

OCULUS

NEW YORK CHAPTER / THE AMERICAN INSTITUTE OF ARCHITECTS

NOVEMBER, 1971

VOLUME 45, NUMBER 3

THE NEW CITY CONTRACT FOR SERVICES OF CONSULTANT ARCHITECT SOME PROS AND CONS

The Public Agencies Committee has been working with various agents of the City of New York for over a year in an effort to unify the several contracts formerly in use by various City agencies in retaining the services of Architects and Engineers. At the same time, it was hoped that we might improve some if not all of the more objectionable features of the old contract and the City practices surrounding their use.

The standard "Contract for Services of Consultant Architect" has now been issued by the City and is intended to be used by all City agencies. The very fact of its publication is no doubt a good thing and, together with whatever improvements it does embody—and there are many—is tribute to the concern and hard work of Administrator Milton Musicus and his loyal assistants, Arthur Wrubel and Florence Dreizen.

Another most positive element which we can report is that in the course of our discussions with Mr. Musicus and his staff, we have discovered a genuine concern for correcting many of the previous City practices which have served to hurt the Architect and his consultants. There is evidence that under his prodding, the construction departments which answer to Musicus are attempting to establish realistic budgets at the outset of the design and are making a real effort to make the prompt reviews that will enable design schedules to be met. Mr. Musicus has asked us to keep him informed of concrete instances in which the City does not live up to the high standards of performance which he has set for it, and the Public Agencies Committee will continue to solicit such testimony from our membership.

Since the speed and reasonableness with which the City performs its role as client can vary, we should have preferred to see the unified contract a better document than it turns out to be.

Of course, there have been improvements in the document: the City, as well as its Architect, is obliged to meet an agreed-upon design schedule and, within specific limits, fees can now be adjusted along with approved upward adjustment of budgeted costs,

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CHAPTER SUPPORTS PLAN FOR CITY. CRITICISM

The New York Chapter's "Observation on the Plan for New York City" has been released with the statement that it "supports the plan as a vital, organic framework capable of change and growth". While the first section of the observations supports the objectives of the plan it lists as major faults the lack of priorities and strategies to implement its objectives, the virtual ignoring of regional planning, and the absence of a clear explanation to community boards and citizens on how they can participate in master planning.

In specific sections beginning with housing, it is pointed out that there is no solution to improve the supply of housing other than "greater Federal and State subsidies". The transportation portion is criticized for not indicating how the needs for a National Center will be satisfied. In education and parks and recreation the Chapter recommends more local control of site selection, programming and design. A more complete landmarks plan is suggested. The individual borough volumes are charged with often being inconsistent when considering the same problem. On the National Center concept the report states that "Continued expansion of the National Center should not and will not occur without simultaneous improvement in transportation, housing, environmental amenities and recreation." It also states that environmental problems remain unstudied.

An advanced copy was sent to Planning Commissioner Donald Elliott. "OCULUS" will report on his reactions in the next issue.

KK

FELLOWSHIPS FOR THE PROFESSIONS OFFERED

The National Endowment for the Humanities, Washington, D.C. is offering fellowships for the professions under an experimental new program. The purpose of this program is to give persons in professions outside of teaching an opportunity to stand back from their work for an extended period and examine in historical, social, cultural and philosophical perspective the bodies of knowledge upon which their professions draw. Its intention is to

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NEW YORK CHAPTER, THE AMERICAN INSTITUTE OF ARCHITECTS
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George S. Lewis Executive Director

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**EXECUTIVE COMMITTEE ACTIONS:
OCTOBER 6, 1971**

- Accepted Mr. Nathan Walker's letter (see elsewhere in this issue) with gratitude and appreciation.
- Discussed proposals for sharing enlarged space at 20 West 40th Street with related organizations.
- Outlined procedure for review of Committee budgetary requests.
- Mr. Gatje reported on the unlikelihood of further revision at this time in the City contract.
- Mr. Juster reported on Mr. Saul Edelbaum's appearance at a Federal Trade Commission hearing to present both the Institute's and the Chapter's views on how to improve housing.
- Accepted Political Affairs Committee's recommendations against the Transportation Bond Issue, and in favor of the Community Development Article, and discussed purchasing space in the *Times* to publicly announce these positions.
- toward visiting foreign architects.

