CITY OF PALO ALTO CONTRACT NO. C09128453

AGREEMENT BETWEEN THE CITY OF PALO ALTO AND
FLACK & KURTZ, INC.
FOR PROFESSIONAL SERVICES

(CONSTRUCTION ADMINISTRATION SERVICES FOR THE CIVIC CENTER INFRASTRUCTURE IMPROVEMENTS PROJECT – CIP PF-01002)

This AGREEMENT is entered into ______________, by and between the CITY OF PALO ALTO, a charter city and a municipal corporation of the State of California ("CITY"), and Flack & Kurtz, Inc., a California corporation located at 405 Howard Street, Suite 500, San Francisco, CA 94105 ("CONSULTANT").

RECITALS

The following recitals are a substantive portion of this Agreement.

A. CITY intends to upgrade the Civic Center Infrastructure Project Phase IV ("Project") and desires to engage a consultant to provide construction administration services of the Civic Center Infrastructure Project Phase IV in connection with the Project ("Services").

B. CONSULTANT has represented that it has the necessary professional expertise, qualifications, and capability, and all required licenses and/or certifications to provide the Services.

C. CITY in reliance on these representations desires to engage CONSULTANT to provide the Services as more fully described in Exhibit "A", attached to and made a part of this Agreement.

NOW, THEREFORE, in consideration of the recitals, covenants, terms, and conditions, this Agreement, the parties agree:

AGREEMENT

SECTION 1. SCOPE OF SERVICES. CONSULTANT shall perform the Services described in Exhibit "A" in accordance with the terms and conditions contained in this Agreement. The performance of all Services shall be to the reasonable satisfaction of CITY.

SECTION 2. TERM. The term of this Agreement shall be from the date of its full execution through completion of the services in accordance with the Schedule of Performance attached as Exhibit "B" unless terminated earlier pursuant to Section 19 of this Agreement.

SECTION 3. SCHEDULE OF PERFORMANCE. Time is of the essence in the performance of Services under this Agreement. CONSULTANT shall complete the Services within the term of this Agreement and in accordance with the schedule set forth in Exhibit "B", attached to and made a part of this Agreement. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by CONSULTANT in a reasonably prompt and timely manner.
based upon the circumstances and direction communicated to the CONSULTANT. CITY’s agreement to extend the term or the schedule for performance shall not preclude recovery of damages for delay if the extension is required due to the fault of CONSULTANT.

SECTION 4. NOT TO EXCEED COMPENSATION. The compensation to be paid to CONSULTANT for performance of the Services described in Exhibit “A”, including both payment for professional services and reimbursable expenses, shall not exceed Two Hundred Thousand Dollars ($200,000). In the event Additional Services are authorized, the total compensation for services and reimbursable expenses shall not exceed Twenty Thousand Dollars ($20,000). The applicable rates and schedule of payment are set out in Exhibit “C”, entitled “COMPENSATION,” which is attached to and made a part of this Agreement.

Additional Services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit “C”. CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not included within the Scope of Services described in Exhibit “A”.

SECTION 5. INVOICES. In order to request payment, CONSULTANT shall submit monthly invoices to the CITY describing the services performed and the applicable charges (including an identification of personnel who performed the services, hours worked, hourly rates, and reimbursable expenses), based upon the CONSULTANT’s billing rates (set forth in Exhibit “C”). If applicable, the invoice shall also describe the percentage of completion of each task. The information in CONSULTANT’s payment requests shall be subject to verification by CITY. CONSULTANT shall send all invoices to the City’s project manager at the address specified in Section 13 below. The City will generally process and pay invoices within thirty (30) days of receipt.

SECTION 6. QUALIFICATIONS/STANDARD OF CARE. All of the Services shall be performed by CONSULTANT or under CONSULTANT’s supervision. CONSULTANT represents that it possesses the professional and technical personnel necessary to perform the Services required by this Agreement and that the personnel have sufficient skill and experience to perform the Services assigned to them. CONSULTANT represents that it, its employees and subconsultants, if permitted, have and shall maintain during the term of this Agreement all licenses, permits, qualifications, insurance and approvals of whatever nature that are legally required to perform the Services.

