



Request for Qualifications

IDIQ – COMMISSIONING (Cx) SERVICES

RFQ769-20-952ER

DOCUMENT 001100
RFQ769-20-952ER

NOTICE TO DESIGN PROFESSIONALS

The University of North Texas System (UNTS) subsequently referred to as the Owner, requests firm's qualifications for general Commissioning Services for an Indefinite Delivery/Indefinite Quantity (IDIQ) Agreement. Request for Qualifications (RFQ) allows UNTS to pre-qualify vendors for specific Professional Services. UNTS intends to select multiple vendors as a result of the RFQ. In order to assist with new projects, UNTS will assess the selected firms on a qualifications basis as necessary for a given project.

The firm's submittal to the RFQ will be the basis of determining qualifications to perform the professional services.

Sealed qualifications for **RFQ769-20-952ER** will be received by the UNTS at the Business Service Center (BSC), Woodhill Square, 1112 Dallas Drive, Suite 4000, Denton, Texas 76205. A campus map can be found online at <http://maps.unt.edu/?code=WHS>. Parking for Woodhill Square is campus parking and permits are required. There is guest parking at the door to Suite 4000 and only those spaces can be utilized for submitting the bid. Respondents are responsible for all parking costs and for complying with parking regulations. Failure to comply with parking regulations may result in citation and possible impound of vehicle.

The Qualifications will be received up to 2:00p.m. CDT on **April 2, 2020**. Responses received after the date and hour above stated will not receive consideration.

Project Description

The scope of an agreement will include Commissioning Services, full project commissioning services, design review, commission inspecting, and other related professional services related to Commissioning for UNTS facilities and its component institutions.

Questions

Questions concerning this proposal should be directed to:

Elaine Robbins, Construction Solicitation Coordinator
Elaine.robbs@untsystem.edu

All questions must be received no later than 2:00p.m. CDT on March 25, 2020. All questions and answers will be posted to the website by 5:00p.m. CDT on March 27, 2020.

The Owner may in its sole discretion respond in writing to questions concerning this RFQ. Only the Owner's responses made by formal written Addendum to this Request for Qualifications shall be binding and shall be posted on the UNT System website located at <http://www.untsystem.edu/hr-it-business-services/procurement/purchasing/bid-opportunities>. Oral or other written interpretations or clarifications shall be without legal effect.

Online - Bidders can view bid documents at Electronic State Business Daily (<http://www.txsmartbuy.com/sp>) or at the UNT System website www.untsystem.edu/bids.

Historically Underutilized Business (HUB)

It is the policy of the Owner to promote and encourage contracting and subcontracting opportunities for HUB in all contracts. When a qualified firm is selected for a project, the firm will be required to provide a HUB Subcontracting Plan (HSP) for the intended subcontracting opportunities for the project. The HSP must be submitted along with the proposal for the project. This applies to all projects, regardless of size or scope, awarded via this IDIQ.

All subcontracted work whether identified by the Owner or not, is required to be identified in the HSP. The Plan should reflect all subcontracting opportunities to be utilized in this project and can be found online at (<http://www.window.state.tx.us/procurement/prog/hub/hub-forms/hub-sbcont-plan--allfms.pdf>) A HUB Subcontracting Plan is NOT required with your response to this RFQ.

The Owner is not bound to accept any of the RFQ responses if they are not in its best interest, as determined by the Owner. The Owner reserves the right to: (a) enter into agreements or other contractual arrangements for all or any portion of the Scope of Work set forth in this Proposal with one or more respondents; (b) reject any and all offers and re-solicit offers; or (c) reject any and all offers and temporarily or permanently abandon this procurement, if deemed to be in the best interest of the Owner.

END OF SECTION

**DOCUMENT 002400
RFQ769-20-952ER
SCOPE FOR QUALIFICATIONS**

The University of North Texas System (UNTS) subsequently referred to as the Owner, requests firms' qualifications for Commissioning (Cx) Services for an Indefinite Delivery/Indefinite Quantity (IDIQ) Contract. The IDIQ Request for Qualifications (RFQ) allows UNTS to pre-qualify firms for specific Professional Services. UNTS may select to contract with multiple vendors as a result of the RFQ. In order to assist with new projects, UNTS will assess the selected firms as a qualifications basis as necessary for a given project. The selected firms may be awarded projects that are managed by either UNTS or any of its component institutions. This is a solicitation for Professional Services for a single project or multiple projects over the period of three (3) years with two (2) additional one-year option periods. The cumulative total of the fees paid under a contact, including any option years, shall not exceed \$900,000.

The firm's response to the Request for Qualifications (RFQ) will be the basis of determining the qualifications to perform the professional services.

NOTE TO FIRMS WITH CURRENT IDIQ AGREEMENTS WITH UNT SYSTEM: If a firm selected for this IDIQ service currently has an IDIQ agreement in place for another service, the current IDIQ will be amended to include the service for this IDIQ. However, the Service Order cap and Agreement cap will not be increased. The firm's new amended agreement will only expand the services the firm provides. Once an agreement expires, either because the cap has been reached or the time has expired, all services included in the agreement will expire.

IDIQ Professional Services

1. Scope of Services

A. The Building Commissioning Agent shall provide complete Building Commissioning services including:

- Providing and maintaining a commissioning plan throughout the project.
- Cx during the design phase including USGBC's LEED requirements for Fundamental and Enhanced Cx and/or ASHRAE/NIBS Guideline 0-2005, which includes complete review of the construction documents and specifications for renovations and new construction projects and repair/maintenance projects. Providing the project commissioning specifications. Any design concerns will be submitted to the Owner.
- Cx during the construction phase.
- Ensure proper installation of the systems to be commissioned according to the construction documents and specifications primarily through onsite inspections.
- Cx during the project acceptance phase, including assistance with performance testing of the building's systems to verify the design intent has been met.
- Cx during the warranty period of the project.

