

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET

This contract authorizes the design/construction consultant to provide
professional services. (Authority: 1984 PA 431)

CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT, authorized this day of in the year two-thousand and nine (2009), by the Director, Department of Management and Budget, BETWEEN the STATE OF MICHIGAN acting through the FACILITIES ADMINISTRATION, DESIGN AND CONSTRUCTION DIVISION of the DEPARTMENT OF MANAGEMENT AND BUDGET, First Floor, Stevens T. Mason Building, Lansing, Michigan, hereinafter called the State,

and

the Prime Professional Service Contractor, hereinafter called the Design/Construction Consultant,

FOR THE FOLLOWING PROJECT:

Index No. (To Be Established)	Contract Order No. Y (To Be Assigned)
File No. (To Be Assigned)	
Department of Management and Budget	
Design/Construction Consultant Services for Miscellaneous Operating Projects and Work Orders	
Architectural and Engineering Design/Build Construction Services	
Various Departments and Facilities	
Various Site Locations, Michigan	

Provide professional design/construction consultant services, technical staff, and support personnel for miscellaneous operating projects (MOP's), work orders and special maintenance Projects at various State/Client Agencies on an as-needed basis for architectural and engineering design/build construction services within the various site location areas defined by the State of Michigan.

The objective of this Contract is to provide the Department of Management and Budget, Facilities Administration, Design and Construction Division staff with an expedient and economical method of implementing routine facility management Projects.

This Contract may be utilized on a Project to Project release basis by various facility locations which are pre-approved by the Facilities Administration, Design and Construction Division. It is recommended that this Contract be utilized for various types of Projects under the following conditions: (1.) Project requires an expedited delivery; (2.) State administrative resources to implement the Project are limited; and (3.) Project may favor a design/build construction approach.

The total dollar (\$) design and construction compensation cost for all miscellaneous operation Projects (MOP's), work orders and special maintenance Projects to be paid to the Design/Construction Consultant firm by the Department under this three (3) year Contract will not exceed four-million dollars (\$4,000,000) unless otherwise approved in writing, by the Department.

This Contract is for professional design/construction consultant services for an unspecified number of design/build Projects. The scope of work for each assigned design/build Project will be defined at the time each assigned Project is awarded by the Department, to the Design/Construction Consultant and their Professional Design Consultant firm. If authorized by the Department in writing, the architectural and engineering design/build construction services required for each of these assigned design/build Projects shall include a complete and comprehensive Phase 100 – Study investigation with itemized construction cost estimates.

This Contract does not warrant or imply to the Design/Construction Consultant firm, entitlement to perform any specific percentage (%) amount of the required architectural and engineering design/build construction work outlined in the attached Appendix 1 – Project/Program Statement scope of work during the life of this three (3) year Contract.

This design/build Contract will remain in effect for three (3) years from the date of this Contract award, but may be unilaterally terminated by the State of Michigan at any time therein, for cause or its convenience, by written notification of the State, to the Design/Construction Consultant and their Professional Design Consultant firm. Furthermore, this design/build Contract may be extended for one (1) additional year, at the sole option and discretion of the State of Michigan upon the Department of Management and Budget, Facilities Administration, Design and Construction Division providing written notice to the Design/Construction Consultant and their Professional Design Consultant firm prior to the expiration of the three (3) year Contract time period. Any such time extension shall be subject to the terms and conditions of this design/build Contract, including but not limited to, the existing compensation rates included in this Contract for the Design/Construction Consultant firm, their Professional Design Consultant or their employees or agents.

NOW THEREFORE, the State of Michigan and the Design/Construction Consultant in consideration of the covenants of this Contract agree as follows:

- I. The Design/Construction Consultant shall provide the professional services for the Project scope of work in the Phase/Task sequence provided in this Contract and for all assigned Projects in accordance with the attached Appendix 1 - Project/Program Statement scope of work requirements and the Department of Management and Budget, Facilities Administration, Design and Construction Division, "Design/Construction Consultant Utilization Manual" and be solely responsible for such services. The design/construction consultant services shall be performed in strict accordance with this Contract.
- II. The State of Michigan shall compensate the Design/Construction Consultant for providing the Project scope of work services in accordance with the conditions of this Contract.
- III. CENTURY DATE COMPLIANCE PROTECTION: All fixtures, equipment or operating systems which require firmware or software systems and that are provided with and/or incorporated into the work shall include, at no increase in Contract price or Contract time, design and performance such that they will not experience firmware or software abnormality and/or generate incorrect results or performance deficiencies due to date oriented processing.

If a Construction Contract is required for this Project, the Design/Construction Consultant and their Professional Design Consultant shall include the Century Date Compliance Protection language in the: (1) "Supplemental Conditions," of the Construction Contract of the Department of Management and Budget, Facilities Administration, Design and Construction Division, "MICHSPEC 2001 Edition of The Owner and Contractor Standard Construction Contract and General Conditions for Construction"; or the (2) Current Department of Management and Budget, Facilities Administration, Design and Construction Division, "DMB Short Form 401 - Proposal and Contract/Front-End Package for Small Projects for Professional Service Contractors (PSC) with General Conditions for Construction and Instructions to Bidders" as adopted and modified by the State of Michigan and incorporated into the Construction Contract. The "Supplemental Conditions," Century Date Compliance Protection language will require the Design/Construction Consultant to provide in the Construction Contract for this Project, the text provisions of the following paragraphs (A.) through (E.) below:

- A. The firmware and software design to ensure century date compliance capability, shall include, but not be limited to date structures (databases, date files, etc.) that provide four (4) digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system date; calculations and program logic (e.g. sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; and user interfaces (i.e. screen reports, etc.) that accurately treats four (4) digit year 2000 as a leap year within all calculations and calendar logic.

- B. When requested by the State of Michigan, the Construction Contractor shall promptly provide written assurances to the State from any manufacturer of any fixtures, equipment or operating systems provided with and/or incorporated into the work that its fixtures, equipment, or operating systems have been reasonably tested and will not experience any firmware or software abnormality and/or generate incorrect results or performance deficiencies due to date oriented processing. Whether the State chooses to request such assurances, and whether such assurances are provided, will not relieve the Construction Contractor from the Construction Contractor's obligation to provide fixtures, equipment and operating systems in accordance with the Contract Documents or will represent acceptance of defective work.
- C. If the Construction Contractor knows or has reason to know of any incorrect results and/or performance deficiencies due to date oriented processing, the Construction Contractor shall promptly notify the Design/Construction Consultant and the State in writing of any such defective work.
- D. The Construction Contractor specifically warrants and represents that all fixtures, equipment or operating systems provided with and/or incorporated into the work will not experience firmware or software abnormality and/or generate incorrect results or performance deficiencies due to date oriented processing. This Construction Contractor warranty shall extend until the applicable warranty otherwise covering the fixture, equipment or operating system at issue expires, whichever is later.
- E. The Construction Contractor shall take prompt corrective action upon receiving any written notice of any defective work because any fixtures, equipment or operating systems experience firmware or software abnormality and/or generate incorrect results or performance deficiencies.

IV. **DEFINITION OF TERMS:** The definition of terms and conditions of this Contract are described and outlined in the following Articles 1 through 14 and attached appendices. The capitalized defined terms utilized in this Professional Services design/build Contract shall have the following definitions:

ADDENDA: Shall mean written or graphic numbered documents issued by the Department of Management and Budget, Facilities Administration, Design and Construction Division and/or the Design/Construction Consultant and their Professional Design Consultant prior to the execution of the Construction Contract which modifies or interprets the Project Contract Bidding Documents, including architectural and/or engineering design/build drawings, and specifications, by additions, deletions, clarifications or corrections. The Addenda shall: (1) Be identified specifically with a standardized format; (2) Be sequentially numbered; (3) Include the name of the Project; (4) Specify the Project Index No., Project File No., the Contract Order No. Y, and a description of the proposed Addenda scope of work; and (5) Specify the date of Addenda issuance. As such, the Addenda are intended to become part of the Project Contract Bidding Documents when the Construction Contract is executed by the Design/Construction Consultant and their Professional Design Consultant firm's recommended lowest responsive, responsible qualified Construction Contractor. An Addendum issued after the construction Bid opening to those construction Bidders who actually submitted a Bid, for the purpose of rebidding the Project work without re-advertising, is referred to as a post-Bid Addendum.

BID: Shall mean a written offer by a construction Bidder for the Department of Management and Budget, Facilities Administration, Design and Construction's Project construction work, as specified, which designates the construction Bidder's base Bid and Bid price for all alternates.

BIDDER: Shall mean the person acting directly, or through an authorized representative, who submits a construction Bid directly to the Department of Management and Budget, Facilities Administration, Design and Construction Division.

BIDDING DOCUMENTS: Shall mean the Design/Construction Consultant and their Professional Design Consultant firm's Project final design/build Contract Documents/architectural and/or engineering drawings and specifications requirements as advertised, and all Addenda issued before the construction Bid opening, and after the construction Bid opening, if the Project construction work is rebid without readvertising.

BUDGET: Shall mean the maximum legislatively authorized Budget amount to be provided by the State of Michigan and available for a specific purpose or combination of purposes to accomplish the Project's scope of work.

BULLETIN: Shall mean a standard document form (DMB-485, Bulletin Authorization No. and the DMB-489, Instructions to Construction Contractors for Preparation of Bulletin Cost Quotations for Contract Change Orders) used by the Department of Management and Budget, Facilities Administration, Design and Construction Division to describe a sequence numbered change in the Project scope of work under consideration by the Department and the Design/Construction Consultant and their Professional Design Consultant and to request the Construction Contractor to submit a proposal for the corresponding adjustment in the Contract price and/or Contract time, if any. These standard document forms are a part of the "DMB-460, Project Procedures" documents package.

CAPITAL OUTLAY MANUAL: Provides a general background description of the State of Michigan's, Capital Outlay process for minor and major architectural and/or engineering Projects. Describes the Capital Outlay programming, planning and construction process. This manual contains the sequence of Project events from programming/planning a Project through construction. Contains the procedures and forms for the Capital Outlay Budget. Defines the meaning and content of the Project/Program Statement (required for planning Projects) and indicates suggested space standards.

CONSTRUCTION CONTRACT: Shall mean a separate written Contract agreement between the Construction Contractor and the Department for the construction, alteration, demolition, repair, or rebuilding of a State/Client Agency building or other State property.

CONSTRUCTION CONTRACTOR: Shall mean any construction firm under a separate Contract with the Department for construction Phase services.

CONSTRUCTION/GENERAL CONDITIONS: Shall mean all of the labor, equipment, and materials required to directly support the construction Phase service process, but does not include the actual construction itself. Typical items include clean-up, field supervision, temporary protection, trucking, signage, etc.

CONSTRUCTION ON-SITE INSPECTION SERVICES: Shall mean the Design/Construction Consultant and their Professional Design Consultant's on-site field Inspections of the Project scope of work during the construction Phase of this Contract which includes but is not limited to: (1) Document the quantity and quality of all work; (2) Resolve problems affecting the work, certify payment requests, process Bulletins, Contract Change Order recommendations, and requests for information (RFI's) in a timely manner as prescribed in the Department of Management and Budget, Facilities Administration, Design and Construction Division, "MICHSPEC 2001 Edition of The Owner and Contractor Standard Construction Contract and General Conditions for Construction" or the current Department of Management and Budget, Facilities Administration, Design and Construction Division, "DMB Short Form 401 - Proposal and Contract/Front-End Package for Small Projects for Professional Service Contractors (PSC) with General Conditions for Construction and Instructions to Bidders" as adopted and modified by the State of Michigan and incorporated into the Construction Contract; and the (3) Inspection of the Project construction work completed or in progress by the Construction Contractor to determine and verify to the Department of Management and Budget, Facilities Administration, Design and Construction Division, Project Director that all Project work is in compliance with the Design/Construction Consultant and their Professional Design Consultant's design intent and that the Project scope of work has been completed by the Construction Contractor in accordance with

the Design/Construction Consultant and their Professional Design Consultant's final design/build Contract Documents/drawings and specifications requirements.

The Design/Construction Consultant and their Professional Design Consultant shall provide sufficient on-site Inspections of the Project scope of work to administer the construction Phase field services and its related construction Phase administration office services, as directly related to the degree of Project complexity and scope of work requirements, up to and including full-time on-site field Inspections. The construction on-site field Inspections shall occur as the on-site field conditions and the Project scope of work requirements may require and during the regularly scheduled monthly progress and payment meetings. The Design/Construction Consultant and their Professional Design Consultant shall utilize for their construction on-site field Inspection services, only personnel having such professional expertise, experience, authority, and compatibility with departmental procedures as the Department may approve. The Design/Construction Consultant and their Professional Design Consultant agrees that such characteristics are essential for the successful completion of the Project scope of work. Such individuals shall be replaced for cause where the Department determines and notifies the Design/Construction Consultant and their Professional Design Consultant, in writing, of their unacceptable performance.

CONSULTANT/CONTRACTOR: Any individual, firm, or employee thereof, not a part of the Design/Construction Consultant's staff, but employed by the Design/Construction Consultant and whose cost is ultimately borne by the State, either as a direct cost or reimbursement. This includes the recipient(s) of Contract Orders for material, support, and/or technical services. Also, included are such persons and firms whose management and/or direction of services are assigned to the Design/Construction Consultant as may be provided elsewhere in this Contract.

CONTRACT CHANGE ORDER: A written order standard document form (DMB-403) issued and signed by the State of Michigan and signed by the Design/Construction Consultant and their Professional Design Consultant which amends the Contract Documents for changes in the Project scope of work or an adjustment in Contract price and/or Contract time, or both.

CONTRACT DOCUMENTS: Shall mean the Design/Construction Consultant and their Professional Design Consultant's study, final design/build architectural and/or engineering plans/drawings, specifications, Construction Contract, instructions to construction Bidders, proposal, agreement, conditions of the Contract, payment bond, performance/labor and material bond, prevailing wages, all Addendums, and attachments as may be necessary to comprise a Construction Contract for the Project scope of work requirements.

CONTRACT MODIFICATION: A written amendment standard document form (DMB-410) to the Contract scope of work requirements signed by the Department and the Design/Construction Consultant and their Professional Design Consultant. The preparation of Bulletins and Contract Change Orders resulting from changes in the attached Appendix 1 – Project/Program Statement scope of work requirements or previously unknown on-site field conditions as approved by the Department will be compensated to the Design/Construction Consultant and their Professional Design Consultant by way of the Contract Modification in accordance with the Article 2, Compensation text of this Contract. Any Contract Modification of this Professional Services Contract must be in writing, signed by duly authorized representatives of the parties, and shall be in such format and detail as the Department may require. No Contract Modification may be entered into to compensate the Design/Construction Consultant and their Professional Design Consultant for correcting, or for responding to claims or litigation for, the Design/Construction Consultant's Contract Documents/architectural and/or engineering final design/build errors, omissions or neglect on the part of the Design/Construction Consultant and their Professional Design Consultant.

