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 P.O. Box 270844, Houston, Tx. 77277

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**AGREEMENT**

PROJECT NAME: Mexican Restaurant Design, for City pf Pasadena

In existing 1st floor of a commercial building located at 3409 Spencer Hwy #100, Pasadena, Tx.

77506

**DESCRIPTION**: Designing of a 2935 s.f. Mexican Taco Restaurant, taking into the building a 650 s.f. covered porch (included). Work with client’s food/equipment consultant/supplier

**SCOPE of work:** With our bid, we agree to furnish design as specified in this

 for the above project.

Phase I

**Design, Conceptional Preliminary Plan Consists of:**

1. Client Information Review & Objectives and Goal Setting
2. Preliminary Building Floor Plan- .

Phase II

1. **Construction Drawings** –Building Designer will prepare a "Builder's Set of drawings which will, in general consist of the following:
2. Client provides existing site Plan Adjust over revisions as required

(see if we can get a copy from City of Pasadena of existing building plans)

1. Building As-Built Floor Plan
2. New Remodeling Building Floor plan
3. Electrical Floor Plan
4. Lighting Plan
5. Electrical Plan
6. Interior cabinet elevations as req’d
7. Exterior Elevations as req’d
8. Wall Sections & details as req’d
9. Door and Window Schedule
10. Coordinate consultants with architecture plans (client pays direct)

**By Consultants – Paid by client**

Structural design – Foundation and Framing design by Structural engineer.

 All the below can also be designed by MEP Engineer

Electrical Contractor – designs one line/load analysis and Energy Code Analysis (Building Designer can place on his plans and license of Electrician).

Plumber- Provides plumbing layout, sizes and one line (plumbers license on plans).

Mechanical Design by others (or can use MEP Engineer for all MEP)

Paid direct by owner

Site plan by civil engineer if required by others

Accessibility review of plans. Initial:\_\_\_\_\_

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**Specifications** will be on working drawings. Client or contractor will be responsible for specifications of building materials.

**Coordination**: Coordination meetings in my office or owners project to communicate a common understanding of the project and assure no delays in completion. The meetings will be based upon project schedule, in my office or jobsite. Conference time billed at $150.00 hr. over 2 hr. does not include first meeting, when project agreement signed

**C.** **Owner Responsibilities:**

1. The Owner shall provide full information regarding requirements for the

 Project, including, a program which shall set forth the objectives, constraints,

 and criteria, including space requirements and relationships, flexibility,

 expandability, special appliances, systems and site requirements (if required).

 Site plan (use survey if req’d) is prepared from information supplied to the

 Building Designer by others. Building Designer assumes no

 Responsibility for the accuracy of said information provided by owner/client.

2. The Owner/Client at own expense, a geotechnical soil report (required for

 Foundation designs), the legal description and survey of the lot, an elevation

 Certificate, a tree survey, a topographical contours survey, subdivision deed

 Restrictions and information regarding easement and utilities. Shall furnish

 the Building Designer with at boundary survey, tree survey, topographical

 Survey, sub-surface soil investigation, and any other pertinent information

 such as deed restrictions, utility locations that may be required. Building

 Designer shall be entitled to rely upon the accuracy and completeness

 Thereof. Owner’s survey shall verify site dimensions and placement of

 existing Structures and any other restrictions before work begin.

1. It is important that the Owner and Contractor examine the Construction Documents carefully. It shall be the final responsibility of the Owner and the Contractor to review and check the final plans for compliance with the Clients design objectives, construction techniques, codes, zoning and the requirements of any other regulatory agencies, before obtaining a building permit. The Building Designer shall be notified of any discrepancies before execution of the Construction Contract and commencement of work. Building Designer assumes no responsibility for misinterpretation, or unauthorized deviation form or construction documents. Contractor shall determine method of construction. It is customary and ordinary to omit certain details well within the common knowledge of a licensed Contractor. If a detail is omitted from design or drawings for which the Contractor needs further explanation, the Contractor should determine the solution with the Building Designer before signing the construction contract. Otherwise the Contractor assumes full responsibility for the construction in question.
2. The specifications and product selections are the responsibility of the owner.

