

**PROGRAM MANAGEMENT AGREEMENT**

Date: September 8, 2009

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## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1. DEFINITIONS.....	1
1.1 Preliminary Development Budget .....	1
1.2 Approved Development Schedule .....	1
1.3 Completion.....	2
1.4 Program Management Fee .....	2
1.5 Development Matters.....	2
1.6 Infrastructure.....	2
1.7 Expiration Date .....	2
1.8 Improvements .....	2
1.9 Project .....	2
1.10 Project Costs .....	2
1.11 Site .....	3
1.12 Approved Project Budget.....	3
1.13 Services.....	3
ARTICLE 2. ENGAGEMENT OF PROGRAM MANAGER.....	3
2.1 Engagement of Program Manager .....	3
2.2 Acceptance by Program Manager.....	3
ARTICLE 3. NATURE OF ENGAGEMENT.....	3
3.1 Status of Program Manager .....	3
3.2 No Partnership or Joint Venture .....	4
ARTICLE 4. TERM OF AGREEMENT.....	4
4.1 Term.....	4
4.2 Schedule of Services.....	4
4.3 Performance .....	4
ARTICLE 5. PROGRAM MANAGEMENT SERVICES .....	4
5.1 Nature of Program Manager's Services and Responsibilities .....	4
5.2 Program Manager's Team .....	4
5.3 Key Personnel .....	5
5.4 Program Manager's Services Not Exclusive.....	5
5.5 Program Manager's Cooperation .....	5
ARTICLE 6. OWNER'S OBLIGATIONS .....	5
6.1 Costs and Expenses.....	5
6.2 Owner's Funds, Development Account .....	6
6.3 Owner's Cooperation.....	6

ARTICLE 7. BOOKS, RECORDS, REPORTS, FISCAL MATTERS.....	6
7.1 Books .....	6
7.2 Records .....	6
7.3 Property of Owner .....	6
7.4 Reports .....	6
7.5 Audit .....	7
7.6 No Duty of Program Manager to Provide Funds.....	7
 ARTICLE 8. COMPENSATION .....	 7
8.1 Program Management Fee.....	7
8.2 Additional Services.....	7
8.3 Payment of Program Management Fee.....	7
8.4 Reimbursable Expenses .....	8
8.5 Time of Reimbursement .....	8
 ARTICLE 9. DEFAULT AND REMEDIES .....	 8
9.1 Default by Program Manager .....	8
9.2 Remedies of Owner .....	8
9.3 Default by Owner.....	9
9.4 Remedies of Program Manager .....	9
9.5 Other Remedies.....	9
 ARTICLE 10. EXPIRATION, TERMINATION, SUSPENSION OR ABANDONMENT. ....	 9
10.1 Terminating Events.....	9
10.2 Program Manager’s Obligations.....	10
10.3 Owner’s Obligations.....	11
10.4 Suspension.....	11
 ARTICLE 11. INSURANCE.....	 12
11.1 Owner’s Insurance Requirements.....	12
11.2 Program Manager’s Insurance Requirements.....	12
11.3 Owner’s Insurance Primary Coverage.....	13
 ARTICLE 12. STANDARD OF CARE: LIABILITY: INDEMNITY.....	 13
12.1 Standard of Care.....	13
12.2 Limitations on Liability .....	114
12.3 Indemnity of Program Manager.....	14
12.4 Indemnity of Owner.....	14
12.5 Relationship to Insurance.....	14
12.6 No Third-Party Beneficiaries.....	15
12.7 Independent Contractors.....	15

ARTICLE 13. REPRESENTATIONS AND WARRANTIES.....	15
13.1 Of Owner. ....	15
13.2 Of Program Manager. ....	15
 ARTICLE 14. GENERAL PROVISIONS.....	 16
14.1 Relationship Between Parties .....	16
14.2 Notices. ....	16
14.3 Assignment: Binding Effect.....	17
14.4 Authorized representatives. ....	17
14.5 Headings .....	18
14.6 Exhibits. ....	18
14.7 Defined Terms. ....	18
14.8 Pronouns .....	18
14.9 Severability. ....	18
14.10 Non-Waiver. ....	18
14.11 Rights Cumulative. ....	18
14.12 Time of Essence.....	18
14.13Applicable Law.....	19
14.14 Entire Agreement.....	19
14.15 Modifications.....	19
14.16 Counterparts.....	19
 SIGNATURE PAGE.....	 20
 EXHIBIT A "Project Manager's Response to SOQ 09-101," dated August 13, 2009	

## **PROGRAM MANAGEMENT AGREEMENT**

**THIS AGREEMENT** is made and entered into by and between FORT BEND COUNTY, TEXAS, a public body corporate and politic of the State of Texas acting by and through the Fort Bend County Commissioners Court (hereinafter referred to as “Owner”), and THE MATHIS GROUP, INC. (hereinafter referred to as “Program Manager”).

### **BACKGROUND INFORMATION**

Owner desires to retain the services of a Program Manager to perform certain Services for Owner relating to construction of the Fort Bend County Courts Facility. Owner has selected Program Manager as the entity to be engaged as the Program Manager for the project contemplated by Owner. Owner and Program Manager desire to execute and enter into this Agreement for the purpose of setting forth their agreement with regard to the foregoing.

Owner has determined that this Agreement is for personal or professional services and therefore exempt from competitive bidding under Chapter 262, LOCAL GOVERNMENT CODE.

### **STATEMENT OF AGREEMENT**

In consideration of the mutual covenants and agreement herein contained, the compensation to be paid to Program Manager hereunder, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

#### **ARTICLE 1. DEFINITIONS**

In addition to any other terms which are defined in this Agreement, each of the following terms, when used in this Agreement with an initial capital letter, shall have the following meaning:

1.1 **“Preliminary Development Budget”** means the schedule of all costs and expenses which Program Manager estimates will be incurred by or on behalf of Owner in connection with the Development Matters, as submitted by Program Manager to Owner with Program Manager’s request for Owner’s approval thereof as, and as approved by Owner as, the Approved Development Budget.

1.2 **“Approved Development Schedule”** means the schedule of all activities related to the construction of the Fort Bend County Courts Facility, to be managed by Program Manager, including estimated duration for each activity, as

submitted by Program Manager to Owner with Program Manager's request for Owner's approval thereof as, and as approved by Owner as, the Approved Development Schedule.

1.3 **"Completion"** means substantial completion of the Fort Bend County Courts Facility constituting the Project as described in Exhibit "A", which shall in any event be deemed to have occurred upon the occurrence of the following events: (i) the issuance by the Project architect of a certificate of substantial completion of those Improvements; and (ii) the issuance by the appropriate governmental authority of a certificate of occupancy for those Improvements; and (iii) the commencement of beneficial occupancy of those Improvements by Owner or persons or entities claiming under Owner.

1.4 **"Program Management Fee"** means the fee to be paid by Owner to Program Manager pursuant to Article 8 of this Agreement.

1.5 **"Development Matters"** means the design, construction, furnishing, demolition, infrastructure, services, equipping and occupancy of the Project.

1.6 **"Infrastructure"** means the basic facilities and installations needed for the functioning of the Improvements, including but not limited to utilities, telecommunications, information technology, sewage and water.

1.7 **"Expiration Date"** means the date thirty (30) consecutive days after the date of Completion, during which time the Program Manager will provide the Owner a complete punchlist, training, close out documents and construction warranty satisfaction from the parties who construct the Improvements, and assisting Owner in occupying, equipping and furnishing the Project.

1.8 **"Improvements"** means, collectively, all buildings, structures and other improvements (including all site development improvements and landscaping) to be developed on the Site pursuant to this Agreement.

1.9 **"Project"** means the Site and the Improvements.

1.10 **"Project Costs"** means the total of all costs and expenses incurred by or on behalf of Owner with respect to the Development Matters, including all contingencies, Program Manager fees, and Program Manager reimbursable expenses, and all amounts to be paid under agreements entered into by Program Manager, with prior consent of Owner, or agreements with Owner with third parties pursuant to this Agreement.



1.11 “**Site**” means that certain tract or parcel of land located on the 1400 block of Eugene Heimann Circle, Richmond, Texas, as contemplated by this Agreement.

1.12 “**Approved Project Budget**” means the total of all costs and expenses incurred by or on behalf of Owner, which have been approved by the Owner, with respect to the Development Matters, excluding all contingencies, all Program Manager fees, and all Program Manager reimbursable expenses, and amounts to be paid under agreements entered into with Program Manager and/or by Program Manager with prior consent of Owner.

1.13 “**Service(s)**” means the items described in Article 5 of this Agreement, including but not limited to the items described in Exhibit A – Program Manager’s response to SOQ 09-101.

## **ARTICLE 2. ENGAGEMENT OF PROGRAM MANAGER**

2.1 Engagement of Program Manager. Owner hereby engages Program Manager to perform, and hereby grants to Program Manager the right to perform the Services specified in this Agreement, including all attachments, schedules and exhibits, subject to and in accordance with the terms and provisions of this Agreement.

2.2 Acceptance by Program Manager. Program Manager hereby accepts its engagement by Owner, and agrees to perform the Services specified in this Agreement, including all attachments, schedules and exhibits, for the benefit of and on behalf of Owner, subject to and in accordance with the terms and provisions of this Agreement, including all attachments, schedules and exhibits.

## **ARTICLE 3. NATURE OF ENGAGEMENT**

3.1 Status of Program Manager. In the performance of its duties and obligations under this Agreement, Program Manager is, and shall at all times during the term of this Agreement be, an independent contractor, and not an employee of Owner. Program Manager shall act solely as the agent of Owner in the performance of its duties and obligations under this Agreement. All contracts and agreements executed or entered into by Program Manager in connection with the performance of its duties and obligations under this Agreement shall be contracts and agreements on behalf of, and for the account of, Owner. Program Manager shall obtain Owner’s prior approval of such contracts and agreements.

3.2 No Partnership or Joint Venture. Nothing contained in this Agreement shall constitute or be deemed or construed to create a partnership or joint venture between Owner and Program Manager.

#### **ARTICLE 4. TERM OF AGREEMENT**

4.1 Term. The term of this Agreement shall commence on the date approved by Owner and shall continue, unless sooner terminated as herein provided, until the Expiration Date as defined in Article 1.7 above.

