

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 May 25, 2010, (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 additional services for the Project as set forth in Architect's proposal dated March 28, 2012, 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 \$125,000.00 shall be available for services provided by Architect in connection with the Project as described in Exhibit A.
- B. An additional amount not-to-exceed \$2,500.00 shall be available for reimbursable expenses for the Project as provided in Exhibit A.
- C. Architect's compensation for the Project shall not exceed \$503,000.00, which includes the original scope of work (\$378,000.00) and the additional services provided in this First Amendment (\$125,000.00).
- D. Architect's reimbursable expenses for the Project shall not exceed \$12,500.00, which includes reimbursable expenses under the original scope of work (\$10,000.00) and the additional expenses under this First Amendment (\$2,500.00).
- E. No additional funding shall be available for services provided for the Project without prior written consent of the Fort Bend County Commissioners Court.
- F. Except as modified herein, the Agreement remains in full force and effect and has not been modified or amended.
- G. If there is a conflict between this First Amendment and the Agreement, the provisions of this First Amendment shall prevail.

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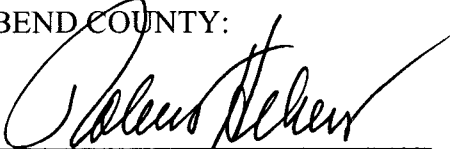
MAR 29 2012

EXECUTION

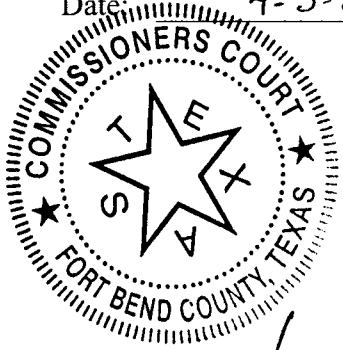
County executes this First Amendment by and through the County Judge acting pursuant to authorization of the Commissioners' Court of Fort Bend County, Texas.

This Agreement shall become effective upon execution by County.

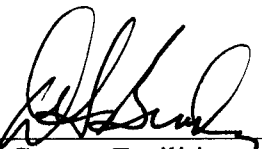
FORT BEND COUNTY:

By:   
Robert E. Hebert, County Judge

Date: 4-3-2012



ATTEST:   
Dianne Wilson, County Clerk

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

Date: 3/29/12

BAILEY ARCHITECTS  
  
Ray Bailey, FAIA

Date: 03.29.12

- Exhibit A: March 28, 2012 proposal from Architect
- Exhibit B: Agreement for Architectural & Engineering Services dated May 25, 2010

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 515,500.00 to pay the obligation of Fort Bend County under this Agreement.

  
Ed Sturdivant, County Auditor

MER:Bailey.Courthouse Restoration.3887.AMEND



B A I L E Y

Page Two  
Mr. Don Brady  
March 28, 2012

Construction documents and specifications suitable for permitting bidding, and construction will include architecture, structural engineering, civil engineering, and MEP engineering.

Bidding/Negotiations and Construction Contract Administration will be proposed as requested at the conclusion of Construction Document Services.

**Project Team**

Bailey Architects will utilize the same experienced staff and engineering consultants involved in the 1909 restoration work to accomplish the plan revisions. Consultants are:

- Sparks Engineers (Structure)
- EEA (MEP)
- Kuo Engineering (Civil)

**Compensation (Field Investigation/Basic Services)**

Bailey Architects proposes a fixed fee of \$127,500 as follows:

Revised Design and new Construction Documents	\$125,000
Reimbursables	\$ 2,500
<b>Total Fee</b>	<b>\$127,500</b>

**Project Schedule:**

Design and Construction Documents	March - June 1, 2012
Bidding/Contract Negotiations	June - July 2012
Construction Administration/Close-out	Estimated at 12 months

**Additional Services**

As noted in Exhibit 'C' of the Agreement, Section I, Items 3-12 remain in effect.

This First Amendment shall be in accordance with the terms and conditions contained in the Agreement for Architectural and Engineering Services with Exhibit 'C' between Fort Bend County and Bailey Architects.

