

Contract #HHS001033300082



**ACTIVATION NO. 1 FOR
ARCHITECTURAL/ENGINEERING BASE AGREEMENT NO. HHS001033300004 (PROJECT
No. 20-003-STL)**

This Activation (the “**Activation**”) to the above referenced Architectural/Engineering Agreement (the “**Base A/E Agreement**” or “**A/E Agreement**”) is entered into by the Health and Human Services Commission, which is acting for, and on behalf of, the Texas Department of State Health Services, a Health and Human Services Agency, (“**HHSC**” or “**Owner**”) and ACR Engineering Inc. (“**A/E**” or “**Engineer**”), each a “**Party**” and collectively the “**Parties,**” for Architectural or Engineering Services at Rio Grande State Center located at 1401 S. Rangerville Rd. Harlingen, Texas 78550. The Activation and the Base A/E Agreement each incorporate all of the terms, conditions, and provisions of the other agreement. In the event of a conflict between the terms of this Activation and the Base A/E Agreement, the Base A/E Agreement will control in accordance with Article 9 of the Base A/E Agreement.

PROJECT SUMMARY:Basic Scope

A/E will serve as the Owner’s third-party Commissioning Authority responsible for directing, overseeing and documenting the commissioning tasks associated with new HVAC systems to be provided as part of the South Texas Laboratory (Building 505) renovation. Commissioning will be performed in accordance with the three phases of the project. Systems to be commissioned include:

- HVAC piping systems
- Ductwork
- Rooftop units
- Ductless split units
- Fan/filter units
- Electric duct heaters
- Fans
- Electric unit heater
- Building control system
- Pressure monitors
- Testing, adjusting and balancing work

Construction Phase Commissioning Tasks include:

1. **Design Review:** Conduct a commissioning-focused review of HVAC design documents, provide comments identifying issues, and meet with Owner and Engineer to assist in issue resolutions.
2. **Commissioning Plan (sometimes Cx Plan):** Develop a Construction Phase Commissioning Plan including tasks and responsibilities by Contractor, Design Team, Owner, and Commissioning Authority during the Construction period. The Cx Plan will include preliminary testing checklists for all systems to be commissioned.
3. **Submittal Review:** Review submittals and provide comments. This review will be in addition to regular submittal review conducted by project design engineer and intended to ensure the

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proposed materials and equipment meet the Owner’s requirements.

4. System Testing: Coordinate the implementation of the Commissioning Plan and take the lead in ensuring the participation of team members in Pre-Functional Testing and Functional Performance Testing of commissioned systems. This will include commissioning kick-off meeting, field observations, pre-functional testing, functional testing
5. Commissioning Log: Track deficiencies identified during pre-functional and functional testing via a Cx Log. Review Cx Log with Owner, Design Team and Contractor at selected project meetings.
6. Issues Resolution: Participate in up to three follow-up on-site meetings to facilitate resolution of issues identified on the Commissioning Log upon initial verification of Pre-Functional and Functional Tests.

Documentation Phase Commissioning Tasks include:

1. O&M: Review O&M Manuals and provide comments to Owner for inclusion with Design Team comments prior to acceptance. Prepare facility requirements and O&M Plan for use by Owner.
2. Summary Cx Report: Prepare a Summary Cx Report describing the process, listing major milestones, and summarizing major findings and recommendations for future action.
3. Seasonal Recommissioning: Conduct a site trip prior to end of warranties and meet with building O&M personnel to review operation, verify completion of any items left as outstanding at the time of original construction completion, and address seasonal operation issues.

CONSTRUCTION COST:

(As described and defined in Article 5 of the Base A/E Agreement)

Not applicable.

FEE:

(As described in Articles 6 and 7 of the Base A/E Agreement)

Supplemental Services:

Construction Phase HVAC Commissioning
A fixed fee of \$40,000.00

Documentation Phase HVAC Commissioning
A fixed fee of \$4,500.00

Total Basic Scope Fee: \$44,500.00

UNIT PRICE FOR BID SETS:

(As described in §3.4.3 of the Base A/E Agreement)

Not applicable.

CONSULTANTS:

(As described in §3.5.3 of the Base A/E Agreement)

Not applicable.

