REQUEST FOR QUALIFICATIONS

by

Tyler Junior College

for

Selection of a Vendor to Provide

ARCHITECTURAL SERVICES

RFQ No.: J2120-20-05

Issued: February 24, 2020

Prepared By:
Dana Ballard
Director, Campus Services
Tyler Junior College
1327 South Baxter
Tyler, Texas 75701
903-510-3313
dbal@tjc.edu
## KEY DATES SCHEDULE

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<th>PROJECT NAME:</th>
<th>Architectural Services</th>
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<td>Selection of a Professional to Provide Architectural Services for Building Maintenance and Repair Projects</td>
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<td>ISSUANCE OF RFQ</td>
<td>February 24, 2020</td>
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<td>DEADLINE FOR QUESTIONS:</td>
<td>Thursday, March 5, 2020 10:00 a.m. CST</td>
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<td>SUBMITTAL DEADLINE:</td>
<td>Friday, March 20, 2020 2:00 p.m. CST</td>
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<td>DELIVERY LOCATION:</td>
<td>Tyler Junior College Campus Services/Purchasing Building Attn: Dana Ballard 1327 South Baxter Tyler, Texas 75701</td>
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<td>BOARD OF TRUSTEES AWARD:</td>
<td>A final determination will be made at a future board meeting. Tyler Junior College reserves the right to reject any and all Request for Qualifications and waive any and all formalities and conditions.</td>
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<td>TERM OF SERVICE/PROJECT:</td>
<td>Services to begin May 2020</td>
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NOTICE: ALL QUESTIONS RELATED TO THIS RFQ ARE TO BE DIRECTED TO DANA BALLARD dbal@tjc.edu. NO PHONE CALLS WILL BE ACCEPTED.
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SECTION 3 - SUBMISSION OF QUALIFICATIONS

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SECTION 1 - INTRODUCTION

1.1 Description of Tyler Junior College

Tyler Junior College ("TJC") is located in Tyler, Texas. Since 1926, Tyler Junior College has been fulfilling three promises to its students and the Tyler area by providing a quality education, a vibrant student life and service to the community. Whatever course of study you choose, you will find quality instruction, caring faculty, support services designed to help you achieve your goals and a vibrant student life that is like none other at the two-year level. Through your studies and involvement in student organizations, you will come in contact with numerous opportunities for service learning, volunteerism and community assistance.

Tyler Junior College provides a friendly, smoke-free vapor-free environment at all of its campuses and satellite facilities. No alcohol will be permitted on campus grounds.

Tyler Junior College is committed to providing a safe environment for students, faculty, staff, and visitors, and to respecting the right of individuals who are licensed to carry a handgun where permitted by law. Individuals who are licensed to carry may do so on campus premises or in a college owned vehicle except in locations and at activities prohibited by law or by this policy. Individuals who observe a violation of this policy are required to report the incident immediately to the Campus Police Department, so it can be documented and properly investigated. Campus Police can be contacted at 903 510-2222. Dial 911 for emergencies.

https://www.tjc.edu/downloads/file/1045/concealed_handguns_on_campus_policy

Tyler Junior College’s web page is located at http://www.tjc.edu/.

1.2 Objective of this Request for Qualifications

Tyler Junior College ("TJC") is soliciting Architectural Firms ("Professional" or "Professionals") in response to this Request for Qualifications for Selection of a Vendor to Provide Architectural Services. The Services may include but are not limited to;

- Architectural services for maintenance, renovation, and repair projects
- Buildings could include, but not limited to:
  - Rogers Student Center – 1401 East Lake
  - TJC West – Regional Training and Development Center (RTDC) – 1530 SSW Loop 323
  - Pirtle Technology – 1110 South Mahon
  - Jenkins Hall – 1400 East Fifth
  - Buildings located at 1232 East 5th and 1427 South Baxter
- Scope could include development of specifications
- Scope could include working with permits and exemptions
1.3 Purpose

TJC is soliciting competitive sealed submissions from Professionals having suitable qualifications and experience providing services in accordance with the terms, conditions and requirements set forth in this RFQ. This RFQ provides sufficient information for interested parties to prepare and provide submissions of qualification for consideration by TJC.

By providing a submission, Professional certifies that it understands this RFQ and has full knowledge of the scope, nature, quality, and quantity of the services to be performed, the detailed requirements of the services to be provided, and the conditions under which such services are to be performed. Professional also certifies that it understands that all costs relating to preparing a response to this RFQ will be the sole responsibility of Professional.

PROFESSIONAL IS CAUTIONED TO READ THE INFORMATION CONTAINED IN THIS RFQ CAREFULLY AND TO PROVIDE A COMPLETE RESPONSE TO ALL REQUIREMENTS AND QUESTIONS AS DIRECTED.

1.4 Public Information

Proposer is hereby notified that TJC strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information.

TJC may seek to protect from disclosure all information submitted in response to this RFQ until such time as a final agreement is executed.

Upon execution of a final agreement, TJC will consider all information, documentation, and other materials requested to be submitted in response to this RFQ, to be of a non-confidential and non-proprietary nature and, therefore, subject to public disclosure under the Texas Public Information Act (Texas Government Code, Chapter 552.001, et seq.). Proposer will be advised of a request for public information that implicates their materials and will have the opportunity to raise any objections to disclosure to the Texas Attorney General. Certain information may be protected from release under Sections 552.101, 552.110, 552.113, and 552.131, Texas Government Code.

1.5 Felony Notification

Bidders are hereby notified that in accordance with Section 44.034 of the Texas Education Code, a person or business entity that enters into a contract with Tyler Junior College must give notice to the College if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony. Furthermore, the College may terminate a contract with a person or business entity if the College determines that the person or business entity failed to give this notice or misrepresented the conduct resulting in the conviction. This requirement does not apply to a publicly-held corporation. Service Provider must complete the Felony Conviction Notification Form attached to this RFQ as Appendix One, Section 5.
1.6 Type of Contract

Service Provider, if any, will be required to enter into a contract with TJC in a form substantially similar to the Agreement between TJC and Service Provider (the “Agreement”) attached to this RFQ as Appendix Two and incorporated for all purposes.

1.7 Inquiries and Interpretations

TJC may in its sole discretion respond in writing to written inquiries concerning this RFQ and post its response as an Addendum on the TJC website. Only TJC’s responses that are made by formal written Addenda will be binding on TJC. Any verbal responses, written interpretations or clarifications other than Addenda to this RFQ will be without legal effect. All Addenda issued by TJC prior to the Submittal Deadline will be and are hereby incorporated as a part of this RFQ for all purposes.

Professional is required to acknowledge receipt of each Addendum as specified in this Section. Professional must acknowledge all Addenda by completing, signing and returning the Addenda Checklist (ref. Section 4 of Appendix One). It is the Proposer’s responsibility to make sure they have obtained all addenda. Addenda, if any, will be posted on TJC’s website at http://www.tjc.edu/rfp. The Addenda Checklist must be received by TJC prior to the Submittal Deadline and should accompany Professional’s submission of qualification.

1.8 Evaluation Process

TJC will select the successful Professional by using the evaluation process described in this Section. TJC will use commercially reasonable efforts to avoid public disclosure of the contents of a submission of qualification prior to selection of the successful Professional.

After the opening of the submissions of qualification and upon completion of the initial review and evaluation of the submissions, TJC may invite one or more selected Professionals to participate in oral presentations. TJC will select, on the basis of demonstrated competence and qualifications to perform the services, the firms it believes are best qualified and rank them in order. TJC will identify the Professional that is most highly qualified on the basis of demonstrated competence and qualifications.

Once the successful Professional has been selected, TJC will attempt to negotiate the Agreement with the most highly qualified Professional at a fair and reasonable price. If the Agreement cannot be negotiated with the most highly qualified Professional, TJC shall formally end negotiations with that Professional, select the next most highly qualified Professional, and attempt to negotiate the Agreement with that Professional at a fair and reasonable price. TJC shall continue this process until the Agreement is successfully negotiated with the successful Professional.

TJC reserves the right to (a) enter into an agreement for all or any portion of the requirements and specifications set forth in this RFQ with one or more Professionals, (b) reject any and all submissions of qualification and re-solicit submissions of qualification, or (c) reject any and all submissions of qualification and temporarily or permanently abandon this selection process, if deemed to be in the best interests of TJC. Professional is hereby
notified that TJC will maintain in its files concerning this RFQ a written record of the basis upon which a selection, if any, is made by TJC.

1.9 Professional's Acceptance of Evaluation Methodology

By providing a submission of qualification, Professional acknowledges (1) Professional's acceptance of [a] the Submission of Qualification Evaluation Process (ref. Section 1.8 of this RFQ), [b] the Criteria for Selection (ref. Section 2.3 of this RFQ), [c] the Specifications and Additional Questions (ref. Section 5 of this RFQ), [d] the terms and conditions of the Agreement (ref. Appendix Two), and [e] all other requirements and specifications set forth in this RFQ; and (2) Professional's recognition that some subjective judgments must be made by TJC during this RFQ process.

1.10 Solicitation for Submission of Qualification and Preparation Costs

Professional understands and agrees that (1) this RFQ is a solicitation for submissions of qualification and TJC has made no representation written or oral that one or more agreements with TJC will be awarded under this RFQ; (2) TJC issues this RFQ predicated on TJC's anticipated requirements for the Services, and TJC has made no representation, written or oral, that any particular scope of services will actually be required by TJC; and (3) Professional will bear, as its sole risk and responsibility, any cost that arises from Professional's preparation of a submission of qualification in response to this RFQ.

1.11 Sales and Use Taxes

Section 151.311, Tax Code, as amended effective October 1, 1993, permits the purchase free of state sales and use taxes of tangible personal property to be incorporated into realty in the performance of a contract for an improvement to realty for certain exempt entities that include junior college districts. The section further permits the purchase tax free of tangible personal property (other than machinery or equipment and its accessories and repair and replacement parts) for use in the performance of such a contract if the property is "necessary and essential for the performance of the contract" and "completely consumed at the job site." In addition, the section permits the purchase tax free of a tangible service for use in the performance of such a contract if the service is performed at the job site and if "the contract expressly requires the specific service to be provided or purchased by the person performing the contract" or "the service is integral to the performance of the contract."

1.12 Eligible Respondents

Only individual firms or lawfully-formed business organizations may apply. (This does not preclude a respondent from using consultants.) The Owner will contract only with the individual firm or formal organization that submits a Proposal in accordance with the requirements set forth herein.