Sincerely,



Ray Bailey, FAIA  
President

STATE OF TEXAS  
COUNTY OF FORT BEND

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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 the COUNTY OF FORT BEND, a political and legal subdivision of the State of Texas (hereinafter referred to as "County,") and BAILEY ARCHITECTS, with offices located at 55 Waugh Drive, Suite 450, Houston, TX 77007 (hereinafter referred to as "Architect,") authorized to conduct business in the State of Texas.

WITNESSETH:

WHEREAS, County is desirous of restoring its Courthouse in Richmond, Texas as described in Exhibit "A" – THC Funding Agreement Attachment C, Scope of Work, and Exhibit "B" – TCH Funding Agreement Attachment C, Scope of Services, and the parties at this time set forth the agreement for the design of such restoration, hereinafter referred to as "Agreement;" and,

WHEREAS, Architect has agreed to provide such professional services described Exhibit "C" - Architect's Fee Proposal for Architectural Services dated May 12, 2010, and Exhibit "D" - THC Funding Agreement Attachment D – Project Schedule and as detailed in Section 2.05 herein and incorporated by reference herein as if set forth verbatim for all purposes, for architectural services for the restoration of the Fort Bend County Courthouse, hereafter referred to as the "Project," for the compensation provided herein; and

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

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

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 "C" Architect's Fee Proposal for Architectural Services dated May 12, 2010, and Section 2.05 herein attached hereto and incorporated herein as if set forth verbatim for all purposes.

SECTION II  
CHARACTER AND EXTENT OF SERVICES

- 2.01 Architect shall render the following “Basic Services” in connection with the work of the Project. 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 the impact of utility availability to the site.
  - D. Architect shall provide appropriate recommendations for the design of proper drainage and any permanent erosion control in Project impacted areas.
  - 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 Project program, prepare Project schedules and construction budgets, and review with County any 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.
  - I. Obtain approval of the Schematic design from County
  - J. Architect shall employ sufficient qualified personnel and consultants to fully and timely accomplish the services promised and agreed to in this Agreement.
  - K. Architect shall use its best efforts perform all its professional services agreed hereunder in a manner satisfactory and acceptable to County, in keeping with the best and highest 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 applicable Project water, sewer, gas and storm drainage lines into adjacent existing lines and facilities.

L. 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 of the Project 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.

M. Architect will submit, not later than the end of each month, a statement, in triplicate, to County Facilities Management & Planning Director for payment of the percentage of work done during the previous month, during this phase of the Contract. Twenty Percent (20%) of the Basic Services Fee shall be authorized for this phase of the work.

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, and audio-visual equipment fixed furniture and fixtures as they relate to historical context, 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 Architect shall obtain a third party estimate of construction cost based on the Design Development Documents. Should such estimate of construction cost exceed Project budget, Architect shall work with County and make changes to bring the Project into the budget, and Architect shall present County with the appropriate cost reduction options prior to completion of the Design Development Phase.

- E. Architect will submit, not later than the end of each month, a statement, in triplicate, to County Facilities Management & Planning Director for payment of the percentage of work done during the previous month, during this phase of the Contract. Twenty-Five Percent (25%) of the Basic Services Fee shall be authorized for this phase of the work.
- 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, including Tap and Impact Fees needed for the Project.
  - 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.
  - G. Architect will submit, not later than the end of each month, a statement, in triplicate, to County Facilities Management & Planning Director for payment of the percentage of work done during the previous month, during this phase of the Contract. Fifty-five Percent (55%) of the Basic Services Fee shall be authorized for this phase of the work.
- 2.04 Architect's Basic Services shall be in accordance with the Exhibit "D" - THC Funding Agreement Attachment D – "Project Schedule", as summarized below, except as adjusted for approved extensions, if any. Architect shall not be penalized for delays in this schedule beyond its control or delays occasioned by action or inaction by Commissioners Court.
- (1) Schematic Design Phase  
Completed by: September 1, 2010
  - (2) Design Development Phase  
Completed by: December 1, 2010
  - (3) Construction Document Phase  
Completed by: August 31, 2011

