

MBM:amt  
07/02/92

26

AN ORDINANCE **76057**

AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES CONTRACT IN THE AMOUNT OF \$122,422.50 WITH REITZER, CRUZ ARCHITECTS, INC. FOR ARCHITECTURAL AND ENGINEERING SERVICES IN CONNECTION WITH THE LAS PALMAS BRANCH LIBRARY/LITERACY LEARNING AND LEADERSHIP DEVELOPMENT CENTER PROJECT; AUTHORIZING \$12,242.25 FOR A CONTINGENCY ACCOUNT AND \$250.00 FOR ADVERTISING EXPENSES; APPROPRIATING 1989 LIBRARY BOND FUNDS; AND PROVIDING FOR PAYMENT.

\* \* \* \* \*

WHEREAS, the Las Palmas Branch Library/Literacy Learning and Leadership Development Center Project will be a joint venture between the San Antonio Public Library and the Literacy Commission; and

WHEREAS, the facility will encompass both the library and the literacy learning center; and

WHEREAS, the library will be 12,000 square feet and the literacy learning center will be 8,000 square feet; and

WHEREAS, Reitzer, Cruz Architects, Inc. will provide the architectural services needed for said project; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

SECTION 1. The City Manager is hereby authorized to execute a professional services contract with Reitzer, Cruz Architects, Inc. to provide architectural and engineering services in connection with the new Las Palmas Branch Library/Literacy Learning and Leadership Development Center. The library is to be a 12,000 square facility and the Literacy Center an 8,000 square feet facility both located in one structure. Upon execution, a copy of the contract will be attached as Attachment I.

SECTION 2. In accordance with the requirements of the 1989 General Obligation Library Bonds Indenture, the costs of the above facilities must be carried in two projects and the costs authorized for payment shall be allocated to said facilities as follows:

	Library	Learning Center	Total
Architect Contract	\$ 73,453.50	\$ 48,969.00	\$ 122,422.50
Architect Cont'gcy	7,345.35	4,896.90	12,242.25
Advertising Expense	<u>150.00</u>	<u>100.00</u>	<u>250.00</u>
Totals	\$ 80,948.85	\$ 53,965.90	\$ 134,914.75

SECTION 3. The above costs for the Library and the Learning Center are appropriated in the 1989 General Obligation Library Bonds Series 1991 as follows:

Project No. 45-911302 Las Palmas Branch Library

Index No.	Account Title	Obj.Code	Amount
585992	Architect Contract	05-378	\$ 73,453.50
586008	Architect Contingency	"	7,345.35
586016	Advertising Expense	"	150.00

Project No. 45-911303 Literacy Learning & Leadership Center

Index No.	Account Title	Obj.Code	Amount
588301	Architect Contract	05-378	\$ 48,969.00
588319	Architect Contingency	"	4,896.90
588327	Advertising Expense	"	100.00

SECTION 4. The following amounts are authorized to be encumbered in and paid from the above accounts as indicated:

\$122,422.50 from Expenditure Account Index No. 585992 and 588301, payable to Reitzer, Cruz Architects, Inc.

12,242.26 from Expenditure Account Index No. 586008 and 588319, payable for construction contingencies.

250.00 from Expenditure Account Index Nos. 586016 and 588327, payable for construction contingencies.

PASSED AND APPROVED this 2nd day of July, 1992.

ATTEST: Anna S. Rodriguez  
City Clerk

Robert W. Wolff  
MAYOR

APPROVED AS TO FORM:

Tom Surlay  
City Attorney

92-28

ARTS & CULTURAL AFFAIRS
AVIATION
BUILDING INSPECTIONS
BUILDING INSPECTIONS HOUSE NUMBER
CITY ATTORNEY
MUNICIPAL COURT (HOLLIS YOUNG)
REAL ESTATE (FASSNIDGE)
REAL ESTATE (HUBBARD)
REAL ESTATE (WOOD)
TRIAL SECTION
CITY MANAGER
TRAVIS BISHOP, ASST. TO MGR.
CODE COMPLIANCE
INTERGOVERNMENTAL RELATIONS
CITY PUBLIC SERVICE-GENERAL MGR.
CITY PUBLIC SERVICE-MAPS/RECORDS
CITY WATER BOARD-GENERAL MGR.
COMMERCIAL RECORDER
COMMUNITY DEVELOPMENT (BASEMENT)
COMMUNITY INITIATIVES
CONVENTION & VISITORS BUREAU
CONVENTION FACILITIES
DOMESTIC DEVELOPMENT OFFICE
ECONOMIC DEVELOPMENT
FINANCE DIRECTOR
ASSESSOR
CONTROLLER
GRANTS
RISK MANAGEMENT
TREASURY
FIRE DEPARTMENT
HOUSING TRUST
INFORMATION RESOURCES
INTERNATIONAL RELATIONS
LIBRARY
MANAGEMENT SERVICES (BUDGET)
MANAGEMENT SERVICES (PERSONNEL)
MARKET SQUARE
METROPOLITAN HEALTH DISTRICT
MUNICIPAL CODE CORP. (PUBLICATION)
MUNICIPAL COURTS
PARKS & RECREATION
PLANNING
LAND DEVELOPMENT SERVICES
POLICE DEPARTMENT
POLICE DEPT.-GROUND TRANSPORTATION
PUBLIC INFORMATION OFFICE
PUBLIC UTILITIES
PUBLIC WORKS
CAPITAL PROJECTS
CENTRAL MAPPING
ENGINEERING
PARKING DIVISION
REAL ESTATE (BILL TOUDOUZE)
SOLID WASTE
TRAFFIC ENGINEERING
PURCHASING & GENERAL SERVICES
WASTEWATER MANAGEMENT

ITEM NO. 26  
 JUL 02 1992

MEETING OF THE CITY COUNCIL DATE: \_\_\_\_\_

MOTION BY: Perez SECONDED BY: Henry

ORD. NO. 76057 ZONING CASE \_\_\_\_\_

RESOL. \_\_\_\_\_ PETITION \_\_\_\_\_

	ROLLCALL	AYES	NAYS
ROGER PEREZ PLACE 1		✓	
FRANK PIERCE PLACE 2		✓	
LYNDA BILLA BURKE PLACE 3		absent	
FRANK D. WING PLACE 4		absent	
JUAN F. SOLIS III PLACE 5		✓	
HELEN AYALA PLACE 6		✓	
YOLANDA VERA PLACE 7		✓	
BILL THORNTON PLACE 8		✓	
WEIR LABATT PLACE 9		ABSENT	
LVLE LARSON PLACE 10		✓	
NELSON WOLFF PLACE 11 (MAYOR)		✓	

