenced first above mentioned.

CONTRACTOR

_____

Name:
Title:
Date:
Tax Identification No.:

AUTHORIZED AND ACCEPTED:

UNIVERSITY OF HOUSTON SYSTEM

By: _____ Date _____
Name:
Project Manager
Department:

By: _____ Date _____
Name:
Principal Project Manager
Department:

By: _____ Date _____
Name:
Executive Director
Department:

By: _____ Date _____
Name:
Title:
Department:

OGC Form No. S-99-23
Approved for use as a Standard Agreement by
the University of Houston System Office of General Counsel on 6/3/99
Modified 9/14/10
Note: Modification of this Form requires approval of OGC.