

STATE OF TEXAS           §  
                                      §  
 COUNTY OF FORT BEND §

FIRST AMENDMENT TO AGREEMENT FOR ARCHITECTURAL  
 AND ENGINEERING SERVICES

THIS FIRST AMENDMENT to the Agreement for Architectural and Engineering Services is made and entered into by and between Fort Bend County, a body corporate and politic under the laws of the State of Texas, acting by and through the Fort Bend County Commissioners Court, hereinafter referred to as "County," and BAILEY ARCHITECTS, hereinafter referred to as "Architect," authorized to conduct business in the State of Texas.

**RECITALS**

WHEREAS, County and Architect entered an agreement for the Project, Agreement for Architectural and Engineering Services dated March 11, 2008, (collectively, the "Agreement"), attached hereto as Exhibit B and incorporated by reference as if set forth herein verbatim for all purposes. The parties desire to amended the Agreement for redesign of the Project as set forth in Architect's proposal dated November 5, 2009, attached hereto as Exhibit A and incorporated herein by reference as if set forth verbatim.

NOW, THEREFORE, in consideration of the foregoing, the Agreement between County and Architect is hereby amended as follows:

- A. An additional amount not-to-exceed \$62,000.00 (Sixty Two Thousand Dollars) shall be available for services provided by Architect in connection with the Project as described in Exhibit A.
- B. Architect's compensation for the Project shall not exceed \$801,410.00, which includes the original scope of work (\$739,410.00) and the additional services in the First Amendment (\$62,000.00).
- C. No additional funding shall be available for services provided under the Agreement without prior written consent of the Fort Bend County Commissioners Court.
- D. Except as modified herein, the Agreement remains in full force and effect and has not been modified or amended.
- E. If there is a conflict between this First Amendment and the Agreement, the provisions of this First Amendment shall prevail.

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## EXECUTION

County executes this First Amendment by and through the County Judge acting pursuant to authorization of the Commissioners' Court of Fort Bend County, Texas.


This Agreement shall not become effective until executed by County.

FORT BEND COUNTY:

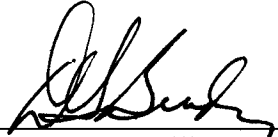
By:   
Robert E. Hebert, County Judge

Date: 11-24-09

ATTEST:

  
Dianne Wilson, County Clerk

REVIEWED:

By:   
Don Brady, County Facilities  
Management & Planning Director

Date: 11/19/09

BAILEY ARCHITECTS

  
Ray Bailey, FAIA

Date: 11.11.09

Exhibit A: November 5, 2009 proposal from Architect

Exhibit B: Agreement for Architectural & Engineering Services dated March 11, 2008

## AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$801,410 to pay the obligation of Fort Bend County under this Agreement.

  
Ed Sturdivant, County Auditor

MER:Bailey.UofH Sugar LAnd.Amendment.3734(11092009)

## EXHIBIT A

BAILEY ARCHITECTS, INC.

Fort Bend County Library /  
University Branch  
Owner - Requested Design Revisions

Nov 5, 2009

DISCIPLINE	ADDED SVCS PROPOSED FEES
Architectural	\$40,750
Structural	\$9,500
MEP	\$8,000
Landscape	\$0
IT / AV / Acoustics	\$0
Cost Consultant	\$750
Specs	\$0

Estimated FEE TOTAL not to exceed	\$59,000
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Note: These additional services will be billed at individual hourly rates with a Not-to-Exceed maximum of \$59,350. Itemized categories are estimated and may vary.

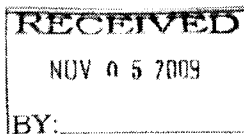
Estimated Reimbursables for re-printing \$3,000

PROJECT TOTAL	\$62,000
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Approved:

  
Ray Bailey, FAIA  
President

November 5, 2009



FM1304

14046

STATE OF TEXAS

COUNTY OF FORT BEND

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§  
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KNOW ALL MEN BY THESE PRESENTS:

**AGREEMENT FOR ARCHITECTURAL AND ENGINEERING SERVICES**

**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 "County") and BAILEY ARCHITECTS, INC., (hereinafter referred to as "Architect,"), authorized to conduct business in the State of Texas.

**WITNESSETH:**

WHEREAS, County intends to design and build a county library in cooperation with the University of Houston System at the Sugar Land Campus in Sugar Land, Fort Bend County, Texas, containing approximately 45,000 square feet, hereinafter referred to as "the Project;" and

WHEREAS, County desires that Architect perform certain professional architectural and engineering services in connection with the Project; and

WHEREAS, Architect represents and warrants that it is qualified and desires to perform such services;

NOW, THEREFORE, County and Architect, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**SECTION I  
SCOPE OF AGREEMENT**

- 1.01 Architect agrees to perform professional architectural and engineering services in connection with the Project as stated herein and for having rendered such services, the County agrees to pay to Architect compensation as stated herein.
- 1.02 Architect agrees to perform professional architectural and engineering services in connection with the Project as stated herein and more particularly described in Exhibit "A," Architect's Proposal dated March 3, 2008, attached hereto and incorporated herein as if set forth verbatim.