1.13 Bid Protest Procedure

A vendor who has timely responded to an Invitation to Bid, Request for Proposal, Request for Qualifications or Competitive Sealed Proposal, but is not awarded the bid, has the right to protest the bid award if the amount of the bid is over $50,000 in the aggregate. A
protest must be made in writing and submitted to the Director, Campus Services, no later than five (5) business days after the award of the bid. The date of the bid award will not be counted as one of the five (5) business days. Any protest submitted after five (5) business days is untimely and will not be considered by the College.

The written protest must contain the following in order to be considered:

(a) A specific identification of the statutory, regulatory, or policy provision(s) that the action complained of is alleged to have violated;
(b) A specific description of each act alleged to have violated the statutory, regulatory, or policy provision(s) identified in “a” of this subsection;
(c) A precise statement of the relevant facts;
(d) An identification of the issue or issues to be resolved;
(e) Arguments and authorities in support of the protest; and
(f) An affidavit that the contents of the protest are true and accurate.

No amendments to the protest will be considered by the College.

The Director, Campus Services, legal counsel for the College, and/or a committee headed by and appointed by the Vice-President, Financial and Administrative Affairs/CFO, shall review the protest documentation and shall provide the protestor a final written determination regarding whether any statutes, regulations, or policies have been violated, the reasons for the determination, and remedial action to be taken, if any. This review and final determination may be made with the assistance of legal counsel. The written determination shall be made within ten (10) business days of the receipt of the protest, unless the Director, Campus Services, notifies protestor that additional time is needed. The decision shall be final.

1.14 Equal Opportunity Employer

TJC is an equal opportunity employer and does not discriminate in awarding contracts or employment of persons because of their race, sex, age, religion, national origin, veteran, disabled or handicap status or any other characteristic protected by law. TJC requires companies with which it conducts business to be equal opportunity employers and comply with all applicable federal, state and municipal laws and regulations regarding contracting and employment practices.

1.15 House Bill 1295

The Texas Legislature adopted House Bill 1295, which was added to Section 2252.908 of the Government Code. The law states that a governmental entity agency or state agency may not enter into certain contracts with a business entity unless the business submits a disclosure of interested parties (Form 1295). This disclosure requirement applies to a contract entered into on or after January 1, 2016.

If awarded a contract, the vendor may be required to complete and submit this form. TJC will be unable to execute and services cannot be performed until the process is complete.

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
1.16  Israel

Respondents must complete and submit with their proposal the Prohibition on Contracts with Companies Boycotting Israel form (Appendix One, Section 6). In accordance with the Texas Government Code Section 2270.002, Bidder represents and verifies that it does not, and will not during the term of the contract, if awarded, boycott Israel and that Bidder is not identified by the Texas Comptroller as boycotting Israel. “Boycott” as used herein means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

1.17  Debarment

Bidder confirms that neither Bidder nor its Principals are suspended, debarred, proposed for debarment, declared ineligible, or voluntarily excluded from the award of contracts from United States (“U.S.”) federal government Procurement or Nonprocurement Programs, or are listed in the List of Parties Excluded from Federal Procurement or Nonprocurement Programs (http://www.epis.gov/) issued by the U.S. General Services Administration. “Principals” means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager, plant manager, head of a subsidiary, division or business segment, and similar positions). Bidder further certifies that it is not identified on the Texas Comptroller’s list of scrutinized companies doing business with Sudan or Iran or a list of companies known to have contracts with or to provide services or supplies to a foreign terrorist organization. Bidder will provide immediate written notification to TJC if at any time prior to award Contractor learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. This certification is a material representation of fact upon which reliance will be placed when TJC executes an Agreement, if any. If it is later determined that Bidder knowingly rendered an erroneous certification, in addition to the other remedies available to TJC, TJC may terminate the Agreement, if awarded, for default by Bidder.

SECTION 2 - NOTICE TO PROFESSIONAL

2.1  Submittal Deadline

TJC will accept submissions of qualification provided in response to this RFQ until 2:00 p.m. on Friday, March 20, 2020 (the “Submittal Deadline”).

2.2  TJC Contact Person

Professionals will direct all questions or concerns regarding this RFQ to the following TJC contact (“TJC Contact”):

Tyler Junior College  
ATTN: Dana Ballard, Director, Campus Services  
1327 South Baxter  
Tyler, Texas 75701  
903-510-333  
dbal@tjc.edu
TJC specifically instructs all interested parties to restrict all contact and questions regarding this RFQ to written communications forwarded to the TJC Contact. TJC Contact must receive all questions or concerns no later than 10:00 a.m. on Thursday, March 5, 2020. TJC will have a reasonable amount of time to respond to questions or concerns. Any response to the questions will be in the form of an Addendum. It is the Proposer’s responsibility to make sure they have obtained all addenda. Addenda, if any, will be posted on TJC’s website at [http://www.tjc.edu/rfp](http://www.tjc.edu/rfp)

It is TJC’s intent to respond to all appropriate questions and concerns; however, TJC reserves the right to decline to respond to any question or concern.

2.3 Criteria for Selection

The successful Professional (“successful Professional”) will be the Professional that provides a submission of qualification in response to this RFQ on or before the Submittal Deadline, is selected by TJC in accordance with the requirements and specifications set forth in this RFQ as the most highly qualified to perform the Services, and with whom TJC is able to negotiate the Agreement at a fair and reasonable price.

An evaluation team from TJC will evaluate submissions of qualification. The evaluation of submissions of qualification and the selection of the successful Professional will be based on the information provided by Professional in its submission of qualification. TJC may give consideration to additional information if TJC deems such information relevant.

The criteria to be considered by TJC in evaluating qualifications and selecting the most highly qualified Professional will be demonstrated competence and qualifications to perform the Services for a fair and reasonable price.

SECTION 3 - SUBMISSIONS OF QUALIFICATION

3.1 Number of Copies

Professional must provide a total of Two (2) copies, One (1) original and One (1) complete and identical copy of its entire submission of qualification. An original signature by an authorized officer of Professional must appear on the Execution of Offer (ref. Section 2 of Appendix One) (failure to supply may cause proposal to be disqualified) of at least one (1) copy of the submission of qualification. The copy of Professional's submission of qualification that bears an original signature should contain the mark "original" on the front cover of the submission.

3.2 Submission

Submissions of qualification must be received by TJC on or before the Submittal Deadline (ref. Section 2.1 of this RFQ) and should be delivered to, or if sending by common carrier (FedEx, UPS, etc. mailed to:
3.3 Submission Validity Period

Each submission of qualification must state that it will remain valid for TJC’s acceptance for a minimum of ninety (90) days after the Submittal Deadline, to allow time for evaluation, selection, and any unforeseen delays.

3.4 Terms and Conditions

3.4.1 Professional must comply with the requirements and specifications contained in this RFQ, including the Agreement (ref. Appendix Two), the Notice to Professional (ref. Section 2 of this RFQ), Submission Requirements (ref. Appendix One) and the Specifications and Additional Questions (ref. Section 5 of this RFQ). If there is a conflict among the provisions in this RFQ, the provision requiring Professional to supply the better quality or greater quantity of services will prevail, or if such conflict does not involve quality or quantity, then interpretation will be in the following order of precedence:

3.4.1.1 Specifications and Additional Questions (ref. Section 5 of this RFQ);

3.4.1.2 Submission Requirements (ref. Appendix One);

3.4.1.4 Notice to Professionals (ref. Section 2 of this RFQ).

3.5 Submittal Checklist

Professional is instructed to complete, sign, and return the following documents as a part of its submission of qualification. If Professional fails to return each of the following items with its submission of qualification, then TJC will reject the submission:

3.5.1 Signed and Completed Execution of Offer (ref. Section 2 of Appendix One)

3.5.2 Signed and Completed Delivery Schedule (ref. Section 6 of this RFQ)

3.5.3 Responses to Professional’s General Questionnaire (ref. Section 3 of Appendix One)

3.5.4 Responses to questions and requests for information in the Specifications and Additional Questions Section (ref. Section 5 of this RFQ)

3.5.5 Signed and Completed Addenda Checklist (ref. Section 4 of Appendix One)

3.5.6 Signed and Completed Felony Conviction Notification Form (ref. Section 5 of Appendix One)
3.5.7 Signed and Completed Prohibition on Contracts with Companies Boycotting Israel Form (ref. Section 6, Appendix One)

3.5.8 Signed and Completed Delinquent Franchise Taxes Form (ref. Section 7 of Appendix One)

SECTION 4 - GENERAL TERMS AND CONDITIONS

The terms and conditions contained in the attached Agreement (ref. Appendix Two) or, in the sole discretion of TJC, terms and conditions substantially similar to those contained in the Agreement, will constitute and govern any contract or agreement that results from this RFQ.

SECTION 5 - SPECIFICATIONS AND ADDITIONAL QUESTIONS

5.1 General

The minimum requirements and the specifications for the Services, as well as certain requests for information to be provided by Professional as part of its submission of qualification, are set forth below:

5.2 Minimum Requirements

Each Professional must include information that clearly indicates that Professional meets each of the following minimum qualification requirements:

5.2.1 Track record of providing quality Design & Architectural Services.

(a) List a maximum of five projects in the last ten years for which the Architectural firm provided or is providing Services in a college/university setting which are most related to the Scope provided for in this RFQ (Ref. Section 5.4). List the projects in priority order, with the most related project listed first. Provide the following information for each project listed:

- Project name and location
- Project Owner
- Project construction cost
- Project size in gross square feet
- Description of services the firm provided
- Project description
- Senior Planner (individual responsible to the client for the overall success of the project)
- Names of consultant firms, if any, and their areas of expertise
- Description of how this project is similar and why the services provided are relevant to this project.

(b) List all current projects with description, budgets and estimated time of completion.

(c) To employ both high and low tech sustainable solutions to maximize the long-term efficiency of the building while minimizing its operational costs,
list two (2) projects that in your opinion most typify your firm’s use of green building principles.

5.2.2 Provide evidence that Professional was able to meet delivery schedules for the representative projects in 5.2.1 (a).

5.2.3 Provide evidence that Professional is detail-oriented and experienced in providing quality Architectural Services.

5.2.4 Professional must be able to show breadth and depth of renovation experience at the firm. Resumes of each member of the proposed team must be included, as well as a resume of the firm. If member of team holds a professional license, please attach copies of same.