4.2 Schedule of Services. Program Manager shall provide its Services as described in this Agreement and Exhibit A, Project Management Services Proposal.

4.3 Performance. Program Manager shall not be obligated to perform Services under this Agreement after the Expiration Date unless authorized by Owner for additional services and compensation.

#### **ARTICLE 5. PROGRAM MANAGEMENT SERVICES**

5.1 Nature of Program Manager's Services and Responsibilities. Owner acknowledges and agrees that Program Manager's responsibilities under this Agreement consist primarily of advising and consulting with Owner in connection with the Services. Owner further acknowledges that Program Manager is not itself preparing any design or engineering plans or specifications or performing any of the construction or furnishing any of the materials required for the Project. Owner agrees that Program Manager shall have no liability for or with respect to professional services rendered by others, plans, designs or specifications provided by others, construction work performed by others, or materials furnished by others (including without limitation any architect, engineer, construction manager or contractor) in connection with Program Manager's responsibilities under this Agreement. However, Program Manager has certain review functions related to the Services and remains liable for such review functions. Program Manager is not providing legal assistance to Owner in connection with such negotiations or otherwise. Program Manager will use its best efforts to assist the Owner in identifying and mitigating any hazardous materials that may exist relative to the Project, but assumes no responsibility to Owner in so doing. Program Manager is responsible for, and is liable for its performance in accordance with this Agreement of, those Services listed in Exhibit A.

5.2 Program Manager's Team. Owner hereby authorizes Program Manager to enter into appropriate agreements to procure the services of additional personnel to carry out Program Manager's obligations under this Agreement. The services of any such additional personnel are included within the Program Management Fee.

5.3 Key Personnel. Subject to the following provisions, Program Manager shall select the personnel and provide the Services directly and may reassign personnel if reassignment does not materially impede the performance or schedule of Services. (a) Program Manager represents and warrants that it shall use its best efforts to assign and maintain key personnel to the Project whose qualifications and experience were presented in its written proposal to Owner, and that all personnel it uses in connection with fulfilling its obligations pursuant to or arising from this Agreement (the "Project Personnel") shall be employees of Program Manager or, if applicable, Program Manager's subcontractor(s) and shall be qualified to perform the tasks assigned them. (b) Program Manager shall provide the resume of any on-site Project Personnel to Owner upon the written request of Owner. (c) Program Manager shall notify Owner of its intent to use any on-site Project Personnel to perform Services under the Agreement and Owner may refuse the use of such Project Personnel by providing Program Manager notice of such rejection within three (3) business days of notification. (d) The Owner may, upon written notice to Program Manager, require Program Manager to remove an individual immediately from providing Services for the following reasons: violation of the terms and conditions of this Agreement; violation of the Owner's work rules and regulations; criminal activity; or violation of state, federal, or municipal statutes. (e) Owner may, upon thirty (30) days written notice to the Program Manager, require Program Manager to remove an individual from providing Services without cause.

5.4 Program Manager's Services Not Exclusive. The Services to be rendered by Program Manager to Owner are not exclusive and, during the term of this Agreement, Program Manager and its affiliates may render services similar or identical to those required of it hereunder to other owners of real property and may itself engage in the acquisition, development, management and operation of, or any other activities with respect to, real property for its own account or benefit or for others, without any accountability or liability whatsoever to Owner provided that Owner's best interest is represented at all times. Furthermore, any conflict of interest or potential conflict of interest must be disclosed to Owner.

5.5 Program Manager's Cooperation. In performing the Services as identified, the Program Manager shall act diligently and in good faith and shall cooperate fully with the Owner in all matters relating to the project. The Program Manager shall act expeditiously on requests by the Owner regarding Project matters.

## **ARTICLE 6. OWNER'S OBLIGATIONS**

6.1 Costs and Expenses. Except as expressly set forth in this Agreement to the contrary, Owner shall bear all costs and expenses of the Project, which are approved by the Owner. All of the Services performed by Program Manager under this Agreement shall be performed at the cost and expense of, and for the account of, Owner and shall be included in the Program Management Fee.

6.2 Owner's Funds; Development Account. Owner covenants and agrees (without creating any third party beneficiary rights) to make available all funds necessary to pay all Project Costs on a current basis.

6.3 Owner's Cooperation. In performing its functions hereunder, Owner shall act diligently and in good faith and shall cooperate fully with Program Manager in all matters relating to the Project. Owner shall act as expeditiously as possible on all requests by Program Manager for approval and execution of any contract, agreement or other document pertaining to the Project. In exercising its rights of approval, Owner shall act reasonably and in good faith.

## **ARTICLE 7. RECORDS, REPORTS, FISCAL MATTERS**

7.1 Program Manager shall maintain for Owner a current and complete account of all transactions with respect to the Project. Such accounting shall be maintained at Program Manager's office at the Site, or at such other place as the parties shall agree upon, and Owner and Owner's accountants and auditors shall have access to such books of accounts at all reasonable times. Program Manager shall maintain said accounting in a safe manner and separate from any accounts not dealing directly with the Project. Such accounting shall be kept in accordance with sound accounting practices consistently applied, and otherwise in such manner as shall be reasonably required by Owner.

7.2 Records. Program Manager shall maintain, in a secure and safe manner, complete and identifiable records on all matters pertaining to Program Manager's activities under this Agreement on behalf of Owner with respect to the Project.

7.3 Property of Owner. All such books of account and records shall be and remain the property of Owner, and, upon the expiration or earlier termination of this Agreement, shall be turned over to Owner as provided in Article 10 hereof. Such books and records shall thereafter be available to Program Manager at all reasonable times for inspection, audit, examination and transcription for a period of three (3) years from the Expiration Date or earlier date of termination of this Agreement, upon reasonable prior notice to Owner and at the expense of Program Manager. Any equipment or supplies purchased for Owner and charged to Owner by Program Manager, having a usable life at the expiration of this Agreement, shall be the property of the Owner, and shall be turned over to the Owner as provided in Article 10.

7.4 Reports. Not later than the tenth (10th) day of each month during the term of this Agreement, with respect to the preceding calendar month, Program Manager shall furnish Owner a statement of all disbursements recommended to the

Owner by Program Manager in connection with the Project for the preceding calendar month, prepared in such reasonable detail and form as shall be required by Owner.

7.5 Audit. Owner shall have the right, during normal business hours, to inspect, copy and audit at any time, and from time to time, all of Program Manager's files, books, records, costs and expenses pertaining to the Project. If Owner elects to audit Program Manager's files, books, records, costs and expenses pertaining to the Project, and the audit discloses a discrepancy of one percent (1%) or more from the payment applications or invoices, then, in addition to repaying Owner all sums owing, Program Manager shall pay the cost of the audit.

7.6 No Duty of Program Manager to Provide Funds. Under no circumstances shall Program Manager have any duty or obligation to advance any funds for the account of Owner, but if Program Manager does advance any of its own funds for the account of Owner, Owner shall promptly reimburse Program Manager therefor.

## **ARTICLE 8. COMPENSATION**

8.1 Program Management Fee. As compensation for the Services to be rendered by Program Manager pursuant to this Agreement, including all attachments, schedules and exhibits, Owner shall pay to Program Manager a Program Management Fee an amount not to exceed \$630,000.00.

8.2 Additional Services. If the scope of the Project or the services required of Program Manager materially expanded from the terms of this Agreement, any attachments, schedules and exhibits to this Agreement, any documents incorporated herein, and any written amendments or modifications of this Agreement, the Program Management Fee for such additional services shall be negotiated and subject to a written amendment to this Agreement by the Program Manager and Owner.

8.3 Payment of Program Management Fee.

8.3.1 Program Manager's fee shall be paid according to the following schedule:

- A. \$30,000.00 per month for the first twenty (20) months; and
- B. \$15,000.00 per month for the final two (2) months of the Project.
- C. Owner shall retain ("Retainage") five percent (5%) from payments to Program Manager until Expiration Date, as defined in Article 1.7 of this Agreement.

8.3.2 Owner and Program Manager shall develop prior to any payments due to Program Manager, a billing practice by which Program Manager shall submit detailed invoices for payment.

8.4 Reimbursable Expenses. The Program Management Fee for Program Manager's Services, as determined by the method described in Article 8.1 herein, does not include out-of-pocket costs of Program Manager for travel, telephone calls (including long-distance and facsimile), postage and in-office photocopying. The reimbursable expenses for travel, telephone call, postage and in-office photocopying shall not exceed \$8,000.00 for the term of this Agreement. All expenses submitted by Program Manager shall be subject to approval by Owner prior to reimbursement.

8.5 Time of Reimbursement. Program Manager shall be reimbursed for out-of-pocket costs and expenses, subject to approval by Owner, on a calendar monthly basis, within thirty (30) days after submission to Owner of a statement thereof, together with such supporting material and detail as may be reasonably required by Owner.

## **ARTICLE 9. DEFAULT AND REMEDIES**

9.1 Default by Program Manager. Program Manager shall be in default under this Agreement if Program Manager fails to perform any of its duties and obligations under this Agreement and does not cure or remedy such failure to perform within thirty (30) days after receipt of written notice from Owner with respect thereto; provided, however, that, if such failure to perform shall necessitate longer to cure than such thirty (30) day period, then such cure period shall be extended for such period of time as is reasonably necessary to cure such failure to perform if Program Manager commences such cure within thirty (30) days after receipt of written notice from Owner and thereafter proceeds diligently and in good faith to cure.

9.2 Remedies of Owner. Upon the occurrence of a default by Program Manager under this Agreement, Owner may pursue any one or more of the following remedies, separately or concurrently or in any combination, without further notice or demand whatsoever:

9.2.1 Owner may terminate this Agreement by giving Program Manager thirty (30) days advanced written notice of such termination, in which event this Agreement shall be terminated at the time designated by Owner in its notice of termination to Program Manager, subject to the provisions of Article 9 of this Agreement.

9.2.2 With or without terminating this Agreement, Owner may bring an action against Program Manager to recover from Program Manager all damages, recoverable at law for reason of negligence, suffered, incurred or sustained by Owner as a result of, by reason of or in connection with such default.

9.3 Default by Owner. Owner shall be in default under this Agreement if Owner fails to perform any of its duties and obligations under this Agreement and does not cure or remedy such failure to perform within thirty (30) days after receipt of written notice from Program Manager with respect thereto; provided, however, that, if such failure to perform shall necessitate longer to cure than such thirty (30) day period, then such cure period shall be extended for such period of time as is reasonably necessary to cure such failure to perform if Owner commences such cure within thirty (30) days after receipt of written notice from Program Manager and thereafter proceeds diligently and in good faith to cure.