92-28



# CITY OF SAN ANTONIO

P. O. BOX 639966  
SAN ANTONIO, TEXAS 78283-3966

July 23, 1992

*Nancy*

Reitzer/Cruz Architects, Inc.  
7551 Callaghan Road Suite 100  
San Antonio, Texas 78229

RE: LAS PALMAS BRANCH LIBRARY/LITERACY LEARNING  
AND LEADERSHIP DEVELOPMENT CENTER

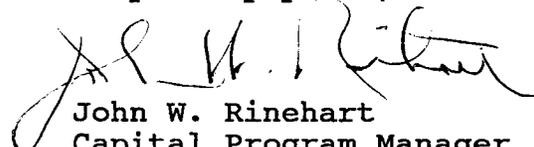
Gentlemen:

We are enclosing herewith the contract covering professional services relating to the above referenced project.

This contract has been approved and you are hereby authorized to commence work in the development of this project as set forth in the agreement.

It will be necessary for you to comply with certain Equal Employment Opportunity regulations in conjunction with this contract. Request you contact the City's Affirmative Action Office, 299-8438, for information and assistance.

Very truly yours,

  
John W. Rinehart  
Capital Program Manager  
Public Works Department

JWR:ec

encl

cc: City Clerk  
DEED, SMBA  
Affirmative Action  
Finance  
City Architect  
Library Department  
File

#76057  
7-2-92

PROFESSIONAL SERVICES CONTRACT

ARCHITECTURAL SERVICES  
(Revised Mar.1992)

STATE OF TEXAS

COUNTY OF BEXAR

CITY OF SAN ANTONIO

CONTRACT FOR

LAS PALMAS BRANCH LIBRARY/LITERACY LEARNING  
AND LEADERSHIP DEVELOPMENT CENTER

SECTION 1

This Agreement made and entered into in San Antonio, Bexar County, Texas, between the City of San Antonio, a Municipal Corporation in the State of Texas, hereinafter termed "City", and

Reitzer/Cruz Architects, Inc.  
7551 Callaghan Road Suite 100  
San Antonio, Texas 78229

Architect(s) duly licensed, and practicing under the laws of the State of Texas, hereinafter termed "Consultant", said Agreement being executed by the City pursuant to the City Charter, Ordinances, and Resolutions of the City Council, and by said consultant for architectural services hereinafter set forth in connection with the above designated Project for the City of San Antonio.

- I. The Consultant shall not commence work on this proposed Project until being thoroughly briefed on the scope of the project and has been notified in writing to proceed. The scope of the project and the Consultant's services required shall be reduced by the Consultant to a written summary of the scope meeting and included as a product of this Agreement. Should the scope subsequently change, either the Consultant or the City may request a review of the anticipated services, with an appropriate adjustment in fees.

The Consultant, in consideration for the compensation herein provided, shall render the following professional services necessary for the development of the Project to substantial completion, including plans and specifications, construction services and any special and general conditions and instructions to bidders as acceptable to the Director of Public Works, or his duly authorized representative, hereinafter termed "Director", subject to other provisions of this Agreement.

The Consultant shall be represented by a registered professional architect licensed to practice in the State of Texas at meetings of any official nature concerning the Project, including but not limited to scope meetings, review meetings, pre-bid meetings, and pre-construction meetings.

All completed documents submitted for final approval or issuance of a permit shall bear the seal with signature and date adjacent thereto of a registered professional architect.

II. The Consultant shall perform his obligations under this Contract in four (4) Phases, namely, (A) the Schematic Design Phase, (B) the Design Development Phase, (C) the Construction Documents Phase, and (D) the Construction Phase.

A. Schematic Design Phase

The Consultant shall:

1. Review the scope of work furnished by the City to ascertain the requirements of the Project and shall review the understanding of such requirements with the City. All field surveys (topography) necessary for the completion of the Plans and Specifications will be furnished by the City to the Consultant.
2. Provide a preliminary evaluation of the program and the Project budget requirements, each in terms of the other, subject to the limitations such as inflation, competitive market prices, negotiations, etc.
3. Review with the Director alternative approaches to design and construction of the Project.
4. Coordinate the proposed Project with all utility companies that may effect this Project and request the most current available records showing the location of utilities. Consultant shall identify particular problems and conflicts arising from existing utilities which affect the Project and shall make recommendations with respect thereto. The Consultant shall document the status of each utility effecting the Project with a Memorandum of Record to be submitted with the Schematic Design Phase documents. The City will assist the Consultant in obtaining data and services requested of the utility companies by the Consultant after diligent effort has been made by the Consultant to no avail. The Consultant shall coordinate with the following utility companies:

City Public Service Board (Gas and Electric)  
City Water Board  
City of San Antonio Department of Environmental Management (Sewers)  
Bexar Metropolitan Water District  
Texas Water Commission (Aquifer)  
Paragon Cable System  
Southwestern Bell Telephone Company  
Other utility companies which may be effected

Detailed measurements and surveys for exploration of utilities, if required, will be an additional service as provided in Appendix "A".

5. Prepare for approval by the Director based on mutually agreed upon program and Project budget requirements, Schematic Design documents consisting of drawings and other documents illustrating the scale and relationship of the Project alternatives.
6. Submit to the Director a Statement of Probable Construction Cost based on current area, volume or other unit costs.
7. Furnish the Director with three (3) copies of the Schematic Design Phase documents. Upon review of said documents, the Director will furnish to the

Consultant, in writing, authority to proceed with the Design Development Phase on the alternatives selected from the Schematic Design Phase.