Initial:\_\_\_\_\_\_

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**D.** **FEES**:

1. Based on the above scope of work and description, Newell Cheatheam,

 Newell’s Designs proposes to complete the design of construction documents

 for above project as described for **fee of** **$4000.00 .** Plus, reimbursable**.**

 **Retainer of $2000.00** of design fee paid as approval to start preliminary

 conceptional project plans when agreement is signed (this comes out of total

 fee). Plus, reimbursable expenses. Hourly time billed at **$150.00 hr**. Major

 revisions over 2 hours to preliminary plans -Phase I or completed

 construction drawings-Phase II will be billed at our hourly rate. CAD drawing

 plotted to PDF $15.00 sheet. Expenses additional. *2 hours allowed for city*

 *revisions.*

2. The Owner or Contractor and the Building Designer each bind himself, his

Partners, Successors or assigns, and legal representatives to the other Party

Of the agreement, and to the partners, successors or assigns, legal

Representatives of such other parties with respect to all Covenants of this agreement.

1. Neither the Owner nor the Building Designer shall assign, sublet, or transfer his interest in the agreement without the written consent of the other party involved. In the event the Owner wishes to terminate this contract for any reason and at any time accumulated on this project according to the hourly rate schedule previously listed in this contract. Owner agrees to pay the Building Designer for all material costs incurred in this project. This fee may or may not be greater than the original contract fee.
2. In the event the final design product exceeds the original

“Scope of Work-Description”, the Building Designer reserves the right to re-negotiate the compensation portion and term of this agreement.

1. In the event the project remains inactive for a period of two (2) months, not

Including construction observation, the Building Designer reserves the right to re-negotiate agreement terms and fees at commencement of work.

1. The Owner, upon presentation of an itemized statement, shall reimburse expenses incurred by Building Designer during the Execution of project. This includes printing, CADD plotting, mileage, meals, postage, delivery charges, phone and miscellaneous expenses. Any hourly fees will be billed at $150.00 hr. for time above the amount specified in “C” above. These fees assume that there will be no major changes in the project once construction drawings are started. Such changes may require an adjustment in the fee structure. If the scope of the project changes, this agreement will be revised.
2. Fees charged for professional services are due and payable immediately upon presentation of invoice. Work in progress may halt if payments are not received within five (5) days. Deferred payments until closing or other conditions are not implied, unless prior written arrangements are made. A

Initial: \_\_\_\_\_

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1. Service charge may be added to unpaid balance of past due accounts equal to the maximum permitted by law. **It is our policy to file a notice to owner, or lien according to Texas Mechanics Lien Laws if timely payment is not made. The acceptance of this agreement will give Newell Cheatheam**

**and Newell's Designs the rights to liens against any property or other assets of the Owner for non-payment of fees indicated in this project. Client shall be liable for court costs and attorney fees for collection of fees if not paid If a lien or legal services are required to collect fees, then client is liable for all attorney fees and court costs.**

1. Building Designer is not responsible for structural drawings or structural

 defects in any way for project. Building Designer has no responsibility for the

 work of any consultants used on this project.

1. This contract is total agreement and can only be amended in writing.

**Construction Drawings** -**We will prepare a "Builder's set of drawings**

**F. Engineering and other services:**

1.Building Designer shall furnish a copy of the construction documents to one or more structural engineers of Client’s choice for preparation of the following, as required: Foundation plan with structural details, framing details and framing analysis, truss and/or steel structural designs, wind load calculations, and specifications. The structural engineer(s) shall approve, and seal all required construction documents. The Structural Engineer shall provide an electronic copy of his construction documents to the Building Designer. Client shall request the engineer to structural plans to Building Designer.