9.4 Remedies of Program Manager. Upon the occurrence of a default by Owner under this Agreement, Program Manager may pursue any one or more of the following remedies, separately or concurrently or in a combination, without further notice or demand whatsoever:

9.4.1 Program Manager may terminate this Agreement by giving Owner thirty (30) days advanced written notice of such termination, in which event this Agreement shall be terminated at the time designated by Program Manager in its notice of termination to Owner.

9.4.2 With or without terminating this Agreement, Program Manager may bring an action against Owner to recover from Owner all damages, recoverable at law, suffered, incurred or sustained by Program Manager as a result of, by reason of or in connection with such default.

9.5 Other Remedies. In the event of the occurrence of a default hereunder, the prevailing party shall, in addition to its other rights and remedies hereunder, have the right to recover from the party in default all reasonable costs and expenses incurred by the prevailing party in enforcing its rights and remedies hereunder, including reasonable attorneys' fees. The termination of this Agreement by either Program Manager or Owner by reason of default by the other party shall not relieve either party of any of its duties and obligations theretofore accrued under this Agreement prior to the effective date of such termination.

## **ARTICLE 10. EXPIRATION, TERMINATION, SUSPENSION OR ABANDONMENT.**

10.1 Terminating Events. The engagement of Program Manager hereunder may be terminated upon the happening of any of the following events pursuant to the provisions described below:

10.1.2 Either Owner or Program Manager defaults under this Agreement and the non-defaulting party elects to terminate this Agreement as provided in Article 9 hereof.

10.1.3 The giving of written notice from Owner in the event: (i) any receiver, trustee or custodian shall be appointed for all or any substantial part of the property or assets of Program Manager; (ii) Program Manager shall commence any voluntary proceeding under present or future federal bankruptcy laws or under any other bankruptcy, insolvency or other laws respecting debtor's rights; or (iii) an "order for relief" or other judgment or decree by any court of competent jurisdiction is entered against Program Manager in any involuntary proceeding against Program Manager under present or future federal bankruptcy laws or under any other bankruptcy, insolvency or other laws respecting debtor's rights, or any such involuntary proceeding shall be commenced against Program Manager and shall continue for a period of ninety (90) days after commencement without dismissal.

10.1.4 The giving of written notice from Program Manager in the event: (i) any receiver, trustee or custodian shall be appointed for all or any substantial part of the property or assets of Owner; (ii) Owner shall commence any voluntary proceeding under present or future federal bankruptcy laws or under any other bankruptcy, insolvency or other laws respecting debtor's rights; or (iii) an "order for relief" or other judgment or decree by any court of competent jurisdiction is entered against Owner in any involuntary proceeding against Owner under present or future federal bankruptcy laws or under any other bankruptcy, insolvency or other laws respecting debtor's rights, or any such involuntary proceeding shall be commenced against Owner and shall continue for a period of ninety (90) days after commencement without dismissal.

10.1.5 The giving of written notice from Owner that the Project is being either abandoned or suspended for more than three hundred sixty-five (365) consecutive days.

10.1.6 The giving of written notice from Program Manager if the Project is suspended by Owner for more than ninety (90) consecutive days.

10.1.7 Owner or Program Manager may terminate this agreement, without cause, by providing Program Manager thirty (30) days prior written notice.

10.2 Program Manager's Obligations. Upon the expiration or earlier termination of this Agreement, Program Manager shall promptly:

10.2.1 Upon request by Owner, deliver to Owner or such other person as Owner shall designate all materials, supplies, equipment, keys, contracts and documents, all books of account maintained pursuant to Article 7.1 hereof, and all records maintained pursuant to Article 7.2 hereof, pertaining to this Agreement and the Project.

10.2.2 Subject to Program Manager's obtaining any consent of any third party required therefor, assign all existing contracts approved by Owner relating to the Project to Owner or such other person or entity as Owner shall designate. Any contract or agreement that Program Manager negotiates on behalf of Owner that is subject to this paragraph shall contain a statement that prohibits such third party from unreasonably withholding the requisite consent.

10.2.3 Furnish all such information, take all such other action, and cooperate with Owner as Owner shall reasonably require in order to effectuate an orderly and systematic termination of Program Manager's services, duties, obligations and activities hereunder.

10.2.4 Within thirty (30) days after the expiration or termination of this Agreement, cause to be furnished to Owner a report similar in form and content to Program Manager's monthly reports covering the period from the last previous monthly report to the date of expiration or termination of this Agreement.

10.2.5 Furnish a report of all outstanding orders for services, materials and supplies ordered by Program Manager as a result of its obligations arising under this Agreement at the time of expiration or termination. Such report shall include the status of payment for such services, i.e., whether they have been charged to or paid by Program Manager, and whether they have been charged to or paid by Owner. Such report shall be furnished no later than thirty days after the date of expiration or termination.

10.3 Owner's Obligations. Upon the expiration or earlier termination of this Agreement, Owner shall promptly:

10.3.1 Assume any contracts which may have been entered into by Program Manager in its own name relating to the Project, provided, however, that Owner has specifically authorized Program Manager to enter into such contract.

10.3.2 Pay the cost of all services, materials and supplies, if any, which may have been ordered by Program Manager as a result of its obligations arising under this Agreement that has not been charged to or paid by Program Manager and reimbursed under this Agreement at the time of expiration or termination, but have since been paid for by Program Manager and were included in the report submitted pursuant to Article 10.2.5; provided, however, that Owner actually receives such services, materials and supplies in a satisfactory manner or condition; provided further that demand for such payment is in a reasonable and timely manner.

10.4 Suspension. If the Project is suspended by Owner for more than thirty (30) consecutive days, Program Manager shall be compensated for services prior to notice of such suspension. In the event the Project is resumed, the Program

Management Fee shall be equitably adjusted by written amendment to this Agreement to provide for Program Manager's expenses incurred in the interruption and resumption of its services.

## **ARTICLE 11. INSURANCE.**

11.1 Owner's Insurance Requirements. Throughout the term of this Agreement, Owner shall carry and maintain in force, or cause to be carried and maintained in force by the construction contractor, the insurance described in Subsections 11.1.1 through 11.1.2, below, the premiums of all of which shall be the sole cost and expense of Owner.

11.1.2 Commercial General Liability Insurance (including protective liability coverage on operations of independent contractors engaged in construction, blanket contractual liability coverage products liability coverage, and explosion, collapse and underground hazards coverage) for the benefit for Owner and Program Manager, as an additional insured, against claims for personal injury, bodily injury and property damage, with a limit of not less than one million dollars (\$1,000,000) in the event of personal injury or bodily injury to any number of persons or damage to property arising out of any one occurrence. Such insurance (which may be furnished under a primary policy or an "umbrella" policy or policies) shall also include coverage against liability for bodily injury or property damage arising out of use by or on behalf of Owner or Program Manager in conjunction with Project of any owned, non-owned or hired automotive equipment for a limit not less than that specified above. Such insurance shall include a cross-liability/severability of interest provision.

11.1.3 "All risk" builder's risk insurance, provided by Owner construction contractor(s), written on 100% of the completed value basis, in an amount not less than the total replacement cost of the Project under construction (excluding site preparation and grading, but specifically including paving, parking lots, foundations and other undersurface installations subject to collapse or damage by other insured perils), including, if applicable, the coverage available under the so-called "installation floater".

11.1.4 Owner shall, upon Program Manager's request, furnish Program Manager with appropriate certificates evidencing the insurance required to be maintained by Owner hereunder.

11.2 Program Manager's Insurance Requirements. Throughout the term of this Agreement, Program Manager shall carry and maintain in force the insurance described in Subsections 11.2.1 through 11.2.4, below.

11.2.1 Commercial General Liability Insurance (including protective liability coverage on operations of independent contractors engaged in construction, blanket

contractual liability coverage, products liability coverage, and explosion, collapse and underground hazards coverage) for the benefit of Program Manager, against claims for personal injury, bodily injury and property damage, with a limit of not less than One Million Dollars (\$1,000,000) in the event of personal injury or bodily injury to any number of persons or of damage to property arising out of any one occurrence, and not less than \$1,000,000 in the aggregate applicable to this Project.

11.2.2 Workers' compensation insurance covering all employees of Program Manager employed in, on or about the Project in order to provide statutory benefits as required by the laws of the State of Texas.

11.2.3 Automobile Liability: \$300,000 combined single limit per accident for bodily injury and property damage. Owner shall be named as Additional Insured for this coverage.

11.2.4 Program Manager shall, upon Owner's request, furnish Owner with appropriate certificates evidencing the insurance required to be maintained by Program Manager hereunder. If Program Manager for any reason fails to obtain and/or maintain in force any of the insurance required under Subsections 11.2.1 through 11.2.3, above, then Program Manager shall, and Program Manager does hereby agree to, indemnify Owner against, and hold, save, and defend Owner harmless from, any and all claims, demands, actions, causes of action, suits, liabilities, damages, losses, costs and expenses of any kind or nature whatsoever (including, without limitation, reasonable attorneys' fees and court costs incurred in enforcing this indemnity and otherwise) which Owner may suffer or incur, or which may be asserted against Owner, whether meritorious or not, against which Owner would or should have been insured under any required insurance which Program Manager does not for any reason obtain or maintain in force.

11.3 Owner's Insurance Primary Coverage. As between any insurance carried by Owner and any insurance carried by Program Manager, Owner's insurance shall for all purposes be considered the primary coverage, and no claim shall be made under or with respect to any insurance maintained by Program Manager except in the event that Owner's entire insurance is exhausted (without regard to whether the actual amount of Owners' insurance exceeds the amounts specified in this Article 11).

**ARTICLE 12. STANDARD OF CARE: LIABILITY: INDEMNITY.**

12.1 Standard of Care. In the performance of its duties and obligations under this Agreement, Program Manager shall, subject to budgetary constraints and limitations imposed by Owner on the Project, perform diligently and in good faith. Program Manager represents that it accepts a fiduciary role and responsibility with respect to Owner and shall, to its best abilities, act in the best interests of Owner and the timely completion of the Work. Program Manager agrees and understands that

neither it nor any of its agents or employees may act in the name of Owner except and unless specifically authorized in writing by Owner to do so.