The Building Commissioning Agent will be contractually obligated to the Owner, and will become a member of the Project Team. The Building Commission Agent will perform "third party" services to the Owner, so no conflict of interest shall exist between the Building Commissioning Agent and other members of the Project Team.

An hourly rate schedule will be negotiated for services, by job classification, with firms selected as a result of this solicitation. The schedule will include profit and overhead for anticipated services. In addition, a maximum surcharge for sub-consultant services will be included in the schedule. These prices are to be held for the entire term of the contract, including any extended renewal years. No escalation will be considered during the term of the contract. When a qualified firm is selected for a project, the firm will be required to provide a proposal for the project based on hourly rate schedule costs in the IDIQ contract.

- B. Response During Construction/Warranty Periods – Any technical services provider shall respond to requests for services within a maximum of twenty-four (24) hours after notice from the Owner (this notification may also be delegated to the contractor). Prior scheduling of work should be the goal for all of the services; however, the nature of the construction process will necessitate the ability to respond quickly and with adequate staff to requests for service within the 24-hour maximum.
- C. Commissioning must be according to American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE/NBIS) Guidelines 0-2005 and meet requirements of the USGBC LEED certification process for fundamental and enhanced commissioning.
- D. At times, the individual service order issued per this contract may also require additional services to complete the project such as technical studies and other related professional and technical services.
- E. The Cx should adhere to the applicable campus master plan guidelines and work within the campus design vocabulary. The master plan document can be found at <https://www.untsystem.edu/service-teams/facilities/campus-master-plans>.

Submission Requirements

The responses should address each of the following areas in the same order in which they are set forth below:

1. Firm Data
 - A. General Qualifications
 - B. Name and Address(es) of each key sub-consultant firm proposed for the team
 - C. Firm profile, i.e.:
 - i. Age
 - ii. Type of firm (partnership, professional corporation, etc.)
 - iii. Firm history
 - iv. Firm size (professionals by discipline), current and one year ago
 - v. Areas of specialty/concentration: Focus on any previous IDIQ contract or program work the firm has performed and types of individual projects.
2. Description of the Team:

Responses should include all key team members and sub-consultants for Commissioning Services.

 - A. Identification of the single point of contact for the Commissioning team to include name, email address, and phone number**
 - B. Identification of key personnel to be assigned to the project
 - C. Organizational chart illustrating reporting lines, responsibilities, names, and titles for key participants proposed by the firm
 - D. Resumes for each key individual on the team and identification of that person's role. List any education, registrations that may be relevant

Relevant Experience and Capabilities

1. Relevant experience and capabilities will be assessed through a review of proposed Cx process and/or procedure of similar programs or contracts. Provide detailed data for similar contracts or programs, no more than five (5), on which the firm and team members have been involved in providing services and which best illustrate current experience and capabilities relevant to the IDIQ. For each contract or program, please provide the following information:
 - A. Contact name and location
 - B. Brief project description, including:
 - i. Sample of individual projects assigned under the contract or program
 - ii. Range of size and scope of individual projects or assignments
 - C. Owner's name, address, contact person, email address, and telephone number
 - D. Identification of proposed personnel involved in the submitted project, along with explanations of their role in that project(s).
 - E. Construction Cost Data
 - i. Cap amount of similar services contract (\$)
 - ii. Annual volume amount of services (\$/yr)
 - iii. Term of contract (years)
2. For all other projects/assignments relevant to the IDIQ contract scope and for each member of the Commissioning team (as appropriate), provide a list of assignments/project names, specific project sizes, assignment/project dates, and owner contact information which further illustrates experience and capabilities relevant to this IDIQ.
3. Approach:
 - A. Most pertinent consideration in this type of contract – State briefly what the firm believes to be the most pertinent consideration(s) and challenge(s) that must be addressed in delivering projects, Firms may wish to include sketches, diagrams, analysis, or other tools that will help illustrate the team's points.
 - B. Unique Qualifications – State why you believe your team is qualified to address the issues that you feel will be relevant to the types of projects or products under this contract.
 - C. Methods of Team Organization and Communication – Discuss how your firm would coordinate the development of Cx solutions, the production of Cx reports, and construction commissioning activities. Be specific with regard to internal and external communications, quality assurance/quality control, proposed commissioning specification format, and responsible individuals including their locations (e.g., on-site or specific office). Also, discuss your firm's commitment to attending scheduled project meetings upon request by Owner.
 - D. Experience with and/or ability to work within an interactive review process. Present how the proposed team has performed on past projects or contracts of this type in which this type of key project decisions were provided by this process.
 - E. Discuss your firm's experience with sustainable site design projects involving Commissioning projects.

Historically Underutilized Businesses (HUB)

Plan for participation of Historically Underutilized Businesses (HUB):

It is the policy of the Owner to promote and encourage contracting and subcontracting opportunities for HUB in all contracts. Specific sub-contracting opportunities will be dependent on each project. When a qualified firm is selected for a project, the firm will be required to provide a HUB Sub-Contracting Plan (HSP) for the intended sub-contracting opportunities for the project. The HSP must be submitted along with the proposal for the project. This applies to all projects, regardless of size or scope, awarded via this IDIQ. A HSP is NOT required with this submission.

