

Contract Number _____

City of Philadelphia
_____ Department

PROVIDER AGREEMENT

(Architect and Engineer Services)

THIS PROVIDER AGREEMENT is made as of the _____ day of _____ 2001, by and between the City of Philadelphia (the "City"), acting by and through its _____ Department (the "Department"), and _____ ("Provider"), a _____, with its principal place of business at _____.

BACKGROUND

The City and Provider desire that Provider render various professional services to the City, in accordance with the provisions of the Provider Agreement, the City of Philadelphia Professional Services Contract Architect and Engineer Services General Provisions, as revised _____, 2001 (the "General Provisions") and all of the other documents and exhibits which together constitute the Contract Documents as defined in the General Provisions. A copy of the General Provisions is attached hereto and incorporated herein by reference.

In consideration of the mutual obligations set forth herein, and intending to be legally bound, the City and Provider covenant and agree as follows:

ARTICLE I: GENERAL TERMS

- 1.1 The Background is incorporated by reference herein.
- 1.2 Capitalized terms shall have the meanings set forth in the General Provisions.

ARTICLE II: TERM

2.1 **Term.**

The term of this Contract shall commence on _____ and shall terminate on _____ unless terminated earlier in accordance with the terms of the Contract.

ARTICLE III: SERVICES AND MATERIALS

3.1 **Services and Materials.**

Provider shall perform the Services and provide the Materials described in **Exhibit PA-1**, which is attached hereto and incorporated herein by reference. All Services shall be performed and Materials provided within the schedule outlined in **Exhibit PA-1**.

ARTICLE IV: COMPENSATION

4.1 **Amount.**

As compensation for the Services and Materials rendered and provided, the City covenants and agrees to pay to Provider _____ ("Provider's Fee").

4.2 **Manner of Payment.**

(a) Payment shall be made after Provider's timely submission of invoices to the Responsible Official, in the number, form and content acceptable to the Responsible Official, accompanied by such additional supporting data and documentation as the Responsible Official may require. All payments to Provider are contingent upon satisfactory performance of the terms and conditions of this Contract. Provider shall submit its final invoice not more than sixty (60) days from completion of the Services and delivery of Materials. All payments to Provider shall be by checks drawn by the City Treasurer.

(b) Subject to the submission of monthly invoices as set forth in section 4.2(a) above, payment to Provider by the City for Services and Materials satisfactorily performed shall be made as follows:

- (1) Fifteen percent (15%) upon completion and approval of schematic design;
- (2) Thirty-five percent (35%), inclusive of previous payment, upon completion and approval of preliminary design;
- (3) Sixty-five percent (65%), inclusive of previous payments, upon completion and approval of the Construction Documents;
- (4) Seventy-five percent (75%), inclusive of previous payments, following completion of all Services required of Provider during the City's bid/award process;
- (5) Eighty-five percent (85%), inclusive of previous payments, at forty percent (40%) completion of construction;
- (6) Ninety-five percent (95%), inclusive of previous payments, at eighty percent (80%) completion of construction;
- (7) One hundred percent (100%), inclusive of previous payments, at substantial completion of construction, unless the Responsible Official or his/her designee determines that further work is required of Provider in connection with punch list items.

In the event the City elects to terminate this Contract for the convenience of the City pursuant to Section 14.1 of the General Provisions following completion and approval of the Construction Documents or if the City elects to delay commencement of the bidding process for more than six (6) months following the date of the City's approval of the Construction Documents for reasons beyond the control of Provider and which is not because of Provider's fault or negligence, the payment made under Section 4.2(b)(3) above shall be increased from sixty-five percent (65%) to seventy percent (70%).

(c) Subject to the City's prior written approval, Provider may elect to receive monthly progress payments for each phase of the aforesaid Services and Materials based on the actual percentage of work completed for each phase (regardless of the amount of time spent by Provider), as determined by the Department; provided, however, that no more than eighty percent (80%) of the total compensation due for each phase shall be paid before the completion of such phase. Provider must submit monthly invoices in accordance with section 4.2(a) above. The City reserves the right to require Provider to submit certified payrolls or other documentation in order to determine the appropriateness of any progress payments to Provider.