OCTOBER 13, 1971

- Approved the Treasurer's draft budget for 1971-72.
- Re-appointed Edward L. Friedman as Chapter representative to the Concrete Industry Board.
- Approved the Building Technology Committee's plans to coordinate with other committees in the Commission on Building and Site Design, as well as the Fees & Contracts Committee, toward exerting Chapter leadership in the development of industrialized construction.
- Approved the proposal of the Political Affairs Committee to place two advertisements in the *Times* expressing the Chapter's position *for* the Community Development Article and *against* the Transportation Bond Issue.
- Heard Robert Gatje, Chairman of the Ethics Committee, report that the Institute's Governmental Affairs Committee intends to hold a meeting concerning political contributions and that it would hear from the Chapter.
- Approved a proposal that the Office Practice Committee organize a seminar on employment practices and unionization which would be open to non-members and others.

**NATHAN WALKER
NYCAIA LEGAL COUNSEL RESIGNS
23 YEARS DISTINGUISHED SERVICE**

The following letter dated October 1, 1971 from Nathan Walker of Walker & Walker announces a change in his relationship with the New York Chapter, A.I.A. Mr. Walker requested publication of the letter exactly as written.

The Executive Committee intends to designate a substitute Legal Counsel, but has designated Mr. Walker "Special Counsel" to handle in the future such extraordinary problems as the Executive Committee may deem appropriate.

Dear Friends:

Except for a slight interruption, I have acted as the Chapter's Legal Counsel for 23 consecutive years. During that time it has been an honor and great privilege to serve in that capacity and work with so many eminent and distinguished members of the architectural profession.

You will recall that in 1968 I was awarded a special citation by the Executive Committee for what it described as the "wise counsel, thoughtful concern and stable guidance afforded the architectural profession". I shall always treasure that citation as representing one of the outstanding achievements in my professional career.

During my many years as Legal Counsel to the Chapter the problems presented were varied, interesting and stimulating; as a result, I learned a great deal and for this knowledge and experience I am extremely grateful to the present and former members of the Executive Committee.

Due to the substantial demands made upon me, in my active practice, it is impossible for me personally to devote to the many problems of the Chapter, as much time as I have devoted in the past. Under the circumstances, it is impossible for me to represent the Chapter as its Legal Counsel on a continuing legal basis; accordingly, I request that I be relieved of such duty.

I need hardly tell you that my interest in the Chapter is deep and sincere and will never wane. I shall be pleased to represent the Chapter in the future in connection with any special extraordinary matters in which my knowledge and experience might be helpful.

With warmest, personal regards, I remain

Sincerely,

Nathan Walker



JUDITH EDELMAN, CHAIRMAN COMMISSION ON EDUCATION

The summer had barely begun when Judith H. Edelman, the attractive new head of the Chapter's Commission on Education requested reports from her Committee Chairmen. Elected last spring to the NYCAIA Executive Committee, she immediately began her involvement in the activities of the 7 Committees which comprise the Commission she had chosen.

By September, Mrs. Edelman had met personally with all of her Committee Chairmen and received their written reports. "Countless telephone calls" produced an awareness which few Commissioners achieve so early in their tenure.

In the fall, Mrs. Edelman called a meeting of her Chairmen, providing an early opportunity for them to become acquainted with each other's activities and determine areas for greater coordination. Typifying the results of this gathering is the communication now between the Student Affairs Committee, headed by Jerry Maltz and the Environmental Education Committee with Alan Schwartzman at its helm. In retrospect it seems so obvious....students and the environment. But it had not occurred before.

Chapter records do little to elucidate the matter, but it appears that Judith Edelman, a partner in the firm of Edelman and Salzman since 1960, is the first woman to be elected to the NYCAIA Executive Committee. Mrs. Edelman feels that for too long there has been insufficient awareness of the position of women as another "minority" group in the field of architecture.

She anticipates that the Equal Opportunities Committee, which is also within her Commission, will expand their activities to cover this subject. She ventures the hope that as women are encouraged to become Registered Architects, they will participate more actively in all aspects of the profession.

LY

CCNY ESTABLISHES EVENING PROGRAM IN ARCHITECTURE

City College of New York's School of Architecture and Environmental Studies has established an evening program leading to the degree of Bachelor of Science in Architecture.

A special committee of members of the Chapter worked with CCNY to effect this extension of their daytime program into the evening.

Please publicize this unique opportunity within your offices.

Applications are now being accepted for the degree program and individual courses for the Spring semester. Prior college-level training is not required, and office experience may qualify for equivalent course credit. Matriculating students will attend tuition-free. Non-matriculating students will pay \$17 per credit, plus fees.

For further information and applications call Professor Louis Lionni, Director of the Evening Program in Architecture, at 621-2118; or write to Professor Lionni at the School of Architecture, 134th Street and Broadway, New York City 10033.