CONTRACT ORDER: A written order standard document form (DMB-402) issued and signed by the State of Michigan authorizing a professional firm to: (1) Begin to incur Project expenses and proceed with the Project scope of work on-site; and (2) Provide the professional services stipulated in the fully executed Contract scope of work requirements for the Not-to-Exceed dollar (\$) fee amount designated in the Phases of the Contract Order. Issuance of this standard document form

by the State of Michigan to the Design/Construction Consultant and their Professional Design Consultant firm certifies that: (1) The State will enter into a Professional Services Contract for the professional services described in the study and final design/build Phases of this Contract; and that (2) The proper three (3) sets of Original Certificate of Insurance documents have been received and accepted by the State along with the approval and signing of the Design/Construction Consultant and their Professional Design Consultant firm's Professional Services Contract by the Director of the Department of Management and Budget, Facilities Administration.

DEPARTMENT: Shall mean the Department of Management and Budget. The Department will represent the State in all matters pertaining to this Project. This Contract will be administered through the Department of Management and Budget, Facilities Administration, Design and Construction Division on behalf of the Department.

DESIGN/CONSTRUCTION CONSULTANT: Shall mean an individual, firm, partnership, corporation, association, or other legal entity who, with their Professional Design Consultants, are permitted by law to provide professional architecture, engineering, environmental engineering, land surveying, or landscape architecture design services along with construction management and general contracting services in the State of Michigan.

DESIGN/CONSTRUCTION CONSULTANT UTILIZATION MANUAL: Provides the Design/Construction Consultant and their Professional Design Consultant firm with instructions, standards and procedural information regarding the attached Appendix 2 – “Design/Construction Consultant Services Utilization Manual, Sample Department Design/Build Forms and Work Flow Procedures Chart.” This utilization manual for design/build Projects provides the Department of Management and Budget, Facilities Administration, Design and Construction Division users with a definition of the Project implementation procedures and the responsibilities to initiate and implement the Design/Construction Consultant firm's professional architectural and engineering design/build construction services. The State of Michigan titles defined and used in this utilization manual are intended to be generic and may be modified to apply to each respective State/Client Agency facility location as required.

This Design/Construction Consultant Services Utilization Manual shall be utilized to assist the Design/Construction Consultant and their Professional Design Consultant firm on a Project-to-Project release basis at various facility locations which are pre-approved by the Department of Management and Budget, Facilities Administration, Design and Construction Division. It is recommended that this utilization manual be utilized for various types of Projects under the following conditions: (1) Project requires an expedited schedule delivery; (2) State of Michigan administrative resources to implement the Project are limited; and (3) The Project may favor a design/build construction approach.

DESIGN MANUAL: Provides the Design/Construction Consultant and their Professional Design Consultant with information regarding the Department of Management and Budget, Facilities Administration, Design and Construction Division's current “Major Project Design Manual for Professional Service Contractors and State/Client Agencies” review process requirements regarding the uniformity in Contract materials presented to it by the Design/Construction Consultant and their Professional Design Consultant and the State/Client Agency(ies). This manual contains the following noted standards, instructions, and procedures information for: (1) General instructions for planning documents from Phase 100-Study through Phase 500-Final Design; (2) Net and gross area/volume; (3) Project cost format; (4) Outline architectural and engineering specifications; (5) Specifications in documentation Phase; (6) Instructions for proposal; (7) Bidders questionnaire; and the (8) Project job sign.

DIRECTOR: The Director of the Department of Management and Budget or their authorized State of Michigan representative.

DIRECTOR-FA: The Department of Management and Budget, Director of Facilities Administration, or their authorized State of Michigan representative.

INSPECTION ON-SITE: Shall mean the Design/Construction Consultant and their Professional Design Consultant's on-site examination of the Project construction work completed or in progress by the Construction Contractor to determine and verify to the Department of Management and Budget, Facilities Administration, Design and Construction Division, Project Director that the quantity and quality of all Project construction work is in accordance with the design intent of the Design/Construction Consultant and their Professional Design Consultant's final design/build Contract Documents/drawings and specifications requirements.

KEY PRINCIPAL PERSONNEL/EMPLOYEE: Shall mean a Chief Executive Officer of a professional firm who is essential for the successful completion of this Project scope of work.

PHASE: A discretely distinguishable study, design/build Phase step in the course of professional architectural and/or engineering design/build construction services necessary to produce the Project's scope of work.

PROFESSIONAL DESIGN CONSULTANT: Shall mean an individual, firm, partnership, corporation, association, or other legal entity who is legally permitted by law to sign and seal final design/build construction Contract Documents and licensed under the State of Michigan's professional licensing and regulation provisions of the Occupational Code (State Licensing Law), Act 299 of the Public Acts of 1980, Article 20, as amended, to practice architecture, engineering, environmental engineering, land surveying, or landscape architecture services in the State of Michigan.

The Professional Design Consultant firm is also legally permitted by the State of Michigan's regulation provisions of the State Construction Code, Act 230 of the Public Acts of 1972, as amended, and designated in a Construction Contract by the Department of Management and Budget, Facilities Administration, Design and Construction Division to recommend construction progress payments to the Construction Contractor.

PROJECT: Shall mean any new construction, existing site, utilities, existing building renovation, additions, alteration, repair, installation, painting, decorating, demolition, conditioning, reconditioning or improvement of buildings authorized by the Department.

PROJECT COST: Shall mean the total Project cost including, but not limited to, site purchase, site survey and investigation, hazardous material abatement, construction, site development, utilities, telecommunications (voice and data), professional fees, testing and balancing services, furnishings, equipment, architectural and/or engineering plan(s)/drawing(s) design code compliance and plan review approval fees and all other costs associated with the Project scope of work.

PROJECT DIRECTOR: Shall mean the professional licensed State of Michigan employee of the Department of Management and Budget, Facilities Administration, Design and Construction Division, Architectural/Engineering discipline who is responsible for directing and supervising the Design/Construction Consultant and their Professional Design Consultant's attached Appendix 1 – Project/Program Statement scope of work requirements during the life of this Professional Services Contract. The Project Director is responsible for monitoring and coordinating the performance of the construction Phase services and also responsible for the overall administration and Inspection of Capital Outlay and miscellaneous operating projects (MOP's) construction activities to ensure quality control, final design Contract Documents compliance and timely Project completion within the established Project construction Budget. The Project Director, or their Resident Field Inspector, has the authority to require the Design/Construction Consultant and their Professional Design Consultant firm to respond to and resolve construction on-site field problems and to attend Project related meetings. Unless delegated by specific written notice from the Department, the Resident Field Inspector does not have any authority to order any changes in the Project scope of work or authorize any adjustments in Contract price or Contract time.

PROJECT/PROGRAM STATEMENT: Shall mean the attached Appendix 1 – Project/Program Statement scope of work requirements prepared by the State/Client Agency that defines the scope of the problem and describes why each type of Project is desirable, and provides a preferred resolution of the problem. The Project/Program Statement also requires the Design/Construction Consultant and their Professional Design Consultant to provide a Project schedule identifying critical design and construction milestone target dates that shall be required and achieved for the Project scope of work.

PROJECT TEAM: Consisting of the Design/Construction Consultant and their Professional Design Consultant, the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director, a representative of the State/Client Agency, and others as considered appropriate by the Department.

PUNCH LIST: Shall mean a list of minor construction Project items to be completed or corrected by the Construction Contractor, any one of which do not materially impair the use of the Project work, or the portion of the Project work inspected, for its intended purpose. A Punch List shall be prepared by the Design/Construction Consultant and their Professional Design Consultant upon having made a determination that the Project work, or a portion of the Project construction work inspected, in concert with the Design/Construction Consultant and their Professional Design Consultant, the Construction Contractor, the Department, Project Director, the State/Client Agency and any construction manager, is substantially complete and shall be attached to the respective DMB-455, Certificate of Substantial Completion form. This standard document form is a part of the "DMB-460, Project Procedures" documents package.

RESIDENT FIELD INSPECTOR: Shall mean an employee of the State of Michigan under the direction of the Project Director who provides the on-site Inspection of construction Projects for compliance with the design intent of the Design/Construction Consultant and their Professional Design Consultant's final design/build Contract Documents/architectural and/or engineering drawings and specification requirements and the building construction codes. The Resident Field Inspector is the liaison between the Construction Contractor, the Design/Construction Consultant and their Professional Design Consultant, and the Project Director. The Project Director, or their Resident Field Inspector, has the authority to require the Design/Construction Consultant and their Professional Design Consultant to respond to and resolve construction on-site field problems and to attend Project related meetings. Unless delegated by specific written notice from the Department, the Resident Field Inspector does not have any authority to order any changes in the Project scope of work or authorize any adjustments in Contract price or Contract time.

SOIL EROSION AND SEDIMENTATION CONTROL: The planning, design and installation of appropriate Best Management Practices designed and engineered specifically to reduce or eliminate the off-site migration of soils via water runoff, wind, vehicle tracking, etc. Soil Erosion and Sedimentation Control in the State of Michigan is regulated under the 1994 Public Act 451, as amended – The Natural Resources Environmental Protection Act, Part 91 – Soil Erosion and Sedimentation Control. Soil Erosion and Sedimentation Control associated with this Contract will be monitored and enforced by the Department of Management and Budget, Facilities Administration, Soil Erosion and Sedimentation Control Program.

STATE: Shall mean the State of Michigan in its governmental capacity, including its departments, agencies, boards, commissions, officers, employees and agents. Non-capitalized references to a state refer to a state other than the State of Michigan.

STATE/CLIENT AGENCY: Shall mean a Department or Agency of the State of Michigan, for whose use the Project will ultimately serve, which requires professional architectural and/or engineering design/build services. The term State/Client Agency does not include an institution of higher education or a community college.

SUBSTANTIAL COMPLETION: Shall mean the standard document form (DMB-445) for the Project work, or a portion of the Project work designated in the Design/Construction Consultant and their Professional Design Consultant firm's final design/build Contract Documents/architectural and/or engineering drawings and specifications as eligible for separate Substantial Completion, has been completed in accordance with the design intent of the Design/Construction Consultant and their Professional Design Consultant firm's final design/build Contract Documents/architectural and/or engineering drawings and specifications, to the extent that the Department of Management and Budget, Facilities Administration, Design and Construction Division can use or occupy the entire Project work, or the designated portion of the Project work, for the use intended without any outstanding, concurrent work at the Project work site, except as may be required to complete or correct the Project work Punch List items. Prerequisites for Substantial Completion, over and above the extent of Project work completion required, shall include the following items; (a) Receipt by the Department of all required Contract operating and maintenance documentation; (b) All systems have been successfully tested and demonstrated by the Construction Contractor for their intended use; and (c) The Department of Management and Budget, Facilities Administration, Design and Construction Division having received all required Contract certifications and/or occupancy approvals from the State of Michigan and those political subdivisions having jurisdiction over the Project work. Receipt of all required Contract certifications and/or occupancy approvals from those political subdivisions with jurisdiction in and of itself does not necessarily connote Substantial Completion.

SUSTAINABLE BEST PRACTICE: Is defined in this Contract as the Design/Construction Consultant and their Professional Design Consultant's use of Project design resources with no negative impact to the natural ecosystems and when possible, achieving a net enhancement of the Project scope of work requirements. Sustainable Best Practices shall be utilized wherever possible by the Design/Construction Consultant and their Professional Design Consultant in their Project design and an itemized list shall be provided with the final design/build Contract Documents/architectural and/or engineering drawings and specifications requirements that identifies the processes and products.

TASK: Shall mean the following: (1) A quantifiable component of design related professional architectural and/or engineering design/build construction Task services required to achieve a study/design Phase of the Project scope of work; (2) The most manageable sub-element within a study/design Phase; (3) A unique item of work within a study/design Phase for which primary responsibility can be assigned; and (4) Has a time related duration and a cost that can be estimated within a study/design Phase.

ARTICLE 1 PROFESSIONAL SERVICES

The Design/Construction Consultant and their Professional Design Consultant shall provide all professional services, technical staff and support personnel necessary to achieve the Projects in the best interest of the State, and be within the Design/Construction Consultant's not-to-exceed compensation fee(s) herein authorized by the State. Project services shall comprise, without exception, every professional design/build construction discipline and expertise necessary to meet all the requirements of the attached Appendix 1 - Project/Program Statement scope of work requirements and the Department of Management and Budget's, Facilities Administration, Design and Construction Division's attached Appendix 2 - "Design/Construction Consultant Services Utilization Manual, Sample Department Design/Build Forms and Work Flow Procedures Chart" scope of work and be within the amount authorized by the State and be in accordance with the industries accepted requisites for professional design/build construction practice and standards. The Design/Construction Consultant schedule shall be detailed, dated, and time sequence related for all professional services appropriate for the Project scope of work. The Design/Construction Consultant shall field check, and verify the accuracy of all drawings and any data furnished by the Department, the State/Client Agency or any other Project related source. The

Design/Construction Consultant and their Professional Design Consultant acknowledges that the Department is the first interpreter of this Contract and of the Design/Construction Consultant's performance under this Contract.

The Design/Construction Consultant acknowledges by signing this Professional Services Contract, having a clear understanding of the requested Project scope of work requirements and of the professional architectural and/or engineering design/build services required by the Department to provide it, and further agrees that the terms and conditions of this Professional Services Contract provide adequate professional compensation fee(s) for the Design/Construction Consultant to produce the requested Project scope of work requirements. No increase in compensation fee to the Design/Construction Consultant will be allowed unless there is a material change made to the Project scope of work requirements as described in the attached Appendix 1 - Project/Program Statement scope of work requirements and the change in scope to the Project/Program Statement scope of work requirements is accepted and approved in writing, by the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director and the Design/Construction Consultant. Design/Construction Consultant services shall not be performed and no Project expenses shall be incurred by the Design/Construction Consultant firm prior to the issuance of a written and signed Professional Services Contract and a DMB Form 402 - Contract Order by the Department to the Design/Construction Consultant, authorizing the Design/Construction Consultant firm to start the Project work on-site. Compensation for Department directed changes to the Project or modifications to the Project scope of work requirements will be provided to the Design/Construction Consultant by a Contract Modification and/or Contract Change Order signed by the Department and the Design/Construction Consultant. The preparation of Bulletins and Contract Change Orders resulting from increases in the Project scope of work or previously unknown on-site field conditions will be compensated to the Design/Construction Consultant, as approved by the Project Director, on an hourly direct payroll/billing rate basis in accordance with this article. This compensation shall not exceed seven and one-half percent (7.5%) of the Construction Contractor's quotation for the Bulletin or Contract Change Order or an amount mutually agreed upon by the Design/Construction Consultant firm and the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director.