**SECTION II  
CHARACTER AND EXTENT OF SERVICES**

Architect shall render the following "Basic Services" in connection with the work of the Project:

- 2.01 The Schematic Design Phase shall consist of the following:
  - A. Architect shall provide a preliminary evaluation of County's program.
  - B. Architect shall attend preliminary conferences with County regarding the Project, including preparation and distribution of meeting notes to all concerned parties.
  - C. Architect shall visit the Project site to assess information provided by County concerning the impact of utility available to the site.

- D. Architect shall provide appropriate recommendations for the design of proper drainage and any permanent erosion control.
- E. Architect shall field verify existing conditions, improvements and utilities for continuity or coordination with the Project.
- F. Architect shall identify all design requirements for approval from all governmental/utility agencies and departments have jurisdiction over the Project.
- G. Architect shall, based on the agreed upon program, schedule and construction budget, review with County a minimum of three (3) alternative approaches to design of the Project.
- H. Architect shall prepare for approval by County five (5) copies of Schematic Design Documents, to include but not be limited to the following:
  - 1. Site Plan
  - 2. Floor plan at 1/8" = 1'0" scale
  - 3. All elevations at 1/8" = 1'0" scale
  - 4. Two or more building sections at 1/8" = 1'0" scale
  - 5. Outline specifications
  - 6. Structural Design/Documentation
  - 7. Mechanical Design/Documentation
  - 8. Electrical Design/Documentation
  - 9. IT/AV and Telecom Design Documentation
  - 10. Civil Design/Documentation
  - 11. Landscape Design/Documentation
  - 12. Interior Design/Documentation, including millwork
  - 13. Presentation
  - 14. Prepare a preliminary estimate of probable construction costs for the Project.
  - 15. Obtain approval of the Schematic design from County
- I. Architect shall employ sufficient qualified personnel and consultants to fully and timely accomplish the services promised and agreed to in this Agreement.
- J. Architect shall use its best efforts and perform all its professional services agreed hereunder in a manner satisfactory and acceptable to County, in keeping with the best professional standard of care provided by architects on similar projects and comply with all applicable state, federal, and local laws, ordinances, rules and regulations relating to the services to be rendered hereunder. Architect's Working Drawings and Specifications for the Project shall be suitable for their intended use and shall include plans and profiles necessary to tie all Project water, sewer, gas and storm drainage lines into adjacent existing lines and facilities.
- K. Architect shall perform, as part of Basic Services, any and all architectural and/or engineering services reasonably required in order to accomplish fully the tasks required to be performed hereunder by Architect. The entire compensation of Architect for the performance hereunder of Basic Services, including any and all compensation in respect to costs or expenses incurred by Architect in the performance hereunder of Basic Services, shall be the compensation set forth in Section III and any reimbursable expenses payable to Architect in respect to the performance hereunder of Basic Services. Architect acknowledges that, in order to obtain the approval of County Commissioners Court in respect to various matters pertaining to the design and construction of the Project, Architect may

have to make multiple presentations to various boards, agencies and public groups and Architect agrees that the making of any and all such presentations is part of Basic Services.

**2.02 Design Development Phase shall consist of the following:**

- A. Architect shall prepare Design Development Documents based on the approved Schematic Design Documents to include adequate specifications for elements of the Project for consideration and approval by the County. Design Development Documents shall fix and describe the size, cross sections and character of the Project as to architectural, structural, vertical transportation, mechanical, life safety, electrical and other systems, materials, and such other essentials as may be necessary and appropriate resulting in fully developed floor plans, exterior elevations, interior elevations, reflected ceiling plans, wall and building sections, key details and basic building systems. The Design Development Phase shall be completed within the agreed Project Schedule, which will be developed within 30 days of the execution of this Contract.**
- B. Architect shall submit the proposed Design Development Documents to County for review and official approval by Commissioners Court.**
- C. Architect shall submit outline specifications for all major elements of construction including, but not limited to: architectural, structural, mechanical, civil design, landscape, interior, electrical, signage/graphics, security, FFE (furniture, fixtures and equipment) and vertical transportation. Materials research and specifications shall continue with the production during this phase of a design manual, including design criteria and outline specifications and materials lists.**
- D. The contractor shall prepare a statement of construction cost based on the Design Development Documents. Should contractor's statement of construction cost exceed Project budget, Architect shall work with contractor and County and make changes to bring the Project into the budget, and contractor in conjunction with Architect, shall present County with the appropriate cost reduction options prior to completion of the Design Development Phase.**

**2.03 The Construction Documents Phase: Based on the approval of Design Development Documents authorized by County, the Architect shall prepare, for approval by County, Construction Document, which shall consist of the following:**

- A. Project Manual**
- B. The information necessary to satisfy the applicable Building Code and all authorities having jurisdiction over the Project.**
- C. Architect shall advise County of any adjustments to previous statements of probable construction costs.**
- D. Architect shall furnish County, for review and approval, five (5) 75% complete sets of blueline prints of the drawings, and five (5) copies of specifications and final updated statements of probable construction costs for the Project.**
- E. After incorporating County's 75% review comments, Architect shall furnish County, for review and approval, five (5) 100% complete sets of prints of the drawings, and five (5) copies of the specifications and updated statements of probable construction costs for the Project.**