UNINCORPORATED BUSINESS TAX

The Finance Administration of the City has asked that OCULUS include the following information about this tax. (Chapter members are reminded that the Chapter, in cooperation with the Bar Association and others, actively opposed its passage by the City Council last June on the basis that it is discriminatory in penalizing partnerships and sole proprietorships in comparison with professional service corporations.)

The City unincorporated business tax now applies to previously exempt doctors, lawyers, accountants, and other professional individuals and partnerships practicing in New York City. The following summary is designed to afford you general information about your obligations under this tax.

What Professions Are Affected? Income derived from the practice of law, medicine, dentistry, architecture, and every other profession conducted by an individual or a partnership wholly or partly in New York City is subject to the tax.

When Does The Tax Take Effect? The tax applies to every tax year beginning on and after January 1, 1971.

Who Must File A Return? A return must be filed by every unincorporated business having more than \$10,000 of gross income, or any amount of taxable income.

How Is The Tax Computed? The tax is imposed at the rate of 4% on the taxable business income of the

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Unfortunately, when compared with other contracts Architects are used to dealing with, such as the AIA Standard or those currently used by the Construction Funds of New York State and the Federal Government, the new City contract is still most inequitable to the Architects and Engineers, and we would be deceiving the membership if we reported otherwise. Why it remains so is apparently due to a combination of circumstances, including resistance to change and rivalries between City agencies. Suspicion of all Architects is pervasive, presumably based on some bad past performance. Statutory requirements of the City charter, which no one seems able to change but everyone feels free to exaggerate, are also responsible, particularly as interpreted by the Office of the Comptroller.

Any Architect dealing with the City for the first time, especially if he is thin-skinned, will be struck repeatedly by language, and the practice it implies, which makes each Commissioner of the City sole judge and arbiter of every provision of the Contract, and does not treat the Architect and his consultants as the competent, talented professionals which the commission they are about to be given requires. Since the present version of the Standard Contract is in part a consolidation of portions of many predecessor contracts, it contains a certain amount of ambiguity and redundancy. However, it is not a final document, and even as this article is written, certain clauses have been taken under advisement by the City in response to continued questions from the Architects and Engineers, and with everyone's cooperation and continued comment we may expect to see this document improved as it is used.

As a guide to those of you who are reading the new contract for the first time, and particularly for those of you who may never have worked for the City before, we should like to list below some of what we consider to be the inequities which remain in the published text.

●1. You (or your Consultants) are required to "check any required drawings of sheeting, bracing and underpinning". This confuses the essential division of responsibility between Architect and Builder. The Builder is and should remain fully responsible for all construction procedures and temporary structures. Design and checking should fall under his contract, not yours. The present wording exposes you and the City to involvement in the responsibility in case of failures during the course of construction.

●2. The contract requires that you pay your Consultants no "less than 75% of the...fee allocable to the portion of the Project designed by them". This requirement is not new with this contract, but it is relatively new as a requirement for some agencies of the City and was developed in response to strong

recommendations from the Structural Engineers. We find it to be a most inexact method of paying for structural engineering, but have been unable to develop any alternate wording satisfactory to the Engineers. The City is completely neutral on the matter, so the wording stands until we have had a certain amount of experience with it. Since it may be difficult later to define what part of a wall-bearing structure, for example, has been designed by your Engineer, we can only suggest the most careful definition of the scope of his work at the time of making your agreement with him.

●3. You are required to pay for "all engineers, architects, cost estimators, experts and consultants as may be required" out of the basic fee. The Commissioner remains the final judge of what "may be required" and the City found it difficult to respond to our request for determination of such special experts and consultants at the time of signing the contract. There exists an ambiguous reference to "per diem consultants" under "Additional Costs for Extra Work", but this is apparently only meant to cover Soils Consultants. You should not assume that it will cover anyone else, and you may still experience strong resistance to Soils Consultation.

●4. Previous versions allowed for extra compensation for "other unusual costs". The final draft drops this phrase but we are told you may still negotiate such reimbursement, if you know such costs at the time of signing the contract.

●5. Should your contract ever be terminated for cause, you are liable for excess fees which may have to be paid to a successor architect, without limit, as is the case with every City contract.

●6. The Contract contains a "redesign clause" that comes into force when bids exceed the final budget by 5%. This is by any standard a very difficult responsibility to accept, and in a period of rapidly rising prices and uncertain competition, it tries to make the Architect solely responsible for conditions over which he has only minimal control. We can only hope that in practice it will be applied with reasonableness and that in time a better formula can be developed.