5.3 Intentionally Left Blank

5.4 Scope of Work

Tyler Junior College (“TJC”) is soliciting Architectural Firms (“Professional” or “Professionals”) in response to this Request for Qualifications for Selection of a Vendor to Provide Architectural Services. The Services may include but are not limited to:

- Architectural services for maintenance, renovation, and repair projects
- Buildings could include, but not limited to:
  - Rogers Student Center – 1401 East Lake
  - TJC West – Regional Training and Development Center (RTDC) – 1530 SSW Loop 323
  - Pirtle Technology – 1110 South Mahon
  - Jenkins Hall – 1400 East Fifth
  - Buildings located at 1232 East 5th and 1427 South Baxter
- Scope could include development of specifications
- Scope could include working with permits and exemptions
SECTION 6 - DELIVERY SCHEDULE

Submission of Qualification of: ____________________________
(Professional Company Name)

To: TYLER JUNIOR COLLEGE

Ref.: Architectural Services

RFQ NO.: J2120-20-05

All State licenses and regulatory agreements must be complied with; failure will result in disqualification.

TJC reserves the right to contract with more than one Service Provider.

Ladies and Gentlemen:

Having carefully examined all the specifications and requirements of this RFQ and any attachments hereto, the undersigned proposes to furnish the Services in accordance with the schedule provided below:

Services to begin approximately May 2020. Project completions undetermined at this time.

Respectfully submitted,

Professional: ____________________________

By: ____________________________
(Authorized Signature for Professional)

Name: ____________________________

Title: ____________________________

Date: ____________________________
## APPENDIX ONE - SUBMISSION REQUIREMENTS

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SECTION 1 - GENERAL INFORMATION

1.1 Submission of Qualification Requirements and General Instructions

1.1.1 Professional should carefully read the information contained in this RFQ and provide a complete submission of qualification in response to all requirements and questions as directed.

1.1.2 Submissions of qualification and any other information provided by Professional in response to this RFQ will become the property of TJC.

1.1.3 TJC will not provide compensation to Professional for any expenses incurred by Professional for submission of qualification preparation or for demonstrations or oral presentations that may be made by Professional, unless otherwise expressly agreed in writing. Professional provides its submission of qualification at its own risk and expense.

1.1.4 Submissions of qualification that (i) are qualified with conditional clauses; (ii) alter, modify, or revise this RFQ in any way; or (iii) contain irregularities of any kind, are subject to disqualification by TJC, at TJC’s sole discretion.

1.1.5 Submissions of qualification should be prepared simply and economically, providing a straightforward, concise description of Professional's ability to meet the requirements and specifications of this RFQ. Emphasis should be on completeness, clarity of content, and responsiveness to the requirements and specifications of this RFQ.

1.1.6 TJC makes no warranty or guarantee that an award will be made as a result of this RFQ. TJC reserves the right to accept or reject any or all submissions of qualification, waive any formalities, procedural requirements, or minor technical inconsistencies, and delete any requirement or specification from this RFQ or the Agreement when deemed to be in TJC's best interest. TJC reserves the right to seek clarification from any Professional concerning any item contained in its submission of qualification prior to final selection. Such clarification may be provided by telephone conference or personal meeting with or writing to TJC, at TJC’s sole discretion. Representations made by Professional within its submission of qualification will be binding on Professional.

1.1.7 Any submission of qualification that fails to comply with the requirements contained in this RFQ may be rejected by TJC, in TJC’s sole discretion.
1.2 Preparation and Submittal Instructions

1.2.1 Specifications and Additional Questions

Submissions of qualification must include responses to the questions and requests for additional information in Specifications and Additional Questions (ref. Section 5 of this RFQ). Professional should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Professional should refer to the item number, repeat the question, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Professional should explain the reason when responding N/A or N/R.

1.2.2 Execution of Offer

Professional must complete, sign and return the attached Execution of Offer (ref. Section 2 of Appendix One) as part of its submission of qualification. The Execution of Offer must be signed by a representative of Professional duly authorized to bind Professional to its submission of qualification. Any submission of qualification received without a completed and signed Execution of Offer may be rejected by TJC in its sole discretion.

1.2.3 Delivery Schedule

Professional must complete and return the Delivery Schedule (ref. Section 6 of this RFQ), as part of its submission of qualification.

1.2.4 Professional’s General Questionnaire

Submissions of qualification must include responses to the questions in Professional’s General Questionnaire (ref. Section 3 of Appendix One). Professional should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Professional should refer to the item number, repeat the question, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Professional should explain the reason when responding N/A or N/R.

1.2.5 Addenda Checklist

Professional should acknowledge all Addenda to this RFQ (if any) by completing, signing and returning the Addenda Checklist (ref. Section 4 of Appendix One) as part of its submission of qualification. It is the Proposer’s responsibility to make sure they have obtained all addenda. Addenda, if any, will be posted on TJC’s website at http://www.tjc.edu/rfp

Any submission of qualification received without a completed and signed Addenda Checklist may be rejected by TJC in its sole discretion.
1.2.6 Felony Notification

Proposer must complete, sign and return the attached Felony Conviction Notification Form (ref. Section 5 of Appendix One) as part of its proposal. The Felony Conviction Notification Form must be signed by a representative of Proposer duly authorized to bind the Proposer to its proposal. Any proposal received without a completed and signed Felony Conviction Notification Form may be rejected by TJC in its sole discretion.

1.2.7 Submission

Professional should provide all submission of qualification materials enclosed in a sealed envelope, box, or container. The RFQ No. J2120-20-05 and the Submittal Deadline (ref. Section 2.1 of this RFQ) should be clearly shown in the lower left-hand corner on the top surface of the container. In addition, the name and the return address of Professional should be clearly visible.

Upon Professional's request and at Professional's expense, TJC will return to Professional its submission of qualification received after the Submittal Deadline if the submission of qualification is properly identified. TJC will not under any circumstances consider a submission of qualification that is received after the Submittal Deadline that is required by this RFQ.

TJC will not accept submissions of qualification provided by telephone, submissions of qualification provided by Facsimile ("FAX") transmission, or submissions of qualification provided by electronic transmission (i.e., e-mail) in response to this RFQ.

Except as otherwise provided in this RFQ, no submission of qualification may be changed, amended, or modified after it has been provided to TJC. However, a submission of qualification may be withdrawn and resubmitted at any time prior to the Submittal Deadline. No submission of qualification may be withdrawn after the Submittal Deadline without TJC's consent, which will be based on Professional's submittal of a written explanation and documentation evidencing a reason acceptable to TJC, in TJC's sole discretion.

By signing the Execution of Offer (ref. Section 2 of Appendix One) and providing a submission of qualification, Professional certifies that any terms, conditions, or documents attached to or referenced in its submission of qualification are applicable to this procurement only to the extent that they (a) do not conflict with the laws of the State of Texas or this RFQ and (b) do not place any requirements on TJC that are not set forth in this RFQ or in the Appendices to this RFQ. Professional further certifies that providing a submission of qualification is Professional's good faith intent to enter into the Agreement with TJC as specified herein and that such intent is not contingent upon TJC's acceptance or execution of any terms, conditions, or other documents attached to or referenced in Professional's submission of qualification.
1.2.8 Page Size, Binders, and Dividers

Submissions of qualification must be typed on letter-size (8-1/2" x 11") paper, and must be submitted in a binder. Preprinted material should be referenced in the submission of qualification and included as labeled attachments. Sections within a submission of qualification should be divided by tabs for ease of reference.

1.2.9 Table of Contents

Submissions of qualification must include a Table of Contents with page number references. The Table of Contents must contain sufficient detail and be organized according to the same format as presented in this RFQ, to allow easy reference to the sections of the submission of qualification as well as to any separate attachments (which should be identified in the main Table of Contents). If Professional includes supplemental information or non-required attachments with its submission of qualification, this material should be clearly identified in the Table of Contents and organized as a separate section of the submission of qualification.
SIGNING A FALSE STATEMENT MAY VOID THE SUBMITTED PROPOSAL OR ANY AGREEMENTS OR OTHER CONTRACTUAL ARRANGEMENTS WHICH MAY RESULT FROM THE SUBMISSION OF RESPONDENT'S PROPOSAL, AND THE RESPONDENT MAY BE REMOVED FROM ALL PROPOSER LISTS AT TYLER JUNIOR COLLEGE. A FALSE CERTIFICATION SHALL BE DEEMED A MATERIAL BREACH OF CONTRACT AND, AT TYLER JUNIOR COLLEGE'S OPTION, MAY RESULT IN TERMINATION OF ANY RESULTING CONTRACT OR PURCHASE ORDER.

1. By signature hereon, Respondent offers and agrees to furnish to Owner the products and/or services more particularly described in its proposal, at the prices quoted in the proposal, and to comply with all terms, conditions and requirements set forth in the RFQ documents and contained herein.

2. By signature hereon, Respondent affirms that he has not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted proposal.

3. By signature hereon, a corporate Respondent certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171, Texas Tax Code, or that the corporate Respondent is exempt from the payment of such taxes, or that the corporate Respondent is an out-of-state corporation that is not subject to the Texas Franchise Tax, whichever is applicable.

4. By signature hereon, the Respondent hereby certifies that neither the Respondent nor the firm, corporation, partnership or institution represented by the Respondent, or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this state, codified in Section 15.01, et. seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.

5. By signature hereon, Respondent represents and warrants that:

   a. Respondent is a reputable company regularly engaged in providing products and/or services necessary to meet the terms, conditions and requirements of the RFQ;

   b. Respondent has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily perform the terms, conditions and requirements of the RFQ;

   c. Respondent is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances;

   d. Respondent understands (i) the requirements and specifications set forth in this RFQ and (ii) the terms and conditions set forth in the Contract under which Respondent will be required to operate;
e. Respondent, if selected by Owner, will maintain insurance as required by the Contract;

f. All statements, information and representations prepared and submitted in response to this RFQ are current, complete, true and accurate. Respondent acknowledges that Owner will rely on such statements, information and representations in selecting the Successful Respondent. If selected by Owner as the Successful Respondent, Respondent will notify Owner immediately of any material change in any matters with regard to which Respondent has made a statement or representation or provided information.

6. By signature hereon, Respondent certifies that the individual signing this document and the documents made part of the RFQ is authorized to sign such documents on behalf of the company and to bind the company under any agreements or other contractual arrangements which may result from the submission of Respondent’s proposal.

7. By signature hereon, Respondent certifies as follows: “Under Section 2254.004, Texas Government Code, the vendor or applicant certifies that each individual or business entity which is an engineer or architect proposed by Respondent as a member of its team was selected based on demonstrated competence and qualifications only.”