Firms are encouraged to contact Greg Obar or Aurika Weaver-White at 940-369-5647 or email hub@untsystem.edu with questions regarding completing the HSP. Additional information can also be found at the Texas Comptroller for Public Accounts website at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/>.

Contract

A copy of the proposed IDIQ Contract to be used by all qualified firms is attached. This is for informational purposes only. Responding firms should carefully review this contract before submitting qualifications. It is the Owner's intention to present all firms with the same IDIQ Contract. Proposed changes to the IDIQ Contract will not be considered by the Owner.

Selection Process/Description of Process

The selection process starts after the RFQ is posted on the Electronic State Business Daily on the date listed in Selection Schedule. Following this stage, the selection process is as follows:

1. Qualifications are due on or before **2:00p.m. (CDT) on April 2, 2020**. Responses must be limited to no more than fifteen (15) pages. Covers, table of contents and divider tabs will not count as pages, provided no additional information is included on those pages. Cover letter will not count as part of the fifteen (15) pages as long as the cover letter does not include information on how the work will be performed. All documents should be printed one-sided and submitted in 8 1/2" X 11" page size, portrait style. Proposals received that are late or exceed the number of pages listed above will not be accepted. Provide two (2) copies of the submittal in the form of: one (1) in paper format, loose bound and one (1) electronic format on a virus free CD ROM or flash drive. Both formats must contain the exact same information. Missing information from either format may result in the Owner's rejection of the response. Overnight carrier or personal delivery to:

Elaine Robbins
University of North Texas System
Business Service Center
Woodhill Square
1112 Dallas Drive, Suite 4000
Denton, TX 76205

Email or faxed responses will not be accepted.

2. The Owner may conduct formal interviews.
3. The top-ranked firm(s) will be notified on or about the date listed in Selection Schedule.
4. The Owner expects to reach a contractual agreement with the top-rated firm(s) shortly after notification. All documents related to this project shall be and become the property of the Owner.
5. The Owner reserves the right to reject any or all qualifications at any point during this selection process for any reason.

Selection Schedule Summary

The schedule for selection is as follows:

RFQ posted on the Electronic State Business Daily	3/2/2020
Pre-Solicitation Meeting	Not Applicable.
Qualifications received no later than	4/2/2020 @ 2:00p.m.
HSP received no later than	Not Applicable
Notify short listed firms, if Owner elects to interview-on or about	April 2020
Notify top-ranked firm(s) on or about	April 2020

The Owner may choose not to conduct interviews. The selected firm(s) will be notified by the Owner that they are top ranked and contract negotiations will begin.

Additional information and amendments may be posted on <http://www.untsystem.edu/bids>.

Evaluation Criteria

Firms will be selected on the basis of experience and qualifications using the following criteria (many of the criteria are subjective):

1. Relevant successful experience will be evaluated on the basis of the experience of those key individual(s) named to the project team. Demonstrated successful experience in other projects/programs of similar character to this IDIQ program that best meets the intent of these criteria.
2. Firm performance and quality of past and current projects as included in response, including demonstrated success in delivering projects with aggressive schedule or implementation of phasing requirements.
3. Current capabilities will be evaluated on the basis of the experience and capacity (current workload and availability) of the individuals assigned to the team.
4. Commissioning Project Management Procedures and the commissioning design process will be evaluated based on the information presented in this RFQ. In addition, the quality assurance process, specific project approach (work plan/schedule), and technical support capabilities will be reviewed.
5. Quality and responsiveness of the RFQ submittal – if applicable, the interview.
6. Local representation will be evaluated on the ability to respond quickly to issues during the duration of the contract and specific project especially throughout the construction phase for a project.

Questions

Please address your questions concerning this RFQ to:

Elaine Robbins – Construction Solicitation Coordinator
University of North Texas System
Office of Facilities Planning & Construction

Please submit solicitation questions to:

Elaine.robbs@untsystem.edu

All questions must be received no later than March 25, 2020, at 2:00p.m. CDT. All questions and answers will be posted to the website by 5:00p.m. CDT, March 27, 2020.

The Owner may in its sole discretion respond in writing to questions concerning this RFQ. Only Owner's responses made by formal written Addendum to this RFQ shall be binding and shall be posted on the UNT System website located at <http://www.untsystem.edu/bids>. Oral or other written interpretations or clarifications shall be without legal effect.

Do not contact any other individuals from the UNTS. This may result in disqualification.

END OF SECTION

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INDEFINITE DELIVERY INDEFINITE QUANTITY AGREEMENT FOR [SERVICE]

This Indefinite Delivery Indefinite Quantity Agreement (“IDIQ Agreement”) is entered into by the University of North Texas System (“UNTS” or “Owner”) and **[Firm Name]** (“Professional”) as of the Effective Date for the Services stated below, in relation to minor construction, repair, rehabilitation, or alteration projects of limited scope, with such Services to be performed on an indefinite delivery indefinite quantity basis as requested by the Owner in accordance with this IDIQ Agreement. The Effective Date of this Agreement shall be the date of last signature by the Parties hereto.

ARTICLE I BASIC PROVISIONS

Professional Name: **[Firm Name]**

Services: **[Service]**

RFQ Number: **[RFQ Number]**

The terms and conditions of the RFQ are incorporated herein for all purposes.