All of the services to be furnished by CONSULTANT under this agreement shall meet the professional standard and quality that prevail among professionals in the same discipline and of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances.

SECTION 7. COMPLIANCE WITH LAWS. CONSULTANT shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement. CONSULTANT shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

Professional Services
Revised 10/18/07
SECTION 8. ERRORS/OMISSIONS. CONSULTANT shall correct, at no cost to CITY, any and all errors, omissions, or ambiguities in the work product submitted to CITY, provided CITY gives notice to CONSULTANT. If CONSULTANT has prepared plans and specifications or other design documents to construct the Project, CONSULTANT shall be obligated to correct any and all errors, omissions or ambiguities discovered prior to and during the course of construction of the Project. This obligation shall survive termination of the Agreement.

SECTION 9. COST ESTIMATES. If this Agreement pertains to the design of a public works project, CONSULTANT shall submit estimates of probable construction costs at each phase of design submittal. If the total estimated construction cost at any submittal exceeds ten percent (10%) of the CITY’s stated construction budget, CONSULTANT shall make recommendations to the CITY for aligning the PROJECT design with the budget, incorporate CITY approved recommendations, and revise the design to meet the Project budget, at no additional cost to CITY.

SECTION 10. INDEPENDENT CONTRACTOR. It is understood and agreed that in performing the Services under this Agreement CONSULTANT, and any person employed by or contracted with CONSULTANT to furnish labor and/or materials under this Agreement, shall act as and be an independent contractor and not an agent or employee of the CITY.

SECTION 11. ASSIGNMENT. The parties agree that the expertise and experience of CONSULTANT are material considerations for this Agreement. CONSULTANT shall not assign or transfer any interest in this Agreement nor the performance of any of CONSULTANT’s obligations hereunder without the prior written consent of the city manager. Consent to one assignment will not be deemed to be consent to any subsequent assignment. Any assignment made without the approval of the city manager will be void.

SECTION 12. SUBCONTRACTING.

CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of the city manager or designee.

CONSULTANT shall be responsible for directing the work of any subconsultants and for any compensation due to subconsultants. CITY assumes no responsibility whatsoever concerning compensation. CONSULTANT shall be fully responsible to CITY for all acts and omissions of a subconsultant. CONSULTANT shall change or add subconsultants only with the prior approval of the city manager or his designee.

SECTION 13. PROJECT MANAGEMENT. CONSULTANT will assign Mark Belgarde as the project director to have supervisory responsibility for the performance, progress, and execution of the Services and Paul Thies as the project coordinator to represent CONSULTANT during the day-to-day work on the Project. If circumstances cause the substitution of the project director, project coordinator, or any other key personnel for any reason, the appointment of a substitute project director and the assignment of any key new or replacement personnel will be subject to the prior written approval of the CITY’s project manager. CONSULTANT, at CITY’s request, shall promptly remove personnel who CITY finds do not perform the Services in an acceptable manner, are uncooperative, or present a threat to the adequate or timely completion of the Project or a threat to

Professional Services
Revised 10/18/07

08087
the safety of persons or property.

The City’s project manager is Karen Smith, Public Works Department, Facilities Division, Palo Alto, CA 94303, Telephone: (650) 496-6973. The project manager will be CONSULTANT’s point of contact with respect to performance, progress and execution of the Services. The CITY may designate an alternate project manager from time to time.

SECTION 14. OWNERSHIP OF MATERIALS. Upon delivery, all work product, including without limitation, all writings, drawings, plans, reports, specifications, calculations, documents, other materials and copyright interests developed under this Agreement shall be and remain the exclusive property of CITY without restriction or limitation upon their use. CONSULTANT agrees that all copyrights which arise from creation of the work pursuant to this Agreement shall be vested in CITY, and CONSULTANT waives and relinquishes all claims to copyright or other intellectual property rights in favor of the CITY. Neither CONSULTANT nor its contractors, if any, shall make any of such materials available to any individual or organization without the prior written approval of the City Manager or designee. CONSULTANT makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

SECTION 15. AUDITS. CONSULTANT will permit CITY to audit, at any reasonable time during the term of this Agreement and for three (3) years thereafter, CONSULTANT’s records pertaining to matters covered by this Agreement. CONSULTANT further agrees to maintain and retain such records for at least three (3) years after the expiration or earlier termination of this Agreement.