8. By signature hereon, Respondent certifies that no relationship, whether by relative, business associate, capital funding agreement or by any other such kinship exist between Respondent and Owner.

9. By signature hereon, Respondent affirms that no compensation has been received for participation in the preparation of the specifications for this RFQ. (ref. Section 2155.004 Texas Government Code).

10. Respondent represents and warrants that all articles and services quoted in response to this RFQ meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and its regulations in effect or proposed as of the date of this solicitation.

11. By signature hereon, Respondent signifies his compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.

12. By signature hereon, Respondent agrees to defend, indemnify, and hold harmless Owner, all of its board members, agents and employees from and against all claims, actions, suits, demands, proceedings, costs and expenses (including reasonable attorneys’ fees and court costs), damages, and liabilities, arising out of, connected with, or resulting from any negligent or willful acts or omissions of Respondent or any agent, employee, subcontractor, or supplier of Respondent in the execution or performance of any agreements or other contractual arrangements which may result from the submission of Respondent’s proposal.

13. By signature hereon, Respondent agrees to abide by and fully comply with Owner’s smoking policy. Respondent understands that Owner has a vapor-free, smoke-free campus and this applies to the project at issue and Respondent agrees that all persons working under or for Respondent will abide by this policy in all respects.

14. By signature hereon, Respondent agrees that Owner’s bid protest policy, which is included
in the RFQ, will govern any protests related to this RFQ and agrees to the terms of same.

15. By signature hereon, in accordance with the Texas Government Code, Respondent represents and verifies that it does not, and will not during the term of the contract, if awarded, boycott Israel and that Respondent is not identified by the Texas Comptroller as boycotting Israel. “Boycott” as used herein means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

16. By signature hereon, Respondent confirms that neither Respondent nor its Principals are suspended, debarred, proposed for debarment, declared ineligible, or voluntarily excluded from the award of contracts from United States ("U.S.") federal government Procurement or Nonprocurement Programs, or are listed in the List of Parties Excluded from Federal Procurement or Nonprocurement Programs (http://www.epls.gov/) issued by the U.S. General Services Administration. “Principals” means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager, plant manager, head of a subsidiary, division or business segment, and similar positions). Respondent further certifies that it is not identified on the Texas Comptroller’s list of scrutinized companies doing business with Sudan or Iran or a list of companies known to have contracts with or to provide services or supplies to a foreign terrorist organization. Respondent will provide immediate written notification to TJC if at any time prior to award Respondent learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. This certification is a material representation of fact upon which reliance will be placed when TJC executes the Agreement, if any. If it is later determined that Respondent knowingly rendered an erroneous certification, in addition to the other remedies available to TJC, TJC may terminate the Agreement, if any, for default by Respondent.

Please complete the following:

Respondent’s EIN No: ______________________________

If Sole Owner:

Respondent’s SS No: ______________________________

If a Corporation:

Respondent’s State of Incorporation: ____________________

Respondent’s Charter No: ____________________________

Please identify each person who owns at least 25% of Respondent’s business entity by name and social security number:

<table>
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<tr>
<th>Name</th>
<th>Social Security Number</th>
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Name __________________________  Social Security Number __________________________

Name __________________________  Social Security Number __________________________

Submitted and Certified By:

(Respondent’s Name) __________________________ (Authorized Signature) __________________________

(Date) __________________________ (Printed Name/Title) __________________________

(Telephone Number & Email) __________________________

(Street Address) __________________________ (City, State, Zip Code) __________________________
SECTION 3 - PROFESSIONAL’S GENERAL QUESTIONNAIRE

NOTICE: WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER SECTIONS 552.021 AND 552.023, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER SECTION 559.004, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.

Submissions of qualification must include responses to the questions contained in this Professional’s General Questionnaire. Professional should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Professional should refer to the item number, repeat the question, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Professional will explain the reason when responding N/A or N/R.

3.1 Professional Profile

3.1.1 Legal name of Professional company:

________________________________________

Address of principal place of business:

________________________________________

________________________________________

________________________________________

Address of office that would be providing service under the Agreement:

________________________________________

________________________________________

________________________________________

Number of years in Business: ____________

State of incorporation: ____________________

Number of Employees: ____________________

Annual Revenues Volume: __________________

Name of Parent Corporation, if any: ________________
NOTE: If Professional is a subsidiary, TJC prefers to enter into a contract or agreement with the Parent Corporation or to receive assurances of performance from the Parent Corporation.

3.1.2 State whether Professional will provide a copy of its financial statements for the past two (2) years, if requested by TJC.

3.1.3 Professional will provide a financial rating and any related documentation (such as a Dunn and Bradstreet analysis) that indicates the financial stability of Professional.

3.1.4 Is Professional currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, Professional will explain the expected impact, both in organizational and directional terms.

3.1.5 Professional will provide any details of all past or pending litigation or claims filed against Professional that involve allegations of malpractice, negligence, gross negligence, professional errors and/or omissions, criminal allegations or breach of contract.

3.1.6 Is Professional currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, Professional will specify the pertinent date(s), details, circumstances, and describe the current prospects for resolution.

3.1.7 Professional will provide a customer reference list of no less than five (5) organizations with which Professional currently has contracts and/or to which Professional has previously provided services (within the past five (5) years) of a type and scope similar to those required by TJC’s RFQ. Professional will include in its customer reference list the customer’s company name, contact person, telephone number, project description, length of business relationship, and background of services provided by Professional.

3.1.8 Does any relationship exist (whether by family kinship, business association, capital funding agreement, or any other such relationship) between Professional and any employee of TJC? If yes, Professional will explain.

3.2 Approach to Project Services

3.2.1 Professional will provide a statement of Professional’s service approach and will describe any unique benefits to TJC from doing business with Professional. Professional will briefly describe its approach for each of the required services identified in Section 5.4 Scope of Work of this RFQ.

3.2.2 Professional will provide an estimate of the earliest starting date for services following execution of an Agreement.

3.2.3 Professional will describe the types of reports or other written documents Professional will provide (if any) and the frequency of reporting, if more frequent
than required in the RFQ. Professional will include samples of reports and
documents if appropriate.

3.3 General Requirements

3.3.1 Professional will provide summary resumes for its proposed key personnel who
will be providing services under the Agreement with TJC, including their specific
experiences with similar service projects, and number of years of employment with
Professional.

3.3.2 Professional will describe any difficulties it anticipates in performing its duties
under the Agreement with TJC and how Professional plans to manage these
difficulties. Professional will describe the assistance it will require from TJC.

3.4 Service Support

Professional will describe its service support philosophy, how is it implemented, and how
Professional measures its success in maintaining this philosophy.

3.5 Quality Assurance

Professional will describe its quality assurance program, its quality requirements, and how
they are measured.

3.6 Miscellaneous

3.6.1 Professional will provide a list of any additional services or benefits not otherwise
identified in this RFQ that Professional would propose to provide to TJC. Additional services or benefits must be directly related to the services solicited
under this RFQ.
SECTION 4 - ADDENDA CHECKLIST

Submission of Qualification of: ______________________
(Professional Company Name)

To: TYLER JUNIOR COLLEGE

Ref.: Architectural Services

RFQ NO.: J2120-20-05

Ladies and Gentlemen:

The undersigned Professional hereby acknowledges receipt of the following Addenda to the captioned RFQ (initial if applicable). It is the Proposer's responsibility to make sure they have obtained all addenda. Addenda, if any, will be found at http://www.tjc.edu/rfp

No. 1 ____  No. 2 ____  No. 3 ____  No. 4 ____  No. 5 ____

Respectfully submitted,

Professional: _____________________

By: _____________________
(Authorized Signature for Professional)

Name: _____________________

Title: _____________________

Date: _____________________
STATE OF TEXAS LEGISLATIVE SENATE BILL NO. 1, SECTION 44.034, NOTIFICATION OF CRIMINAL HISTORY, SUBSECTION (A), STATES "A PERSON OR BUSINESS ENTITY THAT ENTERS INTO A CONTRACT WITH A SCHOOL DISTRICT MUST GIVE ADVANCE NOTICE TO THE DISTRICT IF THE PERSON OR AN OWNER OR OPERATOR OF THE BUSINESS ENTITY HAS BEEN CONVICTED OF A FELONY. THE NOTICE MUST INCLUDE A GENERAL DESCRIPTION OF THE CONDUCT RESULTING IN THE CONVICTION OF A FELONY."

SUBSECTION (B) STATES "A SCHOOL DISTRICT MAY TERMINATE A CONTRACT WITH A PERSON OR BUSINESS ENTITY IF THE DISTRICT DETERMINES THAT THE PERSON OR BUSINESS ENTITY FAILED TO GIVE NOTICE AS REQUIRED BY SUBSECTION (1) OR MISREPRESENTED THE CONDUCT RESULTING IN THE CONVICTION. THE DISTRICT MUST COMPENSATE THE PERSON OR BUSINESS ENTITY FOR SERVICES PERFORMED BEFORE THE TERMINATION OF THE CONTRACT."

THIS NOTICE IS NOT REQUIRED OF A PUBLICLY-HELD CORPORATION

I CERTIFY THAT THE INFORMATION CONCERNING NOTIFICATION OF FELONY CONVICTIONS HAS BEEN REVIEWED BY ME AND THE FOLLOWING INFORMATION FURNISHED IS TRUE TO THE BEST OF MY KNOWLEDGE.

NAME: __________________________________________

A. I HAVE NOT BEEN CONVICTED OF A FELONY.
   
   Signature: ________________________________ Date: ____________

B. I HAVE BEEN CONVICTED OF A FELONY.
   
   Name of Felon(s): ________________________________
   Details of Conviction(s): ________________________________
   
   ________________________________________________________________
   
   Signature: ________________________________ Date: ____________

C. THE ASSOCIATED FIRM (OR PRACTICE) IS OWNED OR OPERATED BY THE FOLLOWING INDIVIDUAL(S) WHO HAS/HAVE BEEN CONVICTED OF A FELONY.
   