- F. After incorporating County's comments, Architect shall furnish and deliver to County one (1) electronic copy of approved for construction drawings in AutoCAD Release 2000 on a CD and two (2) original sets of specifications, for the construction, maintenance, and use of the Project.
- 2.04 The Bidding and Contract Phase shall consist of the following:
- A. Each bid phase will be identified by Architect and County and all statutory bidding requirements regarding contractor delivery method will be complied with by Architect.
  - B. Architect shall, subject to the approval of County and as part of Basic Services, prepare bidding documents for separate items as requested by County.
  - C. Architect shall participate in pre-bid conferences, including on-site visits as required, to facilitate bidders' understanding of the Construction Documents, the various on-site conditions, and the coordination and scheduling requirements conducted by County for the benefit of all bidders, it being specifically understood that these conferences shall be a forum for the County, contractor and Architect to present the Project parameters to the bidders, including information concerning scheduling requirements, time/cost control requirements, access requirements, administrative requirements and technical information regarding the Project. Upon receipt of bids, Architect shall assist County and contractor where necessary to evaluate the bids for completeness, responsiveness and price, including alternate prices and unit prices. In connection with such evaluation, Architect shall assess the impact of bid prices on Construction Cost and shall make appropriate budget recommendations to County based upon the bids received for the purpose of keeping the construction of the Project within County Project budget.
  - D. It shall be the responsibility of Architect to work with County and contractor to ensure that the line item budgets are met through competitive bidding to the point that if exceeded, adjustments to the contract scope of work shall be made until these budgets are met throughout the entire Project. Additionally, Architect shall provide coordination of construction performed by separate contractors or by County's own forces and coordination of services required in connection with construction performed and equipment supplied by County.
  - E. It shall be the responsibility of the Architect to work with the County and contractor to prepare a final Project Schedule within 30 days of the date of the contract. (Compliance with which will be a contract requirement)
- 2.05 The Construction Phase: After the receipt of bids, Architect shall render the following services in connection with the Project for which a construction contract is awarded:
- A. Architect shall attend and assist County in Pre-Construction Conferences.
  - B. Architect shall make periodic visits to the site.
  - C. Architect shall consult with and advise County during construction.
  - D. Architect shall review shop, laboratory, and mill test or material and equipment and promptly report to County any deficiencies noted.
  - E. Architect shall review submittals and shop drawings.
  - F. Architect shall review monthly and final estimates.
  - G. Architect shall prepare meeting notes and distribute copies to all attendees at all meetings related to the Project.

- H. Architect shall assist County in monitoring and interpreting performance tests required by specifications; performance tests required by specifications; and the initial startup operation of the Project.
- I. Architect shall conduct inspections to determine conformance with the Project Schedule and the date or dates of Substantial Completion and the date of Final Completion; receive and forward to County for County's review and records, written warranties and related documents required by the Contract Documents and assembled by the contractor; and issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.
- J. Upon completion of construction, Architect shall provide County with two (2) original, one (1) reproducible and one (1) electronic (AutoCAD Release 2000) copy of record drawings showing the building after all of the construction changes have been made ("as built") based upon information concerning field changes maintained and approved by the contractor.
- K. Architect shall provide, during construction, on-site construction observation, visiting the site once each week, at a minimum, to generally familiarize itself with the progress and quality of the completed work, and to determine if the work is proceeding in such a way as when it is complete it will be in accordance with the Contract Documents. Architect shall not, however, be required to make continuous on-site inspections to check the work. Field Reports of each visit shall be prepared by Architect and submitted to County, by the 10<sup>th</sup> of each month. Architect shall submit a report which shall constitute a representation by Architect to County, based on observations at the site that to the best of Architect's knowledge, information and belief, the quality of the completed work is in accordance with the Contract Documents (subject to an evaluation of the work as a functioning whole upon substantial completion, to the results of any subsequent tests required by the Contract Documents, to minor deviations from the Contract Documents correctable prior to Project completion, and to any specific qualifications stated in Architect's report).
- L. Architect shall use all best efforts and measures to implement its responsibilities under this Agreement to safeguard County against defects and deficiencies in the completed work of contractor and the trade contractors. Architect shall not be responsible for the construction means, methods, techniques, sequences of procedures, nor for the safety precautions and programs employed in connection with the work. However, Architect will promptly inform County whenever defects and deficiencies in the completed work are observed, or when any observed actions or omissions are undertaken by the contractor or the trade contractors which are not in the best interest of County and the Project.
- M. Architect shall keep County informed in writing, of the progress of the Project, on a monthly basis, during the Construction Phase; and after issuance of a work order to proceed with the work, all of County's instructions to contractor will be issued through a County Representative. Instructions which modify the drawings and specifications shall be issued by Architect to County Representative.
- N. Architect shall have authority through County Representative to reject work which does not conform to the Contract Documents, it being understood that no such action will be taken without the prior consultation with County for such work rejection. Architect shall make recommendations on all claims and disputes among County and contractor and the trade contractors relating to the execution and progress of the work or the interpretation of the Contract Documents, based upon such review and analysis by Architect as may reasonably be required. In the



event of litigation, where Architect is named as an additional party with County, such assistance will include the availability of knowledgeable witnesses in the employ of Architect for expert testimony.