8. Plan and coordinate foundation investigations, soil borings, and other tests required for the design of the Project.

B. Design Development Phase

The Consultant shall:

1. Prepare for approval by the Director based on the approved Schematic Design documents and any adjustments authorized by the City in the program or Project budget, Design Development documents consisting of drawings and other documents to fix and describe the size and character of the entire Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. Prepare and provide a Statement of Probable Construction Cost based on unit costs.
2. Attend not more than three (3) citizens meetings and as deemed necessary meet with City officials.
3. Furnish the City Architect with three (3) copies of the Design Development documents. One (1) copy will be distributed to the Administrative Department responsible for the Project and two (2) copies will be retained by the City Architect of which one red lined set will be returned to the Consultant. Upon review and approval of said documents, the Director will furnish to the Consultant, in writing, authority to proceed with the Construction Documents Phase.

C. Construction Documents Phase

The Consultant shall:

1. Furnish when necessary all data required by the City for the development of any applications or supporting documents for State or Federal Government permits, grants or planning advances, provided that such data shall not extend beyond that actually developed in the performance of other provisions of this contract.
2. Attend not more than three (3) citizens meetings and as deemed necessary meet with City officials.
3. Prepare detailed contract drawings and specifications, after authorization has been received from the Director to proceed with the Construction Documents Phase. These designs shall combine in all respects the application of sound architectural principles with a high degree of economy.
  - a. Detailed specifications shall be developed as applicable, to the particular project.
  - b. A specimen copy of standard general provisions, instructions to bidders, and applicable prevailing wage rates will be furnished to the Consultant by the Director for incorporation in the specifications of the proposed Project.
4. Prior to the actual printing of the final Construction Documents (plans, specifications and proposals) one (1) advance copy shall be submitted to the City Architect. Upon review and approval of said documents, the Consultant shall provide and submit same to the following:

a. City Architect's Office

- 1 set of Plans and Specifications for City Architect
- 1 set of Plans and Specifications for Building Maintenance
- 1 set of Plans and Specifications for each utility
- 1 set of Plans and Specifications for Department Director

b. Building and Inspections Department

- 2 sets of Plans and Specifications

c. Plans and Records, Engineering Division, Public Works Department

- 9 sets of Plans and Specifications

d. State Department of Licensing & Regulation

Architectural Barriers, Program Manager, E.O. Thompson  
State Office Building, P.O. Box 12157  
Austin, Texas 78711

- 1 set of Plans and Specifications for review of State Handicapped Requirements

5. Advise the Director of any adjustments to previous Statements of Probable Construction Cost indicated by changes in requirements or general market conditions.
6. Upon the direction of the City, issue Plans and Specifications for bidding purposes, receive and record plan deposits; prepare, issue and deliver all addenda required to perfect the bid documents; maintain a record of issuance and receipt of same; furnish to the City a statement that the Consultant has provided and all bidders have received the Plans and Specifications and any necessary addenda thereto prior to opening of the bids. Attend the Pre-Bid Conference as scheduled by the City to provide clarification and interpretation to bidders.

In consultation with the City set a charge for plans and specifications (bid documents) based on the cost of printing and handling, said charge to be assessed all bidders and vendors. Return of bid documents and any refund to be made will be in accordance with normal City policy.

Once the Construction Contract is signed, the successful bidder's document deposit along with all available sets of documents will be turned over to the Contractor. Consultant shall provide to the City additional sets of contract documents as required for the successful bidder and subcontractors to use during the construction phase. The Consultant will then be reimbursed by the City for the cost of all document sets furnished to bidders for bid purposes and to the Contractor for construction purposes in accordance with Appendix "A".

7. Attend the formal opening of bids of the City Clerk and shall tabulate and furnish to the City an original and five (5) copies of the bid tabulation together with his recommendation regarding the award of the contract.

D. Construction Phase

The Consultant shall:

1. Attend a Pre-Construction Conference with the Representatives of the interested Departments.

2. Visit the site in intervals appropriate to the stage of construction or as otherwise agreed by the Consultant in writing to become generally familiar with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Contract Documents. However, the Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work. On the basis of such on-site observations as a professional consultant, the Consultant should keep the City informed of the progress and quality of each major division of the work and shall endeavor to guard the City against defects and deficiencies in the work of the Contractor. The Consultant shall provide the City Architect a Memorandum Record of each jobsite visit and shall submit a Monthly Report to the City Architect, Capital Program Manager, Facility User, plus two additional copies as determined by the City. The Monthly Report shall include the status of the project, completed Contract Time Statement (City Form PW-19A), and information to indicate the progress and performance of the Contractor in accordance with the Contract Documents.
3. Review Contractor's building construction layout, specifically foundation elevations.
4. Not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor or the safety precautions and programs incident to the work of the Contractor.
5. The Consultant's efforts will be directed towards providing assurance for the City that the completed project will conform to the Plans and Specifications. The Consultant shall not be responsible for the failure of the Contractor to perform the construction work in accordance with the Plans and Specifications and the Contractor's contract. However, the Consultant shall report to the City any deficiencies in the work actually detected by the Consultant.
6. Submittals: Review and take other appropriate action (approve with modifications, reject, etc.) upon the Contractor's submittals such as shop drawings, product data and samples, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. Such reviews and approvals, or other actions, shall not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions and programs incident thereto. The approval of a specific item shall not indicate approval of an assembly of which the item is a component.
7. Receive and review certificates of inspections, testing (to include field, laboratory, shop and mill testing of materials) and approvals required by laws, rules, regulations, ordinances, codes, orders or the Contract Documents to determine generally that the results certified substantially comply with the Contract Documents which are submitted to him. The Consultant shall also recommend to the City special inspection or testing when deemed necessary to assure that materials, products, assemblages and equipment conform to the design concept and the Contract Documents.
8. Review and approve in concert with the City all colors, materials, fabrics, etc., relating to finishes required.

9. Review and approve in concert with the City equipment required to be submitted and tested by the Plans and Specifications for compliance with Project design and performance specifications.
10. Determine the amounts owing to the Contractor based on observations at the site and on evaluations of the Contractor's Monthly Estimates (and Final Estimate) and issue recommendations to the City for payment of such amounts as provided in the Contract Documents.