SECTION 16. INDEMNITY.

16.1. To the fullest extent permitted by law, CONSULTANT shall protect, indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an “Indemnified Party”) from and against any and all demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorneys fees, experts fees, court costs and disbursements (“Claims”) that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party.

16.2. Notwithstanding the above, nothing in this Section 16 shall be construed to require CONSULTANT to indemnify an Indemnified Party from Claims arising from the active negligence, sole negligence or willful misconduct of an Indemnified Party.

16.3. The acceptance of CONSULTANT’s services and duties by CITY shall not operate as a waiver of the right of indemnification. The provisions of this Section 16 shall survive the expiration or early termination of this Agreement.

SECTION 17. WAIVERS. The waiver by either party of any breach or violation of any covenant, term, condition or provision of this Agreement, or of the provisions of any ordinance or law, will not be deemed to be a waiver of any other term, covenant, condition, provisions, ordinance or law, or of
any subsequent breach or violation of the same or of any other term, covenant, condition, provision, ordinance or law.

SECTION 18. INSURANCE.

18.1. CONSULTANT, at its sole cost and expense, shall obtain and maintain, in full force and effect during the term of this Agreement, the insurance coverage described in Exhibit "D". CONSULTANT and its contractors, if any, shall obtain a policy endorsement naming CITY as an additional insured under any general liability or automobile policy or policies.

18.2. All insurance coverage required hereunder shall be provided through carriers with AM Best’s Key Rating Guide ratings of A⁻:VII or higher which are licensed or authorized to transact insurance business in the State of California. Any and all contractors of CONSULTANT retained to perform Services under this Agreement will obtain and maintain, in full force and effect during the term of this Agreement, identical insurance coverage, naming CITY as an additional insured under such policies as required above.

18.3. Certificates evidencing such insurance shall be filed with CITY concurrently with the execution of this Agreement. The certificates will be subject to the approval of CITY’s Risk Manager and will contain an endorsement stating that the insurance is primary coverage and will not be canceled, or materially reduced in coverage or limits, by the insurer except after filing with the Purchasing Manager thirty (30) days' prior written notice of the cancellation or modification, CONSULTANT shall be responsible for ensuring that current certificates evidencing the insurance are provided to CITY’s Purchasing Manager during the entire term of this Agreement.

18.4. The procuring of such required policy or policies of insurance will not be construed to limit CONSULTANT’s liability hereunder nor to fulfill the indemnification provisions of this Agreement. Notwithstanding the policy or policies of insurance, CONSULTANT will be obligated for the full and total amount of any damage, injury, or loss caused by or directly arising as a result of the Services performed under this Agreement, including such damage, injury, or loss arising after the Agreement is terminated or the term has expired.

SECTION 19. TERMINATION OR SUSPENSION OF AGREEMENT OR SERVICES.

19.1. The city manager may suspend the performance of the Services, in whole or in part, or terminate this Agreement, with or without cause, by giving ten (10) days prior written notice thereof to CONSULTANT. Upon receipt of such notice, CONSULTANT will immediately discontinue its performance of the Services.

19.2. CONSULTANT may terminate this Agreement or suspend its performance of the Services by giving thirty (30) days prior written notice thereof to CITY, but only in the event of a substantial failure of performance by CITY.

19.3. Upon such suspension or termination, CONSULTANT shall deliver to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by CONSULTANT or its contractors, if any, or given to...
CONSULTANT or its contractors, if any, in connection with this Agreement. Such materials will become the property of CITY.