No substitution of any "Key Principal Personnel/Employee" who is essential for the successful completion of the Project scope of work requirements and identified in the Design/Construction Consultant firm's attached Appendix 3 - Contract Organizational Chart will be allowed by the Design/Construction Consultant firm for this Contract without the prior written consent from the Department of Management and Budget, Facilities Administration, Design and Construction Division's Project Director. Before any "Key Principal Personnel/Employee" substitution takes place, the Design/Construction Consultant firm shall submit a written request to the Project Director for personnel substitution and this substitution request shall include the following information: (1) A request in writing for a No Cost Contract Modification for this "Key Principal Personnel/Employee" substitution; (2) Detailed written justification for this "Key Principal Personnel/Employee" substitution; (3) The Design/Construction Consultant firm's qualifications of any proposed "Key Principal Personnel/Employee" replacement; and (4) A written statement from the Design/Construction Consultant firm assuring the Department that the Project scope of work will not be adversely affected by this "Key Principal Personnel/Employee" substitution change. This request by the Design/Construction Consultant firm to modify their Professional Service Contract must be accepted and approved in writing by the Project Director and the Director of the Department of Management and Budget, Facilities Administration, on the Department's, Professional Services Contract Modification form (DMB-410).

The Design/Construction Consultant shall provide all required services and timely professional and administrative initiatives as the circumstances of construction may require in order to allow the requirements of the Contract Documents to be successfully implemented into a completed Project through the Construction Contractors. In addition to the requirements herein, the Design/Construction Consultant's services shall include, but are not limited to, those set forth in the Department of Management and Budget's, Facilities Administration, Design and Construction Division, "MICHSPEC 2001 Edition of The Owner and Contractor Standard Construction Contract and General Conditions for Construction" or the current Department of Management and Budget, Facilities Administration, Design and Construction Division, DMB Short Form 401 - Proposal and Contract/Front-End Package for Small Projects for Professional Service Contractors (PSC) with General Conditions for Construction and Instructions to Bidders." as adopted and modified by the State of Michigan and incorporated into the Construction Contract, plus such other general conditions as may be part of the Construction Contract. If

the Design/Construction Consultant intends to use any additional general condition requirements for any Project other than the Department's they must be approved by the Department.

Payment bonds, performance bonds, and prevailing wages are required for all construction and maintenance Projects and must be included for all Construction Contracts.

The Design/Construction Consultant acknowledges having a clear understanding of the Projects and of the professional architectural and engineering design/build services required by the Department to accomplish the Project scope of work.

The Design/Construction Consultant shall immediately inform the Department whenever it is indicated that the Design/Construction Consultant authorized Project Not-To-Exceed Budget cost may be exceeded.

The Design/Construction Consultant shall make recommendations to the Department for revisions in the Project to bring the Project cost back to the Design/Construction Consultant's original authorized Budget amount. Any revision in the Project must be approved and accepted by the Department.

The Department of Management and Budget, Facilities Administration, Design and Construction Division will designate an individual to serve as the Project Director for the Project scope of work who shall be fully acquainted with the attached Appendix 1 – Project/Program Statement scope of work requirements and have the authority to render Project decisions and furnish information promptly. Except, in connection with issues under the Article 12 - Contract Claims and Disputes text, the Project Director will exercise general management and administration for the Design/Construction Consultant's services in so far as they affect the interest of the State. The Design/Construction Consultant shall indemnify, defend, and hold harmless the State against exposure to claims to the extent caused by delays, negligence or delinquencies by the Design/Construction Consultant for the professional services of this Contract.

During the construction Phase administration of this Project, the Design/Construction Consultant shall be required to obtain from the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director, the on-site Inspection record form document titled "DMB-452, The Professional's Inspection Record" for all on-site Inspection visits to the Project site. This standard document form is a part of the "DMB-460, Project Procedures" documents package. The Design/Construction Consultant's Inspection Record document shall be completed and signed by the Design/Construction Consultant and compiled monthly with the original document sent to the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director and a copy sent to the Construction Contractor. The on-site Inspection record standard document form shall be completed and accompany the Design/Construction Consultant's monthly submitted payment request.

The "DMB-460, Project Procedures" package shall be completed by the Design/Construction Consultant and contains the following Department of Management and Budget, Facilities Administration form documents: (1) DMB-413, General Release – Visitors; (2) DMB-426, Builder's Risk Claim; (3) DMB-434, Certification of Off-Site Material Storage; (4) DMB-437, Guarantee and Indebtedness Statement; (5) DMB-440, Payment Request; (6) DMB-441, Meeting Attendance Record; (7) DMB-445, Certificate of Substantial Completion; (8) DMB-452, Professional's Inspection Record; (9) DMB-485, Bulletin Authorization No.; (10) Instructions for Schedule of Value; (11) DMB-487, Material Stored on Project/Job Site; and (12) Instructions to Construction Contractors for Preparation of Bulletin Cost Quotations for Contract Change Orders.

FINAL DESIGN/BUILD BIDDING DOCUMENT REVIEW PROCEDURES: Provide complete final design/build Bidding Document review. When the final design/build is 50 percent complete, submit the final design/build documents to the Project team for their review. If the final design appears to exceed the Project Budget, review with the Department all cost reduction design/build options. Incorporate at 90 percent completion, all required design/build modifications applicable to Project design criteria/data calculations for architectural, civil, structural, mechanical/heating, ventilating, and air conditioning (HVAC), plumbing, and electrical engineering systems and resubmit to the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director. Determine and confirm in writing, that the final design/build can be achieved within the Project Budget. Submit final design/build Bidding Documents to the Department for their review and revise final design/build Bidding Documents, as necessary, to incorporate all requested design review comments required for Department written acceptance of the final design/build Bidding Documents. Submit final design/build

Contract Documents/architectural and/or engineering drawings to the Department of Labor and Economic Growth, Bureau of Construction Codes and Fire Safety for design code compliance and plan review approval as required. Design code compliance and plan review approval fees shall be paid by the Department and are not the responsibility of the Design/Construction Consultant and their Professional Design Consultant. Any Project design code compliance and plan review approval fees paid by the Design/Construction Consultant firm and their Professional Design Consultant on the behalf of the Department will be compensated by the Department to the Design/Construction Consultant as an authorized Contract reimbursable expense (See Appendix 5).

CONSTRUCTION BIDDING/CONTRACTING PROCEDURES: Prepare and distribute Bidding Documents and instructions as required to accommodate predetermined construction Bid packages and/or Phases (See Appendix 6). Maintain a qualified construction Bidders' list. Conduct prebid meetings. Issue a preconstruction Addenda. Include in each Addendum complete specifications for the Project scope of work requirements, if such specifications are not part of the final design/build Bidding Documents. Exert every practical means to obtain several, qualified construction Bidders for every Construction Contract. The Design/Construction Consultant will be compensated by the Department with a Contract Change Order for providing the professional services necessary to rebid the Project for reason of defaulted or disqualified construction Bidder(s) or unacceptable price range as required by the design/construction Budget. The Design/Construction Consultant's construction bidding/contracting services are not complete until: (1) The lowest responsive, responsible qualified construction Bidder's Bid has been selected and accepted by the Department; and (2) The lowest responsive, responsible qualified construction Bidder's Construction Contract has been executed by the construction Bidder and the Design/Construction Consultant.

Collect and Manage Construction Contract Bid Security Deposits: Administer receipt and return of Construction Contract Bid Security deposits. Within fifteen (15) business days of the award of the Construction Contract submit, to the Department, a full accounting of all associated Bid Security deposits and turn over, to the Department, all defaulted Bid Security deposits. All Bid Security deposit checks will be payable to the "State of Michigan." Any returned or undistributed Bidding Documents shall be distributed as the Department may direct.

Construction Bid Evaluation/Recommend Construction Contract Awards: Monitor, review, evaluate and provide the Department with written recommendations for the apparent lowest responsive, responsible qualified construction Bidder for the Project Construction Contract award(s) within five (5) business days of the date of the Department's construction Bid opening. Exempt from recommendation any firm that the Design/Construction Consultant has business association on this Project, and any firm, or firm having any Consultant, which the Design/Construction Consultant has utilized in preparation of the final design/build Contract Documents/architectural and/or engineering drawings and specifications or for any estimating work related to the Project scope of work requirements. The Design/Construction Consultant shall conduct precontract meetings with responsive, responsible qualified construction Bidder(s) to review the following items: (1) The design intent of the Design/Construction Consultant's final design/build Contract Documents/architectural and/or engineering drawings and specifications; and (2) To advise and assist the Construction Contractor(s) in understanding the requirements of the Department of Management and Budget, Facilities Administration, Design and Construction Division's standard form of Construction Contract Documents, Project scope of work, and its Construction Contract award procedures (See attached Appendix 6, The Design/Construction Consultant's MICHSPEC (Long Form) Documents Assistance Procedures for the Construction Contractor During the Project Construction Bidding and the Construction Contract Award).

FINAL DESIGN/BUILD CORRECTION PROCEDURES: Correct any architectural and/or engineering final design/build errors or omissions and/or other Project related deficiencies identified during the Construction Phase. All reproduction costs for design interpretation clarifications and Bulletins related to the Design/Construction Consultant's architectural and/or engineering final design/build errors or omissions and similar, or avoidable costs shall be accounted as part of the Design/Construction Consultant firm's calculated multiplier. Provide design clarification interpretations of the Contract Documents requirements necessary to: (1) Adequately describe the Project work; (2) Adapt architectural and/or engineering final design/build documents during construction to accommodate on-site field conditions; (3) Refine design details that are not feasible and identified during construction; and (4) Comply with current construction/building codes, and all other Project related design and construction matters as may be necessary to produce a complete Project.

Design Interpretation Clarifications: For elements of construction having no respective change in cost to the State the Design/Construction Consultant will: (1) Provide instructions, and/or design interpretation clarification for design details within five (5) business days of the Construction Contractor's request, record same, in writing; and (2) Revise the Design/Construction Consultant's original final design/build architectural and/or engineering drawings and specifications as appropriate to the Project scope of work requirements. Marking and initialing of drawings is not an acceptable form of written instruction.

Bulletin Authorization: Request authorization to issue each individual Bulletin. The Design/Construction Consultant's Contract Modification request will: (1) Identify the problem requiring the change; (2) Describe clearly if such problem arises from the architectural and/or engineering final design/build errors or omissions; (3) Identify the anticipated design cost and the estimated construction cost to implement the change(s); and (4) Describe clearly in the Design/Construction Consultant's opinion which part, if any, of the design and/or construction costs are the obligation of the State, the Design/Construction Consultant or the Construction Contractor. Include a Contract Modification request for any work outside the Project scope of work requirements. Identify any anticipated Project construction schedule implications.

Bulletins: All reproduction costs for design interpretation clarifications and Bulletins related to the Design/Construction Consultant's architectural and/or engineering final design/build errors or omissions and similar, or avoidable costs shall be accounted as part of the Design/Construction Consultant firm's calculated multiplier. Describe, by Bulletin, design revisions, to correct the architectural and/or engineering final design/build errors or omissions, to address previously unidentified on-site field design conditions, to reduce costs and for all other matters approved by the Department involving costs or credit to the State. Postponement of action on items in order to accumulate multi-item Bulletins is not permitted.

Prepare and issue Bulletins within ten (10) business days of receipt of the Department's authorization. Bulletins shall be in such form and detail as the Department may prescribe. All Bulletin data shall be incorporated, by the Design/Construction Consultant, into the originals of all applicable final design/build architectural and/or engineering drawings and specifications, if such specifications are not provided by the Design/Construction Consultant's Contract Documents. Such revised drawings and specifications shall be issued as part of Bulletins. Each Bulletin shall prescribe a time schedule for the Construction Contractor's response. Provide five (5) copies of each Bulletin and distribute as the Department may direct. Provide the Construction Contractor with the following number of Bulletin copies: (1) For construction costs less than one (1) million dollars, two (2) copies ; and (2) All others, five (5) copies.

Evaluate the Construction Contractor's price quotation(s) and negotiate, as required, to provide the Department with costs that are consistent with the value of the associated Project scope of work requirements. Recommend appropriate action to the Department regarding the Construction Contractor's quotations within five (5) business days of receipt thereof.

PAYMENT PROCEDURES: Monitor, evaluate, and provide timely administrative action, as necessary, to approve, as appropriate, and process the Construction Contractor's schedule of costs and monthly submitted payment requests. Payment of the construction Phase professional fee, by the State of Michigan to the Construction Contractor, shall be based on the Construction Contractor's performance of authorized Contract professional service(s) expenses performed prior to the date of each monthly submitted payment request. Payment requests shall be submitted monthly to the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director as the Project progresses on a Department payment request form (DMB-440). Payment to the Construction Contractor by the Department for each monthly submitted payment request invoice shall be made to the Construction Contractor within thirty (30) consecutive calendar days following the Department's receipt and approval of an approved payment request invoice from the Design/Construction Consultant. Certification or rejection of all submitted payment requests shall be made by the Design/Construction Consultant, in writing, within ten (10) business days of receipt in the Design/Construction Consultant's office. The Design/Construction Consultant shall certify to the Department, in writing, the dollar (\$) amount the Design/Construction Consultant determines to be due to the Construction Contractor for their monthly payment request or the Design/Construction Consultant shall return the payment request to the Construction Contractor indicating the specific reasons in writing for withholding the Construction Contractor's monthly submitted payment request certification. If a

monthly payment request is returned to the Construction Contractor, the Construction Contractor shall make the necessary corrections and resubmit that payment request to the Design/Construction Consultant.

Issue an appropriate certificate for payment only pursuant to a correctly prepared and accurate payment request and only for acceptable Project work. Payment certification shall constitute a written representation by the Design/Construction Consultant, to the Department, that based on their on-site field Inspections, and the Design/Construction Consultant's evaluations of field reports, test results, and other appropriate and available factors, the quantity and quality of Project work for which the payment request is certified has been accomplished by the Construction Contractor in accordance with the design intent of the Design/Construction Consultant's final design/build Contract Documents/architectural and/or engineering drawings and specifications requirements and that the payment request is consistent with the quantity and quality of acceptable Project work in place, and that the acceptable materials are properly stored on-site.

No payment request certificate shall be submitted which includes disputed Project work or any Project work showing deficient test results. No payment request certificate may be submitted after the Construction Contract completion date which does not provide for withholding of assessable liquidated damages. Pursuant to the Department's notification, the Design/Construction Consultant's certification shall reduce from the amount earned, two (2) times the amount of any current wage rate payment deficiency, as certified by the Department of Labor and Economic Growth, Wage and Hour Division against the Construction Contractor or any Subcontractor or supplier thereof. Payment request rejections shall be accompanied with a written explanation and a copy shall be submitted to the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director.

PUNCH LIST PROCEDURES: Prepare and distribute, as required, Punch Lists for each Construction Contract. Prescribe a reasonable time schedule for completion of all construction Punch List items and identify an amount to be withheld from payment a minimum of two (2) times the estimated value of the unacceptable construction work plus an amount sufficient to assure the Department all costs as may become necessary to complete the remaining delinquent work. Distribute Punch Lists within five (5) business days of the final Inspection. Notify the Construction Contractor of any delinquent Punch List construction corrections and take appropriate action.