The issuance of a Recommendation For Payment shall constitute a representation by the Consultant to the City based on the Consultant's observations at the site as provided herein and on the data comprising the Contractor's Monthly Estimate (and Final Estimate), that the work has progressed to the point indicated; that to the best of the Consultant's knowledge, information and belief, the quality of work is in accordance with the Contract Documents (subject to an evaluation of the work for conformance with the Contract Documents upon substantial completion, to the results of any subsequent test required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in the Recommendation For Payment); and that the Contractor is entitled to payment in the amount recommended. However, the issuance of a Recommendation For Payment shall not be representation that the Consultant has made an examination to ascertain how and for what purpose the Contractor has used the monies paid on account of the contract sum.

11. Observe the initial start-up of the Project and the necessary performance tests required by the Specifications of any machinery or equipment installed in and made a part of the Project. The Consultant shall advise the City representatives if in his opinion the machinery or equipment is not operating properly.
12. Perform in company with the City representative(s) a "conditional approval" and a "final" inspection of the Project to observe any apparent defects in the completed construction, assist the City in consultation and discussions with the Contractor(s) concerning such deficiencies, and make recommendations as to replacements or corrections of the defective work.
13. After completion of the work, and before final payment to the Contractor, it shall be the City's responsibility to require a set of "Record Drawings" from the Contractor, who has control of the work and who is in a position to know how the Project was constructed. The Consultant, after receiving this information shall transfer the information to a set of "Mylar" tracings as "Record Drawings" or documents for the City's permanent file. The Consultant shall not be held liable for the information supplied him by the Contractor and/or City representative.
14. The City will require the Contractor to submit to the Consultant who shall assemble and deliver to the City all manufacturer's warranties or bonds, equipment maintenance and operating manuals, and similar data on materials and equipment incorporated in the Project as required by the Contract Documents.
15. Develop, at the request of the City, any changes, alterations or modifications to the Project which appear to be advisable and feasible and in the best interest of the City. Such alterations shall appear on or be attached

to the City's form "Field Alteration Request". A supply of these forms will be furnished to the Consultant by the City for this purpose. The Consultant shall obtain the Contractor's acceptance of the proposed alteration prior to submitting it to the City for its approval. No work shall be authorized to be done by the Contractor prior to receipt of the City's approval of the "Field Alteration Request".

III. Period of Service

- A. The Consultant shall complete the various phases of work under Section 1, I, and II of this contract in accordance with the Production Schedule in Appendix "B" of this contract. Once the Consultant has submitted a completed phase of work, no further work days shall be charged against that phase of work as total calendar days. If, upon review of phase work, corrections, modifications, alterations, or additions are required of the Consultant, these items shall be completed by the Consultant before that phase is approved. Calendar days shall be charged for this period when changes are being made.
- B. Upon acceptance and approval of the Schematic Design, Design Development, or Construction Documents Phases, the Director will authorize in writing the Consultant to proceed with the next appropriate phase of work. However, if the City elects to discontinue the Consultant's effort at the end of any phase for any reason (see Section 1, VIII), the total time expended up to that time will be charged against the total allowable time in the same manner as if no delay or suspension had occurred. However, if circumstance dictates, the Director may authorize extra calendar days or make adjustments to the Production Schedule as he deems necessary to complete the required design.
- C. If the Consultant fails to furnish the completed work as herein required, the Consultant by the execution of this Agreement acknowledges that the City will sustain damages and hereby agrees to forfeit to the City, as liquidated damages and not as a penalty, an amount for each day beyond the required day for completion and submittal until day of completion and submittal as determined by the following schedule with said amount to be withheld and deducted from any amount due or owing the Consultant.

<u>Construction Cost</u> <u>of Project</u>	<u>Amount of Liquidated Damages</u> <u>Per Day</u>
Up to \$ 500,000	\$ 50.00
\$ 500,001 to 1,000,000	100.00
1,000,001 to 2,000,000	150.00
2,000,001 to 3,000,000	200.00
3,000,001 to 4,000,000	250.00
4,000,001 to 5,000,000	300.00
Over \$5,000,000	350.00

The Consultant further acknowledges the said amount is fixed and agreed upon by and between the Consultant and the City because of the impracticality and extreme difficulty of fixing and ascertaining the actual damages the City would in such event sustain, and said amount is agreed to be the amount of damages which the City would sustain and said amount shall be retained by the City.

- D. The Consultant shall not be liable or responsible for, and there shall be excluded from the computation of the aforesaid periods of time, any delays due to strikes, riots, acts of God, national emergency, acts of the public enemy, governmental restrictions, laws or regulations, or any other causes beyond Consultant's reasonable control. Within thirty (30) days from the occurrence of any event for which time for performance by Consultant shall be significantly extended under this provision, Consultant may give written notice thereof to the City stating the reason for such extension and the actual or estimated time thereof.
- E. This Agreement shall remain in force for a period which may reasonably be required for the design, award of the contract, and construction of the Project including any extra work and any required extensions thereto unless discontinued as provided for elsewhere in this contract.

#### IV. Coordination with the City.

- A. The Consultant shall hold periodic conferences with the Director or his representatives to the end that the Project as developed shall have the full benefit of the City's experience and knowledge of existing needs and facilities, and be consistent with its current policies and standards. To assist the Consultant in this coordination, the City shall make available for the Consultant's use in planning and designing the Project all existing plans, maps, statistics, computations and other data in its possession relative to existing facilities and to this particular Project at no cost to the Consultant. However, any and all such information shall remain the property of the City and shall be returned if instructed to do so by the Director.
- B. The Director will act on behalf of the City with respect to the work to be performed under this Agreement. He shall have complete authority to transmit instructions, receive information, interpret and define the City's policies and decisions with respect to materials, equipment, elements and systems pertinent to the Consultant's services.
- C. The City will give prompt written notice to the Consultant whenever the City observes or otherwise becomes aware of any defect in the Consultant's services, in the work of the Contractor, or any development that affects the scope or timing of the Consultant's services.
- D. The City shall furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for the completion of the Project. The Consultant will provide the City reasonable assistance in connection with such approvals and permits such as the furnishing of data compiled by the Consultant pursuant to other provisions of the contract, but shall not be obligated to develop additional data, prepare extensive reports or appear at hearings or the like unless compensated therefor under other provisions of this contract.