19.4. Upon such suspension or termination by CITY, CONSULTANT will be paid for the Services rendered or materials delivered to CITY in accordance with the scope of services on or before the effective date (i.e., 10 days after giving notice) of suspension or termination; provided, however, if this Agreement is suspended or terminated on account of a default by CONSULTANT, CITY will be obligated to compensate CONSULTANT only for that portion of CONSULTANT’s services which are of direct and immediate benefit to CITY as such determination may be made by the City Manager acting in the reasonable exercise of his/her discretion.

19.5. No payment, partial payment, acceptance, or partial acceptance by CITY will operate as a waiver on the part of CITY of any of its rights under this Agreement.

SECTION 20. NOTICES.
All notices hereunder will be given in writing and mailed, postage prepaid, by certified mail, addressed as follows:

To CITY: Office of the City Clerk
City of Palo Alto
Post Office Box 10250
Palo Alto, CA 94303

With a copy to the Purchasing Manager
To CONSULTANT: Attention of the project director
at the address of CONSULTANT recited above

SECTION 21. CONFLICT OF INTEREST.
21.1. In accepting this Agreement, CONSULTANT covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services.

21.2. CONSULTANT further covenants that, in the performance of this Agreement, it will not employ subconsultants, contractors or persons having such an interest. CONSULTANT certifies that no person who has or will have any financial interest under this Agreement is an officer or employee of CITY; this provision will be interpreted in accordance with the applicable provisions of the Palo Alto Municipal Code and the Government Code of the State of California.

21.3. If the Project Manager determines that CONSULTANT is a “Consultant” as that term is defined by the Regulations of the Fair Political Practices Commission, CONSULTANT shall be required and agrees to file the appropriate financial disclosure documents required by the Palo Alto Municipal Code and the Political Reform Act.

SECTION 22. NONDISCRIMINATION. As set forth in Palo Alto Municipal Code section 2.30.510, CONSULTANT certifies that in the performance of this Agreement, it shall not discriminate in the employment of any person because of the race, skin color, gender, age, religion,
disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height of such person. CONSULTANT acknowledges that it has read and understands the provisions of Section 2.30.510 of the Palo Alto Municipal Code relating to Nondiscrimination Requirements and the penalties for violation thereof, and agrees to meet all requirements of Section 2.30.510 pertaining to nondiscrimination in employment, including completing the form furnished by CITY and set forth in Exhibit “E.”

SECTION 23. MISCELLANEOUS PROVISIONS.

23.1. This Agreement will be governed by the laws of the State of California.

23.2. In the event that an action is brought, the parties agree that trial of such action will be vested exclusively in the state courts of California in the County of Santa Clara, State of California.

23.3. The prevailing party in any action brought to enforce the provisions of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with that action. The prevailing party shall be entitled to recover an amount equal to the fair market value of legal services provided by attorneys employed by it as well as any attorneys’ fees paid to third parties.

23.4. This document represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and contracts, either written or oral. This document may be amended only by a written instrument, which is signed by the parties.

23.5. The covenants, terms, conditions and provisions of this Agreement will apply to, and will bind, the heirs, successors, executors, administrators, assignees, and consultants of the parties.

23.6. If a court of competent jurisdiction finds or rules that any provision of this Agreement or any amendment thereto is void or unenforceable, the unaffected provisions of this Agreement and any amendments thereto will remain in full force and effect.

23.7. All exhibits referred to in this Agreement and any addenda, appendices, attachments, and schedules to this Agreement which, from time to time, may be referred to in any duly executed amendment hereto are by such reference incorporated in this Agreement and will be deemed to be a part of this Agreement.

23.8. This Agreement is subject to the fiscal provisions of the Charter of the City of Palo Alto and the Palo Alto Municipal Code. This Agreement will terminate without any penalty (a) at the end of any fiscal year in the event that funds are not appropriated for the following fiscal year, or (b) at any time within a fiscal year in the event that funds are only appropriated for a portion of the fiscal year and funds for this Agreement are no longer available. This Section 23.8 shall take precedence in the event of a conflict with any other covenant, term, condition, or provision of this Agreement.

23.9. The individuals executing this Agreement represent and warrant that they have
the legal capacity and authority to do so on behalf of their respective legal entities.