ALTERNATIVE ENERGY-

Is not required.

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EFFICIENCY EVALUATION:
(As described in §3.5.7.4 of the Base A/E Agreement)

Not applicable.

PARTNERING:
(As described in §3.2.5.1 of the Base A/E Agreement)

Is not required.

SITE VISITS:
(As generally described in §3.2 of the Base A/E Agreement)

One site visit for commissioning kick-off meeting
One site visit per phase for field observation during early installation of equipment
Two site visits per phase for pre-functional testing
Two site visits per phase for function testing and deficiency resolution verification
Up to three site visits for Issue Resolution
One site visit prior to end of warranties

REPORTS, DRAWINGS & SPECIFICATIONS:
(As described in §3.4 of the Base A/E Agreement)

Electronic copies of plans, checklists, logs, and reports indicated in the basic scope.

SERVICES SCHEDULE:
(As mentioned in §3.5.5 of the Base A/E Agreement; the schedule on all phases begins on a date specified by written or electronic notice [such as a notice to proceed or phase approval letter] from Owner for that particular phase; Owner's review schedule begins on the next business day after the A/E completion of the particular phase to be reviewed)

Services to be provided in accordance with construction phasing plan.

PAYMENT SCHEDULE:
(As described in Article 7 of the Base A/E Agreement)

Supplemental and Additional Services will be paid as service is complete and earned.

HUB SUBCONTRACTING PLAN:
(As described in §3.5.14 of the Base A/E Agreement and amended hereto)

Is Required

DISPUTE RESOLUTION:

1. In the event of a dispute with the Owner, A/E will employ the dispute resolution process set forth in Article 11 of the Base A/E Agreement.
2. Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the A/E, in whole or in part. Owner and A/E agree that any periods set forth in the Base A/E Agreement for notice and cure of defaults are not waived, delayed, or suspended by Chapters 2254 or 2260 of the Texas Government Code, or Chapter 114 of the Texas Civil Practice and Remedies Code, or this section.

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3. Nothing herein shall hinder, prevent, or be construed as a waiver of Owner's right to seek redress on any disputed matter in a court of competent jurisdiction.
4. In any litigation or contested case between the Owner and the Project Architect arising from this Activation or this Project, neither party will be entitled to an award of legal fees or costs in any judgment regardless of which one is deemed the prevailing party.

NOTICES:

(For the purposes of this activation, Section 20.1.1 of the Base A/E Agreement is amended to read as follows:)

The following will act as the representative authorized to administer activities under this Activation on behalf of its respective Party.

HHSC Contract Representative

Chris Roelse
909 W. 45th Street: Mail Code: 2064
Austin, Texas 78751
christopher.roelse@hhs.texas.gov

A/E Contract Representative

Ricardo Troncoso
ACR Engineering, Inc.
3001 S. Lamar Blvd. Suite 210
Austin, Texas 78704
rtroncoso@acreng.com

FEDERAL FUNDING

A/E acknowledges that federal funds are involved in this Project and that A/E agrees that it must comply with all federal laws related to that funding. A/E affirms and certifies that its signature on this Activation also is effective as, and constitutes, a signature on Attachments A and B, which attachments are incorporated herein as if fully copied and set forth at length. Attachment A is entitled Assurances – Construction Programs, and Attachment B is entitled Certification Regarding Lobbying.

The Texas Board of Professional Engineers, 1917 IH 35 South, Austin, Texas 78741, telephone (512) 440-7723, has jurisdiction to each client for whom the Engineer renders an Engineering service in Texas.

The effective date of this Activation is the date when the last signature is affixed hereto.

Signature Page Follows

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**Signature Page for Activation No. 1
HHSC Contract No. HHS001033300082**

**Health and Human Services
Commission**

ACR Engineering, Inc.

DocuSigned by:
Scott Schalchlin
By: 0CB2E17A5C9C45D...

Scott Schalchlin

Deputy Executive Commissioner

Date of Execution: April 5, 2022

DocuSigned by:
Ricardo Troncoso
By: 66C0EC7730E94F8...

Ricardo Troncoso

President

Date of Execution: April 5, 2022