Agreement Term: **[Term]**

Renewal Term: **[Renewal : include "upon mutual written agreement"]**

Maximum Cost of Service Order: Not to exceed Three Hundred Thousand (\$300,000.00)

Maximum Value of IDIQ Agreement: Nine Hundred Thousand (\$900,000.00) for the term and any renewal terms

This IDIQ Agreement incorporates by reference the Uniform General Conditions (“UGC”) for all purposes. This IDIQ Agreement supersedes all prior IDIQ Agreements, written or oral, between Professional and Owner and shall constitute the entire agreement and understanding between the parties with respect to the services described herein. In the event of a conflict between the terms and conditions of this IDIQ Agreement, the UGC and the Owner’s RFQ, the terms of this IDIQ Agreement shall control, followed by the terms and conditions of the UGC, then the Owner’s RFQ.

ARTICLE II DEFINITIONS

2.1 The terms, words and phrases used in this Agreement and throughout the Contract Documents are in addition to the definitions given in the UGC.

- 2.2 “Service Order” is the contractual instrument issued by Owner to the Professional under this IDIQ Agreement, which sets forth the services to be provided by the Professional on a particular project. Each Service Order issued hereunder shall be in accordance with the form set forth in Exhibit A and shall include a Statement of Work, performance time and negotiated price for such work not to exceed rates in Exhibit B. An individual Service Order shall become in effect, a fixed-price agreement when the Purchase Order and Notice to Proceed (NTP) is issued. The completed NTP authorizes the Professional to begin work under that Service Order.
- 2.3 “Statement of Work” is a description of specific work to be performed by the Professional as negotiated by Owner and Professional, which shall contain sufficient detail to determine the scope of work and services to be provided by the Professional on a particular project and time for performance. The work described in a Statement of Work shall be ordered through an associated Service Order.

ARTICLE III SERVICE ORDER PERFORMANCE

- 3.1 Professional shall furnish all of the services described in a Service Order issued hereunder. All such services shall be in accordance with and shall conform to the type of services requested under the RFQ applicable to this IDIQ Agreement.
- 3.2 The Owner shall provide a NTP to the Professional, in which a date shall be set for commencement of performance of services under a Service Order. The Professional shall complete the work by the date specified in the Service Order. A completion date may be extended by amendment approved in writing by Owner.
- 3.3 No Service Orders may be issued after the expiration of the Agreement Term or any subsequent Renewal Term. For work in progress pursuant to a Service Order placed prior to the expiration of the Agreement or Renewal Terms, or for any unfinished or defective work, or warranty or indemnity obligations, the terms of this IDIQ Agreement shall remain in full force and effect.
- 3.4 The Owner makes no representations regarding the amount or type of services, if any, that the Professional will be asked to provide to Owner during the term of this IDIQ Agreement. It is expressly understood that the Owner is under no obligation to request any services from the Professional and no minimum amount of work is required or contemplated under this IDIQ Agreement. All service requests under this IDIQ Agreement will be made by the Owner on an as-needed basis and shall be subject to future agreement on the scope of the work and the fee as set forth in a Service Order.

ARTICLE IV PROFESSIONAL RESPONSIBILITIES

- 4.1 Professional agrees to use Professional’s best efforts, skill, judgment, and abilities so as to perform services provided under any Service Order in an expeditious and timely manner to the level of competency presently maintained by practicing professionals in the same type of work in the State of Texas.

- 4.2 Professional agrees to perform services provided under any Service Order in compliance with all applicable national, federal, state, municipal, and State of Texas laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction over a project related to such services.
- 4.3 Services provided by Professional under any Service Order shall be reasonably accurate and free from material errors or omissions. Professional shall promptly correct any known or discovered error, omission, or other defect in the reports or other services provided by Professional without any additional cost or expense to Owner.
- 4.4 The Professional shall pay all royalties and license fees, which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by the Professional and used in the performance of the Services.
- 4.5 For each Service Order, Professional shall designate a representative primarily responsible for services provided. The designated representative shall act on behalf of Professional with respect to services provided by Professional and shall be available as required for the benefit of the project and Owner. The designated representative shall not be changed without prior written approval of the Owner, which approval shall not be unreasonably withheld.
- 4.6 Professional must submit a Historically Underutilized Business Subcontracting Plan ("HSP") with every Service Order, which shall be subject to the Owner's approval and compliance efforts. The Professional agrees to comply with the terms of its HSP. No changes to the HSP may be made unless approved in writing by the Owner. While the IDIQ Agreement is in effect and until the expiration of one year after final termination of the IDIQ Agreement and any extension thereto, the Owner may require information from the Professional, and may conduct audits, to assure that the HSP is being followed/was followed.
- 4.7 SUB-CONSULTANTS
- 4.7.1 With the prior written approval of the Owner, the Professional may subcontract such services as the Professional deems necessary to meet its obligations under this IDIQ Agreement or any Service Order. Sub-consultants shall be qualified and experienced in the type of work they will be performing. Owner shall have the right to reject any Sub-consultant, but such right shall not relieve the responsibility of the Professional for his work and the work of the Sub-consultant. Professional expressly assumes such responsibility and liability.
- 4.7.2 The Professional shall be responsible for the management of the Sub-consultants in the performance of their work.
- 4.7.3 If this IDIQ Agreement or any Service Order is terminated, each subcontract agreement shall be assigned by the Professional to the Owner, provided that: (a) this IDIQ Agreement or any Service Order is terminated by the Owner pursuant to Article 9; and (b) the Owner accepts such assignment by notifying the Sub-consultant and the Professional in writing, and assumes all rights and obligations of the Professional pursuant to each subcontract agreement.

- 4.7.4 The Professional agrees to bind every Sub-consultant and material supplier (and require every Sub-consultant to so bind its sub-consultants and material suppliers) to all provisions of this IDIQ Agreement or any Service Order as they apply to the Sub-consultants' or material Suppliers' portions of the Services.