CLOSE-OUT PROCEDURES: Prepare and provide, within thirty (30) consecutive calendar days after Substantial Completion of each Project, three (3) copies of "Operation and Maintenance Manuals" of the Project systems and equipment. These close-out manuals shall include copies of reduced size, as-built drawings, specifications, and all instructions published or furnished by respective manufacturers, construction code compliance certificates, and guarantees. The manuals shall also include a complete description of the Design/Construction Consultant's final design/build intent concepts, operation, and required maintenance of each system. Participate in the Construction Contractor's start-up and in the training instruction of State/Client Agency personnel in the operation and use of the Project systems.

This Contract provides two (2) distinct types of Professional Design/Construction Consultant services to the State of Michigan's facility users. These professional services may be coordinated and combined, or used singularly, due to the flexibility required by the diversity of the various types of State Projects.

The two (2) distinct types of Professional Design/Construction Consultant services for this Contract are defined as follows:

- I. **DESIGN SERVICES:** Provide complete architectural and engineering design/build services. The design work activities will be performed either by the Design/Construction Consultant at their office location or through their Professional Design Consultants.

Design services, for a single Project up to \$50,000, will be performed on a release basis. Projects greater than \$50,001 in value must be preapproved by the Director of the Facilities Administration, Design and Construction Division.

The Design/Construction Consultant's design work may be provided by either the Design/Construction Consultant's office staff with an approved Contract Order or a third party Construction Contractor procured by either the State of Michigan or the Design/Construction Consultant. The Facilities Administration, Design and Construction Division may also elect to utilize a design/build approach combining the design and construction orders to provide an integrated, expedient delivery approach.

- II. CONSTRUCTION SERVICES: Provide complete construction labor, equipment, materials, and all appropriate construction services such as supervision, scheduling, estimating, etc., to construct a Project of up to \$300,000 in value. Projects greater than \$300,001 in value must be preapproved by the Director of the Facilities Administration, Design and Construction Division.

This Contract will provide all construction trades work. The Design/Construction Consultant's construction labor force may be used for select self-performed trades and general conditions work. Any self-performed trades and general conditions work must be justified and preapproved by the Director of the Facilities Administration, Design and Construction Division.

The Department of Management and Budget, Facilities Administration, Design and Construction Division, Design/Construction Consultant services outlined in the attached Appendix 1 - Project/Program Statement and the attached Appendix 2 – “Design/Construction Consultant Services Utilization Manual, Sample Department Design/Build Forms and Work Flow Procedures Chart” that provides the State of Michigan users with a definition of the procedures and responsibilities to initiate and implement the Design/Construction Consultant's professional design/build construction services. The State of Michigan titles defined and used in this manual are intended to be generic, and may be modified to apply to each respective State/Client Agency facility location as required for this Design/Construction Consultant's scope of work.

The following study Phase description outlines the professional services necessary to accomplish each Project scope of work and be in accordance with the industries accepted requisites for professional design/build construction practice and standards.

PHASE 100 - STUDY PHASE

If authorized by the Department, the Design/Construction Consultant shall provide a complete and comprehensive architectural and/or engineering study with itemized design/build construction cost estimates to

- Task 101 COORDINATION: Meet with the Project Team consisting of a representative of the Department, the State/Client Agency, the Design/Construction Consultant, the Professional Design Consultant, the Project Director, and others as considered appropriate by the Department. Define all areas of Project investigation. Establish Project Team responsibilities and lines of communications. Review the status of the study efforts with the Project Team at such frequency and times as may be required to achieve the Project scope of work objectives. Present documents to the State/Client Agency and Department for review at the 50 percent and 90 percent completion intervals and at such other times as the Department deems necessary to completely develop and monitor the Project. Preside at all Project related meetings. Prepare and distribute copies of minutes of all meetings, reports of site visitations, correspondence, memoranda, telephone, and other conversations or communications. Where essential or significant information is established or evaluated and/or critical decisions are made, distribute copies to the Department and participants within two (2) business days of the date of occurrence,

otherwise meeting minutes shall be distributed within five (5) business days. Provide up to five (5) additional copies and distribute as the Department may direct.

- Task 102 **HAZARDOUS MATERIALS:** Where the Project involves work in an existing building and/or utility system, identify and locate for the Department, in writing, and by scaled graphic diagram, any building and/or site utility areas that may have potential hazardous material contamination and may require testing, abatement and/or removal by the Department, prior to the renovation and during the new construction work of the Project. Hazardous materials testing and removal for this Project, will be performed by the Department with other professional firms by separate Contract, who are licensed and insured to perform this service. Schedule the Project with any hazardous material removal services required to implement the Project. Include for the Department's use, architectural and/or engineering drawings and specifications for all restoration necessary following completion of the removal/abatement Project. Revise the final design/build drawings, specifications and schedule to reflect the impact of the hazardous material removal/abatement scope of work on the existing facility operations.
- Task 103 **RESEARCH:** Gather and/or develop all data to define the Project scope of work. Research existing data, analyze and refine the concepts of the Project/Program Statement scope of work requirements. Through discussions with the Department and/or each State/Client Agency, and by interrogation and necessary counsel, establish, in requisite detail, the functional and operations needs of the State/Client Agency's respective program(s), as well as operational factors, maintenance and other support features. Identify all additional research, studies, and analysis necessary to express such objectives and requirements in terms of a fully operable facility or system which will acceptably serve its intended use.
- Task 104 **ANALYSIS:** Correlate, describe, and by appropriate tables, graphs, and architectural and/or engineering drawings (on 24-inch by 36-inch or 30-inch by 42-inch mylar sheets, or sheet size approved in writing by the Department.) Transcribe and consolidate all existing data, studies and the analysis of Task 103 into a comprehensive study report summarizing spaces, physical features, systems, functions, capacities, loads, relationships, and interactions to be achieved by the Project.
- Task 110 **REPORT:** Upon completion of all on-site field investigation activities prepare a complete architectural and/or engineering Project study report with itemized construction cost estimates in the following outline and in such detail as the Project scope of work requirements may prescribe:
- A. Problem
 - B. Conclusion
 - C. Recommendation
 - D. Discussion and details

Present and submit ten (10) copies of the draft study reports to the Project Team at each required 50 percent and 90 percent completion interval and incorporate review comments as directed by the Department into the final study report. Also, provide one (1) camera-ready original suitable for legible reproduction. Provide presentations as indicated in the Project work plan for Department acceptance and incorporate review comments required for Department acceptance of the Project study report. Provide one (1) acceptable study report presentation to the Project Team for this Task, any additional study report presentations requested by the Department will be considered extra professional services and the additional study costs will be paid to the Design/Construction Consultant by the Department with a Contract Change Order.

ARTICLE 2 COMPENSATION

Compensation fee to the Design/Construction Consultant for their Project scope of work shall be on an hourly direct payroll/billing rate basis for professional services rendered by salaried and non-salaried professional, technical and technical support employees, except for any authorized reimbursable expenses provided for in this Contract. Total compensation for any Phase shall not exceed the amount authorized for that Phase, unless so authorized in writing by the Department's approved Contract Change Order. Compensation for professional design/construction consultant services and authorized reimbursables shall not exceed the amount authorized in the Phases of the Contract Order or the Contract Change Order signed and issued by the Department to the Design/Construction Consultant. Design/Construction Consultant services shall not be performed and no Project expense shall be incurred by the Design/Construction Consultant firm prior to the issuance of a written and signed Professional Services Contract and a DMB Form 402 - Contract Order by the Department to the Design/Construction Consultant, authorizing the Design/Construction Consultant firm to start the Project work on-site. The Design/Construction Consultant acknowledges having a clear understanding of the requested Project scope of work requirements and of the professional architectural and/or engineering design/build services required by the Department to provide it, and further agrees that the terms of this Contract provide adequate professional compensation fee(s) to produce the requested Project scope of work requirements. No increase in compensation fee to the Design/Construction Consultant will be allowed unless there is a material change made to the Project scope of work requirements as described in the attached Appendix 1 - Project/Program Statement scope of work requirements and the change in scope to the Project/Program Statement scope of work requirements is accepted and approved in writing, by the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director and the Design/Construction Consultant. Design/Construction Consultant services shall not be performed and no Project expenses shall be incurred by the Design/Construction Consultant firm prior to the issuance of a written and signed Professional Services Contract and a DMB Form 402 - Contract Order by the Department to the Design/Construction Consultant. Compensation for Department directed changes to the Project or modifications to the Project scope of work requirements will be provided to the Design/Construction Consultant by a Contract Modification and/or Contract Change Order signed by the Department and the Design/Construction Consultant. The preparation of Bulletins and Contract Change Orders resulting from increases in the Project scope of work or previously unknown on-site field conditions will be compensated to the Design/Construction Consultant, as approved by the Project Director, on an hourly direct payroll/billing rate basis in accordance with this article. This compensation shall not exceed seven and one-half percent (7.5%) of the Construction Contractor's quotation for the Bulletin or Contract Change Order or an amount mutually agreed upon by the Design/Construction Consultant firm and the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director.

No substitution of any "Key Principal Personnel/Employee" who is essential for the successful completion of the Project scope of work requirements and identified in the Design/Construction Consultant firm's attached Appendix 3 – Contract Organizational Chart will be allowed by the Design/Construction Consultant firm for this Contract without the prior written consent from the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director. Before any "Key Principal Personnel/Employee" substitution takes place, the Design/Construction Consultant firm shall submit a written request to the Project Director for personnel substitution and this substitution request shall include the following information: (1) A request in writing for a No Cost Contract Modification for this "Key Principal Personnel/Employee" substitution; (2) Detailed written justification for this "Key Principal Personnel/Employee" substitution; (3) The Design/Construction Consultant firm's qualifications of any proposed "Key Principal Personnel/Employee" replacement; and (4) A written statement from the Design/Construction Consultant firm assuring the Department that the Project scope of work will not be adversely affected by this "Key Principal Personnel/Employee" substitution change. This request by the Design/Construction Consultant firm to modify their Professional Service Contract must be accepted and approved in writing by the Project Director and the Director of the Department of Management and Budget, Facilities Administration, on the Department's, Professional Services Contract Modification form (DMB-410).

Compensation for the Design/Construction Consultant firm to provide the professional architectural and/or engineering design/build services shall be determined using the current hourly direct payroll rate costs for the employees performing a direct service for the Project times the Design/Construction Consultant firm's calculated multiplier. Such costs and multipliers shall not change during the life of this Contract without written approval by the Department. The Design/Construction Consultant shall provide, but no compensation shall be allowed, for the professional services necessary to respond to and resolve all Construction Contractor claims arising wholly or in part from the Design/Construction Consultant's Contract Documents/architectural and/or engineering final design/build errors or omissions or other aspects of the Project's design or the Design/Construction Consultant's performance which is inconsistent with the Design/Construction Consultant or Construction Contract.

2.1 ARCHITECTURAL AND/OR ENGINEERING DESIGN/BUILD SERVICES: These are the Design/Construction Consultant's architectural and/or engineering design/build service staff members who work at or with the Design/Construction Consultant's Professional Design Consultant's offices while supporting the Department's Project needs. These individuals will be invoiced on the basis of their W2 wages times the _____ firm's multiplier of _____.

2.2 CONSTRUCTION SERVICES/TRADE LABOR/SUBCONTRACTORS: Includes the labor, equipment, material, and supervision required to provide all construction and maintenance work for this design/build Contract. The physical work activities may be performed by a combination of tradesmen or subcontractors selected through a public advertisement or other competitive Bid selection process that is preapproved by the Department. The final selection process shall be performed by the Design/Construction Consultant.

For the physical work activities themselves (includes construction and maintenance), the Design/Construction Consultant will invoice for actual costs incurred, based upon a Not-to-Exceed estimate provided and approved prior to initiation of the work itself for each Project. All Project trade labor will be invoiced as specified in the attached Appendix 4 - Trade Labor Rates.

The work for each Project shall be procured through a public advertisement or other competitive Bid selection process approved by the Department. In an emergency situation, this work may be performed on a time-and-materials basis, with the complete knowledge and approval of the Department.

2.3 CONSTRUCTION/GENERAL CONDITIONS: The cost of these items is directly attributable to each specific Project, as well as the fact that the cost of these items varies greatly depending upon the individual need of each Project, the General Condition items are estimated as part of the Project cost. This estimate shall be regarded as a Not-to-Exceed number, against which only actual Project costs will be charged.

The General Condition material items shall be invoiced to the Department on an actual cost incurred basis. All project labor for approved self-performed work will be invoiced at the actual attached direct payroll and billing compensation rates provided by the Design/Construction Consultant and their Professional Design Consultant's and identified and listed in this article.

2.4 CONSTRUCTION SERVICES/MANAGEMENT SERVICES: The management effort required to support the design/build, procurement, implementation, and close-out process will also be invoiced to the Department. Project services will include estimating, scheduling, Bid and award, scope of work determination, cost tracking, reporting, etc.

The actual Project costs shall be allocated in the following manner:

1. Hourly rates for actual costs, charged either to the Projects, or to a central account, i.e., grounds and maintenance overhead.

The management effort required to deliver these Projects on a Project-to-Project basis will be included as part of the Project Delivery cost on a Not-to-Exceed basis. Only the actual cost of personnel utilized will be charged to the Project on the basis of their W2 wages times the _____ firm's multiplier of _____.

- 2.5 CONSTRUCTION SERVICES/OVERHEAD AND PROFIT FLAT FEE: All of the cost factors presented above are actual out-of-pockets expenses to the Design/Construction Consultant to directly perform the work. In order to compensate the Design/Construction Consultant and their Professional Design Consultant for indirect overhead and profit, the Design/Construction Consultant requests that a flat fee percentage be applied to all actual costs identified in Articles 2.2 and 2.3.

The Design/Construction Consultant's Overhead and Profit flat fee will be _____ percent (%) to furnish all of the above professional design/build construction services identified in Articles 2.1 through 2.5.

- 2.6 EMPLOYEE DIRECT PAYROLL HOURLY RATES: The salaried employees direct hourly payroll rate is determined by dividing the annual salary, exclusive of bonuses and profit sharing, by 2,080 and adjusting such rate to reflect the actual reduced per-hour cost if more than eight (8) hours per day or forty (40) hours per week are worked in any payroll period. Salaried employees shall be clearly identified. Direct payroll hourly rates for non-salaried employees is the basic hourly wage rate received by an employee exclusive of fringe benefits, vacations, sick leave, other indirect costs and profit. No lump-sum subcontracts for the professional services of any employee may be billed against this Contract. Any employee associated with this Project who performs the professional services of a subordinate or of a position classification having a lower classification/pay range shall be accounted and paid for at the lower direct payroll/billing hourly pay rate. The direct payroll/billing rate hourly charge of any employee may be changed by the Design/Construction Consultant firm with a written and Department approved Contract Modification during the life of this Contract to account for normal personnel pay increases.

The Design/Construction Consultant and their Professional Design Consultant shall provide only one (1) Key Principal (Chief Executive Officer) Personnel from each design discipline to contribute direct services to this Project.