   Name of Felon(s): ________________________________
   Details of Conviction(s): ________________________________
   
   ________________________________________________________________
   
   Signature: ________________________________ Date: ____________
SECTION 6: PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL

Pursuant to Section 2270.002 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criterion under Section 2270.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

Exemption criteria includes the following:

1. Company is a sole proprietorship;
2. Company employs less than 10 full-time employees;
3. Value of the contract is less than $100,000

“Boycott Israel” is defined to mean refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. “Company” is defined to mean a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

I, ______________________________, the _____________________________________________
(Name of Certifying Official) (Title or Position of Certifying Official)

of ________________________________.
(Name of Company)

does hereby verify on behalf of said company to Tyler Junior College that said company: (check one)

___ 1) does not Boycott Israel and will not Boycott Israel (as that term is defined in Texas Government Code Section 808.001) during the term of this contract;

___ 2) Company is a sole proprietorship;

___ 3) Company employs less than 10 full-time employees;

___ 4) Value of the contract is less than $100,000

________________________________________
Signature of Certifying Official

________________________________________
Title

________________________________________
Date of Certification
SECTION 7: DELINQUENT FRANCHISE TAXES FORM

Each corporation contracting with the College shall certify that its franchise taxes are current. If the corporation is exempt from payment of franchise taxes or is an out-of-state corporation not subject to Texas franchise tax, it shall certify a statement that effect. Making a false statement as to corporate franchise tax status shall be considered a material breach of the contract and shall be grounds for cancellation of the contract.

I, the undersigned agent for the corporation, named below, certify that the information concerning delinquent franchise taxes has been reviewed by me and the following information furnished is true to the best of my knowledge.

VENDOR’S NAME: _____________________________________________

AUTHORIZED CORPORATION OFFICIAL’S NAME: _________________________________

A. The corporation is exempt from payment of franchise taxes or is an out-of-state corporation not subject to Texas franchise tax; therefore, I am submitting a certified statement to that effect.

Signature of Corporate Official: ____________________________________________

B. The corporation is subject to Texas franchise tax. I hereby certify that there is no delinquent Texas franchise tax pending against the corporation.

Signature of Corporate Official: ____________________________________________

C. I hereby certify that there is delinquent Texas franchise tax pending against the corporation.

Signature of Corporate Official: ____________________________________________
This Agreement is made as of ____________, (the “Effective Date”), by and between:

The Owner: Tyler Junior College ("TJC")
1327 South Baxter
Tyler, Texas 75701

and

The Services Provider: __________________________
__________________________
__________________________

This Agreement is for the provision of Architectural Services for the Owner. Services are of limited scope, to be performed on a non-exclusive, indefinite basis as requested by the Owner in accordance with the terms of this Agreement to complete certain projects. Services Provider represents that it has the knowledge, ability, skills and resources to provide such services in accordance with the terms and requirements of this Agreement.

The Owner and the Services Provider agree as follows:

**ARTICLE 1**
**TERM OF AGREEMENT**

1.01 **Initial Term:** This initial term of this Agreement shall begin on the effective date and shall expire upon acceptance of TJC of the final documents or terminated in accordance with the terms of the Agreement.

1.02 **Completion of Work in Progress:** The Owner has the option to extend the term of this Agreement, or any renewal period, as necessary for Services Provider to complete work on any project approved by the Owner prior to the expiration of the Agreement.

**ARTICLE 2**
**CONTRACT SUM**

2.01 **No Minimum Amount of Work:** Owner makes no representations regarding the amount or type of services, if any, that Services Provider will be asked to provide to Owner during the term(s) of this Agreement. It is expressly understood that the Owner is under no obligation to request any services from Services Provider and no minimum amount of work is required or contemplated under this Agreement. All service requests
ARTICLE 3
SCOPE OF WORK

3.01 Project Scope: The Services Provider agrees to provide Architectural Services as requested by the Owner in accordance with the terms of this Agreement. These services are generally described as, but are not limited to:

- Architectural services for maintenance, renovation, and repair projects
- Scope could include development of specifications
- Scope could include working with permits and exemptions

3.02 Project Proposal: In response to the Project Scope, the Services Provider shall provide Owner with a written Project Proposal, along with approximate costs.

3.03 Project Proposal Review: The Owner and the Services Provider shall review Services Provider’s Project Proposal and negotiate any changes, clarifications or modifications thereto. The Services Provider shall submit a revised Project Proposal incorporating any changes, clarifications or modifications made in the review process. The Owner may accept, reject or seek modification of any Project Proposal.

ARTICLE 4
SERVICES PROVIDER’S GENERAL SERVICES AND RESPONSIBILITIES

4.01 Project Manager: The Project Manager shall manage the Services Provider’s services and administer any project authorized pursuant to this Agreement. The Services Provider shall provide and/or coordinate the basic services necessary and reasonably inferable for the complete performance of any project authorized pursuant to this Agreement.

4.02 Standard of Care: Services Provider agrees to use its best professional efforts, skill, judgment, and abilities to perform Services Provider’s services in an expeditious and timely manner as is consistent with architectural professional standards of care in the State of Texas and the orderly progress of any project authorized pursuant to this Agreement. Services Provider shall at all times provide a sufficient number of qualified personnel to accomplish Services Provider's services within the time limits set forth in the schedule.

4.03 Compliance with Laws: Service Provider is aware of, fully informed about and in full compliance with its obligations under with all applicable, federal, state and local, laws, regulations, codes, ordinances and orders and with those of any other body or authority having jurisdiction (‘‘Applicable Laws’’), including Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000(D)), Executive Order 11246, as amended (41 CFR 60-1 and 60-2), Vietnam Era Veterans Readjustment Act of 1974, as amended (41 CFR 60-250), Rehabilitation Act of 1973, as amended (41 CFR 60-741), Age Discrimination Act
of 1975 (42 USC 6101 et seq.), Non-segregated Facilities (41 CFR 60-1), Fair Labor Standards Act of 1938, Sections 6, 7, and 12, as amended, Immigration Reform and Control Act of 1986, Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals (PL 95-507), Americans with Disabilities Act of 1990 (42 USC 12101 et seq.), Civil Rights Act of 1991, Occupational Safety and Health Act of 1970, as amended (PL 91-596), Immigration and Nationality Act (8 United States Code 1324a) and all other applicable laws. Service Provider represents and warrants that neither Service Provider nor any firm, corporation or institution represented by Service Provider, nor anyone acting for that firm, corporation or institution, (1) has violated the antitrust laws of the State of Texas, Chapter 15, Texas Business and Commerce Code, or federal antitrust laws, or (2) has communicated directly or indirectly the content of Service Provider’s response to TJC’s procurement solicitation to any competitor or any other person engaged in a similar line of business during the procurement process for this Agreement.

4.04 Existing Conditions: Services Provider shall use reasonable efforts to verify the accuracy and suitability of any drawings, plans, sketches, instructions, information, requirements, procedures, requests for action, and other data supplied to Services Provider by Owner, or any other party, that Services Provider uses for the Project.

4.05 Correction of Work: Services Provider's services shall be reasonably accurate and free from material errors or omissions. Upon notice, Services Provider shall promptly correct any known or discovered error, omission, or other defect without any additional cost or expense to Owner.

4.06 Phasing: The Services Provider shall not proceed beyond any previously authorized phase of the work for a project unless authorized by the Owner in writing, except at the Services Provider’s own financial risk. Applicable phases of the scope of work shall be identified in the Project Proposal.

4.07 Representative: Services Provider shall designate a representative primarily responsible for Services Provider's services under this Agreement. The designated representative shall act on behalf of Services Provider with respect to all phases of Services Provider's services and shall be available as required for the benefit of any project and the Owner. The designated representative shall not be changed without prior approval of the Owner, which approval shall not be unreasonably withheld.

4.08 Documentation: The Services Provider shall fully document its project activities, in drawings, reports or other methods as appropriate to the scope of work and as identified in the Project Proposal. The Services Provider shall bear the cost of providing all plans, specifications and other documents used by the Services Provider and its consultants.

4.09 Presence on TJC Premises: Service Provider agrees that it will ensure that all of its employees, subcontractors and agents whose duties bring them upon TJC’s premises will obey the rules and regulations that are established by TJC and will comply with reasonable directions TJC's representatives may give to Service Provider. Service
Provider is responsible for acts of its employees, subcontractors and agents while on TJC's premises. Accordingly, Service Provider agrees to take all necessary measures to prevent injury and loss to persons and property located on TJC's premises. Service Provider is responsible for all damages to persons or property caused by Service Provider or any of its employees, subcontractors and agents.

ARTICLE 5
THE OWNER'S RESPONSIBILITIES

5.01 Project Program: The Owner shall provide a description of the project scope; schedule; objectives, characteristics and constraints; and a description of the basic services to be provided by the Services Provider for the project.

5.02 Representative: The Owner designates the Director of Facilities & Construction, or his designee, as its representative authorized to act in the Owner's behalf with respect to the Project. The Owner designates the Director of Contract Administration, or her designee, as its representative for the purpose of administering this contract.

5.03 Special Information: The Owner shall furnish available property, boundary, easement, right-of-way, topographic and utility surveys; plans and specifications; and special data and conditions relevant to the project. Owner shall furnish other special investigations of the Project site as requested by the Services Provider and as reasonably necessary for the Project. Services Provider shall exercise reasonable care in relying upon this information in the performance of its services under this Agreement. Owner makes no warranties or representations as to the accuracy or suitability of information provided to the Services Provider by the Owner or by others.

5.04 Entry on Land: The Owner shall assist Services Provider in gaining entry to controlled property as necessary for Services Provider to perform its services under this Agreement.

5.05 Administrative Services: The Owner shall furnish all legal, accounting, auditing and insurance counseling services that it requires for the Project.

5.06 Review of Work: The Owner will review the Services Provider's documents at the completion of each stage of development as described in the Project Proposal. Owner’s review comments or decisions regarding the documents will be furnished to the Services Provider in a reasonably prompt manner. The Owner will notify the Services Provider in writing of any material error or omission or other defect in the project or any conflict in the contract documents that the Owner becomes aware of, but Owner shall have no obligation or duty to investigate whether such faults, defects, or conflicts exist.

5.07 Time for Response: The Owner shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Services Provider's services and of the Work.
ARTICLE 6
ACCEPTANCE OF WORK

6.01 Owner's Satisfaction: All work performed under this Agreement shall be completed to the satisfaction of the Owner’s representative assigned to the project. The Owner’s representative shall decide all questions regarding Services Provider’s performance under the Agreement and such decisions shall be final and conclusive.

6.02 Correction of Work: Should Services Provider’s services not conform to the requirements of this Agreement and the Project Proposal as determined by the Owner’s representative or be satisfactory to Owner’s representative as required by 6.01 above, Owner may order the Services Provider to re-perform such services at no additional expense to the Owner or deduct the fees for such services from any other fees payable to the Services Provider.

6.03 Liability: Owner’s approval or acceptance of Services Provider's services will not release Services Provider from any liability for such services because Owner is, at all times, relying upon Services Provider's skill and knowledge in performing Services Provider's services.