### SECTION III THE ARCHITECT'S COMPENSATION

- 3.01 For and in consideration of the services rendered by the Architect, and subject to the limit of appropriation under Section VII, the County shall pay to the Architect an amount not to exceed \$714,410.00.
- 3.02 Architect's reimbursable expenses associated with the Project, including but not limited to reproduction costs, plotting, document delivery, long distance photography, permits, fees, special handling or delivery, mileage and travel (if necessary) shall be reimbursed at cost upon submission of properly submitted expense records to County. All reimbursable expenses shall not exceed \$25,000.00.
- 3.03 Architect's fees shall be calculated at hourly rates not to exceed as follows for any additional services:
- |    |                 |          |
|----|-----------------|----------|
| A. | Principal       | \$165.00 |
| B. | Project Manager | \$156.00 |
| C. | Designer        | \$103.00 |
| D. | CAD             | \$ 98.00 |
| E. | Clerical        | \$ 65.00 |
- 3.04 Architect's invoices to County shall conform with Architect's "Fee Proposal Summary," attached hereto as Exhibit B and incorporated herein by reference. Architect shall provide complete information and documentation to substantiate Architect's charges, and shall be in a form to be specified by the Fort Bend County Auditor. All invoices shall conform to the schedule and costs detailed in Exhibit B. All reimbursable expenses shall be clearly identified. Should additional backup material be requested by County, Architect shall comply promptly with such request. In this regard, should Commissioners Court or the County Auditor determine it necessary, Architect shall make all records and books relating to this Agreement available to County for inspection and auditing purposes.
- 3.05 Architect shall submit invoices to County and County shall pay each invoice within thirty (30) days after the County Project Manager's written approval provided however, that the approval or payment of any invoice shall not be considered to be conclusive evidence of performance by the Architect to the point indicated by such invoice or of receipt or acceptance by the County of the services covered by such invoice. Under no circumstances shall Architect be entitled to receive interest on amounts due.
- 3.05 County reserves the right to correct any error that may be discovered in any invoice that may have been paid to Architect and to adjust the same to meet the requirements of the Agreement.

### SECTION IV TERMINATION

- 4.01 County may terminate this Agreement at any time by thirty (30) days written notice to the Architect.

- 4.02 Upon receipt of such notice, the Architect shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
- 4.03 Within sixty (60) days after receipt of notice of termination, the Architect shall submit a statement, showing in detail the services performed under this Agreement to the date of termination.
- 4.04 County shall then pay the Architect that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of charges as have been previously made.
- 4.05 Copies of all completed or partially completed designs, drawings, electronic data files and specifications prepared under this Agreement shall be delivered to the County when and if this Agreement is terminated in the manner and for the purposes provided in this Agreement.
- 4.06 Architect may terminate this Agreement at any time by providing thirty (30) days written notice to County, with the understanding that immediately upon receipt of said notice, all work and labor being performed under this Agreement shall cease. Architect shall invoice County for all services performed and shall be compensated in accordance with the terms of this Agreement for all service accomplished prior to the receipt of said notice. No amount shall be due for loss of anticipated profits. Reproducible original design and construction documents related to the Project shall become the property of County upon termination of this Agreement, and shall be promptly delivered to County in a reasonable organized form without restriction on future use.
- 4.07 Nothing contained in this Section shall require County to pay for any service under the terms of this Agreement which is not performed in accordance with this Agreement or which is not submitted in substantial compliance with the terms of this Agreement. County shall not be required to make any payments to Architect when Architect is in material default under this Agreement, nor shall this Section constitute a waiver of any right, at law and at equity, which County may have if Architect is in material default, including the right to bring legal action for damages or to enforce specific performance of this Agreement.
- 4.08 If the Project is stopped for a period of thirty (30) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, through no act or fault of Architect, or if Architect's service should be stopped for a period of thirty (30) days by County's failure to make payment thereon, then Architect may, upon ten (10) days written notice to County, terminate this agreement and recover from County payment for all service rendered.
- 4.09 Architect understands and agrees that time is of the essence and that any failure by Architect to complete the services for each phase of this Agreement within the agreed Project Schedule, adjusted for approved time extensions, and due to the fault of Architect will constitute a material breach of this Agreement. Architect shall be fully responsible for its delays or for failures to use reasonable efforts in accordance with the terms of this Agreement. Where damage results to County due to Architect's failure to perform in these circumstances, County may withhold, to the extent of such damages, Architect's payments hereunder without waiver of any of County's additional legal rights or remedies.
- 4.10 Neither County nor Architect shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reasons for which it is not responsible or circumstances beyond its control. However, notice of such impediments or delay in performance must be timely given and all reasonable efforts undertaken to

mitigate its effects. Any and all time lines and schedules shall be automatically extended for the period of time either party is prevented from performing any of its obligations, or by written agreement of the parties.