NOTE that some very important understandings with the City regarding "payment to principals" and "limitations on audit" were not included within the body of the contract but are described in an "Information Sheet" which should follow the last page (47) of your contract. There is no mention here, as yet, of the practice as reported to us by the Comptroller last year, whereby they waive the audit of lump sum or fixed formula design type contracts. The extent of completion remains subject to verification but you should resist any further attempts to audit those fees such as are described. We are told this practice remains in force and that it may be included in subsequent editions of the "Information Sheet."

We hope we are not being unreasonably optimistic in

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THE NEW CITY CONTRACT (Continued from page 4)

reporting the presence of a new spirit at City Hall which, if it calls forth a positive response from our profession, may signal a new era in our dealings with the City that will in time see the gradual improvement of the conditions we choose to criticize. It is that hope which has buoyed the work of the Committee in the last year and may justify continuation of its efforts in the future.

*Robert F. Gatje, Chairman
Public Agencies Committee*

WAA LUNCHEON

The loud blast you may have heard coming from the Princeton Club early in October was Elizabeth Janeway, exploding the two myths of "It's a man's world" and "A woman's place is in the home".

Mrs. Janeway was mincing no words for the benefit of the Women's Architectural Auxiliary and its luncheon guests—including a good representation of NYCAIA members. Mrs. Janeway may be petite, but respect for her intelligent views is large indeed, and she treated her audience to such solid helpings of "social dynamics" as:

"The traditional role of women is a great waste in this world ... and a defamation of character."

"Our efforts to force conformity is abrasive on relationships."

"The irony of the myth that it's a man's world is that it's a myth even to most men—except the elite."

"Our world is always a brand new world."

"Many women live in a ghetto called a suburb."

"The only chance we have to control society is through comprehension of how man's world and woman's place interact."

FELLOWSHIPS (Continued from page 1)

deepen their understanding of the humanistic context and to improve the quality of their leadership in their professions.

In this first year of the program, priority will be given to applicants whose work is directly concerned with urbanization, war and peace, foreign policy, problems of governmental decision, civil liberties, student and youth problems, and other matters of general and urgent public interest. If funding permits, approximately 25 fellowships will be available in 1972.

These fellowships will be awarded for two to nine continuous months of tenure, and stipends will be set to equal a Fellow's current salary, up to a maximum rate of \$1500 per month.

Application forms may be requested from the Division of Fellowships, National Endowment for the Humanities, Washington, D.C. 20506.

CHAPTER URGES NOV. 2 VOTE SUPPORTING COMMUNITY DEVELOPMENT OPPOSING TRANSPORTATION BOND ISSUE

On November 2 the citizens of New York State will have an opportunity to vote their judgment on two matters of great future importance to all the people of the State, and of special concern to the members of this Chapter. These are Constitutional Amendment No. 1 on Community Development; and Proposition No. 1, the Transportation Bond Issue. The Executive Committee, upon the unanimous recommendation of the Political Affairs Committee, has itself voted unanimously to urge the Chapter's active support of Amendment No. 1, and opposition to the Bond Issue.

The Amendment proposes an entirely new Article for the State Constitution which would permit the Legislature to provide for a wide variety of community services and facilities when there is a public need which private enterprise cannot afford to meet on its own. A key provision would permit State and local governments to give or lend money to private individuals, organizations and business for housing, urban renewal, job opportunities, health and environmental health facilities, and programs for transportation, recreation and the care of the aged and children.

We agree with the supporters of the Community Development Article who say that the present Housing Article is too restrictive to permit a comprehensive attack on community problems which face our State. The proposed article would allow the State and local government to enlist the creative talents of business, labor, civic groups and others.

The Executive Committee urges your support of Amendment No. 1 on Community Development.

Proposition No. 1, the Transportation Bond Issue, authorizes an increase of \$2.5 billion in State debt, \$1.35 billion to finance new or improved mass transportation facilities and \$1.15 billion for highways throughout New York State.

We agree with the opponents of the Bond Issue who say that it continues the disproportionate and excessive emphasis on highway construction of its 1967 predecessor. It would unleash a highway construction program the need for which is as yet unestablished by any recognized long range comprehensive plan for the State's transportation system.

A further objection is that of the monies to be allocated for mass transportation, a grossly inadequate sum is earmarked for N.Y.C. rapid transit in relation to the overall need and to the tax burden on New Yorkers resulting from the Bond Issue. The temporary five cent relief on the subway fare increase promised is a very minor benefit.

The Executive Committee recommends the Chapter's opposition to Proposition No. 1, the Transportation Bond Issue.