ARTICLE 7
COMPENSATION FOR SERVICES RENDERED

7.01 Owner’s Approval Required: Owner agrees to pay Services Provider for those services rendered at Owner's specific request, in advance and in writing.

7.02 Scheduled Billing Rates: Attached as Exhibit A, and incorporated herein, is Services Provider’s Schedule of Billing Rates, including hourly billing rates and/or per service billing rates as applicable. The Billing Rates include all costs for any identified services and the Services Provider shall not be entitled to any additional compensation for providing those services. The Schedule of Billing rates shall remain in full force and effect for the term of this Agreement, including all renewal periods.

7.03 Basic Service: For Basic Services rendered in connection with any project authorized pursuant to this Agreement, Services Provider shall be compensated on an hourly rate basis or on a per-service fee basis in accordance with Services Provider’s Project Proposal and Schedule of Billing Rates, Exhibit A.

7.04 Additional Services: Additional Services are services not identified or reasonably inferable as Basic Services included in a Project Proposal. Additional Services shall be provided only if authorized or confirmed in writing by the Owner. For approved Additional Services provided in connection with any project authorized by this Agreement, Services Provider shall be compensated on an hourly rate basis or on a per-service fee basis in accordance with Services Provider’s Additional Services Proposal.
7.05 **Consultant Costs:** Unless approved in advance by the Owner, Services Provider shall pay for all consultant services and costs associated with his services under this Agreement, whether basic services or additional services, out of his fees. Owner is not responsible for any such consultant fees or costs unless otherwise agreed to in writing.

**ARTICLE 8**

**REIMBURSABLE EXPENSES**

8.01 Reimbursable Expenses: Reimbursable Expenses are in addition to compensation for basic and additional services. Reimbursable Expenses recoverable by the Services Provider under this Agreement are limited to the following:

- a. Expenses in connection with out-of-state travel, including coach class air fare and reasonable living expenses, as directed and approved in advance and in writing by the Owner;
- b. Expenses in connection with in-state travel, including reasonable travel and living expenses, for Services Provider’s employees and consultants when a project is located more than 50 miles from the place where they are usually and customarily assigned, but only as directed and approved in advance and in writing by Owner;
- c. Fees paid for securing approval of authorities having jurisdiction over any particular project;
- d. Expenses of reproductions, printing, collating, postage and handling of Drawings, Specifications, Reports and other documents or other project related work product, but excluding plotting costs of drawings, reproductions for the use of Services Provider and Services Provider’s consultants as well as up to three (3) review sets as necessary for progressive reviews by Owner in accordance with the Project Proposal.
- e. Communication expenses such as long distance telephone, facsimile transmissions, express charges and postage that are directly attributable to the project;
- f. Disbursements made by the Services Provider under approved subcontracts;
- g. Reasonable costs for rental or use of special equipment, tools, and electronic data processing equipment required in connection with the project if approved in advance and in writing by Owner;
- h. Expense of any additional insurance coverage or limits, requested by the Owner excluding professional liability and errors and omissions insurance required under Basic Services of this contract that exceed those normally carried by the Services Provider and the Services Provider’s consultants.

8.02 **Compensation for Reimbursable Expenses:** The Services Provider and its employees and consultants, shall be compensated for the actual, out-of-pocket, reasonable costs for all approved Reimbursable Expenses that are incurred solely and directly in connection with the performance of the Services Provider’s services and duties under this Agreement or in the interest of any particular project.
8.03 **Proposal Costs Not Recoverable:** Services Provider is solely responsible for any expenses or costs, including expenditures of time, incurred by the Services Provider and its employees and consultants in the development of Project Proposals or Additional Services Proposals. Such expenses or costs are not Reimbursable Expenses.

**ARTICLE 9**

**INVOICING**

9.01 **Monthly Invoices:** Services Provider shall submit a monthly record or invoice of services performed under this Agreement identifying all fees earned and reimbursable expenses incurred in the previous month. Invoices shall be submitted in a format approved by the Owner and must contain at least the following information:

a. Project Name, PO Number, if any, and Work Order Number, if any;
b. Owner Agreement ID Number, if any;
c. Services Provider’s Tax Identification Number;
d. Name of Project Manager;
e. Identification of billing period, by calendar month, to which the invoice applies;
f. Itemized description of services provided including the names, billing rates and amount of time per task expended by all persons who performed services on the project during the billing period.
g. Completion status of project by percentage;
h. Total amount of invoice;
i. Total amount of prior invoices and maximum contract sum;
j. Copy of all receipts in support of any reimbursable expenses invoiced;

9.02 **Invoice Submittal:** Invoices shall be submitted to:

Mark Gartman, Director
Facilities & Construction
Tyler Junior College
P. O. Box 9020
Tyler, Texas 75711
Mark.gartman@tjc.edu

9.03 **Exceptions to Payment:** Regardless of any other provision of this Agreement, Owner shall not be obligated to make any payment requested by Services Provider under this Agreement if any of the following conditions precedent exist:

a. Services Provider is in breach or default under this Agreement;
b. The requested payment includes services not performed in accordance with this Agreement; provided, however, payment shall be made the balance of the services that are performed in accordance with this Agreement;
c. Services Provider has failed to make payments promptly to consultants or other third parties used in connection with the services for which Owner has made payment to Services Provider;
d. Services Provider becomes insolvent, makes a general assignment of its rights or obligations for the benefit of its creditors, or voluntarily or involuntarily files for protection under the bankruptcy laws; or

e. If Owner, in its good faith judgment, determines that the balance of unpaid compensation is insufficient to complete the services required under this Agreement.

9.04 **Partial Payment:** No partial payment by Owner shall constitute or be construed as final acceptance or approval of any services or as a release of any of Services Provider's obligations or liabilities with respect to such services.

9.05 **Subcontractor Payment:** Services Provider shall promptly pay all bills for labor and material performed and furnished by others in connection with the performance of the services.

9.06 **Final Payment and Release:** The acceptance by Services Provider or Services Provider's successors of final payment under this Agreement, shall constitute a full and complete release of Owner from any and all claims, demands, and causes of action whatsoever that Services Provider or Services Provider's successors have or may have against Owner pursuant to this Agreement except those claims specifically identified in writing by Services Provider as unsettled at the time of the final request for payment.

**ARTICLE 10**
**SERVICES PROVIDER'S ACCOUNTING RECORDS**

Services Provider shall maintain records of costs, expenses and billings pertaining to services performed under this Agreement in accordance with generally accepted accounting principles. Such records shall be available to the Owner or the Owner's authorized representative at mutually convenient times for a period of at least three (3) years after expiration or termination of this Agreement. Owner shall have the right to audit and to verify the details set forth in Services Provider's billings, certificates, and statements, either before or after payment. The terms of this paragraph shall survive any termination of the Agreement.

**ARTICLE 11**
**OWNERSHIP AND USE OF DOCUMENTS**

11.01 All documents prepared by the Services Provider are instruments of service and shall remain the property of the Services Provider. The Owner shall be permitted to retain copies, including reproducible copies, of all documents prepared by the Services Provider for information and reference in connection with the Owner's use and occupancy of the project. Owner shall have an irrevocable, fully paid-up perpetual license and right, which shall survive the termination of this agreement, to use the documents, including the originals thereof, and the ideas and designs contained therein, for any purpose.
11.02 Submission or distribution to meet official regulatory requirements or for other purposes in connection with the project is not to be construed as publication in derogation of the Services Provider's rights.

ARTICLE 12
TERMINATION OF AGREEMENT

12.01 Termination for Cause: This Agreement may be terminated by either party upon ten (10) days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the terminating party and such failure is not fully cured prior to the expiration of the notice period.

12.02 Termination for Convenience: This agreement may be terminated for convenience by the Owner in whole or in part, upon at least ten (10) days written notice to the Services Provider.

12.03 Fee Reimbursement: In the event that this Agreement is terminated, then within thirty (30) days after termination, Services Provider will reimburse TJC for all fees paid by TJC to Services Provider that were (a) not earned by Services Provider prior to termination, or (b) for goods or services that TJC did not receive from Services Provider prior to termination.

12.04 Compensation: In the event of termination not the fault of the Services Provider, the Services Provider shall be entitled to compensation for all services satisfactorily performed to the termination date, together with approved Reimbursable Expenses then due, provided Services Provider delivers to Owner statements, accounts, reports and other materials as required for payment along with all reports, documents and other materials prepared by Services Provider prior to termination.

ARTICLE 13
BREACH OF CONTRACT CLAIMS

13.01 To the extent that Chapter 2260, Texas Government Code, as it may be amended from time to time ("Chapter 2260"), is applicable to this Agreement and is not preempted by other Applicable Laws, the dispute resolution process provided for in Chapter 2260 will be used, as further described herein, by TJC and Services Provider to attempt to resolve any claim for breach of contract made by Services Provider.

13.02 Services Provider’s claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business will be submitted to the negotiation process provided in Subchapter B of Chapter 2260. To initiate the process, Services Provider will submit written notice, as required by Subchapter B of Chapter 2260, to TJC in accordance with the notice provisions in this Agreement. Services Provider’s notice will specifically state that the provisions of Subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that TJC allegedly breached, the amount of damages Services Provider seeks, and the method used to calculate the damages.
Compliance by Services Provider with Subchapter B of Chapter 2260 is a required prerequisite to Services Provider's filing of a contested case proceeding under Subchapter C of Chapter 2260. The Director of Campus Services of TJC, or the other officer of TJC as may be designated from time to time by TJC by written notice thereof to Services Provider in accordance with the notice provisions in this Agreement, will examine Services Provider's claim and any counterclaim and negotiate with Services Provider in an effort to resolve the claims.

13.03 If the parties are unable to resolve their disputes under Section 52.1.1, the contested case process provided in Subchapter C of Chapter 2260 is Services Provider’s sole and exclusive process for seeking a remedy for any and all of Services Provider's claims for breach of this Agreement by TJC.

13.04 Compliance with the contested case process provided in Subchapter C of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under Chapter 107, Texas Civil Practices and Remedies Code. The parties hereto specifically agree that (i) neither the execution of this Agreement by TJC nor any other conduct, action or inaction of any representative of TJC relating to this Agreement constitutes or is intended to constitute a waiver of TJC's or the state's sovereign immunity to suit and (ii) TJC has not waived its right to seek redress in the courts.

13.05 The submission, processing and resolution of Services Provider’s claim is governed by the published rules adopted by the Texas Attorney General pursuant to Chapter 2260, as currently effective, thereafter enacted or subsequently amended.