#### V. Fee Schedule

For and in consideration of the services to be rendered by the Consultant in this Agreement, the City shall pay and the Consultant shall receive the fee set forth in attachment hereto which is made a part hereof and identified as Exhibit 1.

VI. Revisions to Drawings and Specifications

The Consultant shall make without expense to the City such revisions to the Schematic Design Phase drawings, reports or other documents as may be required to meet the needs of the City which are within the Scope of the Project, but after the approval of the Schematic Design Phase any revisions, additions, or other modifications made at the City's request which involves extra services and expenses to the Consultant shall be subject to additional compensation to the Consultant for such extra services and expenses.

The Director may require the Consultant to revise the drawings and specifications, at no cost to the City, if the lowest bona fide bid is in excess of fifteen percent (15%) of the amount of the fixed limit or the Design Development Phase cost estimate as submitted by the Consultant, and accepted by the City.

VII. Ownership of Documents

All documents including the original drawings, estimates, specifications, and data, will remain the property of the Consultant as instruments of service. However, it is to be understood that the City shall have free access to all such information with the right to make and retain copies of drawings and all other documents and data. Any reuse without specific written verification or adaptation by Consultant will be at City's sole risk and without liability or legal exposure to Consultant.

VIII. Termination and/or Suspension of Work

A. Right of Either Party to Terminate

This Agreement may be terminated by either party for substantial failure by the other party to perform (through no fault of the terminating party) in accordance with the terms of this Agreement.

The terminating party must issue a signed, written notice of termination (citing this paragraph) to the other party. Upon receipt of such written notice of termination, the party in receipt shall have a period of ten (10) days to cure any failure to perform under this Agreement. Upon the completion of such ten day period commencing upon receipt of notice of termination, if such party has not cured any failure to perform, such termination shall become effective.

B. Right of City to Terminate

The City of San Antonio reserves the right to terminate this Agreement for reasons other than substantial failure by the Consultant to perform by issuing a signed, written notice of termination (citing this paragraph) which shall take effect on the twentieth day following receipt of said notice and upon the scheduled completion date of the performance phase in which Consultant is then currently working, whichever effective termination date occurs first.

C. Right of City to Suspend Giving Rise to Right of Consultant to Terminate

The City of San Antonio reserves the right to suspend this Agreement at the end of any phase for the convenience of the City by issuing a signed, written notice of suspension (citing this paragraph) which shall outline the reasons for the suspension and the duration of the suspension but in no way will guarantee the

total number of days of suspension. Such suspension shall take effect immediately upon receipt of said notice of suspension by the Consultant (effective date of suspension).

The Consultant is hereby given the right to terminate this Agreement in the event such suspension extends for a period in excess of one hundred twenty (120) days. Consultant may exercise this right to terminate by issuing a signed, written notice of termination (citing this paragraph) to the City after the expiration of one hundred twenty (120) days from the effective date of the suspension. Termination (under this paragraph) shall become effective immediately upon receipt of said written notice by the City.

D. Procedures Consultant to follow upon Receipt of Notice of Termination

Upon receipt of a notice of termination and prior to the effective date of termination, unless the notice otherwise directs or Consultant immediately takes action to cure a failure to perform under the cure period set out hereinabove, Consultant shall immediately begin the phase-out and the discontinuance of all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after receipt of such notice of termination (unless Consultant has successfully cured a failure to perform) the Consultant shall submit a statement showing in detail the services performed under this Agreement prior to the effective date of termination. The City shall have the option to grant an extension to the time period for submittal of such statement.

Copies of all completed or partially completed specifications and reproducibles of all completed or partially completed designs and plans prepared under this Agreement prior to the effective date of termination shall be delivered to the City as a pre-condition to final payment. These documents shall be subject to the restrictions and conditions set forth in VII above.

Upon the above conditions being met, the City shall promptly pay the Consultant that proportion of the prescribed fee which the services actually performed under this Agreement bear to the total services called for under this Agreement, less previous payments of the fee.

Failure of the Consultant to comply with the submittal of the statement and documents as required above shall constitute a waiver by the Consultant of any and all rights or claims to collect monies that Consultant may rightfully be entitled to for services performed under this Agreement.

E. Procedures Consultant to Follow upon Receipt of Notice of Suspension

1. Upon receipt of written notice of suspension, which date shall also be the effective date of the suspension, the Consultant shall, unless the notice otherwise directs, immediately begin to phase-out and discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement.

Consultant shall prepare a statement showing in detail the services performed under this Agreement prior to the effective date of suspension.

Copies of all completed or partially completed designs, plans and

specifications prepared under this Agreement prior to the effective date of suspension shall be prepared for possible delivery to the City but shall be retained by the Consultant until such time as Consultant may exercise the right to terminate.

2. In the event that Consultant exercises the right to terminate thirty (30) days after the effective suspension date, within thirty (30) days after receipt by the City of Consultant's notice of termination, Consultant shall submit the above referenced statement showing in detail the services performed under this Agreement prior to the effective date of suspension.

Additionally, any documents prepared in association with this Agreement shall be delivered to the City as a pre-condition to final payment.

Upon the above conditions being met, the City shall promptly pay the Consultant that proportion of the prescribed fee which the services actually performed under this Agreement bear to the total services called for under this Agreement, less previous payments of the fee.

The City, as a public entity, has a duty to document the expenditure of public funds. Consultant acknowledges this duty on the part of the City. To this end, Consultant understands that failure of Consultant to substantially comply with the submittal of the statements and documents as required herein shall constitute a waiver by the Consultant of any portion of the fee for which Consultant did not supply such necessary statements and/or documents.

#### IX. Consultant's Warranty

The Consultant warrants that he has not employed or retained any company or person other than a bona fide employee working solely for the Consultant to solicit or secure this Contract, and that he has not for the purpose of soliciting or securing this Contract paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach of this warranty, the City shall have the right to terminate this contract under the provisions of VIII above.

#### X. Equal Employment Opportunity/Minority Business Advocacy

The Consultant agrees not to engage in employment practices which have the effect of discriminating against any employee or applicant for employment; and, will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, handicap, or political belief or affiliation. Specifically, the Consultant agrees to abide by all applicable provisions of the Nondiscrimination Clause and the Small and Minority Business Advocacy Clause as contained in the City of San Antonio's current Affirmative Action Plan on file in the City Clerk's Office. In the event non-compliance occurs, the Consultant, upon written notification by the City, will commence compliance procedures within thirty (30) days.