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement on the date first above written.

CITY OF PALO ALTO

Deputy City Manager

APPROVED AS TO FORM:

Senior Asst. City Attorney

APPROVED:

Director of Administrative Services

Director of Public Works

FLAK & KURTZ, INC.

By: [Signature]

Name: Mark V. Belzarde

Title: COO

Attachments:

EXHIBIT "A": SCOPE OF WORK
EXHIBIT "B": SCHEDULE OF PERFORMANCE
EXHIBIT "C": COMPENSATION
EXHIBIT "D": INSURANCE REQUIREMENTS
EXHIBIT "E": CERTIFICATION OF NONDISCRIMINATION
EXHIBIT “A”: SCOPE OF PROJECT AND TIME SCHEDULE

CIVIC CENTER INFRASTRUCTURE PROJECT: CIP 10102
Phase IV Bid Phase and Construction Administration Work for “Bid Package 1: A-D”

1. INTRODUCTION

The City of Palo Alto is upgrading the Civic Center building, located at 250 Hamilton Ave, Palo Alto, CA. The scope of work includes replacement or retrofit of the building ventilation systems, garage ventilation systems, boiler, building emergency generator, elevators, electrical systems and distribution wiring, life safety system, and Americans with Disabilities Act (ADA) improvements (as triggered by Title 24 provisions required by the aforementioned upgrades). The project shall also include installation of energy saving systems/features. The Consultant’s services shall be phased and shall include a building study and report phase (Phase I), and design and implementation phases as required to accomplish the above project.

The cooling tower, chiller, mezzanine fan coil units and a small emergency generator were installed within the last 8 years and need not be replaced. Recent retrofit work to the office finishes was completed on the mezzanine level, 2nd floor, 3rd floor, 4th floor, 5th floor, and the 8th floors. Electrical upgrades to the 2nd floor computer room and Level “A” Communications Center will be completed in 2002. All building lighting has been recently upgraded for energy efficiency. Consultant shall understand how the past work fits in with the new, and integrate systems where efficiency, cost reductions, and maintenance savings can be achieved.

Flack & Kurtz (Consultant) has been a sub-consultant to Huntsman Architectural Group for all previous phases of this project which include: Building Study and Report Phase, Design and Implementation Phase – Elevator Upgrade, and Phase III Design of Infrastructure Repairs. Phase IV is the first construction phase of the phase III design work. The mechanical, electrical and plumbing scope make up approximately 85% of the overall work in this phase.

1. SCOPE OF SERVICES

The Consultant shall provide support during bid, construction, and close out periods as follows:

A. Bid Phase:

- Consultant shall attend the pre-bid meeting; respond to questions from bidders; issue clarifications for addenda as required; and assist the City of Palo Alto and their Construction Manager in assessing the bids for award.
- Consultant will not be responsible for the administration of award of the bids.

B. Construction Phase

During the construction phase the Consultant shall:
• Attend the pre-construction meeting.
• Attend site construction meetings twice per month for the 9 month construction period.
• Review submittals and shop drawings and respond to RFI's from City or City's Construction Manager.
• Make revisions to the construction documents and issue Bulletins as required.
• Coordinate with the City of Palo Alto building inspectors as required.
• Attend one punch list visit to review the work and compile a punch list.
• Attend one follow up punch list review to make sure the punch list items have been corrected.

C. Close Out

During Close Out Phase, the Consultant shall:

• Attend a close out meeting with the City, the Construction Manager and the contractors (one meeting only).
• Produce final “Record Drawings” from information provided by Prime Contractors. This includes one hard and one CD copy of the final construction drawings. Coordinate final drawing package with Architect to provide one complete package to City.
• Review the final close out package submitted by the prime contractors for completeness.

3. DRAWINGS AND SPECIFICATIONS

As applicable, upon completion of the construction phase, and after acceptance by the City, the Consultant shall submit to the City one (1) complete set of reproducible record drawings reflecting all as-built conditions. A complete set of Record Drawings shall also be submitted to the city on CD in Autocad Version R14 or R2000.