12.2 Limitations on Liability. Neither Program Manager nor any agent or employee of Program Manager shall have any liability to Owner for any reasonable mistakes or errors of judgment, for any reasonable mistakes of fact or of law, or for any act or omissions within the scope of the authority conferred upon Program Manager by this Agreement; provided, however, that the foregoing shall not extend to losses, damages or expenses suffered or incurred by Owner if and to the extent the same are caused by any gross negligence or willful misconduct of Program Manager or its agents or employees.

12.3 Indemnity of Program Manager. To the extent permitted by law, Owner shall indemnify, defend and hold harmless Program Manager, its officers, directors, shareholders, employees and agents from and against any and all claims, actions, demands, costs, and expenses, including reasonable attorney fees and disbursements, as a result of a breach by Owner of any of its obligations under this Agreement or arising out of the negligent act or omission or willful misconduct of Owner; provided, however, that, (i) Owner shall not be liable for any indirect, special, or consequential damages or lost profits, arising out of or related to performance of this Agreement or a breach of this Agreement, even if advised of the possibility of such damages or lost profits, (ii) Owner's maximum liability to Program Manager, regardless of the form of action and whether for damages, indemnification or otherwise, shall not exceed \$100,000; and (iii) Owner (and its affiliates, directors, employees, agents, successors or assigns) will not be liable for any claim which is asserted by Program Manager any more than ninety days after Program Manager is or reasonably should have been aware of such claim, and will in no event be liable for any claim which is asserted by Program Manager more than twelve months after the event resulting in damages or loss.

12.4 Indemnity of Owner. Program Manager shall, and Program Manager does hereby agree to, indemnify Owner against, and hold and save Owner harmless from, any and all claims, demands, actions, causes of action, suits, liabilities, damages, losses, costs and expenses (including, without limitation, reasonable attorneys' fees and court costs incurred in enforcing this indemnity and otherwise) which Owner may suffer or incur, or which may be asserted against Owner, whether meritorious or not, which are caused by any gross negligence or willful misconduct of Program Manager or its agents or employees. Such indemnity shall continue notwithstanding the expiration or earlier termination of this Agreement with respect to any occurrence preceding such expiration or termination. The foregoing notwithstanding, owner does not waive any immunity to which it is statutorily entitled.

12.5 Relationship to Insurance In no event shall the indemnification provisions of Sections 12.3 or 12.4, above, diminish, affect, impede or impair, in any

manner whatsoever, the benefits to which any party may be entitled under any insurance policy with respect to the Project required by this Agreement or otherwise, or under the terms of any waiver of any subrogation contained therein.

12.6 No Third-Party Beneficiaries. None of the duties and obligations of Program Manager under this Agreement shall in any way or in any manner be deemed to create any liability of Program Manager to, or any rights in, any person or entity other than Owner.

12.7 Independent Contractors. No person who shall be engaged as an independent contractor by either Owner or Program Manager, or both, shall be considered an employee, servant, agent or other person for whom either Owner or Program Manager (as the case may be) is responsible for the purposes of Indemnifications in the foregoing Sections of this Article 12.

### **ARTICLE 13. REPRESENTATIONS AND WARRANTIES.**

13.1 Of Owner. Owner represents and warrants to Program Manager that: (i) Owner is a public body corporate and politic, duly organized, validly existing and in good standing under the laws of the State of Texas, is qualified to transact business in the State of Texas, and has the full and complete right, power and authority to enter into this Agreement and perform Owner's duties and obligations under this Agreement in accordance with the terms and conditions of this Agreement; and (ii) Owner is the true and lawful owner of the Project.

13.2 Of Program Manager. Program Manager represents and warrants to Owner that: (i) Program Manager is a corporation, duly organized, validly existing and in good standing under the laws of the State of Texas, is qualified to transact business in the State of Texas, and has the full and complete right, power and authority to enter into this Agreement and perform Program Manager's duties and obligations under this Agreement in accordance with the terms and conditions of this Agreement; and (ii) Program Manager has obtained or will obtain all necessary licenses and permits which are required for Program Manager to perform Program Manager's Services pursuant to this Agreement.

13.2.1 Program Manager warrants to Owner that: (1) Program Manager possesses the skill and knowledge ordinarily possessed by well-informed members of its trade or profession and Program Manager will use its best efforts to ensure that the Services provided under this Agreement will be performed, delivered, and conducted in accordance with the highest professional standards and in accordance with industry standards, (2) Program Manager will use its best efforts to perform the Project in an expeditious and economical manner consistent with the interests of Owner, and (3) following the date of acceptance of this Agreement, the Services provided by Program Manager to Owner will conform to the representations contained in this Agreement,

including all attachments, schedules and exhibits. All warranties provided by Program Manager in this Agreement shall be cumulative, shall be deemed consistent and not in conflict, are intended to be given full force and effect and to be interpreted expansively to give the broadest warranty protection to Owner.

13.2.2 Program Manager warrants that the Project shall be completed for an amount not to exceed the Preliminary Development Budget as defined in Article 1.1 of this Agreement.

#### **ARTICLE 14. GENERAL PROVISIONS.**

14.1 Relationship Between Parties. The relationship of the parties shall be limited to the Project. Nothing herein shall be deemed to authorize Program Manager to act as the general agent of Owner.

14.2 Notices. Whenever any notice, demand or request is required or permitted under this Agreement, such notice, demand or request shall be in writing and shall be delivered by hand, be sent by registered or certified mail, postage prepaid, return receipt requested, or be sent by nationally-recognized commercial courier for next business day delivery, to the addresses set forth below or to such other addresses as are specified by written notice given in accordance herewith, or shall be transmitted by facsimile to the number for each party set forth below or to such other numbers as are specified by written notice given in accordance herewith:

**OWNER:** Fort Bend County Commissioners Court  
301 Jackson St., Suite 719  
Richmond, TX 77469  
Attention: Robert Hebert, County Judge  
Facsimile Number: (281) 341-8609

**PROGRAM  
MANAGER:** The Mathis Group, Inc.  
Joseph H. Mathis, President  
13135 Dairy Ashford, Suite 390  
Sugar Land, Texas 77478  
Facsimile Number: (281) 265-6825

Copy to: Fort Bend County Purchasing Department  
Gilbert D. Jalomo, Jr., CPPB  
4520 Reading Road, Suite A  
Rosenberg, Texas 77471

Facilities Management and Planning  
Don Brady, Director  
517 Eugene Heimann Circle, Suite 500  
Richmond, Texas 77469

Copy to: Roy L. Cordes, Jr.  
County Attorney  
301 Jackson, Suite 728  
Richmond, Texas 77479

All notices, demands or requests delivered by hand shall be deemed given upon the date so delivered; those given by mailing as hereinabove provided shall be deemed given on the date of deposit in the United States Mail; those given by commercial courier as hereinabove provided shall be deemed given on the date of deposit with the commercial courier; and those given by facsimile shall be deemed given on the date of facsimile transmittal. Nonetheless, the time period, if any, in which a response to any notice, demand or request must be given shall commence to run from the date of receipt of the notice, demand or request by the addressee thereof. Any notice, demand or request not received because of changed address or facsimile number of which no notice was given as hereinabove provided or because of refusal to accept delivery shall be deemed received by the party to whom addressed on the date of hand delivery, on the date of facsimile transmittal, on the first calendar day after deposit with commercial courier, or on the third calendar day following deposit in the United States Mail, as the case may be.

14.3 Assignment: Binding Effect. The rights of the parties under this Agreement are personal to the parties and may not be assigned without prior written consent of the other party, which consent shall not be unreasonably withheld; This Agreement shall be binding upon and enforceable against, and shall inure to the benefit of, the parties hereto and their respective legal representatives, successors and permitted assigns.

14.4 Authorized representatives. Any consent, approval, authorization or other action required or permitted to be given or taken under this Agreement by Owner or Program Manager, as the case may be, shall be given or taken by one or more of the authorized representatives of each. For purposes of this Agreement; (i) the authorized representatives of Owner shall be any one or more of the following – Robert E. Hebert or designee, (ii) the authorized representatives of Program Manager shall be Joe E. Lee or designee. Any party hereto may from time to time designate other or replacement authorized representatives to the other party hereto. The written statements and representations of any authorized representative of Owner or Program Manager shall be binding upon the party for whom such person is an authorized representative, and the other party hereto shall have no obligation or duty whatsoever to inquire into the authority of any such representative to take any action which he proposes to take.

14.5 Headings. The use of headings, captions and numbers in this Agreement is solely for the convenience of identifying and indexing the various



provisions in this Agreement and shall in no event be considered otherwise in construing or interpreting any provision in this Agreement.

14.6 Exhibits, Attachments and Schedules. Each and every exhibit, attachment and schedule referred to or otherwise mentioned in this Agreement is attached to this Agreement and is and shall be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each exhibit were set forth verbatim every time it is referred to or otherwise mentioned.

14.7 Defined Terms. Capitalized terms used in this Agreement shall have the meanings ascribed to them at the point where first defined, irrespective of where their use occurs, with the same effect as if the definitions of such terms were set forth in full and at length every time such terms are used.

14.8 Pronouns. Wherever appropriate in this Agreement, personal pronouns shall be deemed to include the other genders and the singular to include the plural.

14.9 Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held to be invalid or unenforceable, then in each such event the remainder of this Agreement or the application of such term, covenant, condition or provision to any other person or any other circumstance (other than those as to which it shall be invalid or unenforceable) shall not be thereby affected, and each term, covenant, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

14.10 Non-Waiver. Failure by either party to complain of any action, non-action or default of the other party shall not constitute a waiver of any aggrieved party's rights hereunder. Waiver by either party of any right arising from any default of the other party shall not constitute a waiver of any other right arising from a subsequent default of the same obligation or for any other default, past, present or future.

14.11 Rights Cumulative. All rights, remedies, powers and privileges conferred under this Agreement on the parties shall be cumulative of and in addition to, but not restrictive of or in lieu of, those conferred by law.

14.12 Time of Essence. Time is of the essence of this Agreement. Anywhere a day certain is stated for payment or for performance of any obligation, the day certain so stated enters into and becomes a part of the consideration of this Agreement.