2. Client shall pay structural engineers(s) directly for fees incurred to prepare the items described in Section F (1) and A. (7)

3. Survey and Utility locations provided and paid for by Owner/Client.

4. Civil Site Plan, site utilities, drainage and details by others.

5. If required for licensed Windstorm engineer- paid direct

 6. Landscape Plan by others.

 7. Energy Code Analysis by others.

 8. Fire Marshall Requirements- by Others

9. Building Designer shall not be responsible, nor shall building designer be liable for errors or omissions in the structural designs provided by the structural designs provided by the structural engineers (s), civil engineers(s), or other consultants.

9. Submission to city or county for permits is not part of our services.

**G. Compensation payments:**

 Construction Documents for builder set of plans.

**$2000.00 retainer fee paid to start project drawings**. **90-100%** **of fee paid to start const. drawings.** Balance of any fees plus reimbursable (expenses) due upon Receipt of check set of project plans whether electronic or paper. .initial:\_\_\_

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Reimbursable expenses will be billed and are due at time of billing. Printing, Xeroxing, CAD plotting $15.00 sheet to PDF, plus deliveries, etc.

H. Ownership of Plans

1. All construction documents are the copyrighted intellectual property of

Building Designer whether the project for which construction

Documents were designed is contracted and built. These construction documents may not be reproduced by any method, nor may they be used by anyone for repeat construction without the written consent of the Building Designer. There will be a rebuild fee to build on another property.

1. Furthermore, these construction documents may not knowingly be furnished to others for such purposes. Owner/Client is expressly granted a single

use License to use these construction documents conditional on full and final payment of all sums due building designer. These construction documents have been prepared by the Builder Designer as an independent contractor and not as an employee of Client. Said construction documents shall not be the work for hire of the Client. The designees and all documents containing the designs are protected by Federal Copyright laws. No rights, including copyright, in the designs or documents under this agreement are being transferred to the Owner or client, either expressly or implicitly. Only one time build on property. Owner agrees acknowledges and agrees that any contributions, be they ideas, sketches, suggestions for change or otherwise, by Owner, Contractor or any other person will not create any right in the documents for the Owner, Contractor or other person. Neither the Owner nor his/her authorized assigns shall cause nor commission marketing materials to be created without first reviewing the materials with the Building Designer to insure protection of the author’s copyright. Nor shall any other party cause or commission redrawing, modifications, revisions or addendum drawings by anyone other than the Building Designer, unless prior written authorization is granted

1. Absent a written agreement to the contrary, and conditioned on the full and timely payment of all sums due the Building Designer under this agreement, upon Building Designer’s delivery of certified construction drawings to Client, Building Designer Grants Client

A nontransferable, nonexclusive right to construct the building depicted in the Plans once and only once, and only on site identified on the Plans.

1. Owner/Client agrees to make project available at a reasonable date and time for photographic purposes to access property of project. Owner/Client gives consultant/building designer permission to use photography and plans for advertising, social media, editorial, and publicity purposes. Consultant agrees to keep client’s identity private, unless otherwise authorized.
2. Limitation of Liability Owner/Client Agrees to limit all liability for damages cost of defense, or expenses to be levied against Building Designer to a sum not to exceed the amount of the Designer’s fee under this agreement. Initial:\_\_\_\_

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The Owner, Client or contractor hereby agrees to indemnify and hold harmless the Building Designer, its employees, agents, and their successors or assigns from and against all claims, demands, damages, losses and expenses, including but not limited to, attorney's fees and court fees arising out of or resulting from

improper construction of the project, construction additions or changes to the project, errors or omissions of consultants or other outside consultants hired by other parties of improper maintenance of the project.

The return of this original signed agreement with **$2000.00 check** made out to Newell Cheatheam, returned is your approval for Newell Cheatheam and Newell’s Designs to schedule and proceed with Phase I scope of project. A check of 90-100% of fee**,** plus reimbursable expenses payed as approval to start Phase II. Balance due upon receipt of construction documents whether electronic or paper copies.

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**Mike Moheb ,** **Client Date Newell Cheatheam, Building Designer**