(d) Provider's Fee hereunder shall include full payment for all costs and expenses associated with the Services and Materials provided under this Contract, including, but not limited to, the following:

- (1) Expense of all travel, lodging and transportation in connection with the Services and Materials, as well as all telephone and other communication expenses;
- (2) Filing fees for required permits and approvals including, but not limited to, filing fees for zoning and/or use registration permits, building permits, variances, and, if requested by the Department, preliminary plan examination, from authorities having jurisdiction over the Services (Note: Any additional fees to be paid to such authorities for the actual permits will not be the responsibility of Provider);
- (3) Expense of reproductions, postage and handling of drawings, specifications, and other documents;
- (4) Expense of overtime work requiring higher than regular rates unless authorized in writing by the City as an additional service under Section 3.3 of the General Provisions (Additional Services and Materials);
- (5) Expense of renderings, models and mock-ups included in the Provider's proposal at the request of the City;
- (6) Expense of additional insurance coverage, including professional liability insurance, requested by the City in excess of that normally carried by Provider and Provider's Subcontractors;

(7) Expense of computer-aided design and drafting equipment time when used in connection with the Services.

(e) Notwithstanding anything in this Contract to the contrary, the sum of any and all payments to Provider hereunder shall in no event exceed the sum of _____ .

ARTICLE V: MISCELLANEOUS PROVISIONS

5.1 **Notice.**

Any notice required or permitted to be given under the Contract shall be given in writing and shall be personally delivered by hand with receipt obtained, by a national overnight express carrier (such as Federal Express), by facsimile, or sent by registered or certified United States mail, return receipt requested, addressed as follows:

IF TO THE CITY

Attn.:

(Fax No.: _____)

IF TO PROVIDER:

Attn:

(Fax No.: _____)

5.2 **Interpretation; Order of Precedence.**

In the event of a conflict or inconsistency between the terms of this Provider Agreement and any term, condition or provision contained in any exhibit hereto, or any attachment to such exhibit (including without limitation, any proposal of Provider), the terms of this Provider Agreement shall control.

5.3 **Other Provisions** [NOTE -- delete the heading "Other Provisions" if not applicable & insert "Section 5.3 intentionally deleted."]

Other provisions, including, without limitation, MBEC participation commitments and any exceptions or modifications to the General Provisions of the Contract, are set forth in the following Exhibits attached hereto, and incorporated herein by reference:

(a) **Exhibit PA-___:**

(a) **Exhibit PA-___:**

5.4 **Acknowledgement of the General Provisions.**

Provider specifically acknowledges that Provider has read and understands the terms and conditions contained in the General Provisions and acknowledges that by executing this Provider Agreement, Provider shall be legally bound by all of the terms of this Contract, including, but not limited to, those set forth in the General Provisions.

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound by all of the Contract Documents, have caused the Contract to be executed by their respective duly authorized officers as of the date in the heading of this Provider Agreement.

APPROVED AS TO FORM
KENNETH I. TRUJILLO, CITY SOLICITOR

Per _____
[Insert Attorney's title]

THE CITY OF PHILADELPHIA
Through: The _____ Department

By: _____

Title: _____

CORPORATE SEAL:

PROVIDER

By: _____
President or Vice-President

Attest: _____

Title: _____
(Ass't) Secretary or (Ass't) Treasurer

EXHIBIT PA-1
SERVICES AND MATERIALS TO BE PERFORMED BY PROVIDER

SCHEDULE

Provider shall complete the following work within the number of calendar days specified:

- (a) Schematic design work within ___ calendar days after receiving written direction to proceed from the Department.
- (b) Preliminary design work within ___ calendar days after receiving written approval of schematic design work from the Department.
- (c) Final Construction Documents within ___ calendar days after receiving written approval of preliminary design work from the Department.
- (d) Other work products and services within the number of calendar days as specified by the Department.