4.8 HAZARDOUS WASTE

- 4.8.1 The Owner represents it has disclosed to the Professional any waste which poses substantial or potential threats to public health or the environment (Hazardous Waste), known by the Owner to exist on or near the Site, if applicable to the Professional's Services. If unanticipated Hazardous Waste is discovered at the Site, the Professional will be entitled to immediately stop work in the affected area. The Professional will promptly report the condition to the Owner and, if required, the governmental agency with jurisdiction. The Professional shall not be obligated to commence or continue Services until any Hazardous Waste discovered at the Site has been removed, rendered harmless, or determined to be harmless by the Owner.
- 4.8.2 The Professional shall not be required to perform any Services relating to or in the area of unanticipated Hazardous Waste without written mutual agreement.
- 4.8.3 The Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the unanticipated material encountered and whether it is a Hazardous Waste requiring corrective measures or remedial actions. Such measures and actions shall be the sole responsibility of the Owner, and shall be performed in a manner minimizing any adverse effect upon the Services of the Professional.
- 4.8.4 Material Safety Data Sheets (MSDS) as required by law and pertaining to materials or substances used or consumed in the performance of the Services, whether obtained by the Professional, Subcontractors, or Owner, shall be maintained at the Site by the Professional and made available to the Owner and Subcontractors.
- 4.8.5 During the Professional's performance of the Services, the Professional shall be responsible for the proper handling of all materials brought to the Site by the Professional.

4.9 OWNERSHIP AND REPRODUCTION OF DOCUMENTS

- 4.9.1 All documents, drawings, specifications, electronic data, and information ("Documents") prepared, provided, or procured by the Professional, its Subcontractors, or consultants in performance of this IDIQ Agreement or any Service Order shall become the property of the Owner. The Documents owned by the Owner shall include all additional or confirmatory land survey field notes, sketches, and related data and additional or confirmatory soils engineering or investigations, samples, calculations, test results and reports, or any other direct services for which the Owner has paid.
- 4.9.2 The Professional shall provide copies of all Documents required in a quantity that is sufficient for Owner's intended purpose.

- 4.9.3 In the event of a termination of this IDIQ Agreement pursuant to Article 9, the Owner shall have the right to use, to reproduce, and to make derivative works of the Documents to complete the Project.

ARTICLE V DESIGN PROFESSIONALS

- 5.1 This Article 5 is applicable when the Services include providing Construction Documents.
- 5.2 If the final estimated construction cost prepared by the Contractor prior to bid opening, or the lowest and best bid(s) received exceeds the actual amount applied toward the construction of the Project, excluding all contingencies, fees, and administrative costs (Construction Cost Limitation) of the Owner's estimate of the total Project cost from inception to turn-over to the ultimate user, by more than ten percent (10%), the Owner may, at its discretion:
- 5.2.1 direct the Professional to make changes at no additional expense to the Owner in the Construction Documents to permit re-bidding of the Project within the shortest, reasonable time; or,
 - 5.2.2 direct the Professional to revise the scope or quality, or both, of the Project, so as to reduce the Project construction cost at no additional expense to the Owner; if so directed by the Owner, modify the Construction Documents, as directed, in order to reduce the estimated project construction cost to be within the adjusted construction cost portion of the Project Budget; or,
 - 5.2.3 direct the Professional to assist the Construction Manager in negotiating with lowest and best bidder(s).
- 5.3 When authorized by the Owner in writing, revising previously approved drawings, specifications, or other documents to accommodate changes shall be paid for by the Owner as additional work, provided, however, that no compensation for extra services shall be paid for the following:
- 5.3.1 revisions directed by the Owner pursuant to paragraphs 5.2;
 - 5.3.2 corrections of design errors or omissions; and
 - 5.3.3 changes initiated by the Professional without Owner's written approval.

ARTICLE VI OWNER RESPONSIBILITIES

- 6.1 The Owner will furnish available information in regard to the Services to the extent requested by the Professional and provide the Professional with access to the Site as reasonably necessary for the completion of the Professional's services under a Service Order.

- 6.2 Owner hereby expressly reserves the right to designate one or more representatives to act partially or wholly for Owner in connection with the performance of Owner's obligations hereunder. The Professional shall act only upon instructions from such representatives unless otherwise specifically notified to the contrary.
- 6.3 The Owner shall examine, or cause its representative(s) to examine documents submitted by the Professional and render decisions pertaining thereto promptly or within a reasonable time to avoid unreasonable delay in the progress of the Services provided by the Professional. Review and approval of a document by the Owner shall not waive the contractual responsibility or liability of the Professional.