14.13 Applicable Law. This Agreement shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of Texas.

Venue for any action regarding this agreement shall lie in Fort Bend County, Texas and/or the United States District Court, Southern District of Texas, Houston Division.

14.14 Entire Agreement. This Agreement, including Exhibits A & B, contains the entire agreement of Owner and Program Manager with respect to the engagement of Program Manager as the Program Manager for the Project, and all representations, warranties, inducements, promises or agreements, oral or otherwise, between the parties not embodied in this Agreement shall be of no force or effect.

14.15 Modifications. This Agreement shall not be modified or amended in any respect except by a written agreement executed by Owner and Program Manager in the same manner as this Agreement is executed.

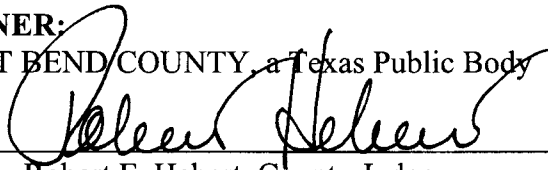
14.16 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*



IN WITNESS WHEREOF, Owner and Program Manager have caused their respective duly authorized representatives to execute, seal and deliver this Agreement, all as of the day and year first above written.


**OWNER:**  
FORT BEND COUNTY, a Texas Public Body

By:   
Robert E. Hebert, County Judge  
Fort Bend County Commissioners Court

Date: 9-8-09

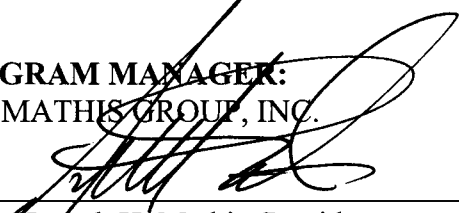
Attest:   
Dianne Wilson, County Clerk

APPROVED:

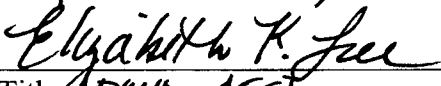
By:   
Don Brady, Director  
County Facilities Management  
& Planning Department

9-08-09  
Date

**PROGRAM MANAGER:**  
THE MATHIS GROUP, INC.

By:   
Joseph H. Mathis, President

Date: SEPT 08, 2009

Attest:   
Title: ADMIN. ASST.

[CORPORATE SEAL]

**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in an amount not to exceed \$638,000.00 to accomplish and pay the obligation of Fort Bend County in the foregoing matter.

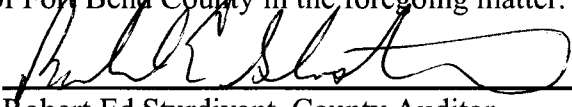
  
Robert Ed Sturdivant, County Auditor

Exhibit A

Fort Bend County Courthouse  
Q09-101



## Proposal

# Fort Bend County Justice Center

Program Management Services  
Q09-101

Prepared For:

Fort Bend County  
**Purchasing Department**  
Rosenberg Annex  
Gilbert D. Jalomo Jr., CPPB  
County Purchasing Agent

13 August 2009

Prepared By:

The Mathis Group, Inc.  
13135 Dairy Ashford, Suite 390  
Sugar Land, TX 77478

A Fort Bend Company!



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The Mathis Group, Inc.

August 13, 2009

**Fort Bend County Courthouse**  
Q09-101



Gilbert D. Jalomo Jr., CPPB  
Fort Bend County  
Purchasing Department  
Rosenberg Annex  
4520 Reading Road, Suite A  
Rosenberg, TX 77471

Re: Fort Bend County Justice Center  
Q09-101

Dear Gilbert,

We at The Mathis Group, Inc. are flattered to be provided the opportunity to propose our Project Management Services to Fort Bend County. We are confident that you will find our firm both qualified to serve you and unique in our business and approach.

This year we celebrate 20 years of successful service to our clients. Our hard work and success has provided us with many repeat customers and great references, which we encourage for you to call.

We are unique in that we:

- Promise you participation and leadership of our principal founder, Joseph H. Mathis
- Are local in Fort Bend County
- Provide you seven day termination (If you are not completely satisfied with our services, send us home!)

We look forward to speaking with you and earning the privilege of further consideration.

Please call on us with any questions you may have.

Sincerely,

The Mathis Group, Inc.

Joseph H. Mathis  
President



The Mathis Group, Inc.

2

August 13, 2009

## Vendor Information

- Legal Name of Contracting Company: The Mathis Group, Inc.
- Federal ID Number: 76-0342344C Corporation—State of Texas 1990
- Telephone Number: 281-265-6028; Facsimile Number: 281-265-6825
- Complete Mailing Address: 13135 Dairy Ashford, Suite 390
- City, State & Zip: Sugar Land, TX 77478
- Authorized Representative and Title: Joseph H. Mathis, President
- Authorized Representative's Email Address: jmathis@mathisgroup.com



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Signature of Authorized Representative

## Firm Data

### About The Company

The Mathis Group, Inc. is a privately held family operated Corporation based in Fort Bend County, 13135 Dairy Ashford, Suite 390, Sugar Land, TX 77478. The firm is managed by it's founder and owner Joseph H. Mathis; we have no affiliates. With 20 years of successful Project Management services, TMG+ has served clients with projects of varying types and sizes in 39 states and in Europe. There has been no arbitration or litigation in the past 5 years.

Our local staff currently includes:

Project Executive	1
Accountant / Treasurer	1
Book Keeper	1
Project Managers	4
Project Schedulers	1
Project Administration	2
General Clerical	1

For your project we propose a Project Executive, one of two available Project Managers, a Project Scheduler and a Project Administrator. This team will be supported by clerical and accounting staff as needed.

**Our office is nearby in Fort Bend County!**



## Services

### Services We Normally Provide

- |   |     |
|---|-----|
| • Project Manager / Project Representative                  | 85% |
| • Project Scheduling (Schedule Consultant CPM In Primavera) | 15% |
| • Third Party Services                                      | 0%  |

### Scope of Our Services for Your Project

#### General Services

##### As Listed By Fort Bend County

- Develop and track project master Critical Path Method (CPM) Schedule
- Develop and track project accounting and other data
- Assist County in answering RFI's, issuing ASI's and coordination between project participants
- Monitor compliance with County's approved scope, budget, quality standards and schedule. Recommend adjustments necessary to maintain compliance
- Attend and lead project meetings
- Coordinate County decisions and approvals
- Coordinate County furnished documents and information
- Prepare monthly Project Reports
- Manage and maintain all project documents and files
- Conform to policies, procedures, reporting formats and systems required by County

##### In Addition To Those Listed

- Monthly Aerials & Project Progress Photos
- Confirm goals for your firm
- Confirm expectations for performance of each team member
- Review / comment / prepare consultant contracts (as needed)
- Review / comment / prepare contractor contracts (as needed)
- Prepare / confirm overall budget
- Track commitments vs. budget
- Assist in loan documents and closing and/or fund raising
- RFP's for Design Team
- RFP's for Specialty Contractors
- RFP's for General Contractor
- Produce and update task lists and responsibilities
- Hold team accountable for schedule and budget
- Overall representation for Ownership



## Services

### Scope of Our Services for Your Project

#### Construction Services

##### As Listed By Fort Bend County

- Monitor programming phase and attend key meetings
- Review design documents for program compliance
- Review and validate construction cost estimates
- Coordinate requirements and activities of County's Stakeholder Departments
- Assemble and coordinate information supplied by the County
- Evaluate long lead items and schedule issues, and suggest alternate solutions
- Coordinate and monitor submittals and approvals by all regulatory agencies
- Coordinate design criteria and decisions with Design Firms, County Departmental Staffs, Users and other Stakeholders
- Evaluate and monitor critical path schedule as submitted by the Construction Contractor
- Review and make recommendations regarding the Contractor's proposed Schedule of Values
- Conduct regularly scheduled jobsite progress meetings
- Provide daily progress inspections and problem solving as required. Complete construction reports, including photo records
- Review independent lab test results and coordinate corrective action as required
- Monitor Request for Information, Submittals, ASIs and Holds & Allowances and process
- Evaluate Change Requests to ensure necessity and confirm not included in base price
- Review pricing on all proposed changes, and work with Design Consultants and Contractor to obtain best price
- Review Applications For Payment for scope accuracy and percent complete
- Coordinate all County furnished items and information in a timely manner
- Assist the County in the color and finish selection process
- Verify the Contractor is keeping current as-built drawings
- Verify the Contractor establishes and maintains a safety program
- Coordinate commissioning and start-up activities for equipment and systems
- Walk punch list with the Team. Monitor completion of items and negotiate settlements on non-conformance items
- Assist County in evaluating merits of claims and mitigating claims if feasible
- Review construction subcontract bids, contracts and progress payments

##### In Addition To Those Listed

- Review TAS Report and enforce comments
- Evaluate and recommend solutions to construction related issues
- Coordinate Energy Management Systems
- Constructability review of design documents
- Facilitate periodic program and appearance approvals by Ownership
- Direct the permitting effort



## Services

### Scope of Our Services for Your Project

#### Post-Construction Services

##### As Listed By Fort Bend County

- Assist in planning and coordinating procurement and installation of furniture, County furnished equipment and other separately held contracts
- Review Operations and Maintenance manuals for each project
- Verify that all records, certificates, guarantees, warranties, lien waivers and releases have been received and are properly executed by the County
- Coordinate occupancy permit utility initiation activities and other regulatory requirements
- Schedule and coordinate start-up activities with County personnel
- Prepare final report for each project
- Ensure the final as-built drawings are made available to the County

##### In Addition To Those Listed

- Facilitate County personnel training / Q&A for systems and equipment
- Perform quality audit / inspection
- Close out contracts
- Follow up on close out documentation and warranties



## Approach

Our services are not a "one size fits all" approach to Project Management. We custom tailor our services to specifically reflect the needs, understanding, and budget of each customer.

All of our documents, systems, reports, controls, and schedules are computer based; many are web accessible. We can tailor each to be as much content, or specific content, as best fits our customer.

Our reports, budgets, minutes, photo summaries, and other reporting documents utilize the various components of Microsoft Office and are usually distributed to the team as pdf files via email. They can all be website posted if preferred.

We utilize Primavera Project Planner (both P3 and P6), as well as SureTrak and Microsoft Project. Our preference is always to utilize P3 with reports, formats, and all printouts tailored to the customer.