PLANS SET FOR NOVEMBER 4TH NATIONAL WORKSHOP ON WORK-TRAINING PROGRAMS FOR DISADVANTAGED MINORITY GROUPS

Plans have been set for the National Workshop on Organizing On-The-Job Training Programs for Disadvantaged Youth in the Architectural and Engineering Field. The one-day meeting will be held in the auditorium of the United Engineering Center, 345 East 47th Street, New York, on Thursday, November 4th from 8:30 A.M. to 5:00 P.M.

Sponsored by the American Society of Civil Engineers, the National Society of Professional Engineers, the Consulting Engineers Council of the United States, the American Institute of Architects, and the Joint Urban Manpower Program (JUMP) of New York City, the objective of the workshop is to encourage and facilitate local development of on-the-job training programs for disadvantaged youth, with particular emphasis on minority groups.

The Workshop will present step-by-step procedures for organizing these programs by local sections of the sponsoring societies. Mr. Elmer B. Isaak, President of the ASCE Metropolitan Section, is serving as Chairman of the Workshop, and a number of outstanding authorities in the field of training will participate. Featured speakers will include Mr. Sol E. Cooper, President, Engineering Societies Committee for Manpower Training of San Francisco; George Carson, Director, Vocational Foundation Inc., New York; Rubin Friedman, Director of Employment Services Techniques, Region II, Manpower Administration, U.S. Department of Labor, New York; and Kenneth Lein, Coordinator, National OJT Program, National Urban League, Inc., New York.

Enrollment for the Workshop will be by advance registration only. Attendance will be limited and applications will be accepted in the order received. A \$5.00 registration fee will include the luncheon and refreshments. Further information and requests for advance programs should be directed to William P. Layton, ASCE Headquarters, 345 East 47th Street, New York, N.Y. 10017 (Tel. No. 212-752-6800, Ext. 504).

TAX (Continued from page 3)

enterprise. Taxable income is generally figured the same way as for federal tax purposes. However, income may be allocated if a practice is conducted both in and out of the City and a regular place of business is maintained outside the City.

What Special Deductions And Credits Are Allowed? Each unincorporated business is allowed a \$5,000 exemption. A deduction may also be taken for reasonable compensation for services of the proprietor or partners, of (a) \$5,000 for the proprietor or for each active partner, or (b) 20% of the taxable business income, whichever is less. In addition, a tax credit is allowed if the tax as computed is less than \$200.

Who Must File A Declaration Of Estimated Tax? A declaration of estimated tax must be filed if an unincorporated business reasonably expects its taxable income to exceed \$2,500. If this requirement is met for 1971, a declaration must be filed by September 15, 1971.

What Declaration Forms Should Be Used? Individual practitioners make declarations on form NYC-5. If a declaration has already been made for 1971 personal income tax purposes, the notice for the September 15 installment must be amended to include a declaration for unincorporated business tax declaration. Partnerships file declarations on form NYC-5UB.

PUBLIC SERVICE COMMITTEE BEGINS FUND DRIVE

Chairman David Glasser reports that over 40 Chapter members have volunteered to help raise funds to support the Chapter's minority scholarship programs. The Committee was formed last year to run a five year campaign with a goal of \$300,000. One third of this total will be obtained from assessments of Chapter members, the remainder will be sought from building contractors, major sub-contractors, owner-builders and material and equipment suppliers. Volunteers will be assigned to potential contributors on an individual basis. Contributions in amounts ranging from one to ten thousand dollars payable over a five year period will be solicited. A Citation Awards Dinner and presentation to honor contributors is planned for the spring.

The Committee could use additional volunteers and suggestions for other sources of funds. Contact Chairman Glasser.

JD

CANDIDATES FOR MEMBERSHIP

Information received by the Secretary of NYCAIA regarding the qualifications of candidates for membership will be considered confidential.

CORPORATE

Max Balassiano
Stephen Louis Cohan
George Early
Henry C. K. Liu
Robert E. Meadows
Demetrios Andrew Siderakis

Peter J. Catalano
James Peter D'Auria
Stephen A. Lamb
Robert Richard Markisz
Henry Reiter
John Shugart Hagmann

PROFESSIONAL ASSOCIATE

Robert Kenneth Moore

ASSOCIATE

Timothy F. Kirby

WELCOME TO NEW MEMBERS

The NYCAIA welcomes the following members:

CORPORATE

Marta R. Enebuske
George E. Shear

Jacques H. Gerstenfeld

ASSOCIATE

Baidya Nath Chattopadhyaya
Maria Slominska-Rzesos

Jay A. Almour
Monica P. Subtirelu