ARTICLE VII COMPENSATION

- 7.1 Attached hereto as Exhibit B and incorporated by reference for all purposes, is a schedule of hourly rates by position and a statement of allowable charges and a multiplier for sub-consultant work that shall not be exceeded in order to calculate the fixed price amount to be paid to Professional for Services performed under any Service Order. Pricing shall not change during the first thirty-six (36) months of this Agreement. After thirty-six (36) months, pricing changes may be made by mutual written agreement.
- 7.2 Unless otherwise stated in the Service Order, following the completion of a Service Order, Professional shall submit an invoice to the Owner and Owner shall make payment to Professional within thirty (30) days of approving the invoice. The Owner shall render payment in accordance with the terms and conditions of its usual and customary Purchase Order.
- 7.3 All invoices submitted for payment must include a HUB Progress Assessment Report (PAR). The PAR should document compliance with the HSP.
- 7.4 Owner shall only be responsible for payment of actual amount of reimbursable expenses permitted as defined below. Professional shall invoice for reimbursement and shall submit receipts necessary to verify reimbursable expenses along with any reimbursement request.
- 7.4.1 Printing and printing supplies; plotting, photography; renderings; postage; delivery and handling materials at actual expense incurred.
- 7.4.2 Fees for special consultants, as authorized and approved in advance by Owner for other than structural, mechanical, electrical, and civil engineering services; estimating services; or other services specifically agreed to in writing or included herein.
- 7.4.3 Travel expenditures at State of Texas reimbursement rates; provided further that no reimbursement will be made for travel within the Denton-Dallas-Fort Worth area or that involve less than 150 miles round-trip.
- 7.5 For any said sum paid by Owner, the Professional agrees to accept same in full settlement of all claims for services rendered by Professional under a Service Order.

- 7.6 Owner shall be billed in accordance with Chapter 2251, *Texas Government Code* and interest, if any, on past due payments shall accrue and be paid in accordance with Chapter 2251, *Texas Government Code*. Payee must be in good standing, not indebted to the State of Texas, and current on all taxes owed to the State of Texas for payment to occur.

ARTICLE VIII INDEMNITY AND INSURANCE

8.1 INDEMNITY

Professional covenants and agrees to **FULLY INDEMNIFY and HOLD HARMLESS**, Owner and its component institutions, the UNTS Board of Regents, and their elected and appointed officials, employees, officers, directors, volunteers, and representatives, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death or property damage, made upon Owner that is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by Professional or Professional's agent, consultant under contract, or another entity over which Professional exercises control. **IN THE EVENT PROFESSIONAL AND OWNER ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY WILL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE STATE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS IDIQ AGREEMENT.**

- 8.1.1 The provisions of this indemnification are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.
- 8.1.2 Professional shall promptly advise Owner in writing of any claim or demand against Owner or against Professional known to Professional related to or arising out of Professional's activities under this IDIQ Agreement.

8.2 INSURANCE

- 8.2.1 The Professional shall carry such professional liability/errors and omissions insurance, covering Professional's Services provided under this IDIQ Agreement and such other insurance coverage as further described in this Article and as acceptable to and approved by the Owner. The fees for such insurance will be at the expense of the Professional. The insurance policy or policies shall remain in full force during the term of this IDIQ Agreement and for a period of one (1) year beyond the provision of Professional's Services. A Certificate of Insurance issued by the insuring carrier or carriers, indicating the expiration date, and existence, of the Professional's insurance coverage is required to be provided to Owner prior to commencement or continuation of performance of the Services under this IDIQ Agreement.

- 8.2.2 The Professional is required to provide professional liability/errors and omissions insurance with a minimum limit of \$1,000,000 each claim and \$2,000,000 aggregate. The Certificate provided to Owner shall indicate the expiration date of the Professional's professional liability/errors and omissions insurance.
- 8.2.3 For Professional's Services to be performed on premises owned or controlled by Owner, the Professional is required to obtain the following insurance coverage:

Workers' Compensation Employer's Liability	Statutory Limits
Bodily Injury by Accident	\$1,000,000/accident
Bodily Injury by Disease	\$1,000,000 policy limit
Bodily Injury by Disease	\$1,000,000/employee
Commercial General Liability	\$1,000,000/occurrence \$2,000,000 aggregate
Business Auto Liability Combined Single Limit	\$1,000,000/occurrence

Professional shall have Commercial General Liability and Business Auto Liability policies endorsed to include Owner, the University of North Texas, the University of North Texas Health Science Center, the University of North Texas at Dallas, and UNTS Board of Regents as Additional Insured. The Commercial General Liability, Business Auto Liability, Workers' Compensation, and Professional Liability policies shall include a waiver of subrogation in favor of the Owner. All policies shall be primary insurance and non-contributory with respect to any insurance and self-insurance programs maintained by the Owner.

- 8.2.4 Insurance policies required under this article shall contain a provision that the insurance company must give the Owner written notice transmitted in writing: (a) thirty (30) calendar days before coverage is non-renewed by the insurance company and (b) within ten (10) business days after cancelation of coverage by the insurance company. Prior to start of Services and upon renewal or replacement of the insurance policies, the Professional shall furnish the Owner with certificates of insurance until one year after acceptance of the Services. If any insurance policy required under this article is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, the Professional will give the Owner prompt written notice upon actual or constructive knowledge of such condition.
- 8.2.5 The Owner reserves the right to review the insurance requirements set forth in this Article during the term of this IDIQ Agreement and to make reasonable adjustments to the insurance coverage and their limits when deemed necessary and prudent by the Owner based upon changes in statutory law, court decisions, or the claims history of the industry as well as the Professional.