#### XI. Assignment or Transfer of Interest

The Consultant shall not assign or transfer Consultant's interest in this Agreement without the written consent of the City.

XII. Indemnification

Consultant shall and does hereby agree to indemnify and hold harmless the City from any and all damages, loss or liability of any kind, whatsoever, by reason of injury to third persons occasioned by any negligent act, error, or omission of Consultant, Consultant's its officers, agents, employees or other persons for whom Consultant is legally liable, in rendering or failing to render professional services with regard to the performance of this Agreement; Consultant will at Consultant's cost and expense defend and protect the City against any and all such claims and demands. Consultant's liability to the City under this provision shall in no event exceed the amount of the total compensation received by Consultant for services hereunder.

XIII. Severability

If for any reason, any one or more paragraphs of this contract are held invalid, such judgment shall not affect, impair or invalidate the remaining paragraphs of this contract but shall be confined in its operations to the specific section, sentences, clauses or parts of this contract held invalid and invalidity of any section, sentence, clause or parts of this contract in any one or more instance shall not affect or prejudice in any way the validity of this contract in any other instance.

XIV. Estimates of Cost

Since the Consultant has no control over the cost of labor, materials or equipment or over the contractor's methods of determining prices, or over competitive bidding or market conditions, Consultant's opinions of probable Project Cost or Construction Cost provided for herein are to be made on the basis of Consultant's experience and qualifications and represent Consultant's best judgment as a design professional familiar with the construction industry but the Consultant cannot and does not guarantee that proposals, bids or the construction cost will not vary from opinions of probable Cost prepared by Consultant.

XV. Interest in City Contracts Prohibited

No officer or employee of the City shall have a financial interest, directly or indirectly, in any contract with the City, or shall be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or service, except on behalf of the City as an officer or employee. This prohibition extends to the City Public Service Board, the City Water Board, and City boards and commissions other than those which are purely advisory.

XVI. The Texas Board of Architectural Examiners, 555 North Lamar Blvd., Building H-117, Austin, Texas, 78751, (512) 458-1363 has jurisdiction over individuals licensed under the Architectural Registration Law, Article 249A, VTCS.

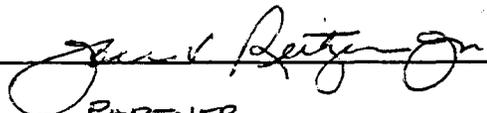
XVII. Entire Agreement

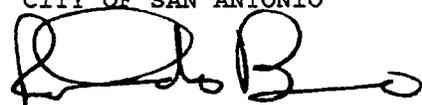
This Agreement represents the entire and integrated Agreement between the City and Consultant and supersedes all prior negotiations, representations, or agreements, either oral or written. This Agreement may be amended only by written instrument signed by both the City and Consultant.

SECTION 2

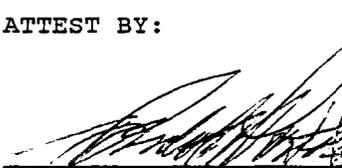
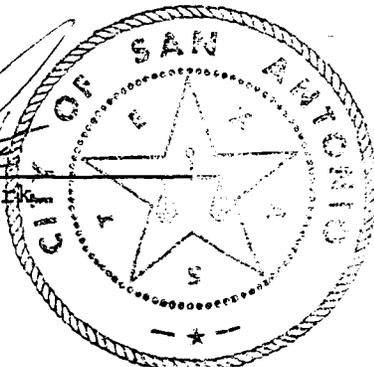
IN WITNESS WHEREOF, the City of San Antonio has lawfully caused these presents to be executed by the hand of the City Manager of said City, and the corporate seal of said City to be hereunto affixed and this instrument to be attested by the City Clerk, and the said Consultant, acting by the hand of Joel V. Reitzer Jr., A.I.A. thereunto authorized Partner, does now sign, execute and deliver this document.

DONE at San Antonio, Texas, on this 17<sup>th</sup> day of July, A.D. 1992.

BY   
PARTNER  
Official Title

CITY OF SAN ANTONIO  
BY   
City Manager

ATTEST BY:

  
City Clerk  


APPENDIX "A"

COMPENSATION FOR ADDITIONAL PROFESSIONAL SERVICES

The fees as described in Exhibit 1 of this Contract for the Schematic Design, Design Development, Construction Documents, and Construction Phases of the Project shall provide compensation to the Consultant for all services specified under this Agreement to be performed by Consultant for all services specified under this Agreement to be performed by consultant or under his direction except the services as set forth below. These additional services and the compensation to be paid by the City to the Consultant for their performance when authorized in writing by the Director or his representative, are set forth as follows:

The basis for compensation for additional services may be in one or more of the following forms:

1. \$100.00 per hour for testimony of principals.
2. Salary cost times a multiplier of 2.5 with a stated maximum not to be exceeded, other than testimony of principals.
3. Reimbursement of non-labor expense and subcontract expense at invoice cost plus a 10% service charge.
4. Lump sum.
5. Lump sum per item of work.

Examples of additional services (not all inclusive).

1. Assistance to the City as an expert witness in any litigation with third parties, arising from the development or construction of the Project including the preparation of architectural data and reports.
2. Preparation of applications and supporting documents for Governmental grants, loans or advances in connection with the Project; Preparation or review of environmental assessment and impact statements; Review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; And assistance in obtaining approval of authorities having jurisdiction over the anticipated environmental impact of the Project.
3. Making revisions in Drawings, Specifications or other documents when such revisions are inconsistent with written approvals or instructions previously given, are required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents or are due to other causes not solely within the control of the Consultant.