Our approach in starting and managing each project is consistent.

We will:

- Identify your goals and priorities
- Assess strengths and weaknesses of team members
- Review scope of project and plans
- Study contracts and requirements
- Arrive at a strategy and information flow best serving the project

We then:

- Develop Responsibility Matrix
- Develop Task List
- Establish detailed budgets
- Sequence a detailed schedule
- Confirm program and quality
- Conduct a team building session

In managing the project we:

- Hold regularly scheduled meeting
- Issue agenda and minutes
- Hold someone accountable for all tasks / issues
- Closely monitor commitments and payments vs. budget
- Closely monitor schedule
- Closely monitor program and quality compliance
- **COMMUNICATE TO ALL**



## Approach

We fully understand that our role is to:

- Protect the Owner's interests
- Hold team accountable
- Maintain budget, schedule, quality
- Facilitate expeditious completion

Our references, Owners, Architects, Builders and Subcontractors will tell you:

- We do our homework
- We are demanding
- We are fair
- Everyone, especially the Owner enjoys successful projects under our leadership



## Experience

While we do not have specific County owned projects in our resume, we do have the following.

### Many Projects For The "Not For Profits"

- Their projects afforded by fund raising and donations makes every dollar spent precious to them
- We budget aggressively
- We buy hard
- We scrutinize scope and cost
- We spend their money wisely

### Many Large Resort Projects, \$400 million +/-each

- Large, complex, multidiscipline projects with multiple phases and multiple prime contractors
- We have good controls
- We communicate with many departments
- We schedule intensely
- We orchestrate our staff effectively
- Large scope, much detail, much effort

### Bond Funded Program – Multiple Buildings

- We oversee programming, budgeting, design, construction, FF&E, utility and other project components for multiple facilities
- We solicit proposals for design
- We solicit proposals for construction
- We solicit proposals for vendors
- We track progress on multiple phases, multiple buildings
- We monitor commitments on multiple phases, multiple buildings
- We communicate with multiple directors/clients

### We Schedule As Consultant

- Based on our vast project experience and our skills in planning, we are recognized nationally as leaders in this field
- We plan and schedule large complex projects
- We plan and schedule multiple phase projects
- We plan and schedule multiple building projects
- We demand our GC's to properly schedule
- We scrutinize GC and subcontractor schedule
- We demand proper format and detail
- We demand and review progress updates
- We assist with software related issues

All of these traits can be utilized on your project.

We have great references and reference letters. Please see our references.



## Project Profiles

While we are **Fort Bend County** based, over the last 20 years we have served clients in more than 35 states on varying types and sizes of projects. We have also provided project leadership on projects throughout the greater Houston area.

### Relevant Projects In Last Five Years (As Project Manager)

1. BLVD Place	Houston, TX	\$ 210,000,000
2. Christ Church Cathedral	Houston, TX	\$ 25,000,000
3. River Oaks Country Club	Houston, TX	\$ 28,000,000
4. New Downtown YMCA	Houston, TX	\$ 48,000,000
5. YMCA Bond Portfolio	Houston, TX	\$ 125,000,000
6. Katy Medical Arts Center	Katy, TX	\$ 10,000,000
7. Surgical Arts Center of Clear Lake	Clear Lake, TX	\$ 20,000,000
8. Gaylord Condominiums / Apartments	Houston, TX	\$ 30,000,000
9. The Fay School	Houston, TX	\$ 10,000,000
10. Hilton Garden Inn (3ea)	Houston, TX	\$ 30,000,000
11. Embassy Suites—Downtown Houston	Houston, TX	\$ 45,000,000

### Relevant Projects Overall (As Project Manager)

1. Episcopal High School	Houston, TX	\$ 25,000,000
2. Katy Mills Mall	Katy, TX	\$ 120,000,000
3. BP Plaza	Houston, TX	\$ 60,000,000
4. Christus Hospital Katy	Katy, TX	\$ 40,000,000
5. Memorial Hermann Fort Bend	Sugar Land, TX	\$ 15,000,000
6. Belterra Resort & Hotel	Vevay, IN	\$ 400,000,000
7. Horseshoe Resort & Hotel	Bossier City, LA	\$ 450,000,000
8. Horseshoe Resort & Hotel	Tunica, MS	\$ 600,000,000
9. Traditions Housing	College Station, TX	\$ 25,000,000
10. Kipp Academy	Houston, TX	\$ 10,000,000

### Scheduling Projects

1. Sam Houston Race Park	Houston, TX	\$ 100,000,000
2. Hobby Center for Performing Arts	Houston, TX	\$ 90,000,000
3. Hilton Americas (Conference Center)	Houston, TX	\$ 140,000,000
4. Marriot At Town Center	Sugar Land, TX	\$ 45,000,000
5. NASA Visitors Center	Houston, TX	\$ 25,000,000
6. Cox Health Complex	Springfield, MO	\$ 240,000,000
7. Denver International Airport	Denver, CO	\$1,000,000,000
8. Galleria & Nordstrom's	Houston, TX	\$ 110,000,000
9. Bass Performing Arts Center	Fort Worth, TX	\$ 120,000,000
10. Reliant Center	Houston, TX	\$ 600,000,000

### Courthouses

1. Harris County Criminal Courts	Houston, TX	\$ 90,000,000
2. Renovations—Federal Courthouse	Danville, IL	\$ 15,000,000
3. Renovations—Federal Courthouse	Spokane, WA	\$ 20,000,000
4. Renovations—Federal Courthouse	Sacramento, CA	\$ 20,000,000
5. Renovations—Federal Courthouse	Jacksonville, FL	\$ 12,000,000
6. New Federal Courthouse	Bridgeport, CT	\$ 45,000,000



## Staffing Strategy

For this project we will staff from our Fort Bend County Office. We would require a room to work, access to a copy machine, telephone and plans on site; all likely in the conference room in the project trailer.

Our team will include the following:

### **Project Executive**

#### **Joseph H. Mathis, President**

Mr. Mathis would remain the primary contact for the management team of Fort Bend County. He assigns the duties of each TMG+ team member and accepts full accountability to Fort Bend County for the success of the entire project and project team. At this time we project that Mr. Mathis would spend 25-35% of his time on this project.

### **Project Manager (two available)**

#### **Denise Kelm**

#### **Jay R. Lemery**

The Project Manager directs the daily efforts of the project team and remains in constant contact with the entire team. The Project Manager provides daily project leadership and direction.

The Project Manager reports to both Mr. Mathis and to Ownership. The Project Manager executes daily the various management and reporting tools utilized by TMG+.

We anticipate the Project Manager being a full time position (100%) but if short listed, we will explore the expense vs. benefit of a full time or part time assignment.

### **Project Scheduler**

#### **Joseph R. Mathis**

The Project Scheduler will develop the overall project development schedule, incorporating information from the design team, the construction team, Ownership and all Owner provided Stakeholders. This overall or master schedule will be updated at least monthly.

The Project Scheduler will also work with the Contractor so to ensure Ownership that the GC's schedule is concise, complete and current, demanding modifications and updates as needed, including mitigation schedule to overcome delays.

We anticipate the schedule duties to demand 50% of our Scheduler's time available.

### **Project Administrator**

#### **Elizabeth K. Lee**

The Project Administrator will support the project management team by expediting information and enhancing communications. She will be the conduit for notices, agendas, minutes, meeting times, document status and various approvals. She maintains logs of pending signatures, pending issues, pending document issuance and nudges the responsible party for response and compliance.

We anticipate this role on this project to demand 50% of her time and efforts.

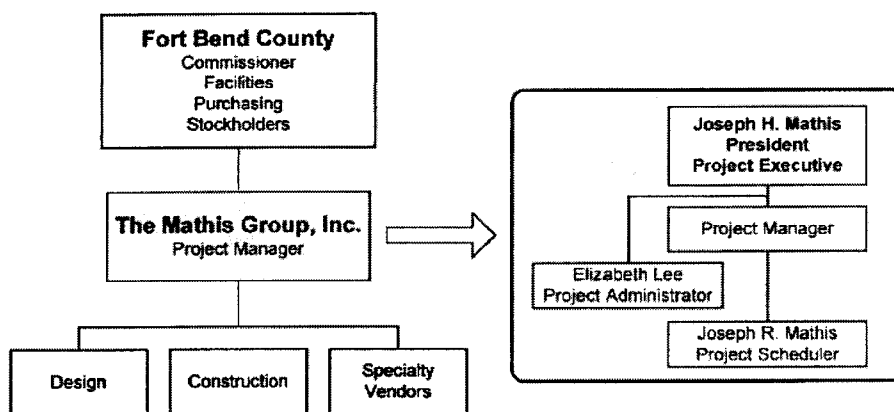


## Staffing Strategy

### Supporting Staff

TMG+'s support staff at the nearby Fort Bend County office will provide clerical and accounting support as needed.