4. PROJECT ADMINISTRATION

Karen Smith, Manager of Facilities Maintenance and Projects, will be the City’s Project Manager, unless directed otherwise by the City. All questions, correspondence and invoices will be addressed to the Project Manager at (650) 496-6973. Fax number is (650) 496-6958. All correspondence shall be addressed to the City of Palo Alto, Facilities Management Division, P.O. Box 10250, Palo Alto, CA, 94303.
EXHIBIT B

TIME SCHEDULE

Consultant shall complete all Phase IV services under this agreement by September 30, 2009, or completion of the construction phase, whichever occurs first. The construction phase is expected to be 270 calendar days.
Basic Services
The fees for this work shall include all Consultant costs necessary for providing the desired services including sub-consultant costs, reimbursables, meetings, and report generation. Reimbursables shall include travel, document reproduction costs, mailing and courier services. Travel shall be reimbursed at the City’s current standard rate.

Bid/Construction/Closeout Services (hourly, not-to-exceed) $200,000

Additional Services $20,000

Additional Services
Consultant shall be paid on a time and material basis according to the standard fee schedule rates attached should any work be requested by the City which falls outside the basic services of this project. All additional services work must be authorized in advance in writing by the City’s Project Manager prior to accomplishment of the work.
EXHIBIT "D"
INSURANCE REQUIREMENTS

CONTRACTORS TO THE CITY OF PALO ALTO (CITY), AT THEIR SOLE EXPENSE, SHALL FOR THE TERM OF THE CONTRACT OBTAIN AND MAINTAIN INSURANCE IN THE AMOUNTS FOR THE COVERAGE SPECIFIED BELOW, AFFORDED BY COMPANIES WITH AM.BEST'S KEY RATING OF A-:VII, OR HIGHER, LICENSED OR AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN THE STATE OF CALIFORNIA.

AWARD IS CONTINGENT ON COMPLIANCE WITH CITY'S INSURANCE REQUIREMENTS, AS SPECIFIED, BELOW:

<table>
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<th>REQUIRED</th>
<th>TYPE OF COVERAGE</th>
<th>REQUIREMENT</th>
<th>MINIMUM LIMITS</th>
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<td>STATUTORY</td>
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<td>GENERAL LIABILITY, INCLUDING PERSONAL INJURY, BROAD FORM PROPERTY DAMAGE BLANKET CONTRACTUAL, AND FIRE LEGAL LIABILITY</td>
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<td>PROPERTY DAMAGE</td>
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<td>BODILY INJURY &amp; PROPERTY DAMAGE COMBINED.</td>
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<td>AUTOMOBILE LIABILITY, INCLUDING ALL OWNED, HIRED, NON-OWNED</td>
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<td>PROFESSIONAL LIABILITY, INCLUDING, ERRORS AND OMISSIONS, MALPRACTICE (WHEN APPLICABLE), AND NEGLECTIVE PERFORMANCE</td>
<td>ALL DAMAGES</td>
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THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL INSURED: CONTRACTOR, AT ITS SOLE COST AND EXPENSE, SHALL OBTAIN AND MAINTAIN, IN FULL FORCE AND EFFECT THROUGHOUT THE ENTIRE TERM OF ANY RESULTANT AGREEMENT, THE INSURANCE COVERAGE HEREIN DESCRIBED, INSURING NOT ONLY CONTRACTOR AND ITS SUBCONSULTANTS, IF ANY, BUT ALSO, WITH THE EXCEPTION OF WORKERS' COMPENSATION, EMPLOYER'S LIABILITY AND PROFESSIONAL INSURANCE, NAMING AS ADDITIONAL INSURED CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, AND EMPLOYEES.