4. Preparing documents of alternate, separate or sequential bids or providing extra services in connection with bidding, negotiation or construction, when requested by the City.
5. Providing detailed information of:
  - a. Owning, operation, maintenance and overhead costs of material and equipment, or
  - b. Quantity surveys of material, equipment and labor, or
  - c. Inventories of material and equipment, or
  - d. Detailed Construction cost estimates, or
  - e. Investigations, surveys, valuations, inventories or detailed appraisals of facilities, construction and/or services not required by the Base Contract.
6. Providing Value Engineering during the course of design.
7. Preparation of feasibility studies not required in the Base Contract.
8. Cash flow and economic evaluations, rate schedules and appraisals.
9. Audit or inventories required in connection with construction performed by the City.
10. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions proposed by Contractor(s); and services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor.
11. Services during out of town travel required of consultants.
12. Additional services during construction made necessary by
  - a. Work damaged by fire or other cause during construction.
  - b. A significant amount of defective or neglected work of Contractor(s).
  - c. Failure of performance of Contractor(s).
  - d. Acceleration of the progress schedule required by the City involving services beyond normal working hours.
  - e. The completion date of the construction contract being extended beyond the original completion date.
  - f. Default by Contractor(s).

13. Providing extensive assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.
14. Providing services relative to future facilities, systems and equipment which are not intended to be constructed during the Construction Phase.
15. Services after completion of the construction phase, such as inspections during any guaranteed period and reporting observed discrepancies under guarantee called for in any contract for the Project.
16. Providing services of Geotechnical Engineering Firm to perform test borings and other soil or foundation investigations and related analysis.
17. Providing the services of material testing laboratory for detailed mill, shop and/or laboratory inspection of materials or equipment.
18. Additional copies of contract documents, review documents, bidding documents, reports, drawings and specifications over the number specified in the Base Contract.
19. Providing photographs, renderings or models for City use.
20. Providing services of aerial mapping firm.
21. Providing services to investigate existing conditions or facilities or to make measured drawings thereof or to verify the accuracy of drawings or other information furnished by the City.
22. Providing services for exploration of utilities to include detailed measurements, surveys and verification of information provided by City and/or utility companies.
23. Providing services in connection with the work of a construction manager or separate consultants retained by the City.
24. Providing interior design and other similar services required for or in connection with selection, procurement or installation of furniture, furnishings and related equipment.
25. Preparing drawings, specifications and supporting data and providing other services in connection with Field Alteration Requests to the extent that the adjustment in the basic compensation resulting from the adjusted construction cost is not commensurate with the services required of the Consultant, provided such field Alteration Requests are required by causes not solely within the control of the Consultant.
26. Providing services of Consultants for other than the normal architectural, structural, mechanical and electrical services for the Project.

27. Providing other services not otherwise included in this Agreement which are not customarily furnished in accordance with generally accepted architectural practice.

2. Field Alterations:

1. Compensation through the Construction Documents Phase for all Field Alterations that have been deemed fee eligible, shall be invoiced separately based upon the approved cost of the Field Alteration(s) times the percent fee factor as determined by the amount of the Contract award times 80 percent. The remaining 20 percent fee due for the Construction Phase will be automatically included when the final in-place cost of the project is determined and the Consultant submits the final invoice for the construction Phase of the completed and accepted Project.
2. Compensation for Field Alterations that have been deemed fee eligible whose net amount involved a combination of increases and decreases in contract cost shall be based on the amount of the increase in accordance with C.1. above.
3. Compensation for Field Alterations that have been deemed fee eligible reflecting only a deduction in contract cost shall be negotiated
4. Compensation for Field Alterations not covered by C.1., 2., or 3. are to be negotiated.

Fee Eligible

1. Fee eligible as it relates to Field Alterations is defined as requiring significant architectural and/or engineering effort to compute and document the work effort reflected by the Field Alteration. Determination of "Fee Eligible" shall be made by the City Architect.

Salary Cost

1. Salary cost is defined as the cost of salaries of architects, engineers, draftsmen, stenographers, surveyors, clerks, laborers, etc. for time directly chargeable to the Project, plus customary and statutory benefits including but not limited to social security contributions, unemployment, excise and payroll taxes, employment compensation insurance, retirement benefits, medical and insurance benefits, sick leave, vacation and holiday pay applicable thereto.
  - a. The amount of customary and statutory benefits of all personnel other than Principals of the Consulting Firm will be considered equal to 50 % of salaries or wages.

Principals of the Consulting Firm

1. For the purpose of this provision, the Principals of the Consulting Firm and their total hourly charge will be as follows, except as stated previously for testimony as expert witnesses:

JOEL V. REITZER JR. 80.00 / 100.00  
LOUIS M. CRUZ 80.00 / 100.00

EXHIBIT 1  
 COMPENSATION FOR PROFESSIONAL SERVICES  
 PERCENT OF CONSTRUCTION COST METHOD

Section 1 - Basis for Compensation

1.1 The total fee for all services defined by this contract shall be based on the provisions as set forth below.

CONSTRUCTION OF PROJECT	COST	BASIC MINIMUM FEE IN PERCENT				
		GROUP I	GROUP II	GROUP III	GROUP IV	GROUP V
Less than \$100,000		To be negotiated based on type of work				
\$ 100,001 to	\$ 200,000	11.00%	9.50%	8.50%	8.00%	7.50%
200,001 to	300,000	10.50%	9.25%	8.25%	7.75%	7.25%
300,001 to	500,000	10.00%	8.75%	7.75%	7.25%	6.75%
500,001 to	750,000	10.00%	8.30%	7.30%	6.80%	6.30%
750,001 to	1,000,000	10.00%	8.00%	7.00%	6.50%	6.00%
1,000,001 to	2,500,000	9.75%	7.75%	6.75%	6.25%	5.80%
2,500,001 to	5,000,000	9.65%	7.65%	6.65%	6.15%	5.70%
5,000,001 to	10,000,000	9.50%	7.50%	6.50%	6.00%	5.50%

1.1.1 The Consultant and the City acknowledge the fact that the percentage rates as contained in paragraph 1.1 above have been established predicated upon the total estimated cost of services to be rendered under contract. For additional services or if the scope of services are changed materially, compensation shall be subject to renegotiation in accordance with Appendix "A".

For the purpose of establishing portion of the above fee for separate phases, the following percentage allocations of fee shall apply.

<u>PHASE</u>	<u>PERCENTAGE OF TOTAL FEE</u>
Schematic Design Phase	15
Design Development Phase	20
Construction Documents Phase	45
Construction Phase	20

The schedule used for payment of services shall be based on the Group II above.