## SECTION V INSURANCE

5.01 During the period of this Agreement, Architect shall maintain, at its expense, insurance with limits no less than those prescribed below with a carrier having a rating with A.M. Best & Co of A-VII or better:

- A. General Liability (including Contractual Liability):
  - Bodily Injury and Property Damage \$1,000,000.00
  - Aggregate \$2,000,000.00
- B. Automobile Liability:
  - Bodily Injury and Property Damage \$1,000,000.00
  - Limit per Occurrence
- C. Worker's Compensations Statutory + \$1,000,000.00  
Limit Employer's Liability

5.02 With respect to the required insurances listed in Section 5.01, Architect shall, if allowed by law and the insurance carrier:

- A. Name Fort Bend County as additional insured as their interests may appear, with the exception of worker's compensation insurance and professional liability insurance;
- B. Provide County a waiver of subrogation regarding Architect's worker's compensation insurance;
- C. Provide County with a thirty (30) day advance written notice of cancellation or material change to said insurance; and,
- D. Provide County with Certificates of Insurance evidencing required coverages upon acceptance of this Agreement by Commissioners Court.

5.03 During the period of this Agreement and for an additional two (2) year period after final completion of the Project, Architect shall maintain at its expense, Architect's Errors and Omissions Insurance with limits not less than one million dollars (\$1,000,000.00), with a \$25,000.00 deductible.

## SECTION VI NOTICE

6.01 Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the County or the Architect at the addresses set forth below.

6.02 If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail.

6.03 Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

A. If to the Architect:

Bailey Architects, Inc.  
4100 South Shepherd  
Houston, Texas 77098  
713-524-2155  
Attention: Ray Leiker, AIA, Vice President

B. If to Fort Bend County notice must be sent to both the County and County Project Manager:

Fort Bend County  
Attention: County Judge  
301 Jackson  
Richmond, Texas 77469

Facilities Management and Planning Department  
Don Brady, Director  
1402 Band Road, Suite 100  
Rosenberg, TX 77471

6.04 Either party may designate a different address by giving the other party ten (10) days written notice.

## SECTION VII LIMIT OF APPROPRIATION

7.01 Prior to the execution of this Agreement, Architect has been advised by County, and Architect clearly understands and agrees, such understanding and agreement being of the absolute essence to this contract, that County shall have available the total sum not-to-exceed \$714,410.00, plus an amount not to exceed \$25,000.00 for reimbursable expenses, if any, specifically allocated to fully discharge any and all liabilities, including construction costs, which may be incurred by County in bringing this Project to an absolute conclusion, resulting in a complete, fully furnished, fully equipped and fully usable facility, and that the total of any and all basic construction costs, costs of providing the required furnishing and equipment, all fees and compensation of any sort to the Architect and consultants, and any and all costs for any and all things or purposes enuring under or out of this Agreement, irrespective of the nature thereof, shall not exceed said specifically allocated sum, notwithstanding any word, statement or thing contained in or inferred from the preceding provision of this Agreement which might in any light by any person be interpreted to the contrary.

7.02 Architect does further understand and agree, said understanding and agreement also being of the absolute essence of this contract, that the total maximum compensation that Architect may become entitled to hereunder and the total maximum sum that County shall

become liable to pay to Architect hereunder shall not under any conditions, circumstances or interpretations thereof exceed the sum of \$714,410.00, plus an amount not to exceed \$25,000.00 allocated for all reimbursable expenses, if any.

#### SECTION VIII COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES, INC.

- 8.01 Architect, its consultants, agents, employees and subcontractors shall comply with applicable federal, state and local laws and ordinances where applicable, as amended. Architect will endeavor to obtain all permits and licenses required in the performance of the professional services contracted for herein.
- 8.02 Architect will pay all taxes, if any, required by law arising by virtue of the services performed hereunder. County is qualified for exemption pursuant to the provisions of Article 151.309 of the Texas Limited Sales, Excise and Use Tax Act.

#### SECTION IX SUCCESSORS AND ASSIGNS

- 9.01 County and the Architect bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement.
- 9.02 Neither the County nor the Architect shall assign, sublet or transfer its or his interest in this Agreement without the prior written consent of the other.
- 9.03 Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public and/or governmental body that may be a party hereto.

#### SECTION X PUBLIC CONTACT

- 10.01 Contact with any media outlet, citizens of Fort Bend County or governmental agencies shall be the sole responsibility of the County.
- 10.02 Under no circumstances, whatsoever, shall the Architect release any material or information developed or received from County in the performance of its services hereunder without the express written permission of the County, except where required to do so by law.

#### SECTION XI OWNERSHIP OF DOCUMENTS

- 11.01 County shall be the absolute and unqualified owner of all drawings, preliminary layouts, record drawings, sketches and other documents prepared pursuant to this Agreement by the Architect and his consultants (deliverables).
- 11.02 No reuse fees or royalty payments will be paid to the Architect in connection with future reuse or adaptation of designs derived under this contract.
- 11.03 Copies of all complete or partially completed mylar reproducible, preliminary layouts, record drawings, digital files, sketches and other documents prepared pursuant to this Agreement shall be delivered to County when and if this Agreement is terminated or

upon completion of this Agreement, whichever occurs first, as provided in this Agreement.

