

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**THIRD AMENDMENT TO AGREEMENT FOR
PROFESSIONAL ARCHITECTURAL AND ENGINEERING DESIGN SERVICES
AFRICAN AMERICAN MEMORIAL PARK (PHASE 1)**

THIS THIRD AMENDMENT (“THIRD AMENDMENT”), is made and entered into by and between Fort Bend County (hereinafter “County”), a body corporate and politic under the laws of the State of Texas, and Hinesad, LLC d/b/a Hines Architecture + Design, (hereinafter “Consultant”), a company authorized to conduct business in the State of Texas. County and Consultant are hereinafter collectively referred to as the “Parties” and each individually as a “Party.”

WHEREAS, the Parties executed and accepted that certain *Agreement for Professional Architectural and Engineering Design Services African American Memorial Park (Phase 1)* on October 4, 2022, as amended by document on or about September 26, 2023, and again amended by document on or about January 23, 2024 (collectively hereinafter “Agreement”), which is incorporated by reference as if set forth herein verbatim; and

WHEREAS, by execution of this Third Amendment, the Parties desire to amend the Agreement to provide additional services by Contractor, to increase the Total Maximum Compensation, extend the time of performance, and to otherwise ratify and confirm all the terms and conditions as set forth herein.

NOW THEREFORE, in consideration of the foregoing, the Parties do mutually agree that the Agreement between the Parties is hereby amended as follows:

1. **Scope of Services.** County shall pay Contractor an additional Thirty Thousand Six Hundred Eighty-Two and no/100 dollars (\$30,682.00) for the performance and completion of additional services to include design revisions regarding Bates Allen Park as described in Consultant’s Proposal Letter dated April 15, 2024 (the “Services”) attached hereto as Exhibit “A” and incorporated by reference for all intents and purposes.
2. **Limit of Appropriation.** Consultant understands and agrees that the Maximum Compensation payable to Consultant for all Services rendered under this Agreement is hereby increased to an amount not to exceed Five Hundred One Thousand One Hundred Thirty-Two and no/100 dollars (\$501,132.00) authorized as follows:

\$376,200.00	under the Agreement	
\$52,050.00	under the First Amendment	
\$42,200.00	under the Second Amendment	
\$30,682.00	under this Third Amendment	
	TOTAL:	\$501,132.00

In no event shall the amount paid by County under this Agreement exceed the Maximum Compensation without a County approved change order. Consultant clearly understands and agrees, such understanding and agreement being the absolute essence of this Agreement, that County shall have available the total maximum sum of Five Hundred One Thousand One Hundred Thirty-Two and no/100 dollars (\$501,132.00) specifically allocated to fully discharge any and all liabilities County may incur under the Agreement.

Consultant does further understand and agree, said understanding and agreement also being of the absolute essence of the Agreement, that the total Maximum Compensation that Consultant may become entitled to and the total maximum sum that County may become liable to pay to Consultant under the Agreement shall not under any conditions, circumstances, or interpretations thereof exceed Five Hundred One Thousand One Hundred Thirty-Two and no/100 dollars (\$501,132.00).

3. **Time of Performance.** Time for performance of the Services under this Agreement, as amended shall terminate on December 31, 2028. Contractor shall complete the tasks described in the Scope of Services and Exhibit A attached hereto, within this time or within such additional time as may be extended in writing by County.
4. **Recitals.** The recitals set forth above are incorporated herein by reference and made a part of the Agreement.
5. **Modifications and Conflict.** Except as modified herein, the Agreement shall remain in full force and effect and has not been otherwise modified or amended. If there is a conflict among documents that make up the Agreement, this Amendment shall prevail with regard to the conflict.

Except as provided herein, all terms and conditions of the Agreement shall remain unchanged.

{Execution Page to Follow}

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the date signed by the final party.

FORT BEND COUNTY

HINESAD, LLC D/B/A HINES ARCHITECTURE +DESIGN

KP George, County Judge

Signature – Authorized Agent

Date

Gregory L. Lake
Printed Name

ATTEST:

Principal
Title

Laura Richard, County Clerk

05/16/2024
Date

APPROVED:

Darren McCarthy, Parks and Recreation Director

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$_____ to accomplish and pay the obligation of Fort Bend County under this contract.