13.06 TJC and Services Provider agree that any periods set forth in this Agreement for notice and cure of defaults are not waived.

13.07 Owner’s Representative: The Owner designates the Director of Contract Administration as its representative in dispute resolution procedures.

**ARTICLE 14**

**INSURANCE**

14.01 **Insurance:** For services performed on Owner's premises, the Services Provider shall furnish to Owner Certificates of Insurance as set forth below prior to the commencement of any work hereunder and shall maintain such coverage during the full term of the Agreement. All policies must include a waiver of subrogation and other rights in favor of Owner and must list Owner, its board and employees, as additional insureds.

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Statutory Limits</th>
</tr>
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<tbody>
<tr>
<td>Worker's Compensation</td>
<td></td>
</tr>
<tr>
<td>Employer's Liability</td>
<td>$1,000,000 each occurrence</td>
</tr>
<tr>
<td></td>
<td>$1,000,000 aggregate</td>
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<tr>
<td>Comprehensive General Liability</td>
<td></td>
</tr>
<tr>
<td>- Bodily Injury</td>
<td>$1,000,000 each occurrence</td>
</tr>
<tr>
<td></td>
<td>$2,000,000 aggregate</td>
</tr>
<tr>
<td>- Property Damage</td>
<td>$1,000,000 each occurrence</td>
</tr>
</tbody>
</table>
Commercial Auto Liability
- Bodily Injury $1,000,000 each occurrence
  $2,000,000 aggregate
- Property Damage $1,000,000 each occurrence

14.02 **Professional Liability Insurance:** The Services Provider shall carry such professional
liability and errors and omissions insurance-covering the services provided by the Services
Provider and any and all consultants, as acceptable to and approved by the Owner. The
fees for such insurance shall be at the expense of the Services Provider.

14.03 **Notice of Cancellation:** Required insurance shall not be cancelable without thirty (30)
days prior written notice to Owner.

14.04 **Policy Review:** Upon request the Services Provider shall furnish complete sets of its
insurance policies to Owner for review.

14.05 Umbrella/Excess Liability Insurance with limits of not less than $2,000,000 per occurrence
and aggregate with a deductible of no more than $10,000 and (i) providing coverage in
excess of the coverages of, and (ii) “following form” subject to the same provisions as the
underlying policies required in Sections 14.01 and 14.02.

14.06 Contractor will deliver to Owner:

14.06.1 Evidence, satisfactory to Owner, of the existence of all insurance promptly
after the execution and delivery of this Agreement and prior to the performance or continued
performance of any services to be performed by Services Provider under this Agreement.

14.06.2 Additional evidence, satisfactory to Owner, of the continued existence of all
insurance not less than thirty (30) days prior to the expiration of any insurance. Insurance policies,
with the exception of Workers’ Compensation, and Employer’s Liability, and Professional
Liability, will name and the evidence will reflect Owner (and its board and employees) as an
Additional Insured and will provide that the policies will not be canceled until after thirty (30)
days' unconditional written notice to Owner.

14.07 The insurance policies required in this Agreement will be kept in force for the periods
specified below:

14.07.1 Commercial General Liability Insurance, Commercial Automobile Liability
Insurance, and Umbrella/Excess Liability Insurance, will be kept in force until receipt of Final
Payment by Owner to Services Provider; and

14.07.2 Workers' Compensation Insurance and Employer’s Liability Insurance will
be kept in force until the Design & Architectural Services for a New Student Housing Building
have been fully performed and accepted by Owner in writing.
ARTICLE 15
INDEMNITY

TO THE FULLEST EXTENT PERMITTED BY LAW, SERVICES PROVIDER WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY TJC, AND HOLD HARMLESS TJC, AND THEIR RESPECTIVE AFFILIATED ENTERPRISES, BOARD OF TRUSTEES, OFFICERS, DIRECTORS, ATTORNEYS, EMPLOYEES, REPRESENTATIVES AND AGENTS (COLLECTIVELY “INDEMNITEES”) FROM AND AGAINST ALL DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, EXPENSES, AND OTHER CLAIMS OF ANY NATURE, KIND, OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS’ FEES AND COSTS INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING (COLLECTIVELY “CLAIMS”) BY ANY PERSON OR ENTITY, ARISING OUT OF, CAUSED BY, OR RESULTING FROM SERVICES PROVIDER’S PERFORMANCE UNDER OR BREACH OF THIS AGREEMENT AND THAT ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT, NEGLIGENT OMISSION OR WILLFUL MISCONDUCT OF SERVICES PROVIDER, ANYONE DIRECTLY EMPLOYED BY SERVICES PROVIDER OR ANYONE FOR WHOSE ACTS SERVICES PROVIDER MAY BE LIABLE. THE PROVISIONS OF THIS SECTION WILL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH ANY INDEMNITEE HAS BY LAW OR EQUITY.

ARTICLE 16
CONFIDENTIALITY

16.01 CONFIDENTIALITY AND SAFEGUARDING OF TJC RECORDS; PRESS RELEASES; PUBLIC INFORMATION - Under this Agreement, Services Provider may (1) create, (2) receive from or on behalf of TJC, or (3) have access to, records or record systems (collectively, “TJC Records”). Among other things, TJC Records may contain social security numbers, credit card numbers, or data protected or made confidential or sensitive by Applicable Laws, including the Gramm-Leach-Bliley Act (Public Law No: 106-102), the Texas Identity Theft Enforcement and Protection Act (“ITEPA”) and the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (“FERPA”). If TJC Records are subject to FERPA, (1) TJC designates Services Provider as a TJC official with a legitimate educational interest in TJC Records, and (2) Services Provider acknowledges that its improper disclosure or redisclosure of personally identifiable information from TJC Records will result in Services Provider’s exclusion from eligibility to contract with TJC for at least five (5) years. Services Provider represents, warrants, and agrees that it will: (1) hold TJC Records in strict confidence and will not use or disclose TJC Records except as (a) permitted or required by this Agreement, (b) required by Applicable Laws, or (c) otherwise authorized by TJC in writing; (2) safeguard TJC Records according to reasonable administrative, physical and technical standards (such as standards established by (i) the National Institute of Standards and Technology and (ii) the Center for Internet Security, as well as the Payment Card Industry Data Security Standards) that are no less rigorous than the standards by which Services Provider protects its own confidential information; (3) continually monitor its operations and take any action necessary to assure that TJC Records are safeguarded and the confidentiality of TJC Records is maintained in accordance with all Applicable Laws, including FERPA, ITEPA, and the Gramm-Leach
16.02 Notice of Impermissible Use. If an impermissible use or disclosure of any TJC Records occurs, Services Provider will provide written notice to TJC within one (1) business day after Services Provider’s discovery of that use or disclosure. Services Provider will promptly provide TJC with all information requested by TJC regarding the impermissible use or disclosure.

16.03 Return of TJC Records. Services Provider agrees that within thirty (30) days after the expiration or termination of this Agreement, for any reason, all TJC Records created or received from or on behalf of TJC will be (1) returned to TJC, with no copies retained by Services Provider; or (2) if return is not feasible, destroyed. Twenty (20) days before destruction of any TJC Records, Services Provider will provide TJC with written notice of Services Provider’s intent to destroy TJC Records. Within five (5) days after destruction, Services Provider will confirm to TJC in writing the destruction of TJC Records. Any such destruction will be done in compliance with the requirements of ITEPA or the Gramm-Leach Bliley Act.

16.04 Disclosure. If Services Provider discloses any TJC Records to a subcontractor or agent, Services Provider will require the subcontractor or agent to comply with the same restrictions and obligations as are imposed on Services Provider by this Section.

16.05 Press Releases. Except when defined as part of the Design & Architectural Services and pre-approved by Owner, Services Provider will not make any press releases, public statements, or advertisement referring to the Design & Architectural Services or the engagement of Contractor as an independent contractor of TJC in connection with the Design & Architectural Services, or release any information relative to the Design & Architectural Services for publication, advertisement or any other purpose without the prior written approval of TJC.

16.06 Public Information. TJC strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the Texas Public Information Act, Chapter 552, Texas Government Code.

16.07 Termination. In addition to any other termination rights set forth in this Agreement and any other rights at law or equity, if TJC reasonably determines that Services Provider has breached any of the restrictions or obligations set forth in this Section, TJC may immediately terminate this Agreement without notice or opportunity to cure. Services Provider agrees that its violation of these confidentiality provisions entitles TJC to injunctive relief without the necessity of posting a bond, in order to prevent or remedy the breach.
16.08 **Duration.** The restrictions and obligations under this Section will survive expiration or termination of this Agreement for any reason.

16.09 **Indemnity.** To the extent Services Provider, its employees, agents, or representatives violate these confidentiality provisions, or cause ‘TJC or its employees, students or board member’s confidential or non-public information to be compromised, Services Provider agrees to defend (with TJC choosing defense counsel), hold harmless and indemnify TJC, its board, employees, agents and representatives, for any and all damages, claims, fines, causes of action, lawsuits, attorneys’ fees, costs, injuries or liabilities related to or arising from same violation.

**ARTICLE 17**

**MISCELLANEOUS PROVISIONS**

17.01 **Appointment of Representative:** Owner may designate a representative to act partially or wholly for Owner in connection with this Agreement. Services Provider shall coordinate its services solely through the designated representative.

17.02 **Independent Contractor:** Services Provider recognizes and agrees that it is engaged as an independent Services Provider and acknowledges that TJC has no responsibility to provide transportation, insurance, vacation or other fringe benefits normally associated with employee status. Services Provider, in accordance with its status as an independent Services Provider, covenants and agrees that it will conduct itself consistent with that status, that it will neither hold itself out as, nor claim to be an officer, partner, employee, or agent of TJC, and that it will not make any claim, demand or application to or for any right or privilege applicable to an officer, representative, employee or agent of TJC, including unemployment insurance benefits, social security coverage or retirement benefits. Services Provider agrees to make its own arrangements for any fringe benefits as it may desire and agrees that it is responsible for all income taxes required by Applicable Laws. All of Services Provider’s employees providing Services to TJC will be deemed employees solely of Services Provider and will not be deemed for any purposes whatsoever employees or agents of, acting for or on behalf of, TJC. No acts performed or representations, whether oral or written, made by Services Provider with respect to third parties will be binding upon TJC nor will same create any liability on the part of TJC.