- 11.04 Architect is expressly prohibited from selling, licensing or otherwise marketing or donating such documents, or using such documents in the preparation of other work for any other client, or from duplicating the appearance of the Project depicted in the deliverables for any without the prior express written permission of the County.
- 11.05 The documents referenced in this Section are not intended or presented by the Architect to be suitable for reuse by the County or others on extensions of this Project or on other unrelated projects.
- 11.06 Any adaptation or use by the County of such documents on extension of this Project or other unrelated projects shall be at the County's sole risk.

## SECTION XII INDEMNIFICATION

- 12.01 ARCHITECT SHALL SAVE HARMLESS THE COUNTY FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF THE ARCHITECT, ITS AGENTS, CONSULTANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF THE ARCHITECT OR ANY OF ARCHITECT'S AGENTS, SERVANTS OR EMPLOYEES.
- 12.02 ARCHITECT SHALL ALSO SAVE HARMLESS THE COUNTY FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES WHICH MIGHT BE INCURRED BY THE COUNTY, IN LITIGATION OR OTHERWISE RESISTING SAID CLAIMS OR LIABILITIES THAT MIGHT BE IMPOSED ON THE COUNTY AS THE RESULT OF SUCH ACTIVITIES BY THE ARCHITECT, ITS AGENTS, CONSULTANTS OR EMPLOYEES.

## SECTION XIII MODIFICATIONS

This instrument contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent written modification signed by both parties hereto.

## SECTION XIV FINANCIAL INTEREST PROHIBITED; CONFIDENTIALITY

- 14.01 Architect covenants and represents to its knowledge, information and belief that Architect, its officers, employees, agents, consultants and subcontractors will have no financial interest, direct or indirect, in the purchase or sale of any product, materials or equipment that will be recommended or required for the construction of the Project.
- 14.02 Architect's reports, evaluations, designs, drawings, data and all other documentation and service developed by Architect hereunder shall be kept confidential and shall not be disclosed to any third parties without an absolute need to know (such as Code

Authorities) or without the prior written consent and approval of the Commissioners Court.

SECTION XV  
MISCELLANEOUS

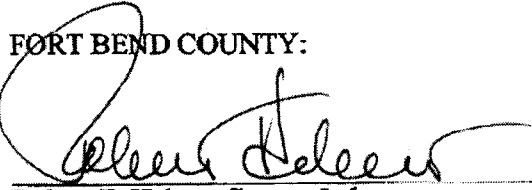
- 15.01 By entering into this Agreement, the parties do not intend to create any obligations, express or implied, other than those specifically set out in this Agreement.
- 15.02 Nothing in this Agreement shall create any rights or obligations in any party who is not a signatory to this Agreement.
- 15.03 Architect agrees and understands that: by law, the Fort Bend County Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients; the Fort Bend County Attorney's Office may not advise or approve a contract or other legal document on behalf of any other party not its client; the Fort Bend County Attorney's Office has reviewed this document solely from the legal perspective of its client; the approval of this document by the Fort Bend County Attorneys Office was offered solely to benefit its client; Architect and other parties should not rely on this approval and should seek review and approval by their own respective legal counsel

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SECTION XVI  
EXECUTION


This Agreement shall not become effective until executed by all parties hereto.

FORT BEND COUNTY:

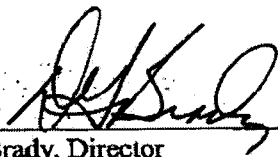
  
Robert E. Hebert, County Judge

3-11-08  
Date

Attest:

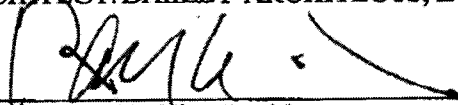
  
Dianne Wilson, County Clerk

Approved:

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

3-11-8  
Date

ARCHITECT: BAILEY ARCHITECTS, INC.

  
Ray Leiker, AIA, Vice President

3-6-08  
Date

Exhibit A: Architect's Proposal dated March 3, 2008

Exhibit B: Architect's Fee Proposal Summary dated March 3, 2008

MER:Architect Agreement.Bailey.UH SL3734(03052008)

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$737,410<sup>00</sup> to accomplish and pay the obligation of Fort Bend County under this contract.

  
Ed Sturdivant, Fort Bend County Auditor



**BAILEY**  
**ARCHITECTS**

March 3, 2008

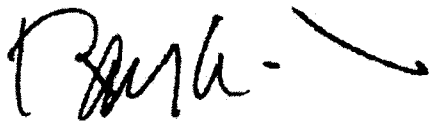
Mr. Don Brady  
Director of Facilities and Planning  
Fort Bend County  
1402 Band Road, Suite 100  
Rosenberg, TX 77471

Don, please find attached our revised proposal dated 3 March 2008 for professional services for the FBC/UHS Library based on our meeting with you on Wednesday, February 27, 2008.

We have reached your goal for overall fees and are looking forward to getting the Project underway.