- 2.7 MULTIPLIER: The fixed multiplier of the Design/Construction Consultant and their Professional Design Consultant firm's shall be applied to the respective employee's direct payroll rate to derive a billing rate hourly charge. Multipliers will include all costs to the State for the Design/Construction Consultant and their Professional Design Consultant firm's services under this Contract other than the authorized and approved reimbursements. Multipliers shall be based on the Design/Construction Consultant and their Professional Design Consultant firm's documented historical operating expenses and adjusted for Project specific costs. In no case shall this documentation period include more than eighteen (18) months prior to the date of award of this Contract. The Design/Construction Consultant and their Professional Design Consultant firm's use of different multipliers for different Phases is not allowed. No multiplier may be increased during the life of this Contract.

Multipliers include, but are not limited to: Overhead items such as employee fringe benefits, vacations, sick leave, insurance, taxes, pension funds, retirement plans, meals, lodging, and all Project related travel expenses for Projects less than one-hundred (100) miles in each direction from the Design/Construction Consultant firm's Michigan office, computer costs/operating costs and time, the cost of all telephone-related services and all reproduction services (except final design/build Contract Bidding Documents/architectural and/or engineering drawings and specifications) and where specifically authorized elsewhere in this Contract, the reproduction of Contract Documents for legislative presentation. The multiplier also includes, all reproduction costs for design interpretation clarifications and Bulletins related to the Design/Construction Consultant and their Professional Design Consultant firm's Contract Documents/architectural and/or engineering final design/build errors or omissions, construction code compliance (precipitating either from design code compliance and plan review, design interpretations, or construction on-site/field Inspections), and all similar, or avoidable costs shall be accounted as

part of the Design/Construction Consultant and their Professional Design Consultant firm's calculated multiplier. All postage, mail or other shipping or delivery services, acquisition, bad debts, previous business losses, employment fees, depreciation and operating costs for equipment, including computer design and/or computer drafting systems, and any specialized testing equipment are to be included. The multiplier shall include, without exception, secretarial, computer/typing/word processing, editing, and clerical services utilized in any way for the Project as well as other non-technical and/or overhead employees. All other direct or indirect costs, including that of processing the costs of the Design/Construction Consultant and their Professional Design Consultant firm's, and reimbursable expense items shall be included. The multiplier also includes all profit without regard to its form or distribution. Any total profit greater than ten percent (10%) of the direct billable labor costs (before the multiplier) must be justified, in writing, by the Design/Construction Consultant and their Professional Design Consultant and accepted by the Department. Project related travel for Projects more than one-hundred (100) miles in each direction from the Design/Construction Consultant firm's Michigan office shall be treated as a reimbursable expense at the State of Michigan's current travel rates.

Items not allowable as part of the Design/Construction Consultant and their Professional Design Consultant firm's calculated multiplier, include, but are not limited to: Any costs associated with litigation and settlements for the Design/Construction Consultant and their Professional Design Consultant, or other liability suits, out-of-state offices and associated travel, bonuses, profit sharing, premium/overtime costs, public relations, entertainment, business promotion, contributions, and various speculative allowances.

All multipliers must be substantiated in writing and accompanied with accounting records prepared by a qualified accountant justifying each Design/Construction Consultant and their Professional Design Consultant firm's calculated multiplier. No Design/Construction Consultant and their Professional Design Consultant firm's multiplier shall exceed two (2) numerical digits after the decimal point and any Professional firm's multipliers with three (3) or more numerical digits shall be rounded off to two (2) numerical digits. Multipliers above 2.70 will not be accepted for award of Contracts by the Department of Management and Budget, Facilities Administration, Design and Construction Division for the Design/Construction Consultant and their Professional Design Consultant's services or for the Design/Construction Consultant and their Professional Design Consultant firm's services.

The multiplier for the Design/Construction Consultant may not be applied to the work of their Professional Design Consultant firm's. Each Professional Design Consultant must submit a separate multiplier with proper documentation for the Consultant services they will provide. The multiplier of the respective Professional Design Consultant's shall be used for that Consultant firm's personnel only. No mark-up may be applied by the Design/Construction Consultant to their Professional Design Consultant's direct payroll or billing rate(s) hourly charges.

The multiplier for the Design/Construction Consultant firm may not be applied to the work of the Professional Design Consultant's. Each Professional Design Consultant firm must submit a separate multiplier with proper documentation for the Professional Design Consultant services they will provide. The multiplier of the respective Professional Design Consultant's shall be used for that firm's personnel only. No mark-up may be applied by the Design/Construction Consultant firm to their Professional Design Consultant's direct payroll or billing rate(s) hourly charges. The Consultant services of all the Design/Construction Consultant firm's Consultants shall be billed as a reimbursable expense item.

All Project reproduction costs for clarifications and Bulletins dealing with the Design/Construction Consultant's Contract Documents/architectural and/or engineering final design/build errors or omissions, construction code compliance (precipitating either from design code compliance and plan review, design interpretations, or construction on-site/field Inspections), or avoidable costs shall be accounted as part of the Design/Construction Consultant firm's calculated multiplier.

- 2.8 RANGE OF EMPLOYEE HOURLY DIRECT PAYROLL/BILLING RATES: The Design/Construction Consultant shall identify the architectural and/or engineering discipline service being provided and include the Design/Construction Consultant and their Professional Design Consultant's technical employee(s) full payroll signature names and position classifications for the Project and their current hourly direct payroll rates and hourly billing rates at the beginning of the Project. Also, provide the technical employee(s) anticipated hourly direct payroll rates and hourly billing rates at the end of the Project based on the Design/Construction Consultant's estimated schedule duration. This range of current and anticipated hourly direct payroll and billing rates shall reflect the actual costs currently being paid to all of the Design/Construction Consultant and their Professional Design Consultant's technical employees for the professional services within their specified position classification, and shall include any anticipated pay increases over the life of the Design/Construction Consultant's estimated design/build Contract schedule. The range of hourly direct payroll rates and/or billing rates for any employee position or classification may not be changed without a Contract Modification approved by the Department in writing. No mark-up of the Design/Construction Consultant and their Professional Design Consultant firm's hourly direct payroll or billing rates will be allowed.
- 2.9 DIRECT COST REIMBURSEMENT ITEMS: The professional services of all the Design/Construction Consultant firm's Consultants, shall be treated as reimbursable expenses at a direct cost times a 1.0 multiplier. Reimbursement of authorized expense items at direct cost times a 1.0 multiplier is intended only as a means to compensate the Design/Construction Consultant for their direct costs. The Design/Construction Consultant shall be responsible for: (1) The selection of the supplier of their professional services or materials; (2) The coordination, adequacy and application of their professional services, whether provided by the Design/Construction Consultant firm's staff or provided by their Consultant; and (3) Any Project costs that exceed the Contract per Phase reimbursement Budget.

Reproduction costs for the Design/Construction Consultant and their Professional Design Consultant's Contract Documents/architectural and/or engineering final design clarifications and Bulletins necessary to achieve the Contract scope of work requirements is not allowable for reimbursement and shall be accounted as part of the Design/Construction Consultant and their Professional Design Consultant firm's calculated multiplier. Unless authorized elsewhere in this Contract, direct cost reimbursements times a 1.0 multiplier expense items shall be limited to: Printing and reproduction of the Phase 100 - Study Final Reports, the Final Design/Build Contract Bidding Documents/architectural and/or engineering drawings and specifications and the United States (U.S.) Mail regular shipping postage and handling of Contract Bidding Documents, Design Code Compliance and Plan Review Approval Fees by the Department of State Police, Fire Marshal Division and the Department of Labor and Economic Growth, Bureau of Construction Codes and Fire Safety, documents for legislative presentation, artistic productions, mobilization of testing equipment, laboratory costs for testing samples, per-linear-foot cost of soil borings and specialized inspections of the structural, mechanical, electrical, chemical or other essential components of the Project. Where reproduction of Contract Bidding Documents is by the Design/Construction Consultant and their Professional Design Consultant, reimbursement expenses shall be limited to the cost of materials only. In addition, the authorized reimbursement includes the number of Contract Bidding Documents and Addendums that are required to supply all prospective qualified construction Bidders.

The multiplier (See Appendix 8) does not include and the Department of Management and Budget, Facilities Administration, Design and Construction Division will pay the Design/Construction Consultant for (under Appendix 5 – Reimbursable Tests/\$ Expenses) travel mileage costs for State of Michigan Projects more than one-hundred (100) miles in each direction from the Design/Construction Consultant firm's Michigan office if the Design/Construction Consultant firm can demonstrate a cost savings to the State, if reimbursed for travel mileage in accordance with the current travel rates provided in the State of Michigan's "Schedule of Travel and Meal Reimbursement Rates" versus an adjustment to the Design/Construction Consultant firm's calculated multiplier. Compensation to the Design/Construction Consultant firm for Project related travel when authorized by the Department, will be in the attached Appendix 5 – Reimbursable Tests/\$ Expenses text and will be limited and reimbursed by the Department in accordance with the current travel rates provided in the State of Michigan's "Schedule of Travel and Meal Reimbursement Rates."

Design/Construction Consultant Firm:

Project/Construction Management Services

Multiplier:

Position/ Classification	Individual	Hourly \$ Range	
		Direct Payroll Rate From - To	Billing Rate From - To

*Key Principal Personnel/Employee

Professional Design Consultant Firm:

City, State

Architectural and/or Engineering Design Services

Multiplier:

Position/ Classification	Individual	Hourly \$ Range	
		Direct Payroll Rate From - To	Billing Rate From - To

*Key Principal Personnel/Employee

Consultant Firm: As Selected ~ Printing and Reproduction of the Phase 100 - Study

City, State

Final Reports and/or the Final Design/Build Bidding Documents
Drawings and Specifications

Multiplier: 1.0

2.10 DESIGN/BUILD DIRECT COST REIMBURSABLE CONSULTANT SERVICES: The professional services of all the Design/Construction Consultant firm's Consultants shall be treated as a reimbursable expense at a direct cost times a 1.0 multiplier.

2.11 DESIGN/BUILD DIRECT COST REIMBURSEMENT ITEMS: Reimbursement of authorized expense items at direct cost times a 1.0 multiplier is intended only as a means to compensate the Design/Construction Consultant for their direct costs. The Design/Construction Consultant shall be responsible for: (1) The selection of the supplier of their professional services or materials; (2) The coordination, adequacy and application of their professional services, whether provided by the Design/Construction Consultant firm's staff or provided by their Consultant; and (3) Any Project costs that exceed the Contract per Phase reimbursement Budget.

Reproduction costs for the Design/Construction Consultant and their Professional Design Consultant firm's Contract Documents/architectural and/or engineering final design/build clarifications and Bulletins necessary to achieve the Contract scope of work is not allowed for reimbursement and shall be accounted as part of the Design/Construction Consultant and their Professional Design Consultant firm's calculated multiplier.

The Professional's lump sum fee for professional services described in Article 1 shall not exceed the following amounts per Project Phase unless authorized by a Contract Change Order signed by the Department and the Professional.

<u>PROJECT PHASE</u>	<u>ESTIMATED HOURS</u>	<u>SUBTOTAL AMOUNTS</u>	<u>MULTIPLIER</u>	<u>TOTAL COMPENSATION</u>
1. Project Management Services		\$		\$
a. Authorized Reimbursables			1.0	
2. Design Services		\$		
a. Authorized Reimbursables			1.0	_____
Project Management and Design Services Subtotal				\$ _____
3. Construction Services				
a. Per attached Appendix 1 – Project/Program Statement as prioritized by DMB within total budget (See attached Appendix 1 – Project/Program Statement)				\$ _____
b. General Conditions (included in budget)				_____
TOTAL CONSTRUCTION COST				\$ _____
4. Design/Construction Consultant Services (D/CCS) Fee Equals (___%) of Construction Cost		\$	0.00	\$ _____
TOTAL PROJECT CONTRACT AMOUNT				\$ _____

*See attached Appendix 5 for an itemized list per Project Phase of authorized reimbursable tests/\$ expenses.

ARTICLE 3 PAYMENTS

Payment of the professional fee, by the State of Michigan to the Design/Construction Consultant, shall be based on the Design/Construction Consultant's performance of authorized Contract professional service(s) expenses performed prior to the date of each monthly submitted payment request. Payment requests shall be submitted monthly to the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director as the Project progresses on a Department payment request form (DMB-440). Payment to the Design/Construction Consultant by the Department for each monthly submitted payment request invoice shall be made to the Design/Construction Consultant within thirty (30) consecutive calendar days following the Department's receipt and approval of an approved payment request invoice from the Design/Construction Consultant. Payment requests to the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director shall include signed certification by the Design/Construction Consultant for the actual percentage of Project work completed as of the date of invoicing for each Phase/Task. The Design/Construction Consultant's payment request applications shall summarize the amounts authorized, earned, previously paid and currently due for each Project Phase. Payment request applications to the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director shall be supported by itemized Project work documentation for each assigned Project Phase in such form and detail as the Department may require. The services of each of the Design/Construction Consultant's and their Professional Design Consultant's submitted payment request applications shall include similar information. This includes, but is not limited to:

- a) Phase/Task Numbers for the professional services provided for the Project scope of work.
- b) Name of individual providing professional service and position/classification title as defined in the Article 2 - Compensation text.
- c) Hours worked: Authorized reimbursable expense items provided.
- d) Current direct payroll hourly rate, multiplier and the billing rate hourly charge.
- e) Copy of certified on-site visitation log or site visit report showing time on-site.
- f) Receipts for authorized reimbursable expense items.
- g) Itemized invoices from each of the Design/Construction Consultant's and their Professional Design Consultant's documenting that firm's professional services charge and the Project work related services provided.

ARTICLE 4 ACCOUNTING

Authorization for the Design/Construction Consultant firm to begin to incur costs for the Project professional services shall be made by the Department with a Department signed Professional Services Contract and a Department approved and signed DMB Form 402 - Contract Order. This Contract Order may authorize funds for all professional service Project Phases or authorizations may be made for sequential Phases according to the Project needs. It shall be the Design/Construction Consultant's responsibility to carefully monitor their Project costs and their Professional Design Consultant's professional service costs, activities, and progress and to give timely notification of any justifiable need to increase the authorized Project Budget funds. Increases or decreases to the authorized Project funds will be provided to the Design/Construction Consultant by the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director by a revised and Department approved Contract Change Order signed by the Department and the Design/Construction Consultant. No unauthorized Project work shall be performed by the Design/Construction Consultant and their Professional Design Consultant.

The Design/Construction Consultant shall keep records of costs and expenses of hourly direct payroll rates, billing rates, and authorized reimbursable expense items and all other Project related accounting document costs to support the Design/Construction Consultant's monthly application for payment. Project records shall be kept on a generally recognized accounting basis. Such records shall be available to the Department for a period of three (3) years after the Department's final payment to the Design/Construction Consultant and their Professional Design Consultant. The State of Michigan reserves the right to conduct, or have conducted, an audit and Inspection of these Project records at any time during the Project or following its completion.