ARTICLE IX TERMINATION

- 9.1 With or without cause, the Owner reserves and has the right to terminate this IDIQ Agreement or any Service Order issued hereunder or to cancel, suspend or abandon execution of all or any services provided under this IDIQ Agreement or any Service Order at any time upon written notice to the Professional. The Professional may terminate this IDIQ Agreement upon seven (7) days written notice to the Owner only if the Owner substantially fails to perform obligations under Article 6 of this IDIQ Agreement or any Service Order, or fails to timely pay the Professional as required under Article 7, and after adequate written notice is delivered to Owner and Owner has failed to take action within thirty (30) days in order to begin to correct the problem.
- 9.2 In the event of termination, cancellation, suspension, or abandonment of this IDIQ Agreement or any Service Order for reason other than breach of contract, negligence or bad faith on the part of the Professional, the Owner shall pay to the Professional as full payment for services satisfactorily performed and all reimbursable expenses incurred prior to the date of termination, a prorated portion of the sum specified under the terminated IDIQ Agreement or any Service Order, provided Professional delivers to Owner statements, accounts, reports and other materials as required for payment along with all reports, documents and other materials prepared by Professional prior to termination.
- 9.3 For any said sum paid under this Article, the Professional agrees to accept same in full settlement of all claims for services rendered under this IDIQ Agreement.
- 9.4 Within five (5) days of termination, cancellation, suspension, or abandonment of this IDIQ Agreement or any Service Order, the Professional agrees to furnish to the Owner copies of the latest documents prepared by the Professional for any terminated, cancelled, suspended, or abandoned Service Order.
- 9.5 Termination, cancellation, suspension, or abandonment as provided hereunder shall not relieve Professional or any of its employees of liability for violations of this IDIQ Agreement or any Service Order, or any willful, negligent or accidental act or omission of Professional.

ARTICLE X MISCELLANEOUS

- 10.1 Owner may award additional IDIQ Agreements to other Professionals in response to the same RFQ or on the same subject matter upon which this IDIQ Agreement has been awarded. Nothing contained herein limits the right of Owner to issue a request for qualifications for professional services related to individual projects that may also be performed under this IDIQ Agreement.
- 10.2 The Parties each binds itself, its partners, successors, permitted assigns, and legal representatives to the other party of this IDIQ Agreement and to the partners, successors, permitted assigns, and legal representatives of such other party with respect to all covenants of this IDIQ Agreement. This IDIQ Agreement is a personal service contract for the services described herein, and Professional's rights and responsibilities in this IDIQ Agreement, services or obligations hereunder and/or fees due hereunder, or under any

related Service Order may not be assigned, sublet, or transferred to a third party without the prior written approval of Owner.

- 10.3 If the Professional transacts business as an individual, his death or incapacity shall automatically terminate this IDIQ Agreement as of the date of such event, and neither he nor his estate shall have any further right to perform hereunder; and Owner shall pay him or his estate the compensation payable under the IDIQ Agreement for any services rendered prior to such termination. If the Professional is a firm comprised of more than one principal and any one of the members thereof dies or becomes incapacitated and the other members continue to render the services covered herein, the Owner will make payments to those continuing as though there had been no such death or incapacity, and the Owner will not be obliged to take any account of the person who died or became incapacitated or to make any payment to such person or his estate. This provision shall apply in the event of progressive or simultaneous occasions of death or incapacity among any group of persons named as the Professional; and if death or incapacity befalls the last one of such group before this contract is fully performed, then the rights shall be as if there had been only one Professional. In any event, notice of the death or incapacity of any principal shall be given to the Owner by any surviving principal within a reasonable time.

10.4 CERTIFICATIONS

10.4.1 Family Code Child Support Certification – Pursuant to Section 231.006, *Texas Family Code*, Professional certifies that it is not ineligible to receive the award of or payments under this IDIQ Agreement and acknowledges that this IDIQ Agreement may be terminated and payment may be withheld if this certification is inaccurate.

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

10.4.3 Franchise Tax Certification – If a corporate or limited liability company, Professional certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171, *Texas Tax Code*, or that the corporation or limited liability company is exempt from the payment of such taxes, or that the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable.

10.4.4 Certification of No Financial Interest – By signature hereon, Professional certifies that no member of the UNTS Board of Regents or Executive Officers, including component institutions, has a financial interest, directly or indirectly, in the transaction that is the subject of this IDIQ Agreement.

- 10.4 This IDIQ Agreement and any Service Order and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas and venue shall be in Denton County, Texas for any legal proceeding pertaining to this IDIQ Agreement in accordance with the *Texas Education Code*.

- 10.5 No delay or omission by either party in exercising any right or power arising from noncompliance or failure of performance by the other party with any of the provisions of this IDIQ Agreement shall impair or constitute a waiver of any such right or power. A waiver by either party of any term or condition of this IDIQ Agreement shall not be construed as a waiver of any subsequent breach of that or of any other term or condition of the IDIQ Agreement.
- 10.6 Should any term or provision of this IDIQ Agreement be held invalid or unenforceable in any respect, the remaining terms and provisions shall not be affected and this IDIQ Agreement shall be construed as if the invalid or unenforceable term or provision had never been included.
- 10.7 The titles given to the articles and sections are for ease of reference only and shall not be relied upon or cited for any other purpose.
- 10.8 Records of Professional's related to the Hourly Rate Schedule, Allowable Charges and Reimbursable Expenses and any payments made under this IDIQ Agreement or any Service Order shall be available to Owner or its authorized representative during business hours and shall be retained for four (4) years after final payment or abandonment of the IDIQ Agreement, unless Owner otherwise instructs Professional in writing.
- 10.9 All notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this IDIQ Agreement shall be in writing and shall be deemed to have been duly given or served when delivered by hand delivery or when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Owner:

Director for System Facilities Administration
 University of North Texas System
 1155 Union Circle #311040
 Denton, Texas 76203-5017

If to Professional:

or to such other person or address as may be given in writing by either party to the other in accordance with the aforesaid.