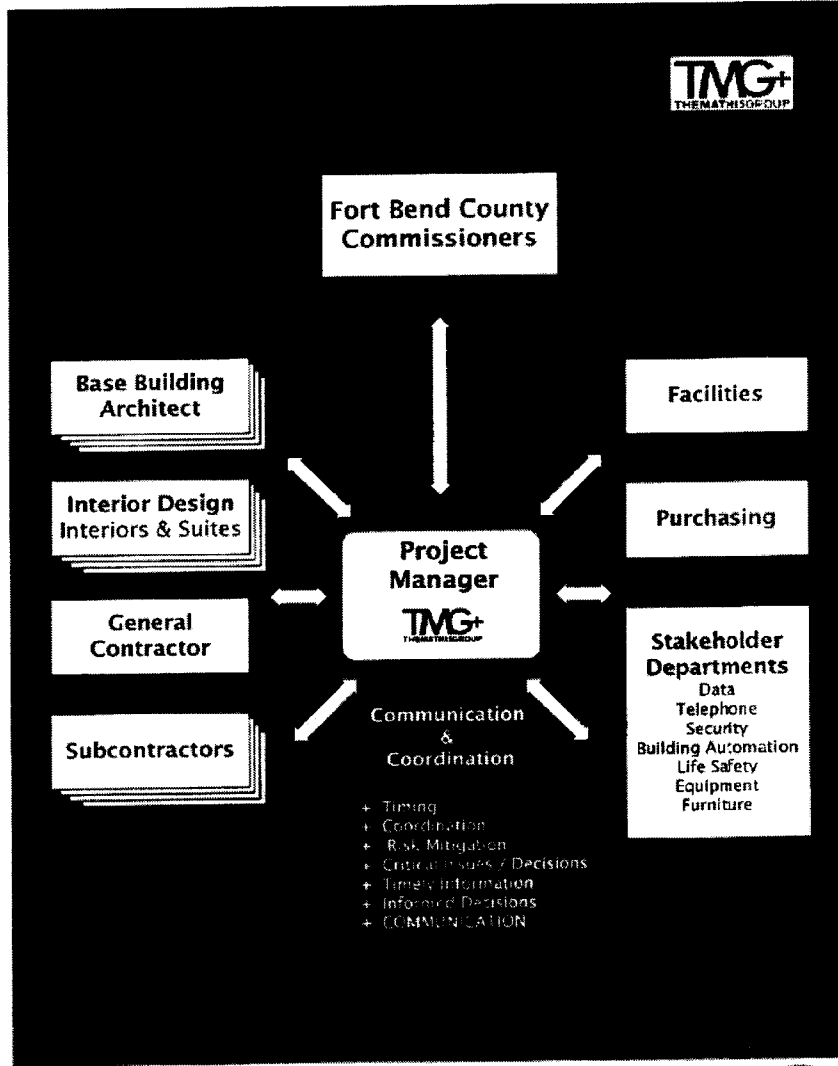
Since our staff and office are nearby in Fort Bend County, we remain flexible to the specific assignments and the time required. We can easily dial up or dial down each role's time spent due to proximity, thus better serving your needs.



The diagram on the attached page we call the "Hub Diagram." It depicts our role in directing, taking directions and communicating with the project team. We function as the "Hub of Information."



### Staffing Strategy



## Resumes

### Joseph H. Mathis

Joseph H. Mathis, founder and President of The Mathis Group, Inc. has over 34 years of experience in the construction industry. With his "hands on" approach and management style, he brings diversified project management expertise from a wide range of projects in various markets that include hospitality, multi-family, educational, healthcare, institutional, office and commercial projects.

Under his leadership, Joe remains the active "principal in charge" on many projects for the firm and has assembled a very dynamic and successful team of professionals at TMG+. His years of successful projects results in many repeat customers and great recommendations to others by past TMG+ customers.

**Education:** Purdue University, B.S. in Building Construction and Contracting  
Purdue University, A.A.S. in Architectural Engineering Technology

#### TMG+ Experience:

Since founding in 1989, Mr. Mathis has provided direct project leadership, as well as leadership for his own team on many successful projects nationwide.

#### Other Experience:

5/96 to 6/97 President, Keller Builders Inc./Keller Atlantic (Former Affiliate Company)  
8/90 to 6/91 President, Preston Construction Group, Inc. (Former Affiliate Company)  
8/88 to 8/90 VP-Development, Columbia Development Partners  
5/88 to 8/88 Sr. PM/Group Manager, McDevitt & Street Company  
12/83 to 5/85 President, Interstruct Constructors, Inc.  
5/81 to 12/83 PM/Estimator, Ross Constructors, Inc./McGregor Construction  
10/80 to 5/81 Construction Super./Manager, Friendswood Development Co.  
5/78 to 10/80 Project Estimator & Project Engineer, Henry C. Beck Co.

#### Projects:

• Embassy Suites	Houston, Texas
• New Downtown YMCA	Houston, Texas
• YMCA Bond Program (23 Buildings)	Houston & Surrounding Area
• Christ Church Cathedral	Houston, Texas
• Parking & Fitness Building River Oaks Country Club	Houston, Texas
• BP Plaza	Houston, Texas
• Katy Mills Mall	Katy, Texas
• Several Courthouse Projects For GSA	National/Various
• Several Resort / Hotel Projects	National/Various
• Episcopal High School – Multi-Building Campus	Houston, Texas



### Denise Kelm, CPC

Denise Kelm, Project Manager at The Mathis Group, Inc., has over 15 years of experience in construction project management in a wide range of industries, including hospitality, sports, religious, retail, and not for profits. Many of her projects have won excellence awards, including the McGraw Hill "Excellence Award for Nonprofit Design" for the Cy Creek Family YMCA Programs Building in 2008. Her attention to detail and precise communication allows for her to lead her projects to successful completion.

**Education:** Texas A&M University, B.S. Construction Science

**TMG+ Experience:**

Project Manager, 2007 - 2009

**Other Experience:**

2001 – 2007 Sr. Project Manager, SpawGlass Construction  
1994 – 2001 Assistant Project Manager, Manhattan Construction

**Projects:**

General Contractor

- |   |                        |
|---|------------------------|
| • SHSU, Academic Building #5                        | Huntsville, Texas      |
| • Texas A&M University, Indoor Football Facility    | College Station, Texas |
| • Texas A&M University, McFerrin Athletic Center    | College Station, Texas |
| • Westside Command Station Repair                   | Houston, Texas         |
| • Historical Humble Tower Renovation                | Houston, Texas         |
| • SHSU, Smith-Hutson Business Building Expansion    | Huntsville, Texas      |
| • IAH, Terminal E                                   | Houston, Texas         |
| • SHSU, Lowman Student Ctr. Renovation/Expansion    | Huntsville, Texas      |
| • IAH, Terminal A/B Garage and Terminal Renovations | Houston, Texas         |
| • Prestonwood Baptist Church                        | Plano, Texas           |
| • Doubletree Hotel                                  | Plano, Texas           |
| • Hilton Garden Inn I-10                            | Houston, Texas         |
| • Perry YMCA  | League City, Texas     |
| • Schindeldecker Program Facility                   | Houston, Texas         |
| • Katy YMCA   | Katy, Texas            |



**Jay R. Lemery, CPC**

Jay has more than thirteen years of diversified construction, scheduling and project management experience. Jay brings success to every project due to his comprehensive understanding of the construction process and leadership abilities. He benefits by having past experience working for a general contractor, a project manager, representing the Owner, and a project scheduler.

**Education:** Oregon Institute of Technology, B.S. Civil Engineering

**TMG+ Experience:**

- Project Manager, Present
- Project Manager, 1999 – 2002
- Assistant Project Manager, 1996 - 1999

**Other Experience:**

- 2006 - 2009 Business Development Manager, SpawGlass Construction
- 2002 – 2006 Project Manager, SpawGlass Construction

**Projects:**

General Contractor

- Westside Command Station Repair Houston, Texas
- Terminal D Remodel & Upgrades Houston, Texas
- Spires Condominium Flood Walls Houston, Texas
- Police Administration Building Repair Houston, Texas
- WLD Johnson Branch Library Repair Houston, Texas

Construction Manager

- Hilton Garden Inn Houston Northwest Houston, Texas
- Warwick Hotel Houston, Texas
- Temple Emanuel Houston, Texas
- KIPP Academy Houston, Texas
- The Westheimer Houston, Texas
- TPMC Realty Corp Houston, Texas
- Episcopal High School Houston, Texas
- Horseshoe Casino & Hotel Bossier City, Louisiana
- Horseshoe Casino & Hotel Tunica, Mississippi
- Seven Feather Hotel & Gaming Resort Canyonville, Oregon

Schedule Consultant

- United States Air Force Academy Colorado Springs, Colorado
- First Colony Church of Christ Sugar Land, Texas
- The Tradition College Station, Texas
- Pearland Intermediate School Pearland, Texas
- Cypress Ridge High School Houston, Texas
- Belmont Village Houston, Texas



### Joseph Ryan Mathis

Joseph R. Mathis has almost nine years of experience in construction scheduling, assistant project management, and field reporting. Even though he records only nine years of experience, Joe R. moreover grew up in the construction industry by actively participating in the family business. With a degree in business management, he has tailored his management skills to comply with industry standards and reflect that of his father, Joseph H. Mathis. As project scheduler for The Mathis Group, he has experienced many significant projects while working in the CPM software, Primavera, has a strong understanding of the construction process, and the application of scheduling software.

**Education:** Baylor University, Undergraduate Studies  
University of Houston, B.B.A. Management  
Minor – Supply Chain Management

**TMG+ Experience:**

Project Scheduler / Assistant Project Manager, 2000 - 2009

**Projects:**

Project Scheduler:

- Hilton America's Houston, Texas
- Skypoint Condominium Tampa, Florida
- Pasadena Middle Schools (3) Pasadena, Texas
- Mosaic Tower Condominium Houston, Texas
- Cox Health, Emergency Dept. Springfield, Missouri
- Cox Health, Ambulatory Surgical Center Springfield, Missouri
- Cox Health, Walnut Lawn Renovations Springfield, Missouri
- Cox Health, Central Plants (2) Springfield, Missouri
- Development Plans, TMG+ Sugar Land, Texas

Assistant Project Manager:

- Cypress Park & Ride Cypress, Texas
- Christ Church Cathedral Houston, Texas
- Surgical Arts Center Webster, Texas
- Oak Park II Office Building Houston, Texas

Manager, Punch List / Project Close Out

- 3333 Allen Parkway Houston, Texas
- Siena Apartments Houston, Texas
- Four Seasons Resort Jackson Hole, Wyoming



**Elizabeth K. Lee**

Liz has over nine years with TMG+ providing project coordination and administration to all varieties of construction and schedule projects. Her daily interaction with Owners, vendors, team members and staff provides the highest level of customer service to the project team.