I. INSURANCE COVERAGE MUST INCLUDE:

A. A PROVISION FOR A WRITTEN THIRTY DAY ADVANCE NOTICE TO CITY OF CHANGE IN COVERAGE OR OF COVERAGE CANCELLATION; AND

B. A CONTRACTUAL LIABILITY ENDORSEMENT PROVIDING INSURANCE COVERAGE FOR CONTRACTOR'S AGREEMENT TO INDEMNIFY CITY.

C. DEDUCTIBLE AMOUNTS IN EXCESS OF $5,000 REQUIRE CITY'S PRIOR APPROVAL.

II. CONTRACTOR MUST SUBMIT CERTIFICATES(S) OF INSURANCE EVIDENCING REQUIRED COVERAGE.

III. ENDORSEMENT PROVISIONS, WITH RESPECT TO THE INSURANCE AFFORDED TO "ADDITIONAL INSUREDS"

A. PRIMARY COVERAGE

WITH RESPECT TO CLAIMS ARISING OUT OF THE OPERATIONS OF THE NAMED INSURED, INSURANCE AS AFFORDED BY THIS POLICY IS PRIMARY AND IS NOT ADDITIONAL TO OR CONTRIBUTING WITH ANY OTHER INSURANCE CARRIED BY OR FOR THE BENEFIT OF THE ADDITIONAL INSUREDS.

B. CROSS LIABILITY
EXHIBIT “D”
INSURANCE REQUIREMENTS

THE NAMING OF MORE THAN ONE PERSON, FIRM, OR CORPORATION AS INSURED UNDER THE POLICY SHALL NOT, FOR THAT REASON ALONE, EXTINGUISH ANY RIGHTS OF THE INSURED AGAINST ANOTHER, BUT THIS ENDORSEMENT, AND THE NAMING OF MULTIPLE INSURED, SHALL NOT INCREASE THE TOTAL LIABILITY OF THE COMPANY UNDER THIS POLICY.

C. NOTICE OF CANCELLATION

1. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR ANY REASON OTHER THAN THE NON-PAYMENT OF PREMIUM, THE ISSUING COMPANY SHALL PROVIDE CITY AT LEAST A THIRTY (30) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

2. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR THE NON-PAYMENT OF PREMIUM, THE ISSUING COMPANY SHALL PROVIDE CITY AT LEAST A TEN (10) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

NOTICES SHALL BE MAILED TO:

PURCHASING AND
CONTRACT ADMINISTRATION
CITY OF PALO ALTO
P.O. BOX 10250
PALO ALTO, CA 94303.
No. of Pages: 3 (Original to follow by mail)

DATE: 19 August, 2008

INSURED: WSP Flack + Kurtz, Inc.,
d/b/a WSP Flack + Kurtz

City of Palo Alto
Att: Purchasing and Contract Administration
250 Hamilton Avenue, Mezzanine
Palo Alto, CA 94301

RE: Project Name- Palo Alto Civic Center – S081449000

ENCLOSED PLEASE FIND ___X___ CERTIFICATE OF INSURANCE

WE TRUST THAT YOU FIND THE ENCLOSED TO BE IN ORDER, AND HOPE YOU WILL CALL OR WRITE US WITH ANY QUESTIONS YOU MAY HAVE.

VERY TRULY YOURS,

Espa Dell

ED/am
Enclosure

cc: Soun M. Phun/WSP Flack + Kurtz, Inc., d/b/a WSP Flack + Kurtz/via fax # (415) 433-5311
Michelle Lomnes/Travelers National Programs-A&E Unit
Neil Moore/Paragon International
# Certificate of Liability Insurance

**Producer:** Design Insurance Agency, Inc.
- **Address:** 116 John Street - Suite 1600
- **City:** New York
- **State:** NY
- **Zip:** 10038
- **Phone:** 212-233-6890
- **Fax:** 212-233-7852

**Insured:**
- **Name:** WSP Flack + Kurtz Inc.
- **Address:** 405 Howard Street, Suite 500
- **City:** San Francisco
- **State:** CA
- **Zip:** 94105-2673

## Coverages

The Policies of Insurance listed below have been issued to the Insured named above for the Policy Period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this Certificate may be issued or may pertain, the Insurance afforded by the Policies described herein is subject to all the Terms, Exclusions and Conditions of such Policies. Aggregate Limits shown may have been reduced by paid claims.