Please let me know if you should have any questions

Sincerely,



Ray Leiker, AIA  
Vice President

cc: Jamie Knight, AIA, Fort Bend County

FBCUH Library  
Architectural Proposed Fee Worksheet  
Date: 3 March 2008

Architectural Services:		Proposed Fees:	Notes:
Pre-Design/Program Confirmation: Assumes 3 meetings/3 people Review program/precedents		\$7,500.00	Includes Programming Consultant Fees
<b>Total Pre-Design/Program Confirmation:</b>			<b>\$7,500.00</b>
<b>Basic Architectural Services (BD-CA)</b>			
Schematic Design: = 2.0 people for 1 month Assumes 3 meetings/2-3 people	10%	\$48,500.00	
Design Development: = 2.0 people for 2 mo. Assumes 2 meetings/2-3 people	18%	\$86,000.00	
Construction Documents: Reference Sheet Count Assumes 2 meetings/2 people Specification Coordination Quality Management Review	48%	\$223,000.00	
Negotiations: = 1.0 people for 1 month Assumes 2 meetings/2 people Assumes 1 meeting/1-2 people Review Contractor proposals	4%	\$18,000.00	Negotiations with GC Permit reviews with code official
Construction Administration: Construction Time Est. = 14 mos. Est. 14 mos X \$7750/mo. = \$106500	22%	\$106,500.00	
<b>Total Basic Architectural Services (BD-CA):</b>	<b>100%</b>	<b>\$485,000.00</b>	
Furniture/Fixtures/Equipment Services: Finish Selections FF&E Selection/Specification/Coordination		\$25,000.00	Owner prepares purchase order
<b>Total Furniture/Fixtures/Equipment Services:</b>			<b>\$25,000.00</b>

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FBC Library @ UHS Sugarland  
Consultant Fee Proposals  
Date: 3 March 2008

Consultant:	Discipline:	Fee Amount:	Notes:
SCA Consulting Engineers	Structural	\$28,250.00	\$250 ea additional site visit; 10% retainer requested
BDM	MEP	\$115,000.00	
DataCom	IT/AV	\$27,800.00	
Brown & Gay (Owner Consultant)	Civil	\$0.00	
Total Consultant Proposals:		\$171,050.00	

Specialty Consultant:	Discipline:	Fee Amount:	Notes:
Spiker-Baldwin	Specifications	\$0.00	\$10200/Add \$1400 if bidding documents required
Kudela-Weirheimer	Landscape	\$16,500.00	
Brian Hole	Cost Estimating	\$9,380.00	
Total Specialty Consultant Proposals:		\$25,880.00	

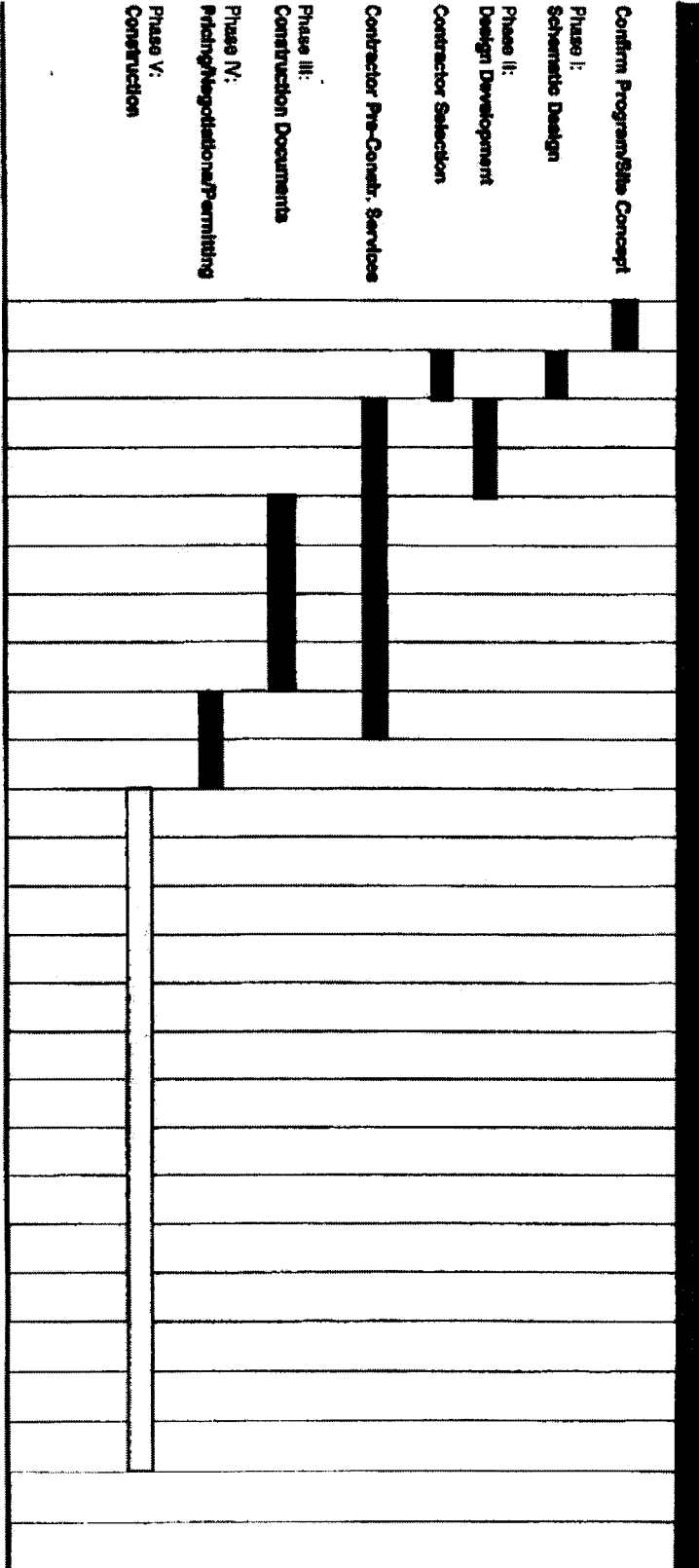
FBC Library @ UHS Sugarland  
**Architectural Construction Documents Sheet Count/Hours**  
Date: 3 March 2008

