DATE: July 22, 1986

TO: William Lingo, Deputy Director, Engineering and Development Department; and Wilbur Smith, Deputy Director, Park and Recreation Department

FROM: City Attorney

SUBJECT: Indemnification and Hold Harmless Clauses in Architects and Engineers Contracts

After reviewing objections raised by insurance brokers underwriting errors and omissions insurance for architects and engineers, we have concluded that some modification to the standard indemnification clause will be necessary to avoid potential non-coverage problems. Accordingly, in design contracts we suggest the following:

Consultant agrees to indemnify and hold harmless the City, its officers, agents and employees from and against any and all claims, costs, suits and damages, including attorneys fees, arising from the negligent acts, errors or omissions of the consultant associated with the project.

We do not perceive this language to diminish the scope of protection to the City, since we may tender the defense of claims arising out of the errors and omissions of the design consultant when meritorious grounds exist.

In all other contracts not involving design or professional judgement, the standard clause promulgated by memorandum of March 28, 1986 (copy attached) should be used.

JOHN W. WITT, City Attorney By Rudolf Hradecky Deputy City Attorney

RH:mem:825(x043.2) Attachment ML-86-83