- 10.10 It is acknowledged and agreed that Professional's services to Owner are unique, which gives Professional a peculiar value to Owner and for the loss of which Owner cannot be reasonably or adequately compensated in damages; accordingly, Professional acknowledges and agrees that a breach by Professional of the provisions hereof will cause Owner irreparable injury and damage. Professional, therefore, expressly agrees that Owner shall be entitled to injunctive and/or other equitable relief in any court of competent

jurisdiction to prevent or otherwise restrain a breach of this IDIQ Agreement, but only if Owner is not in breach of this IDIQ Agreement.

- 10.11 Professional recognizes that it is engaged as an independent contractor and acknowledges that Owner will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. Professional, in accordance with its status as an independent contractor, covenants and agrees that it shall conduct itself consistent with such status, that it will neither hold itself out as nor claim to be an officer, partner, employee or agent of Owner by reason hereof, and that it will not by reason hereof make any claim, demand or application to or for any right or privilege applicable to an officer, partner, employee or agent of Owner, including, but not limited to, unemployment insurance benefits, social security coverage or retirement benefits. Professional hereby agrees to make its own arrangements for any of such benefits as it may desire and agrees that it is responsible for all income taxes required by applicable law.
- 10.12 Pursuant to Sections 2107.008 and 2252.903, *Texas Government Code*, Professional agrees that any payments owing to Professional under this IDIQ Agreement may be applied directly toward any debt or delinquency that Professional owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
- 10.13 Financial records shall be kept on the basis of generally accepted accounting principles and in accordance with cost accounting standards promulgated by the Federal Office of Management and Budget Cost Accounting Standards Board and shall be available for audit by the Owner or the Owner's authorized representative on reasonable notice.
- 10.14 Performance by Owner under the IDIQ Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature and/or allocation of funds by the UNTS Board of Regents. If the Texas State Legislature fails to appropriate or allot the necessary funds, or the UNTS Board of Regents fails to allocate the necessary funds, then Owner shall issue written notice to Professional and Owner may terminate the IDIQ Agreement in accordance with Article 9. Professional acknowledges that appropriation, allotment, and allocation of funds are beyond the control of Owner.
- 10.15 All information owned, possessed or used by Owner which is communicated to, learned, developed or otherwise acquired by the Professional in the performance of Services for Owner, which is not generally known to the public, shall be confidential and the Professional shall not, beginning on the date of first association or communication between Owner and Professional and continuing through the term of this IDIQ Agreement and by Service Order and any time thereafter, disclose, communicate or divulge, or permit disclosure, communication or divulgence, to another or use for Professional's own benefit or the benefit of another, any such confidential information, unless required by law. Except when defined as part of the Work, Professional shall not make any press releases, public statements, or advertisement referring to the Project or the engagement of Professional as an independent contractor of Owner in connection with the Project, or release any information relative to the Project for publications, advertisement or any other purpose without the prior written approval of Owner. Professional shall obtain assurances similar to those contained in this Subparagraph from persons, contractors, and subcontractors retained by Professional. Professional acknowledges and agrees that a breach by Professional of the provisions hereof will cause Owner irreparable injury and damage. Professional, therefore, expressly agrees that Owner shall be entitled to injunctive and/or

other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this IDIQ Agreement.

10.16 Owner shall release information to the extent required by the Texas Public Information Act and other applicable law. If requested, Professional shall make public information available to Owner in an electronic format.

IN WITNESS WHEREOF the parties hereto have executed this IDIQ Agreement in the day and year first above written.

OWNER:
UNIVERSITY OF NORTH TEXAS SYSTEM

PROFESSIONAL:

By: _____
(signature)

By: _____
(signature)

[Authorized Signatory Name]

(typed name and title)

[Authorized Signatory Title]

Date: _____

Date: _____

Street/PO Box

City, State, ZIP

Telephone

State of TX Vendor ID Number

SAMPLE

EXHIBIT A

INDEFINITE DELIVERY INDEFINITE QUANTITY

SERVICE ORDER

This Professional Services Agreement is governed by all terms and conditions contained in the underlying Indefinite Delivery Indefinite Quantity (IDIQ) Agreement, which was entered into by the University of North Texas System and by **[Firm Name]** effective as of **[Date]** pursuant to **[RFQ Number]**. This IDIQ Service Order shall be effective upon the last date of signature below.

The attached proposal for **[Service & Project Name]**, dated **[Date]** in the amount of **[Amount]** and incorporated herein by reference for all purposes, includes a description of the Statement of Work to be performed under this Service Order (“Work”) and the negotiated fixed-price lump sum to be paid for all Work performed under this Service Order. Professional will correct, at its own cost, any of its services provided under this Service Order, and the services of its consultants, that do not meet the industry standard of care. The completion date for the Work will be **[Date]**. All Work will be completed in accordance with the Historically Underutilized Businesses Subcontracting Plan dated **[Date]**.

UNIVERSITY OF NORTH TEXAS SYSTEM

[Firm Name]

By:

Signature
[Authorized Signatory Name]

Name

Title

Date

By:

Signature

Name

Title

Date

EXHIBIT B
INDEFINITE DELIVERY INDEFINITE QUANTITY
RATE SCHEDULE

This Professional Services Rate Schedule is governed by all terms and conditions contained in the underlying Indefinite Delivery Indefinite Quantity (IDIQ) Agreement, which was entered into by the University of North Texas System and by **[Firm Name]** effective as of **[Effective Date]** pursuant to **RFQ[Number]**. This Rate Schedule shall be effective as of the date of the IDIQ Agreement.

Hourly Rates:

Sub-Consultant Multiplier:

UNIVERSITY OF NORTH TEXAS SYSTEM

[Firm Name]

By:

Signature
[Authorized Signatory Name]

Name

Title

Date

By:

Signature

Name

Title

Date