ARTICLE 5 INSURANCE

The Design/Construction Consultant shall purchase, maintain and require such insurance that will provide protection from claims set forth below which may arise out of or result from the Design/Construction Consultant's services under this Contract, whether such service be by the Design/Construction Consultant or by any of the Design/Construction Consultant's Professional Design Consultant's or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The following insurance policy limits described below are intended to be the minimum coverage acceptable by the State:

- a) Workers' Compensation Insurance for claims under Michigan's Workers' Compensation Act or other similar employee benefit act of any other state applicable to an employee.

Employers' Liability Insurance, in conjunction with Workers' Compensation Insurance, for claims for damages because of bodily injury, occupational sickness or disease or death of an employee when workers' compensation may not be an exclusive remedy, subject to a limit of liability of not less than \$100,000 each accident.

- b) Automobile Insurance required by law for claims arising from ownership, maintenance or use of a motor vehicle.

- c) General Liability Insurance for claims for damages because of bodily injury or death of any person, other than the Design/Construction Consultant's employees, or damage to tangible property of others, including loss of use resulting therefrom, to the extent that such kinds of liability are not insured by other specific liability insurance and are ordinarily insurable under general liability insurance, subject to bodily injury limits of not less than \$100,000 each occurrence and \$300,000 annual aggregate and property damage limits of not less than \$100,000 each occurrence and \$300,000 annual aggregate, or combined bodily injury/property damage single limit of not less than \$300,000 each occurrence and \$500,000 annual aggregate.
- d) Construction Manager's Professional Liability Insurance for claims for damages arising out of an error, omission or negligent act in the performance of professional services, subject to limits of liability of not less than \$100,000 each claim and an annual policy period aggregate of not less than \$100,000.
- e) Contractual Liability Insurance for claims for damages that may arise from the Design/Construction Consultant's assumption of liability on behalf of the State under Article 6 concerning indemnification for errors, omissions, or negligent acts in the course of the professional service or other provision within this Contract to the extent that such kinds of contractual liability are insurable in connection with and subject to limits of liability not less than for the general liability insurance and construction manager's professional liability insurance set forth in subsections (c) and (d) above.

The Design/Construction Consultant, their Professional Design Consultant, and the Construction Contractor, shall provide and maintain performance and payment bonds as designated in the Department of Management and Budget, Office of Design and Construction, "MICHSPEC 2001 Edition of The Owner and Contractor Standard Construction Contract and General Conditions for Construction" or the current Department of Management and Budget, Office of Design and Construction," DMB Short Form 401 - Proposal and Contract/Front-End Package for Small Projects for Professional Service Contractors (PSC) with General Conditions for Construction and Instructions to Bidders" general conditions.

Original signed Certificate of Insurance documents, acceptable to the State, shall be provided and filed with the State prior to commencement of the Design/Construction Consultant firm's Project scope of work services unless otherwise approved, in writing, by the Department. Faxes or Portable Document Format (PDF) copies of the required original Certificate of Insurance documents will not be accepted, only the original documents are acceptable. Signatures on the original Certificate of Insurance documents must be blue pen and ink and cannot be laser facsimile. The insurance company shall attach evidence that it is authorized by the Department of Labor and Economic Growth, Office of Financial and Insurance Services to do business, as an insurer in the State of Michigan, and must have an insurance rating of "A-" or better, as listed by the A.M. Best Company unless, otherwise authorized in writing, by the State of Michigan. The original Certificate of Insurance documents must specify on the certificate in the oblong rectangle space labeled "Description of Operations/Locations/Vehicles/ Exclusions Added By Endorsement/Special Provisions/Special Items" the following items: (1) The Project Index No.; (2) The Project File No.; (3) The Project Title; (4) Description of the Project Scope of Work; and (5) The State of Michigan must be named as an "Additional Insured on the General Liability Insurance Policy." The original Certificate of Insurance documents shall contain a provision that the Project insurance coverage afforded under the insurance policies for this Contract will not be modified or canceled without at least thirty (30) consecutive calendar days prior written notice to the State of Michigan, Department of Management and Budget, Facilities Administration, Capital Renewal Division. To view the latest A.M. Best's Key Ratings Guide and the A.M. Best's Company Reports (which include the A.M. Best's Ratings) visit the A.M. Best Company internet web site at <http://www.ambest.com>.

The attached Appendix 9, Original Certificates of Insurance documents required for this Project shall be in force for this Project until the final payment by the State to the Design/Construction Consultant is made and shall be written for not less than any limits of liability specified above. The Design/Construction Consultant has the responsibility for having their Professional Design Consultant's comply with these insurance requirements.

Also, be advised that the surety bonds required for a Construction Contract will not be accepted by the State of Michigan unless, the surety bonding company is listed in the current United States Government Department of Treasury's, Listing of Approved Sureties (bonding/insurance companies), Department Circular 570. This Circular 570 Listing is published annually every July 1, in the Federal Register solely for the information of providing a listing of companies holding certificates of authority as acceptable sureties on Federal bonds and as acceptable reinsuring companies required to provide surety bonds to the United States Government. Copies of the current Circular 570 Listing of approved surety bonding/insurance companies and interim changes may be obtained through the internet web site at <http://www.fms.treas.gov/c570/c570.html>.

ARTICLE 6 INDEMNIFICATION

(a) To the extent permitted by law, the Design/Construction Consultant shall indemnify, defend and hold harmless the State from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation that may be injured or damaged by the Design/Construction Consultant in the performance of this Contract and that are attributable to the negligence or tortious acts of the Design/Construction Consultant or any of its Subcontractors/Consultants, or by anyone else for whose acts any of them may be liable.

(b) Employee Indemnification

In any and all claims against the State of Michigan, its departments, divisions, agencies, boards, sections, commissions, officers, employees and agents, by any employee of the Design/Construction Consultant or any of its Subcontractors/Consultants, the indemnification obligation under this Contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Design/Construction Consultant or any of its Subcontractors/Consultants under worker's disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

(c) Patent/Copyright Infringement Indemnification

To the extent permitted by law, the Design/Construction Consultant shall indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Design/Construction Consultant or its Subcontractors/Consultants, or the operation of such equipment, software, commodity or service, or the use of reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

In addition, should the equipment, software, commodity, or services, or its operation, become or in the State's or Design/Construction Consultant's opinion be likely to become the subject of a claim of infringement, the Design/Construction Consultant shall at the Design/Construction Consultant's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Design/Construction Consultant, (ii) replace or modify to the State's satisfaction the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Design/Construction Consultant, (iii) accept its return by the State with appropriate credits to the State against the Design/Construction Consultant's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

Notwithstanding the foregoing, the Design/Construction Consultant shall have no obligation to indemnify or defend the State for, or to pay any costs, damages or attorneys' fees related to, any claim based upon (i) equipment developed based on written specifications of the State; or (ii) use of the equipment in a configuration other than implemented or approved in writing by the Design/Construction Consultant, including, but not limited to, any modification of the equipment by the State; or (iii) the combination, operation, or use of the equipment with equipment or software not supplied by the Design/Construction Consultant under this Contract.

ARTICLE 7 OWNERSHIP OF DOCUMENTS

All Contract Documents/architectural and/or engineering design/build drawings, specifications and Project related documents prepared and furnished by the Design/Construction Consultant and their Professional Design Consultant shall become the property of the State upon their request, in writing, by the State or upon the prior termination of the Design/Construction Consultant's services hereunder, and the Design/Construction Consultant shall have no claim for further employment or additional compensation as a result of this action taken by the State to request full rights of ownership of these documents and materials.

ARTICLE 8 TERMINATION

The State may, by written notice to the Design/Construction Consultant, terminate this Contract in whole or in part at any time, either for the State's convenience or because of the failure of the Design/Construction Consultant to fulfill their Contract obligations. Upon receipt of such notice, the Design/Construction Consultant shall:

- a) Immediately discontinue all professional services affected (unless the notice directs otherwise), and
- b) Deliver to the State all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Design/Construction Consultant in performing this Contract, whether completed or in process.

8.1 If the termination is for the convenience of the State, an equitable adjustment in the Contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed professional services.

8.2 If the termination is due to the failure of the Design/Construction Consultant to fulfill their Contract obligations, the State may take over the work and prosecute the same to completion by Contract or otherwise. In such case, the Design/Construction Consultant shall be liable to the State for any additional cost occasioned to the State thereby.

8.3 If, after notice of termination for failure to fulfill Contract obligations, it is determined that the Design/Construction Consultant had not so failed, the termination shall be deemed to have been effected for the convenience of the State. In such event, adjustment in the Contract price shall be made as provided in Section 8.1 of this article.

8.4 The rights and remedies of the State provided in this article are in addition to any other rights and remedies provided by law or under this Contract.

ARTICLE 9 SUCCESSORS AND ASSIGNS

This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that neither of the parties hereto shall assign this Contract without the prior written consent of the other.

ARTICLE 10 GOVERNING LAW

This Contract shall be construed in accordance with the laws of the State of Michigan.

ARTICLE 11 NONDISCRIMINATION

In connection with the performance of the Project scope of work under this Contract and in accordance with the attached Appendix 7 – Certificate of Awardability, the Design/Construction Consultant and their Professional Design Consultant agrees as follows:

- a) The Design/Construction Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, age, sex, height, weight, marital status, or a physical or mental disability that is unrelated to the individual's ability to perform the duties of the particular job or position. The Design/Construction Consultant will provide equal employment opportunities to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or a physical or mental disability that is unrelated to the individual's ability to perform the duties of the particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- b) The Design/Construction Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Design/Construction Consultant, state that all qualified applicants will receive equal employment opportunity consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or a physical or mental disability that is unrelated to the individual's ability to perform the duties of the particular job or position.
- c) The Design/Construction Consultant or their collective bargaining representative will send to each labor union or representative of workers with which is held a collective bargaining agreement or other Contract or understanding, a notice advising the said labor union or workers' representative of the Design/Construction Consultant's nondiscrimination commitments under this article.
- d) The Design/Construction Consultant will comply with all published rules, regulations, directives, and orders of the Michigan Civil Rights Commission relevant to the Article 6, 1976 PA 453, as amended.
- e) The Design/Construction Consultant will furnish and file nondiscrimination compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of the Design/Construction Consultant and of each of their Professional Design Consultant's. The Design/Construction Consultant will permit access to all books, records, and accounts by the Michigan Civil Rights Commission, and/or its agent, for purposes of investigation to ascertain compliance with this Contract and with rules, regulations, and orders of the Michigan Civil Rights Commission relevant to the Article 6, 1976 PA 453, as amended.
- f) In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that the Design/Construction Consultant has not complied with the contractual nondiscrimination obligations under this Contract, the Michigan Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which the State Administrative Board may order the cancellation of the Contract found to have been violated, and/or declare the Design/Construction Consultant ineligible for future Contracts with the State and its political and civil subdivisions, Departments, and officers, and including the governing boards of institutions of higher education, until the Design/Construction Consultant complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the Design/Construction Consultant is declared ineligible to Contract as a contracting party in future Contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing Contract is a possibility, the State shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.

- g) The Design/Construction Consultant shall also comply with the provisions of the 1976 PA 220, as amended, concerning the civil rights of persons with physical or mental disabilities.
- h) The Design/Construction Consultant will include, or incorporate by reference, the nondiscrimination provisions of the foregoing paragraphs a) through g) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or Contract Order that said nondiscrimination provisions will be binding upon each of the Design/Construction Consultant's and their Professional Design Consultant's or seller.

ARTICLE 12 CONTRACT CLAIMS AND DISPUTES

In any claim or dispute by the Design/Construction Consultant and their Professional Design Consultant which cannot be resolved by negotiation, the Design/Construction Consultant shall submit the dispute for an administrative decision by the Department of Management and Budget, Director of Facilities Administration within thirty (30) consecutive calendar days of the end of the disputed negotiations, and any decision of the Director of Facilities Administration may be appealed to the Michigan Court of Claims within one (1) year of the issuance of the Director's decision. The Design/Construction Consultant agrees that the appeal to the Director of Facilities Administration is a prerequisite to filing a suit in the Michigan Court of Claims.

ARTICLE 13 AS-BUILT DRAWINGS

Within thirty (30) consecutive calendar days after Substantial Completion of the Project, after building or Project occupancy, the Design/Construction Consultant shall obtain, incorporate, and render the Construction Contractor's as-built marked-up architectural and/or engineering drawings and specifications from the Construction Contractor depicting all construction Contract Modifications, additions, and deletions in connection with the Project scope of work for this Contract. These marked-up architectural and/or engineering drawings shall be transformed by the Design/Construction Consultant and their Professional Design Consultant into the following two (2) types of Contract deliverable as-built documents for the Department: (1) one set of legible/reproducible mylars completely updated, as-built originals of the Contract Documents/architectural and/or engineering drawings; and (2) Two (2) sets of completely updated as-built, close-out documents of the Project Contract Documents/architectural and/or engineering drawings on computer compact disks (CD's) in an Auto CAD format that is "Auto CAD readable" and conforms to the American Institute of Architects (AIA) National CAD Standard format. The as-built and record architectural and/or engineering drawings shall be provided to the Department of Management and Budget, Facilities Administration, Design and Construction Division's, Project Director.

The Design/Construction Consultant shall provide the Department with the original Contract Documents/architectural and/or engineering as-built/mylar drawings, specifications, and computer/electronic data file record system disks depicting all construction modifications, additions and deletions in connection with the Project for final record at the completion of their contracted work. The original Contract Documents/architectural and/or engineering as-built drawings, specifications, computer/electronic data file record system disks developed by the Design/Construction Consultant and their Professional Design Consultant for the Project scope of work services will be returned to the Design/Construction Consultant upon their written request.

ARTICLE 14 COMPLETE AGREEMENT: MODIFICATION

This Contract constitutes the entire agreement as to the Project between the parties. Any Contract modification of this Contract must be in writing, signed by duly authorized representatives of the parties, and shall be in such format and detail as the State may require. No Contract Modification may be entered into to compensate the Design/Construction Consultant and their Professional Design Consultant for correcting, or for responding to claims or litigation for the Design/Construction Consultant and their Professional Design Consultant's Contract Documents/architectural and/or engineering design/build errors, omissions or neglect on the part of the Design/Construction Consultant and their Professional Design Consultant.

IN WITNESS, WHEREOF, each of the parties has caused this design/build Contract to be executed by its duly authorized representatives on the dates shown beside their respective signatures, with the Contract to be effective upon the date on which the Design/Construction Consultant receives a copy executed in blue pen and ink by the authorized State of Michigan representative(s) by regular, registered or certified mail or by delivery in person.

FOR THE DESIGN/CONSTRUCTION CONSULTANT:

Signature

Date

Title

Federal Identification (I.D.) No.