Education: Texas State University, B.A. Journalism  
Minor in Public Relations

**TMG+ Experience:**

Project Administrator, 2001 – 2009  
Recipient – 2007 AGC Standard of Excellence Award

**Other Experience:**

1997 - 2000 Hines, Assistant Property Manager  
1991 - 1996 Hines, Administrative Supervisor

**Project Administration:**

- Coordination of project permits
- RFP solicitation and analysis
- Process invoices, builder pay applications
- Process change orders, change requests
- Coordinate meetings as needed by Client, GC, etc.
- Assist in publication of Project Manager Reports
- Coordinate utilities to site
- Coordination of project documents to Lenders, Agents

**Projects:**

- |   |                |
|---|----------------|
| • BLVD Place                                | Houston, Texas |
| • Christ Church Cathedral                   | Houston, Texas |
| • Fay School                                | Houston, Texas |
| • KIPP Academy                              | Houston, Texas |
| • YMCA Bond Program Projects                | Houston, Texas |
| • Hilton Garden Inns – NW Houston           | Houston, Texas |
| • Hilton Garden Inns – Sage Road/Galleria   | Houston, Texas |
| • Hilton Garden Inns – I-10 / Dairy Ashford | Houston, Texas |
| • Embassy Suites                            | Houston, Texas |



## References

### Owner References

Clark Baker, President/CEO  
YMCA of Greater Houston  
2000 West Governor's Circle, Suite A  
Houston, Texas 77092  
(713) 353-5200

Ken Harris, Vice President of Corporate Services  
YMCA of Greater Houston  
2000 West Governor's Circle, Suite A  
Houston, Texas 77092  
(713) 353-5228

Dean Patrinely, CEO  
Patrinely Group, Inc.  
1980 Post Oak Boulevard, Suite 1600  
Houston, TX 77056  
(713) 840-2700

Emelda Douglas, Vice President of Development  
Neighborhood Centers, Inc.  
4500 Bissonnet, Suite 200  
Bellaire, TX 77401  
(713) 669-5225

The Very Reverend Joe D. Reynolds, Dean  
Christ Church Cathedral  
2142 Chilton Road  
Houston, TX 77019-1504  
(713) 590-3305

Nick Massad, President  
American Liberty Hospitality, Inc.  
10700 Richmond Ave., Suite 120  
Houston, TX 77042  
(713) 977-5556

Doug Simpkins, President  
Simpkins Group  
2810 Revere Street  
Houston, TX 77098  
(713) 963-0885



## References

### Industry References

Howard Tellepsen, Chairman  
Tellepsen  
777 Benmar Suite 400  
Houston, TX 77060  
(281) 447-8100

Bob Fretz, Jr., President  
Fretz Construction Company  
6301 Long Drive, P  
Houston, TX 77087  
(713) 641-6777

Steve Durham, Senior Project Manager  
Kirksey  
6909 Portwest Road  
Houston, Texas 77024  
(713) 426-7521

Dean Strombom, Vice President  
Gensler  
700 Milam, Ste. 400  
Houston, Texas 77002  
(713) 228-8050

Larry Whaley, President  
Haynes Whaley Associates  
2000 West Sam Houston Parkway S., Suite 1800  
Houston, TX 77042  
(713) 868-1591

John Cryer, President  
PageSoutherlandPage  
1100 Louisiana, Suite One  
Houston, TX 77002  
(713) 871-8484

Chuck White, Vice President  
Cadence McShane  
7701 West Little York, Suite 400  
Houston, TX 77040  
(713) 681-8500

Chuck Greco, President  
Linbeck Construction Corp.  
3900 Essex Lane  
Suite 1200  
Houston, TX 77027  
(713) 621-2350

Bud Walters, President  
Pieper-Houston Electric  
1702 Oak Tree  
Houston, TX 77080  
(713) 984-9342

Mark Shepard, Principal/Owner  
SCA Consulting Engineers  
12511 Emily Court  
Sugar Land, Texas 77478  
(713) 779-7252





## Hourly Billing Rate Schedule

### For Hourly Billing and/or Additional Services

#### Proposed Hourly Rates

		<u>Range/Rate</u>
Principal	Mr. Mathis	\$ 225.
Senior Project Manager		\$ 150-200.
Project Manager		\$ 150.
Asst. Project Manager		\$ 90-120.
Coordinator		\$ 75.
Project Scheduler		\$ 90.
Asst. Project Scheduler		\$ 60-75.
Project Estimator		\$ 90.
Accounting Support		\$ 60.
Clerical Support		\$ 50.
Specialty Advisor		\$ 200.

These rates include all payroll and payroll related expenses, insurances and payroll taxes. In these rates we will include local telephone service, a cellular phone, and email accounts for each manager.

These rates do not include expenses that we would consider reimbursable, such as copies, long distance phone service, printing, long distance faxing, travel, lodging, parking and tolls.

Since we are local to **Fort Bend County**, we anticipate our reimbursable expenses to be insignificant, approximately \$400 – \$600 per month



## Samples

While our reporting, control, and scheduling systems are extensive and proven, we do not believe that "one size fits all." We will visit with you as a Client and determine what information is of most value to you and then tailor our reporting and systems to reflect those needs.

Our normal deliverables are as follows:

- Monthly Report
- Weekly PM Report
- Trends Graph
- Project (Development) Schedule
- FF&E / Systems Schedule
- Budget Worksheet
- Responsibility Matrix
- Cost Plan (Budget, Commitments, Payments, Forecast)
- Program Change Request (PCR)
- Contract Change Request (CCR)
- Work Authorization (WA)
- Invoice Cover (Greensheet)
- Transmittal
- Meeting Agendas (24 Hours In Advance)
- Meeting Minutes (Within 24 Hours)
- Organization Charts
- Flow Charts
- Task Lists
- Permit Updates
- Project Phasing Diagrams
- General Contractor RFP
- Design Team RFP
- Specialty Consultant RFP

We provide examples as listed and will provide additional upon your request (so to comply with your page limitations).



### Samples

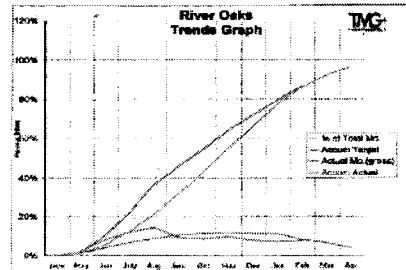
Weekly YMCA  
COST PLAN LINE ITEMS

LINE NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL PRICE	START DATE	END DATE	STATUS
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Weekly YMCA  
VENDOR/CONTRACT LINE COST SUMMARY

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LINE NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL PRICE	START DATE	END DATE	STATUS
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120	...	...	...	...	...	...	...	...





## Summary

**We at The Mathis Group, Inc. believe that you should select the person/firm who:**

- **You Trust** (to act on your behalf)
  - ✓ To *Guide* You through Programming
  - ✓ To *Forecast* Your Financial Commitments
  - ✓ To *Lead* Your Design Team
  - ✓ To *Protect* You From Risk of Construction
  - ✓ To *Approve and Recommend* Contracts
  - ✓ To *Approve and Recommend* Payments
  - ✓ To *Update and Monitor* Your Budget
  - ✓ To *Plan, Forecast, Monitor* Completion
  - ✓ To *Communicate* Priorities to Entire Team
  - ✓ To Be **ACCOUNTABLE** for Your Project's Success
  
- **Shares Common Values with You and Your Partners**
  
- **Is the Best Overall Value**

### The Mathis Group, Inc is your Best Choice!

We Understand the Challenge of Design and Construction  
We are Experienced in Similar Projects  
We understand Phased, Multi-use Projects  
We are Proven Trustworthy and Accountable  
We Commit our Principle-Founder to YOUR TEAM  
We put our Reputation and Profitability on the Line  
We provide you a Seven Day Termination if not Completely Satisfied  
We use our Knowledge to serve as your Owner-Advocate



**When Selected, we promise:**

- ✓ **To Work Hard to Protect Your Interests**
- ✓ **To Communicate Frequently and Candidly**
- ✓ **To Remain an Active, Objective Participant**
- ✓ **To Commit our Principle-Founder to Your Team**
- ✓ **To Remain Flexible as Your Needs Change**
- ✓ **To Allow You to Set Our Price**
- ✓ **To Allow You to Send Us Home If We Do Not Perform**

**We Are A Fort Bend County Business  
Our Employees And Our Firm Live In Fort Bend County  
We Live  
We Work  
We Worship  
We Play  
In Fort Bend County!**



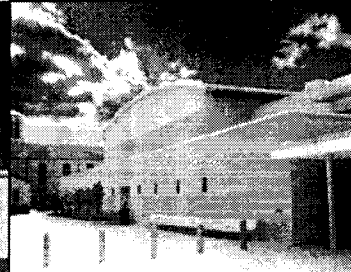
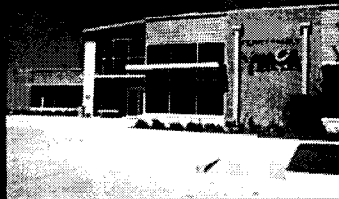
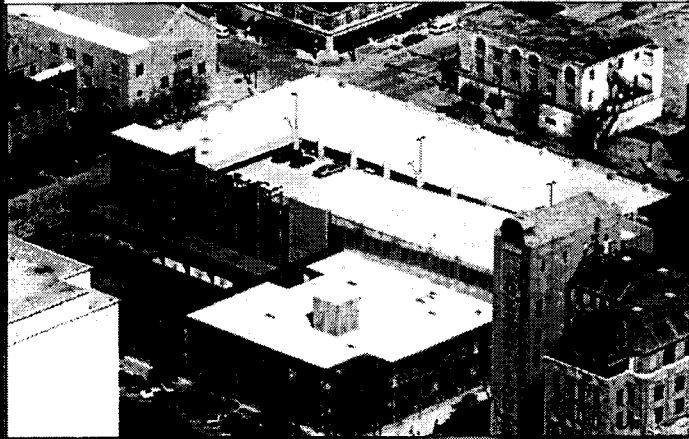
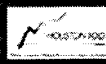


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Professions to Complement Your  
Project Team!*

[www.mathisgroup.com](http://www.mathisgroup.com)

- Schools
- Religious Facilities
- Board-driven Educational
- Charitable Hospitals
- Community/Recreational Facilities
- Volunteer Guided Organizations

## Not For Profit





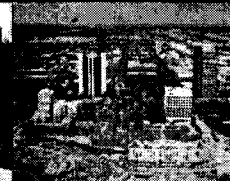
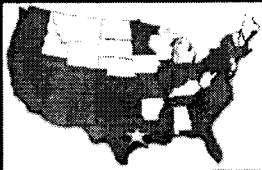
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[www.mathisgroup.com](http://www.mathisgroup.com)

## Residential

**Residential Projects Include:**

- High Rise Condominiums
- High Rise Apartments
- Garden Apartments
- Mid Rise Lofts
- University Housing
- Retirement Housing
- Mid Rise Urban Apartments
- Condoll/hotel
- Resort Condominium





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[www.mathisgroup.com](http://www.mathisgroup.com)

## Education

Education Projects Include:

- High Schools
- Gymnasiums
- Recreational centers
- Libraries
- Performing Arts Center
- Classrooms
- School buildings