17.03 **Successors and Assigns:** The Owner and the Services Provider, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to the terms and conditions of this Agreement. This Agreement is a personal service contract for the services of Services Provider, and Services Provider's interest in this Agreement, duties hereunder and/or fees due hereunder may not be assigned or delegated to a third party without written consent of Owner. The benefits and burdens of this Agreement are, however, assignable by Owner.

17.04 **Subcontracting:** The Services Provider agrees not to subcontract any part of the work without the prior written consent of Owner. If subcontracting is permitted, the Services Provider must identify the subcontractor(s) to Owner prior to any subcontractor beginning work.
17.05 **Loss of Funding:** Performance by TJC under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the “Legislature”) and allocation of funds by TJC. If the Legislature fails to appropriate or allot the necessary funds, or TJC fails to allocate the necessary funds, then TJC will issue written notice to Services Provider and TJC may terminate this Agreement without further duty or obligation hereunder. Services Provider acknowledges that appropriation, allotment, and allocation of funds are beyond the control of TJC.

17.06 **Records:** Services Provider agrees that TJC, or any of its duly authorized representatives, at any time during the term of this Agreement, will have access to, and the right to audit and examine, any pertinent books, documents, papers, and records of Services Provider (such as sales receipts, salary lists, itemized expenses and disbursements, time reports, equipment charges, overtime reports, etc.), and related Services Provider's charges incurred in its performance under this Agreement. Such records will be kept by Services Provider for a period of four (4) years after Final Payment under this Agreement. Services Provider agrees to refund to TJC any overpayments disclosed by any audits.

17.07 **Franchise Tax Certification:** A corporate or limited liability company Services Provider certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the 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.

17.08 **Taxes:** Services Provider will pay when due all taxes or assessments applicable to Services Provider. Services Provider will comply with the provisions of all Applicable Laws related to taxes and taxing authority.

17.09 **Equal Opportunity:** Pursuant to Applicable Laws, Services Provider represents and warrants that it is an Equal Opportunity Employer and does not discriminate on the basis of race, color, religion, national origin, age, mental or physical disability, or sex.

17.10 **Captions:** The captions of paragraphs in this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

17.11 **Severability:** Should any provisions(s) of this Agreement be held invalid or unenforceable in any respect, that provision shall not affect any other provisions and this Agreement shall be construed as if the invalid or unenforceable provision(s) had not been included.

17.12 **Waivers:** No delay or omission by either party in exercising any right or power provided under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver of the right or power. A written waiver granted by either of the parties of any provision of this Agreement shall not be construed as a future waiver of that provision or a waiver of any other provision of the Agreement.
17.13 **Force Majeure:** The performance of either party’s obligations will be suspended to the extent and for the length of time that the party is prevented from performing due to acts of nature, fires, governmental actions, changes in the Service requirements which directly contribute to a delay, or other events beyond its reasonable control. In the event of any occurrence that a party considers to be the cause of a delay or failure of performance, the party affected shall promptly notify the other party.

17.14 **Venue, Governing Law:** Smith County, Tyler Texas, will be the proper place of venue for suit on or in respect to this Agreement. This Agreement and all of the rights and obligations of the parties and all of the terms and conditions will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas.

17.15 **Entire Agreement; Modifications:** This Agreement supersedes all prior agreements, written or oral, between Services Provider and TJC and will constitute the entire Agreement and understanding between the parties with respect to the subject matter of this Agreement. This Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by TJC and Services Provider.

17.16 **Limitations:** The Parties are aware that there are constitutional and statutory limitations on the authority of TJC to enter into certain terms and conditions that may be a part of this Agreement, including those terms and conditions relating to liens on TJC’s property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys’ fees; on; indemnities; and confidentiality (collectively, the “**Limitations**”), and terms and conditions related to the limitations will not be binding on TJC except to the extent authorized by the laws and constitution of the State of Texas.

17.17 **Changes to the Agreement:** This agreement may not be modified, waived or amended unless mutually agreed to in writing by the persons who executed this Agreement or their replacements or designees.

17.18 **Prohibitions:** TJC provides a friendly, vapor-free smoke-free environment at all of its campuses and satellite facilities. Services Provider agrees to fully comply with Owner’s no smoking policy and to ensure compliance of same by all employees or subcontractors of Services Provider or anyone else performing under this Agreement on its behalf. TJC is an alcohol, drug, and tobacco-free zone. These items are prohibited on the campus and satellite facilities.

17.19 **Representations and Warranties by Services Provider:** Services Provider warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly
authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of Services Provider has been duly authorized to act for and bind Services Provider.

17.20 **Debarment:** Services Provider confirms that neither Services Provider nor its Principals are suspended, debarred, proposed for debarment, declared ineligible, or voluntarily excluded from the award of contracts from United States (“U.S.”) federal government Procurement or Nonprocurement Programs, or are listed in the List of Parties Excluded from Federal Procurement or Nonprocurement Programs (http://www.epis.gov/) issued by the U.S. General Services Administration. “Principals” means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager, plant manager, head of a subsidiary, division or business segment, and similar positions). Bidder further certifies that it is not identified on the Texas Comptroller’s list of scrutinized companies doing business with Sudan or Iran or a list of companies known to have contracts with or to provide services or supplies to a foreign terrorist organization. Services Provider will provide immediate written notification to TJC if at any time prior to award Services Provider learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. This certification is a material representation of fact upon which reliance will be placed when TJC executes this Agreement. If it is later determined that Services Provider knowingly rendered an erroneous certification, in addition to the other remedies available to TJC, TJC may terminate this Agreement for default by Services Provider.

17.21 **Office of Inspector General Certification:** Services Provider acknowledges that TJC is prohibited by federal regulations from allowing any employee, subcontractor, or agent of Services Provider to work on site at TJC’s premises or facilities if that individual is not eligible to work on federal healthcare programs such as Medicare, Medicaid, or other similar federal programs. Therefore, Services Provider will not assign any employee, subcontractor or agent that appears on the List of Excluded Individuals issued by the United States Office of the Inspector General (“OIG”) to work on site at TJC’s premises or facilities. Services Provider will perform an OIG sanctions check quarterly on each of its employees, subcontractors and agents during the time the employees, subcontractors and agents are assigned to work on site at TJC’s premises or facilities. Services Provider acknowledges that TJC will require immediate removal of any employee, subcontractor or agent of Services Provider assigned to work at TJC’s premises or facilities if the employee, subcontractor or agent is found to be on the OIG’s List of Excluded Individuals. The OIG’s List of Excluded Individuals may be accessed through the following Internet website: http://www.oig.hhs.gov/fraud/exclusions/exclusions_list.asp.

17.22 **Access to Documents:** To the extent applicable to this Agreement, in accordance with Section 1861(v)(I)(i) of the Social Security Act (42 U.S.C. 1395x) as amended, and the provisions of 42 CFR Section 420.300, et seq., Services Provider agrees to allow, during and for a period of not less than four (4) years after the expiration or termination of this Agreement, access to this Agreement and its books, documents, and records; and
contracts between Services Provider and its subcontractors or related organizations, including books, documents and records relating to same, by the Comptroller General of the United States, the U.S. Department of Health and Human Services and their duly authorized representatives.

17.23 **Ethics Matters; No Financial Interest:** Services Provider and its employees, agents, representatives and subcontractors have read and understand TJC’s Conflicts of Interest Policy available at [http://www.tasb.org/policy/pol/private/212501/pol.cfm?idx=C](http://www.tasb.org/policy/pol/private/212501/pol.cfm?idx=C). Neither Services Provider nor its employees, agents, representatives or subcontractors will assist or cause TJC employees to violate TJC’s Conflicts of Interest Policy, provisions described by TJC’s Standards of Conduct Guide, or applicable state ethics laws or rules. Services Provider represents and warrants that no member of the Board of Trustees has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

17.24 **Firearms** - TJC is committed to providing a safe environment for students, faculty, staff, and visitors, and to respecting the right of individuals who are licensed to carry a handgun where permitted by law. Individuals who are licensed to carry may do so on campus premises or in a college-owned vehicle except in locations and at activities prohibited by law or by this policy. Individuals who observe a violation of this policy are required to report the incident immediately to the Campus Police Department, so it can be documented and properly investigated. Campus Police can be contacted at 903-510-2222 for non-emergencies. Call 911 for emergencies. [https://www.tjc.edu/downloads/file/1045/concealed_handguns_on_campus_policy](https://www.tjc.edu/downloads/file/1045/concealed_handguns_on_campus_policy)

17.25 **Israel** – Services Provider represents and verifies that it does not, and will not during the term of the contract, if awarded, boycott Israel and that Service Provider is not identified by the Texas Comptroller as boycotting Israel. “Boycott” as used herein means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

17.26 **Exhibits** – All Exhibits attached hereto and are incorporated herein by reference for all purposes as part of this Agreement. To the extent of any conflict, the respective Exhibits will control.

**ARTICLE 18**

**NOTICES**

18.1 All notices, consents, approvals, demands, requests or other binding communications under this Agreement shall be in writing. Written notice may delivered in person to the designated representative of the Services Provider or Owner; mailed by U. S. mail to the last known business address of the designated representative; or transmitted by fax machine to the last know business fax number of the designated representative. Mail notices are deemed effective three business days after the date of mailing. Fax notices are deemed effective the next business day after faxing.
18.2 The initially designated representatives of the parties for receipt of notices are as follows. Either party may change their designated representative for receipt of notices by written notice.

(1) If to Owner:  
Tyler Junior College  
Attn: Shelly Roberts  
Director, Contract Administration  
P. O. Box 9020  
Tyler Texas, 75711

(2) If to Services Provider:  
__________________________  
__________________________  
__________________________  
Fax: ______________________

By signature hereon, Services Provider certifies that no member of the Board of Trustees of Tyler Junior College, or TJC's Executive Officers, or any employee of TJC who has authority to approve this Contract has a financial interest, directly or indirectly, in Service Provider's business or in the transaction that is the subject of this Agreement.

IN WITNESS WHEREOF, Owner and Services Provider have executed and delivered this Agreement effective as of the date identified above.

Contract Review:

______________________________________                  ________________________  
Shelly Roberts, Director, Contract Administration                  Date

Facilities & Construction Review:

______________________________________                  ________________________  
Mark Gartman, Director  Facilities & Construction                  Date
OWNER:

TYLER JUNIOR COLLEGE

By: __________________________

Name: Dr. Juan Mejia

Title: President

Date: ________________________

EXHIBITS
Exhibit A - Schedule of Billing Rates

SERVICES PROVIDER:

____________________________

By: ________________________

Name: ________________

Title: ______________________

Date: ________________________