FOR THE STATE OF MICHIGAN:

Director, Department of Management and Budget

Date

APPENDIX 1

PROJECT/PROGRAM STATEMENT

PROJECT/PROGRAM STATEMENT
 STATE OF MICHIGAN
 DEPARTMENT OF MANAGEMENT AND BUDGET
 Facilities Administration
 Design and Construction Division
 Second Floor, Stevens T. Mason Building
 P.O. Box 30026
 Lansing, Michigan 48909

INDEX NUMBER(S) To Be Established	FILE NUMBER To Be Assigned	AGENCY OBJECT NUMBER	APPROVAL DATE
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DEPARTMENT

Management and Budget, Facilities Administration, Design and Construction Division

AGENCY

Various Departments and Facilities

ADDRESS

Various Site Locations, Michigan

AGENCY CONTACT

TELEPHONE NUMBER

To Be Identified

DEPARTMENT OF MANAGEMENT AND BUDGET, PROJECT DIRECTOR

TELEPHONE NUMBER

To Be Identified

PROJECT SCOPE/DESCRIPTION

This Project is to secure professional design/construction consultant services, technical staff, and support personnel for miscellaneous operating projects (MOP's), and work orders at various State/Client Agencies on an as-needed basis for architectural and engineering design/build construction services within the various site location areas defined by the State of Michigan.

The objective of this Contract is to provide the Department of Management and Budget, Facilities Administration, Design and Construction Division staff with an expedient and economical method of implementing routine facility management Projects. In a typical year, the Facilities Administration, Design and Construction Division staff manages an average of three hundred (300) Projects which range in cost from less than \$10,000 to a \$1,000,000 and more. These Projects occur throughout the State of Michigan, in facilities that the State both owns and leases.

Historically, the Project scope of work for various facility management Projects is defined by the individual State/Client Agency that occupies the subject space. In addition, the user State/Client Agency defines the anticipated Project Budget. This information is then forwarded to the Facilities Administration, Design and Construction Division for action. (CONTINUED)

SPECIAL WORKING CONDITIONS

As Directed by the Facilities Administration, Design and Construction Division

DESIRED SCHEDULE OF WORK

As Directed by the Facilities Administration, Design and Construction Division

LOCATION OF WORK AREAS

Various Site Locations, Michigan

REFERENCE STANDARDS: This project will comply with all codes, standards, regulations, and workers' safety rules that are administered by federal agencies (EPA, OSHA, and DOT), state agencies (MIOSHA, DNR, and DPH), and any local regulations and standards that may apply.

TOTAL AUTHORIZED COST

\$ 4,000,000

This form is required to be a part of the professional service contract. (Authority: 1984 PA 431)

Attachment(s)

Examples of the specific Projects include: (1) Asset preservation; (2) Heating, ventilating, and air conditioning (HVAC) system maintenance and upgrade/replacement; (3) Roof repair, upkeep, and/or replacement; (4) Parking and sidewalks; (5) Sitework; (6) Electrical system repair, replacement, and/or upgrade; (7) Special Projects; (8) New handicap entrance; (9) Remove underground storage tanks; and (10) Site studies.

The current facility management process in-place has created numerous difficulties for the Facilities Administration, Design and Construction Division as they attempt to manage this workload. Specific shortfalls include:

- Project initiation is defined without facilities support; i.e., scope, cost and schedule.
- Cost-effective delivery of small Projects is difficult.
- Estimated Project costs are often insufficient to do the work.
- Design costs often deplete much of the projected Budget.
- Limited in-house design resources and lack of staff resources make it difficult to manage the work.
- An inability to obtain competitive pricing for the work is often present.
- Timeliness of completion is problematic; extended schedules are sometimes necessary.
- State/Client Agency complaints occur, something the Facilities Administration, Design and Construction Division is working diligently to minimize.

With small Projects demanding much of the Facilities Administration, Design and Construction Division staff resources, strategic planning and “major Projects” cannot be appropriately addressed and managed.

The facility management of the State of Michigan’s leased and owned facilities have a major impact on the effectiveness of the individual State Departments in the performance of their duties. The Department of Management and Budget, Facilities Administration, Design and Construction Division has identified the following key objectives for the development of a new professional design/construction consultant services process:

- Better definition and control of the scope of work for these various Projects.
- Provision of consistent technical standards for both design and construction issues.
- Creation of the opportunity for the Facilities Administration, Design and Construction Division staff to function more effectively as facility managers.
- Improvements in the quality of the performance of the Project delivery process and the end Project.
- Reduction of administrative and Project delivery costs.
- Improvements in response time for the development of the Project scope of work, estimate of Project costs and the delivery of the work.

I. Scope of Services: The Design/Construction Consultant and their Professional Design Consultant will provide an array of flexible professional services covering the complete facilities lifecycle. The scope of their services will cover the following:

- A. Construction/Maintenance Services: Capital and Budget programs that include upgrades and renovations that are generally handled on a Project by Project basis. The maximum limit for these Projects is initially proposed to be \$300,000 per job for control purposes. Projects in excess of \$300,001 will need to be implemented under traditional methods.

The following are specific construction services which the Design/Construction Consultant and their Professional Design Consultant will provide to various State of Michigan State/Client Agencies:

- Assist in Project/job scope definition.
- Support the design and engineering process
- Determine Project costs.
- Publicly advertise bid and award for all required construction work.
- Self-perform work as beneficial.
- Supervise and coordinate all construction work.
- Scheduling of all construction work activities.
- Quality control.
- Close-out all construction Project/jobs.
- Financial tracking and reporting.

A complete list of responsibilities is contained within the proposed Department of Management and Budget, Facilities Administration, Design and Construction Division's attached Appendix 2 – "Design/Construction Consultant Services Utilization Manual, Sample Department Design/Build Forms and Work Flow Procedures Chart." The Design/Construction Consultant is advised to become familiar with this document and this Contract.

- B. Architectural and/or Engineering Design Services: Services required to define on-going needs and the process of documenting the most appropriate solutions.
- C. Reports: The Design/Construction Consultant will provide the Department of Management and Budget, Facilities Administration, Design and Construction Division with the following list of architectural and/or engineering reports on a quarterly basis. These quarterly reports will provide the ultimate method of monitoring and controlling all of the Design/Construction Consultant's Project services, activities, and more importantly, the expenditure of State of Michigan funds.
- Volume Review.
 - Signed Work Authorizations.
 - Awarded Contracts.
 - Executive Project/Job Summary.
 - Vendor Summary.
 - Bid Evaluations.
 - Savings Report.

The primary objective of this Contract is that the Facilities Administration, Design and Construction Division will be provided with a more responsive process that can quickly, effectively, and economically address and dispense of these miscellaneous operating projects (MOP's), work orders and special maintenance Projects of State of Michigan leased and owned facilities to: (1) Create the opportunity for the Facilities Administration, Design and Construction Division staff to function more effectively as managers; (2) Improve the response time in the development of the Project scope of work, estimate of the Project's cost, and delivery of the work; (3) Reduce the administrative and Project delivery costs; (4) Provide consistent technical standards for both design/build and construction Projects; (5) Improve the quality of the performance of the Project delivery process and end product; (6) Provide better definition and control of the scope of work for various leased and owned facility Projects.

Sample Project Assignment Format

FOR THE FOLLOWING PROJECT:

Index No. (To Be Established)	Contract Order No. Y (To Be Assigned)
File No. (To Be Assigned)	
Department of Management and Budget	
Design/Construction Consultant Services for Miscellaneous Operating Projects and Work Orders	
Architectural and Engineering Design/Build Construction Services	
Various Departments and Facilities	
Various Site Locations, Michigan	

Provide professional design/construction consultant services, technical staff, and support personnel for miscellaneous operating projects (MOP's), work orders and special maintenance Projects at various State/Client Agencies on an as-needed basis for architectural and engineering design/build construction services within the various site location areas defined by the State of Michigan.

Compensation fee to the Design/Construction Consultant for individual Tasks described in Article 1 shall not exceed the following amounts per Project Phase unless authorized by a Department approved Contract Change Order signed by the Department and the Design/Construction Consultant.

<u>PROJECT PHASE</u>	<u>SUBTOTAL AMOUNTS</u>	<u>MULTIPLIER**</u>	<u>COMPENSATION NOT TO EXCEED</u>
100 Study			
Direct Payroll	\$		\$
Reimbursable*		1.0	_____
TOTAL			\$
 TOTAL CONTRACT AMOUNT			 \$ <u>_____</u>

*See attached Appendix 5 for an itemized list per Project Phase of authorized reimbursable \$ expenses.

*Printing and Reproduction of Study Phase Final Report Documents Drawings and Specifications = \$ _____.

**See attached Appendix 8 guideline form for computation instructions regarding the overhead items allowed by the Department for the Design/Construction Consultant and their Professional Design Consultant firm's multiplier calculation. No Design/Construction Consultant and their Professional Design Consultant firm's multiplier shall exceed two (2) numerical digits after the decimal point and any Design/Construction Consultant and their Professional Design Consultant firm's multipliers with three (3) or more numerical digits shall be rounded off to two (2) numerical digits.

APPENDIX 2

**DESIGN/CONSTRUCTION CONSULTANT SERVICES UTILIZATION
MANUAL, SAMPLE DEPARTMENT DESIGN/BUILD FORMS AND WORK
FLOW PROCEDURES CHART**

APPENDIX 3

CONTRACT ORGANIZATIONAL CHART

APPENDIX 4

TRADE LABOR RATES

APPENDIX 5

AUTHORIZED REIMBURSABLE \$ EXPENSES

The professional services listed below are authorized by the Department of Management and Budget, Facilities Administration, Design and Construction Division for direct cost reimbursements times a 1.0 multiplier.

5.1 SUMMARY OF AUTHORIZED REIMBURSABLE EXPENSE ITEMS

(Complete for each firm)

Design/Construction/Professional Design Consultant Firm:
City, State

Multiplier: 1.0

<u>Project Phase No.</u>	<u>Description of Professional Services Provided</u>	<u>Total \$ Amount</u>
100*	Printing and Reproduction of Study Phase Final Report(s) Documents	\$_____
	Design Code Compliance and Plan Review Approval Fees by the Department of State Police, Fire Marshal Division and the Department of Labor and Economic Growth, Bureau of Construction Codes and Fire Safety	\$_____
	Printing and Reproduction of Final Design/Build Contract Bidding Documents, Drawings and Specifications	\$_____
	Total of Authorized Reimbursable Expense Items	\$_____

*See the Article 2 – Compensation Format for the Authorized Reimbursable Expense Items of this Contract.

APPENDIX 6

**THE DESIGN/CONSTRUCTION CONSULTANT'S MICHSPEC (LONG FORM)
DOCUMENTS ASSISTANCE PROCEDURES FOR THE CONSTRUCTION
CONTRACTOR DURING THE PROJECT CONSTRUCTION BIDDING AND
THE CONSTRUCTION CONTRACT AWARD**

**THE DESIGN/CONSTRUCTION CONSULTANT'S MICHSPEC (LONG FORM)
DOCUMENTS ASSISTANCE PROCEDURES FOR THE CONSTRUCTION
CONTRACTOR DURING THE PROJECT CONSTRUCTION BIDDING AND
THE CONSTRUCTION CONTRACT AWARD**

- A. Whenever the Design/Construction Consultant is using the Department of Management and Budget, Facilities Administration, Design and Construction Division's, "MICHSPEC 2001 Edition of the Owner and Contractor Standard Construction Contract and General Conditions for Construction (Long Form)" standard form documents as adopted and modified by the State of Michigan and incorporated into the Construction Contract, plus such other Department general conditions as may be part of the Construction Contract. The following Design/Construction Consultant's assistance procedures for the Construction Contractor during the Project construction bidding and the Construction Contract award shall be followed:

If MICHSPEC (Long Form) Contract Documents are utilized for this Project, all applicable Section 00500, Contract Agreement and related attachment documents shall be filled-out in triplicate (date field left blank) and executed in blue pen and ink by the Design/Construction Consultant's recommended Construction Contractor.

CONSTRUCTION BIDDING/CONTRACTING PROCEDURES: Prepare and distribute Bidding Documents and instructions as required to accommodate predetermined construction Bid packages and/or Phases. Maintain a qualified construction Bidders' list. Conduct prebid meetings. Issue a preconstruction addenda. Include in each Addendum complete specifications for the Project scope of work requirements, if such specifications are not part of the final design Bidding Documents. Exert every practical means to obtain several, qualified construction Bidders for every Construction Contract. The Design/Construction Consultant will be compensated by the Department with a Contract Change Order for providing the professional services necessary to rebid the Project for reason of defaulted or disqualified construction Bidder(s) or unacceptable price range as required by the design/construction Budget. The Design/Construction Consultant's construction bidding/contracting services are not complete until: (1) The lowest responsive, responsible qualified construction Bidder's Bid has been selected and accepted by the Department; and (2) The lowest responsive, responsible qualified construction Bidder's Construction Contract has been executed by the construction Bidder and the Design/Construction Consultant.

Collect and Manage Construction Contract Bid Security Deposits: Administer receipt and return of Construction Contract Bid Security deposits. Within fifteen (15) business days of the award of the Construction Contract submit, to the Department, a full accounting of all associated Bid Security deposits and turn over, to the Department, all defaulted Bid Security deposits. All Bid Security deposit checks will be payable to the "State of Michigan." Any returned or undistributed Bidding Documents shall be distributed as the Department may direct.

Construction Bid Evaluation/Recommend Construction Contract Awards: Monitor, review, evaluate and provide the Department with written recommendations for the apparent lowest responsive, responsible qualified construction Bidder for the Project Construction Contract award(s) within five (5) business days of the date of the Department's construction Bid opening. Exempt from recommendation any firm that the Design/Construction Consultant has business association on this Project, and any firm, or firm having any Consultant, which the Design/Construction Consultant has utilized in preparation of the final design/build Contract Documents/architectural and/or engineering drawings and specifications or for any estimating work related to the Project scope of work requirements. The Design/Construction Consultant shall conduct precontract meetings with responsive, responsible qualified construction Bidder(s) to review the following items: (1) The design intent of the Design/Construction Consultant's final design/build Contract Documents/architectural and/or engineering drawings and specifications; and (2) To advise and assist the Construction Contractor(s) in understanding the requirements of the Department of Management and Budget, Facilities Administration, Design and Construction Division's standard form of Construction Contract Documents, Project scope of work, and its Construction Contract award procedures.

The Department will send the Notice of Intent to Award letter to the recommended Construction Contractor awarded the Construction Contract. The Notice of Intent to Award will designate the Contract price and itemize the alternates that the Department, at its sole discretion has accepted. Unless otherwise designated in the Department's Notice of Intent to Award letter to the recommended Construction Contractor, within fifteen (15) calendar days from the date the Notice of Intent to Award letter was mailed to the Construction Contractor, the Construction Contractor recommended for the award of the Construction Contract shall (a) Fill out and execute in blue pen and ink, the Department of Management and Budget, Facilities Administration, Design and Construction Division's, MICHSPEC 2001 Edition of the Owner and Contractor Standard Construction Contract and General Conditions for Construction (Long Form)" standard document forms Section 00500, Contract Agreement and the Section 00800, Supplementary Conditions, in triplicate; (b) Execute Section 00610, Performance Bond, and the Section 00620, Payment Bond (and attach to each bond a separate, certified copy of Power of Attorney); and (c) Return to the Department, the Construction Contractor's executed Section 00500, Contract Agreement, Section 00610, Performance Bond, and Section 00620, Payment Bond forms, evidence of original Certificate of Insurance and any other legal documents required for submittal by the Department's Notice of Award letter.