1.2 It is to be understood that the amount paid the Consultant as that portion of his fee due for the Schematic Design Phase and the Design Development Phase shall be based upon the estimated cost of the Project as approved by the City in the Design Development Phase. It is also understood that the amount paid the Consultant as that portion of his fee due for the Construction Documents Phase shall be based upon the actual amount of the construction contract award, and that portion of his fee for the Construction Phase shall be based upon the total cost of the completed and accepted Project.

1.2.1 If the Consultant desires to invoice the City for the Schematic Design Phase he may submit a request for payment based on the cost estimate, as required in Section 1, II, A, paragraph 7 of the contract. Should the Project be terminated at the end of the Schematic Design Phase, the fee as determined herein shall become the total fee due.

1.2.2 The total fee due the Consultant for the Schematic Design Phase and the Design Development Phase shall be based on the cost estimate, as approved by the City, submitted as required in Section 1, II, B, paragraph 1 of the contract, for the Design Development Phase. Adjustment of any overpayment or underpayment of the Schematic Design Phase shall be made at this time.

1.2.3 The total fee due the Consultant for the Construction Documents Phase shall be based on the actual amount of the contract award. In the event the project is terminated without awarding a construction contract, the total fee due for the Construction Documents Phase shall be based on the cost estimate, as approved by the City, submitted as required in Section 1, II, B, Paragraph 1 of the contract for the Design Development Phase. The Consultant may request 95% of the Construction Documents Phase fee based upon the approved Design Development estimate as specified above as an interim payment, prior to awarding the construction contract, adjustment of any overpayment or underpayment shall be made on subsequent invoices.

1.2.4 The total fee due the Consultant for the Construction Phase shall be based on the total cost of the completed and accepted Project, including any approved modifications made to any portion or segments by the City.

Section 2 - Changes

2.1 The Consultant and the City acknowledge the fact that the total fee amount as determined in paragraph 1.1 above has been established predicated upon the total estimated costs of services to be rendered under the contract. For additional services or if the scope of services are changed materially, compensation shall be subject to renegotiation in accordance with Appendix "A".

Section 3 - Method of Payments

- 3.1 Payment shall be made to the Consultant based upon the several Phases as described heretofore and in accordance with the following:
- 3.1.1 Schematic Design Phase - the total amount due the Consultant under the Schematic Design Phase shall be payable after approval and acceptance of this Phase by the City.
  - 3.1.2 Design Development Phase - the total amount due the Consultant under the Design Development Phase shall be payable after approval and acceptance of of this Phase by the City.
  - 3.1.3 Construction Documents Phase - the total amount due the Consultant under the Construction Documents Phase shall be payable after the bid opening provided the low qualified bid is in conformance with Section VI of the Agreement.
  - 3.1.4 Construction Phase - Payments up to 80% will be made in monthly installments for this phase in proportion to the construction work completed by the construction contractor. The remaining 20% due under this phase will be withheld until such time as the "Record Drawings" heretofore mentioned have been furnished.
  - 3.1.5 No payments to Consultant for additional services will be made after 90 days from date of "Letter of Conditional Approval" or "Certificate of Substantial Completion" unless authorized by Director of Public Works.
- 3.2 The Consultant may upon written authorization from the Director, request partial payments for work performed for the various Phases upon the furnishing of satisfactory evidence of the partial completion of the work.
- 3.3 The Consultant shall be compensated on the basis specified for extra services not included in the contract as set forth in Appendix "A", for only those aforementioned Field Alterations that have been deemed eligible by the City for compensation, however, the Consultant shall not be compensated for Field Alterations made necessary for the Consultant's errors or omissions.

BUILDING TYPE CATEGORIES LIST

GROUP I

Monumental buildings, customer residences and other facilities requiring consummate design skill and much precise detailing.

Mausoleums, Memorials, Monuments  
Specialized decorative buildings  
Custom designed furnishings

Museums  
Custom residences  
Tenant Improvements

GROUP II

Structures of exceptional character and complexity of design or requiring comparatively large amounts of structural, mechanical and electrical design.

Aquariums  
Auditoriums  
Airport control towers  
Art Galleries  
Banks, Exchanges and other  
financial institutions  
Breweries  
City Halls and Courthouses  
College Buildings with  
special facilities  
Communications building  
Extended care facilities  
Exposition buildings  
Hospitals

Libraries  
Laboratories  
Medical office facilities and Clinics  
Mental institutions  
Mortuaries  
Observatories  
Private Clubs  
Public Health Centers  
Religious facilities  
Research Facilities  
Schools, special  
Theaters and similar facilities  
Veterinary Hospitals

GROUP III

Structures of moderate complexity of design requiring a moderate amount of structural, mechanical and electrical design.

Cinemas  
College classroom facilities  
Convention facilities  
Correctional and detention  
facilities  
Fire Stations  
Gymnasiums  
Hotels  
Laundries and Cleaning facilities  
Marinas

Police Stations  
Post offices  
Publishing plants  
Race Tracks  
Restaurants  
Schools, elementary and  
Secondary  
Specialty Shops  
Stadiums  
Transportation terminals

Nursing Homes  
Office buildings (for single  
occupancy)  
Park, playground and  
recreational facilities

Welfare buildings,  
YMCA, YWCA buildings,  
Neighborhood Centers and  
similar recreational facilities

GROUP IV

Structures of conventional character and detail, requiring normal detail, structural, mechanical and electrical design.

Armories  
Apartments  
Bakeries  
Bowling Alleys  
Cold storage facilities\*  
Convents and Monasteries  
Dormitories  
Exhibition halls  
Freight facilities\*  
Hangars  
Manufacturing/Industrial Plants\*  
Motels

Office buildings\*  
Packaging and processing  
plants\*  
Printing plants\*  
Public markets  
Retail stores\*  
Skating Rinks  
Service Garages\*  
Shopping Centers\*  
Supermarkets\*  
\*Shell only

GROUP V

Structures of simplest, utilitarian character which are without complication of design or detail and require a minimum of finish, structural, mechanical and electrical design.

Parking structures and repetitive garages  
Simple loft type structures, without special equipment  
Warehouses, exclusive of automated equipment  
Other similar utilitarian type buildings  
Farm structures  
Industrial buildings, without special facilities