Robert Ed Sturdivant, County Auditor

Exhibit A: HINESAD, LLC's Proposal dated April 15, 2024

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EXHIBIT A

(Follows Behind)

**HINES
ARCHITECTURE
+DESIGN**

April 15, 2024

COMMISSIONER DEXTER L. MCCOY
FORT BEND COUNTY COMMISSIONER – PRECINCT 4
1517 EUGENE HEIMANN CIRCLE
RICHMOND, TEXAS 77469

RE: FORT BEND COUNTY AFRICAN AMERICAN MEMORIAL AT BATES M ALLEN PARK, PHASE 1

Dear Ms. Gwendolyn Climmons, J.D., Assistant Parks Director – Administration & Projects

In accordance with your request HINESAD LLC d/b/a HINES ARCHITECTURE + DESIGN (HAD) is pleased to provide FORT BEND COUNTY with the following amended fee proposal for professional services to PO# 218226.

1. AMMENDED PROJECT SCOPE

- A. The Scope for Professional Services will include the modifications of drawings previously issued for construction, to clarify revised scope as agreed upon by the commissioner.

2 SCOPE OF ADDITIONAL SERVICES

HAD will provide Additional Services in a form of an agreement as mutually agreed to be consistent with the Project Scope and Scope of Additional Services described in this fee proposal. Additional Services will include:

2.1 REVISED DRAWINGS

- I. Provide revised drawings that aligns with the client's directive to streamline the scope as outlined in Exhibit A. The scope of work includes adjustments required from the civil engineer and landscape architects.

3. CONSULTANTS

The services of the following consultants or services are required by the project scope and will be retained and compensated by the Architect on behalf of the Client (see below). Consultants contracted directly to HAD are also listed below. HAD will coordinate the services of all Project design consultants including the coordination of document issue packages.

HAD Contracted Subconsultants and Services on behalf of the Client:

- Landscape Architect
- Civil Engineering

4. SCHEDULE & COMPENSATION

Additional Services for the amended scope will be provided in accordance with the following schedule durations and fees.

ITEM:	PHASE:	DURATION:	FEE:
4.1	Drawing Revisions	3 weeks	\$30,682.00
	Total Fixed Fee Additional Services		\$30,682.00

Method of Payment:

Fixed Fees: Fixed fee tasks maybe be invoiced as frequently as monthly based on the percentage of work completed within the billing period. HAD will attempt to submit invoices on the 15th of each month.

Hourly-with-a-Budget (H.W.B.) Fees: Hourly fee tasks shall be invoiced on a monthly basis according to HAD's currently scheduled rates effective on the date of this proposal. Service rendered within the billing period will be separately described for each hourly task invoiced. Hourly fee budgets will not be increased without the Client's prior approval.

Changes in project Scope or Duration: Should the scope or duration of the project be increased or decreased with regard to the current design, additional services may be required. Client approval is required at the end of Concept Design and Schematic Design only prior to proceeding to next phase. Revisions to drawings and other Project documents which are inconsistent with prior approvals of the Client, or which are necessary as a result of changes in the program, budget, or scope of the project may be an additional service. HAD shall notify the Client immediately if a change is required. Proposals and fees are for a continuous project, additional services may be required to remobilize the project should the project be placed on hold for more than four (4) weeks.

5. ADDITIONAL SERVICES

Services requested by the Owner falling outside the Scope of Basic Services described above shall be considered Additional Services. Additional Service requests will be completed at our standard hourly rates effective at the time of contract execution plus reimbursable expenses, or on a fixed fee basis where a substantial scope of work can be clearly defined in advance. The scope and terms of compensation for Additional services will be confirmed in written form prior to the commencement of services. Additional services include services related to:

- Graphic materials prepared for marketing purposes.
- USGBC LEED initiatives.
- Fast track project delivery and advance bid packages not identified under Basic Services.
- Major design or value engineering revisions to the plans and specifications after completion of Design Development.
- Revisions due to changes in applicable laws and regulations, which become effective after such documents were issued.
- Services related to City Planning special permits, authorizations, certifications, or governmental variances.
- Specialty consulting.
- Document revisions required as a consequence of contractor substitutions, inaccurate survey information, uncovered field conditions, and construction errors in the field.
- Meetings and presentations to regulatory agencies and community groups not identified under Basic Services
- Post Approval Amendment filings not identified under Basic Services.
- Post-Occupancy studies or commissioning.
- Cost Estimating Services
- Record Drawings

6. INCLUSIONS / EXCLUSIONS

Included Services:

1. Architecture
2. Landscape Design
3. Civil Engineering

Excluded Services:

1. Electrical Engineering
2. Structural Engineering
3. Lighting consultant
4. Cost Estimating Services
5. Land Surveyor
6. Geotechnical Engineering
7. Specialty Consultant (Artist & Site Historians)
8. Interior Design Services

HINES ARCHITECTURE +DESIGN

9. Façade Consultant
10. Arborist
11. Acoustic
12. Pool Structural/ Mechanical
13. Irrigation Design
14. Kitchen Consultant
15. Energy/ Sustainability Design/ Studies
16. Aerial Profile Survey
17. Animations & Physical Models
18. LEED
19. Substantial Redesign due to Fort Bend County extensive reviews which are beyond reasonable expectations
20. General Contracting Services
21. Value Engineering Activities
22. Field Surveys, As-built drawings, or the certification of as-built conditions
23. Construction inspections required by building authorities
24. Parking Consultant
25. Hazardous materials-related services
26. Flood Emergency Plans
27. Expediting Services
28. Record Drawings

7. REIMBURSABLE EXPENSES

Except for reproductions related to presentations to client and permitting, all additional Reimbursable expenses are in addition to compensation for Basic and Additional Services and include all expenses incurred by HAD and consultants directly related to the Project. Expenses include the cost of telecommunications; messengers and couriers; physical models, presentation material, and similar supplies; large format and color printing; codes and reference standards purchased particularly for the project; professional photography; meeting catering, and other similar expenses; overtime meals and long-distance travel and accommodation. For reimbursable expenses, we propose to be reimbursed at cost plus 10% to cover the administrative overhead costs associated with processing these expenses.

8. TERMS AND CONDITIONS

We propose that our relationship with you be governed by the terms and conditions outlined in an Owner/Architect Agreement to be finalized by both parties. Payments for services and reimbursable expenses shall be made monthly in proportion to the services performed and expenses incurred. Payment is due and payable within thirty (30) days of issuance of our invoice. Nothing shall be withheld from our compensation as security, to impose a penalty or as liquidated damages, unless we agree or have been found liable in a binding dispute resolution proceeding. Amounts unpaid thirty days after the invoice date shall bear interest at the rate of one and one-half percent per month. Failure to make payments, after notice has been given by Architect shall be cause for suspension or termination of our services; we will have no liability for any delay or damage caused because of such suspension of services and any expense incurred by us in collecting overdue amounts including, but not limited to legal fees, collection agency fees and expenses, court costs, collections bonds, and reasonable staff costs shall be reimbursable expenses.

9. CONFIDENTIALITY

The information contained herein, as well as any work prepared by HAD or any outside consultant or engineer in connection with the Services described herein, shall be kept confidential and shall not be disclosed to anyone, except to the parties to this agreement, and their directors, officers, and attorneys.

10. OWNERSHIP OF WORK PRODUCT

HAD shall grant the Client a limited license to use all HAD work product, including but not limited to studies, assessments, plans, and designs, prepared by HAD or any outside consultant or engineer in connection with the Services described herein as long as Client is in full conformance with all its other obligations under this agreement.

Please indicate your acceptance of this proposal by returning a signed copy to our office or by email. If you have questions or concerns, please do not hesitate to call. This proposal is valid for thirty (30) days from receipt.

We appreciate this opportunity to be of service to your organization.

Sincerely,



Gregory L. Lake | PRINCIPAL

HINESAD LLC d/b/a HINES ARCHITECTURE + DESIGN

Attachments: Exhibit A