### A. General Liability
- **Type of Insurance:** Commercial General Liability
- **Policy Number:** 6803074L945
- **Policy Effective Date:** 05/01/08
- **Policy Expiration Date:** 05/01/09
- **Limits:**
  - Each Occurrence: $1,000,000
  - Bodily Injury Premises (Any occurrence): $100,000
  - Medical Expenses (Any one person): $10,000
  - Personal & Advertising Injury: $1,000,000
  - General Aggregate: $2,000,000
  - Products - Completed Operations Aggregate: $2,000,000

### A. Automobile Liability
- **Policy Number:** BA3076L35A
- **Policy Effective Date:** 05/01/08
- **Policy Expiration Date:** 05/01/09
- **Limits:**
  - Combined Single Limit (Each accident): $1,000,000
  - Bodily Injury (Per person): $
  - Bodily Injury (Per accident): $
  - Property Damage (Per accident): $

### A. Garage Liability
- **Policy Number:**
- **Limits:**
  - Auto Only - EA Accident: $
  - Other Than Auto Only: $
  - AGG: $

### A. Excess/Umbrella Liability
- **Policy Number:** UB6878Y660
- **Policy Effective Date:** 05/01/08
- **Policy Expiration Date:** 05/01/09
- **Limits:**
  - Each Occurrence: $
  - Aggregate: $

### A. Workers Compensation and Employers' Liability
- **Policy Number:**
- **Limits:**
  - WC Statutory Limits:
  - Other:

### B. Professional Liability
- **Policy Number:** LDUSA0800676
- **Policy Effective Date:** 08/15/08
- **Policy Expiration Date:** 08/15/09
- **Limits:**
  - Professional Liability Aggregate: $1,000,000

### Cancellation

*Cancellation: 15 days if for non-payment of premium.*

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**Certificate Holder:**
- **Name:** City of Palo Alto
- **Address:** 250 Hamilton Avenue, Mezzanine
- **City:** Palo Alto
- **State:** CA
- **Zip:** 94301

**Cancellation:**
- **Signature:**
- **Date:**

**ACORD 25 (2001/08)**

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The City of Palo Alto, its Council Members, officers and employees are included as Additional Insureds under above described General/Auto Liability policies as their interests may appear as respects the operations of the Named Insured. The General Liability policy is Primary and Non-Contributory with any other insurance carried by or for the benefit of the above listed Additional Insureds. The General Liability policy form contains Separation of Insureds (Cross Liability) provision.

[Signature]
Thomas G. Coghlan
Authorized Representative
Exhibit E
Certification of Nondiscrimination

As suppliers of goods or services to the City of Palo Alto, the firm and individuals listed below certify that they do not discriminate in employment of any person because of race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height of such person; that they are in compliance with all Federal, State and local directives and executive orders regarding nondiscrimination in employment.

1. If Proposer is INDIVIDUAL, sign here:

   Date: ______________

   Proposer's Signature

   Proposer's typed name and title

2. If Proposer is PARTNERSHIP or JOINT VENTURE, at least (2) Partners or each of the Joint Venturers shall sign here:

   Partnership or Joint Venture Name (type or print)

   Date: ______________

   Member of the Partnership or Joint Venture signature

   Date: ______________

   Member of the Partnership or Joint Venture signature

3. If Proposer is a CORPORATION, the duly authorized officer(s) shall sign as follows:

   The undersigned certify that they are respectively:

   ____________________________________________________________________________

   Title

   ____________________________________________________________________________

   Title

Of the corporation named below; that they are designated to sign the Proposal Cost Form by resolution (attach a certified copy, with corporate seal, if applicable, notarized as to its authenticity or Secretary's certificate of authorization) for and on behalf of the below named CORPORATION, and that they are authorized to execute same for and on behalf of said CORPORATION.

   ____________________________________________________________________________

   Corporation Name (type or print)

   By: ___________________________ Date: 3/18/08

   Title: COO

   ____________________________________________________________________________

   By: ___________________________ Date: __________

   Title: ________________________________________________________________________

City of Palo Alto