Construction Documents:	Revised Proposal 022508	
Projected Sheet Count:	Hours/Sheet:	
Cover Sheet	10	
Index	5	
Survey	10	
Project/Code Information	30	
Architectural Site Plan	50	
Architectural Site Details	40	
Architectural Site Details	40	
Floor Plan/First	60	
Floor Plan/Second	60	
Reflected Ceiling Plan/First	40	
Reflected Ceiling Plan/Second	40	
Enlarged Floor Plans	40	
Roof Plan/Details	40	
Roof Details	40	
Building Elevations	40	
Building Elevations	40	
Building Sections	40	
Building Sections	40	
Exterior Wall Sections	50	
Exterior Wall Sections	50	
Exterior Details	50	
Exterior Details	50	
Exterior Details	0	
Stair/Elevator Plans, Sections, Details	80	
Finish Schedules	40	
Finish Schedules	40	
Door/Window Schedules	40	
Door/Window Schedules	40	
Partition Types	40	
Interior Elevations	35	
Interior Elevations	35	
Interior Elevations	0	
Millwork Elevations/Details	50	
Millwork Elevations/Details	50	
Interior Details	50	
Interior Details	50	
Graphics Schedule/Details	40	
Finish Plan/First	40	
Finish Plan/Second	40	
Power/Comm. Plan/First	40	
Power/Comm. Plan/Second	40	
<b>Total Hours CD Drawing:</b>	<b>1815</b>	<b>\$185,725.00</b>
<b>Client Meetings/Reviews/Management/Coordination</b>	<b>100</b>	<b>\$12,075.00</b>
<b>Specification Coordination</b>	<b>60</b>	<b>\$7,500.00</b>
<b>Quality Management Review</b>	<b>60</b>	<b>\$7,500.00</b>
<b>Specification Consultant</b>		<b>\$10,200.00</b>
<b>Total Construction Documents:</b>	<b>1835</b>	<b>\$223,000.00</b>

**EXHIBIT A**  
**PAGE 5**

Fort Bend County Library @ UHS Sugar Land  
Project Schedule / CM@Risk  
Date: 03 March 2008

Months



**BAILEY**  
**ARCHITECTS**

Fort Bend County Library @ UHS Sugar Land  
**Project Team**  
Date: 03 March 2008

**BAILEY**  
**ARCHITECTS**

**Bailey Architects:**

Ray Bailey, FAIA, Principal-in-Charge and Designer  
Mark Boone, AIA, LEED AP, Project Manager  
Eric Rosipal, Production Manager  
Raymond Saucillo, Production  
Cope Bailey, Designer  
Lane Wolf, Construction Administration  
Ray Lelker, AIA, Quality Control/Quality Assurance  
John W. Focke, FAIA, Programming

**Consultants:**

Structural  
SCA Consulting Engineers  
MEP  
Burns Delatte & McCoy, Inc.  
IT/AV  
DataCom Design Group  
Specifications  
Spiker-Baldwin  
Landscape  
Kudela & Weinheimer  
Cost Estimating  
Brien Hole  
Civil  
Brown & Gay (under separate contract)

**EXHIBIT B**

Fort Bend County Library • UHS Sugar Land  
**Fee Proposal Summary**  
 Date: 03 March 2008

**BAILEY  
 ARCHITECTS**

<b>Pre-Design/Program Confirmation:</b>				<b>\$ 7,500</b>	<b>0.08%</b>
<b>Basic Architectural Services (SD-CA)</b>					
Architectural Basic Services (SD-CA):	\$ 485,000	5.38%			
Basic Consultant Services (SD-CA): Note 1 (Structure, MEP, IT Consultants)	\$ 171,060	1.90%			
<b>Total Basic Architectural Services (SD-CA)</b>				<b>\$ 656,060</b>	<b>7.29%</b>
<b>Specialty Consultants:</b>					
(Landscape, Cost Consultants)				<b>\$ 25,000</b>	<b>0.29%</b>
<b>Furniture/Fixtures/Equipment Services:</b>				<b>\$ 25,000</b>	<b>0.29%</b>
<b>Total Professional Service Fees:</b>				<b>\$ 714,410</b>	<b>7.94%</b>
<b>Reimbursable Expense Budget:</b>				<b>\$ 25,000</b>	

Note 1: Civil Engineering and Geotechnical/Material Testing by Owner