Immediately upon the notice of intent of the Department of Management and Budget, Facilities Administration, Design and Construction Division's Notice of Intent to Award letter to the Construction Contractor recommended in writing by the Design/Construction Consultant firm to be the lowest responsive, responsible qualified Construction Contractor Bidder of the Construction Contract. The Design/Construction Consultant firm shall fill-out where applicable for the Project scope of work and submit to the Design/Construction Consultant firm's recommended apparent lowest responsive, responsible qualified Construction Contractor Bidder, three (3) sets of original, unsigned, MICHSPEC 2001 Edition, Section 00500, Contract Agreement (Long Form) documents for their review and signature in blue pen and ink for the Project Construction Contract.

The Design/Construction Consultant firm's recommended apparent lowest responsive, responsible qualified Construction Contractor Contract Documents to be submitted for the Construction Phase scope of work of this Project shall contain the following Department of Management and Budget, Facilities Administration, Design and Construction Division's, MICHSPEC 2001 Edition, Construction Contract Agreement (Long Form) standard form documents and outline the Project scope of work procedures to be followed by the Design/Construction Consultant firm's recommended Construction Contractor for their review and signature execution in blue pen and ink of the following Department of Management and Budget, Facilities Administration, Design and Construction Division's, MICHSPEC 2001 Edition, Section 00500, Contract Agreement documents:

- 1.) Section 00300, Bid Summary and Bid Form and Section 00310 and Section 00320, Bid Form Attachments;
- 2.) Section 00400, Qualified Submittals;
- 3.) Section 00500, Contract Agreement. (Note: The Design/Construction Consultant shall fill-out the following Project scope of work articles of this MICHSPEC (Long Form) document and the Design/Construction Consultant firm's recommended apparent lowest responsive, responsible qualified Construction Contractor Bidder shall fill-out and execute in blue pen and ink the remaining portions of this Contract Document:
 - a. Preface to Article 1 text
 - b. Article 1, The Contract; The Project; and The Work
 - c. Article 2, Contract Documents
 - d. Article 3, Contract Price
 - e. Article 4, Contract Time; Liquidated Damages
 - f. Article 6, The Professional Services Contractor
- 4.) Section 00520, Attachment "A" to Contract Agreement;
- 5.) Section 00610, Performance Bond;

- 6.) Section 00620, Payment Bond;
- 7.) Section 01301, Progress Schedule;
- 8.) Section 00800, Supplementary Conditions. (Note: The Design/Construction Consultant firm shall fill-out this form where applicable for the Project scope of work);
- 9.) Original Certificates of Insurance;
- 10.) Certificate of Awardability, a legal form that is required for the Construction Contractor by the State of Michigan's, Department of Civil Rights for any Project Contract work that is valued at one-hundred thousand dollars (\$100,000) or more.

Each Construction Contractor's base Bid over one-hundred thousand dollars (\$100,000) shall enclose a copy of the Bidder's valid Certificate of Awardability issued by the State of Michigan's, Department of Civil Rights (concerning compliance with the State of Michigan's nondiscrimination requirements). FAILURE BY A CONSTRUCTION BIDDER TO ENCLOSE, WITH THE CONSTRUCTION BIDDER'S BID, A COPY OF THE CONSTRUCTION BIDDER'S VALID CERTIFICATE OF AWARDABILITY SHALL JUSTIFY DISQUALIFICATION OF THAT CONSTRUCTION BIDDER, UNLESS A VALID CERTIFICATE OF AWARDABILITY EXISTED ON OR BEFORE THE CLOSING TIME FOR RECEIPT OF CONSTRUCTION BIDS, THE FAILURE TO ENCLOSE SUCH VALID CERTIFICATE OF AWARDABILITY WAS INADVERTENT AND THE CONSTRUCTION BIDDER SUBMITS A COPY OF ITS BIDDER'S CERTIFICATE OF AWARDABILITY WITHIN TWENTY-FOUR (24) HOURS AFTER NOTIFICATION BY THE DEPARTMENT THAT A COPY OF THE VALID CERTIFICATE OF AWARDABILITY WAS NOT SUBMITTED. The time required by the Department of Civil Rights to process Certificate of Awardability applications varies, with their workload, which changes from time to time. The construction Bidder is responsible for securing all pertinent information from the Department of Civil Rights prior to submitting their construction Bid and for keeping their Certificate of Awardability up-to-date. Firms will not be notified when their certificates are going to expire. All correspondence communications for the Certificate of Awardability shall be directed to:

State of Michigan
 Department of Civil Rights
 Contract Compliance Team
 Cadillac Place Building (former General Motors Building)
 3054 West Grand Boulevard
 Suite 3-600
 Detroit, Michigan 48202
 Telephone Number: (313) 456-3822 or 456-3823
 Fax Number: (313) 456-3826

B. ALSO, BE ADVISED: Before the Department of Management and Budget, Facilities Administration, Capital Renewal Division can formally execute the Construction Contractor's Contract, the Construction Contractor must also provide, within fifteen (15) calendar days from the date the Department's Notice of Intent to Award letter was mailed to the Construction Contractor for the subject Project work, the following documents:

- 1.) A certified copy of a resolution of corporate authority adopted by the Construction Contractor's Board of Directors or a certified copy of the articles of the Construction Contractor's By-Laws authorizing signature authority of the Construction Contract on behalf of the corporation. If a partnership, it is necessary to submit a copy of the Power-of-Attorney which authorizes signature authority on behalf of the partnership. A Power-of-Attorney is not required if each of the partners sign the Construction Contract individually.
- 2.) Original Certificate of Insurance documents covering Public Liability, Property Damage, and Worker's Compensation. NOTE: ALL ORIGINAL CERTIFICATE OF INSURANCE

DOCUMENTS MUST SPECIFY THE SUBJECT PROJECT IDENTIFICATION AND LIST THE STATE OF MICHIGAN AS AN ADDITIONAL INSURED. THE INSURANCE COMPANY MUST HAVE AN INSURANCE RATING OF A- OR BETTER AS LISTED BY THE A.M. BEST COMPANY. To view the latest A.M. Best's Key Ratings Guide visit the A.M. Best Company internet web site at <http://www.ambest.com>.

- 3.) Original Performance, Labor, and Material Bonds must be made in favor of the State of Michigan and bear the Department's award date of the Construction Contract. NOTE: SURETY BONDS WILL NOT BE ACCEPTED BY THE STATE OF MICHIGAN UNLESS THE BONDING COMPANY IS LISTED IN THE CURRENT UNITED STATES GOVERNMENT, DEPARTMENT OF TREASURY'S, LIST OF APPROVED SURETIES (BONDING/INSURANCE COMPANIES), DEPARTMENT CIRCULAR NO. 570. Copies of the current Circular No. 570 Listing of approved surety bonding/insurance companies and interim changes may be obtained through the internet web site at <http://www.fms.treas.gov/c570/c570.html>.

FAXES OF THE REQUIRED CONSTRUCTION CONTRACT DOCUMENTS LISTED IN THE ABOVE SECTION (B) NO. 2 AND 3 WILL NOT BE ACCEPTED, ONLY THE ORIGINAL DOCUMENTS ARE ACCEPTABLE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL MS. LINDA FELDPAUSCH AT THE DEPARTMENT OF MANAGEMENT AND BUDGET, FACILITIES ADMINISTRATION, CAPITAL RENEWAL DIVISION AT (517) 241-0122 FOR ASSISTANCE.

NOTE, BE ADVISED: THAT THE CONSTRUCTION CONTRACTOR IS NOT TO PROCEED WITH ANY CONSTRUCTION WORK OR ANY ON-SITE ACTIVITIES UNTIL THE PROJECT CONSTRUCTION CONTRACT HAS BEEN EXECUTED BY BOTH PARTIES. AT THAT TIME, A PRECONSTRUCTION MEETING WILL BE ARRANGED.

The Construction Contractor shall mail and/or return all of the above Construction Contract Documents for the Construction Contract to the following address:

U.S. MAIL ADDRESS

Department of Management and Budget
Facilities Administration
Capital Renewal Division
P.O. Box 30026
Lansing, Michigan 48909
Attention: Ms. Linda Feldpausch
Telephone No. (517) 241-1022

EXPRESS MAIL ADDRESS

Department of Management and Budget
Facilities Administration
Capital Renewal Division
First Floor, Stevens T. Mason Building
530 West Allegan Street
Lansing, Michigan 48933
Attention: Ms. Linda Feldpausch
Telephone No. (517) 241-0122

NOTE: NEW CONSTRUCTION PROJECT PARTIALLY CLOSES STREETS AND AFFECTS PARKING SPACES: Capitol Loop – Downtown Lansing. Due to the new construction work, parking is at a premium in the area of the Stevens T. Mason Building. Also, security measures and the new construction work may affect the delivery time of mail and packages sent via United Parcel Service (UPS), Federal Express (Fed. Ex.), and Airborne Express. If hand-delivering your Construction Contract Documents, please allow ample time to locate parking and be prepared to sign-in and present requested pictured identification to the security officer on-duty in the lobby of the Stevens T. Mason Building in order for your Construction Contract Documents to arrive at the Department of Management and Budget, Facilities Administration, Capital Renewal Division. It remains the responsibility of the Construction Contractor firm to submit their Construction Contract Documents as specified on time.

APPENDIX 7

CERTIFICATE OF AWARDBILITY

APPENDIX 8

**OVERHEAD ITEMS ALLOWED FOR THE
DESIGN/CONSTRUCTION CONSULTANT
AND THEIR PROFESSIONAL DESIGN CONSULTANT'S
MULTIPLIER CALCULATION**

The following instructions are to be used by the Design/Construction Consultant and their Professional Design Consultants to determine the allowable multiplier to use on State of Michigan Projects. Contract total cost shall be estimated using the current hourly direct payroll rates for personnel performing a direct service times the Design/Construction Consultant firm's multiplier. The multiplier for hourly direct payroll rates shall not exceed 2.70 and Contracts will not be accepted for award by the Department of Management and Budget, Facilities Administration, Design and Construction Division to a Design/Construction Consultant firm with a multiplier above 2.70. All multipliers must be documented in writing and accompanied with accounting records prepared by a qualified accountant justifying each Design/Construction Consultant firm's calculated multiplier. No Design/Construction Consultant firm's multiplier shall exceed two (2) numerical digits after the decimal point and any Design/Construction Consultant firm's multipliers with three (3) or more numerical digits shall be rounded off to two (2) numerical digits.

All of the Design/Construction Consultant's Professional Design Consultants providing Project services must submit a separate multiplier (with proper documentation) for the Professional Design Consultant services they will provide. No mark-up of the Professional Design Consultants direct payroll or billing rates will be allowed.

The Department of Management and Budget, Facilities Administration, Design and Construction Division will reimburse the Design/Construction Consultant for the actual cost of printing and reproduction of the Contract Bidding Documents, soil borings, surveys and any required laboratory testing services. No mark-up of these Project costs will be allowed.

2009 MULTIPLIER

Based on 2008 Expenses

$$\text{Multiplier} = \frac{\text{Direct Payroll Cost} \times \text{Profit Factor (1.1 Maximum)} + \text{Overhead Allowance}}{\text{Direct Payroll Cost}}$$

OVERHEAD ITEMS ALLOWED FOR THE DESIGN/CONSTRUCTION CONSULTANT AND THEIR PROFESSIONAL DESIGN CONSULTANTS MULTIPLIER CALCULATION

<u>SALARIES:</u>	<u>EQUIPMENT RENTALS:</u>	<u>EMPLOYEE BENEFITS:</u>
Principals (Not Project Related)	Computers	Hospitalization
Clerical/Secretarial	Typewriter	Employer's Federal Insurance Contributions Act (F.I.C.A.) Tax
Technical (Not Project Related)	Bookkeeping	Unemployment Insurance
Temporary Help	Dictating	Federal Unemployment Tax
Technical Training	Printing	Disability
Recruiting Expenses	Furniture and Fixtures	Worker's Compensation
	Instruments	Vacation
		Holidays
<u>OFFICE FACILITIES:</u>	<u>TRAVEL:</u>	Sick Pay
Rents and Related Expenses	All Project-Related Travel*	Medical Payments
Utilities		Pension Funds
Cleaning and Repair	<u>MISCELLANEOUS:</u>	Insurance - Life
	Professional Organization Dues	Retirement Plans
<u>SUPPLIES:</u>	for Principals and Employees	
Postage	Licensing Fees	<u>PRINTING AND DUPLICATION:</u>
Drafting Room Supplies		Specifications (Other Than Contract Bidding Documents)
General Office Supplies	<u>SERVICES (NONPROFESSIONAL):</u>	Drawings (Other Than Contract Bidding Documents)
Library	Telephone and Telegram	Xerox/Reproduction
Maps and Charts	Messenger Services	Photographs
Magazine Subscriptions		
<u>SERVICES (PROFESSIONAL):</u>	<u>TAXES:</u>	<u>LOSSES:</u>
Accounting	Franchise Taxes	Bad Debts (Net)
Legal	Occupancy Tax	Uncollectible Fee
Employment Fees	Unincorporated Business Tax	Thefts (Not Covered by Project/Contract Surety Bond)
Computer Services	Property Tax	Forgeries (Not Covered by Project/Contract Surety Bond)
Research	Single Business Tax	
<u>FINANCIAL:</u>	<u>INSURANCE:</u>	
Depreciation	Professional Liability Insurance	
	Flight and Commercial Vehicle	
	Valuable Papers	
	Office Liability	
	Office Theft	
	Premises Insurance	
	Key-Personnel Insurance	

MULTIPLIER DOES NOT INCLUDE AND THE DEPARTMENT OF MANAGEMENT AND BUDGET, FACILITIES ADMINISTRATION, DESIGN AND CONSTRUCTION DIVISION WILL PAY THE DESIGN/CONSTRUCTION CONSULTANT FIRM FOR (UNDER REIMBURSABLE COSTS):

1. Printing and reproduction of Phase 100 Survey and/or Study Final Reports.
2. Printing and reproduction of the Final Design Contract Bidding Documents/Drawings, and Specifications.
3. Design Code Compliance and Plan Review Approval Fees of the Final Design Documents by the Department of State Police, Fire Marshal Division and the Department of Labor and Economic Growth, Bureau of Construction Codes and Fire Safety.
- 4.* Travel mileage costs for State of Michigan Projects more than of one-hundred (100) miles in each direction from the Design/Construction Consultant's Michigan office if the Design/Construction Consultant firm can demonstrate a cost savings to the State, if reimbursed for travel mileage in accordance with the current travel rates provided in the State of Michigan's "Schedule of Travel and Meal Reimbursement Rates" versus an adjustment to the Design/Construction Consultant's multiplier.

APPENDIX 9

ORIGINAL CERTIFICATES OF INSURANCE