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 \$378,000.00 as stated in Exhibit "C" - Architect's Fee Proposal for Architectural Services dated May 12, 2010.
- 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 \$10,000.00 as stated in Exhibit "C" - Architect's Fee Proposal for Architectural Services dated May 12, 2010.
- 3.03 Architect's fees shall be calculated at hourly rates not to exceed as follows for any additional services:
- |                                       |                |
|---------------------------------------|----------------|
| Principal                             | \$165 per hour |
| Project Architect, Designer, Engineer | \$157 per hour |
| CADD Operator                         | \$100 per hour |
| Clerical                              | \$65 per hour  |
- Anticipated additional services include, non-fixed historic FFE (furniture, fixtures and equipment), bidding/negotiation, and construction administration, and shall be allowed only upon express written approval of County.
- 3.04 Architect's invoices to County 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 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 Facilities Management & Planning Director'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.
- 3.06 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 in accordance with Section 3.05, 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 Architect shall furnish certificates of insurance to County evidencing compliance with the insurance requirements hereof. Certificates shall indicate name of Architect, name of insurance company, policy number, and term of coverage and limits of coverage. Architect shall cause its insurance companies to provide County with at least 30 days prior written notice of any reduction in the limit of liability by endorsement of the policy, cancellation or non-renewal of the insurance coverage required under this Agreement. Architect shall obtain such insurance from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
- A. Workers' Compensation insurance in accordance with the laws of the State of Texas, or state or hire/location of Services, and Employers' Liability coverage with a limit of not less than \$1,000,000 each employee for Occupational Disease, \$1,000,000 policy limit for Occupational Disease; and Employer's Liability of \$1,000,000 each accident.
  - B. Commercial General Liability insurance including coverage for Products/Completed Operations, Blanket Contractual, Contractors' Protective Liability Broad Form Property Damage, Personal Injury/Advertising Liability, and Bodily Injury and Property Damage with limits of not less than:
    - \$2,000,000 general aggregate limit
    - \$1,000,000 each occurrence
    - \$1,000,000 aggregate Products, combined single limit
    - \$1,000,000 aggregate Personal Injury/Advertising Liability
    - \$ 100,000 Fire Legal Liability
  - C. Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.
  - D. Professional Liability insurance with limits not less than \$1,000,000 each claim/annual aggregate.
  - E. If coverage required is written on a claims-made basis, Architect warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning

from the time that work under this contract is substantially complete, as defined a receipt of a certificate of occupancy from the City of Richmond.

- 5.02 County shall be named as additional insureds to all coverages required above, except for Section 5.01(A) and (D) above. All policies written on behalf of Architect shall contain a waiver of subrogation in favor of County.

#### 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.  
Attn: Ray Bailey, FAIA, President  
55 Waugh Drive, Suite 450  
Houston, TX 77007

B. If to Fort Bend County notice must be sent to both the County and County Facilities and Management Planning Department Director:

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

Facilities Management and Planning Department  
Don Brady, Director  
301 Jackson  
Richmond, Texas 77469

- 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 \$378,000.00, plus an amount not to exceed \$10,000.00 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 \$378,000.00, plus an amount not to exceed \$10,000.00 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 other client 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  
AUTHORITY OF COUNTY FACILITIES MANAGEMENT & PLANNING DIRECTOR**

- 15.01 The County Facilities Management & Planning Director shall decide and determine any and all questions that may arise as to the interpretation of this Agreement and any and all questions as to the acceptable fulfillment of this Agreement by Architect. His decision shall be final.
- 15.02 It is mutually agreed by both parties that the County Facilities Management & Planning Director shall act as referee in all questions arising under the terms of this Agreement between the parties hereto and that the decisions of the County Facilities Management & Planning Director in such shall be final and binding alike on both parties hereto.
- 15.03 Nothing contained in this Section shall be construed to authorize the County Facilities Management & Planning Director to alter, vary or amend any of the terms or provisions of this Agreement.

**SECTION XVI  
MISCELLANEOUS**

- 16.01 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.
- 16.02 Nothing in this Agreement shall create any rights or obligations in any party who is not a signatory to this Agreement.
- 16.03 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.

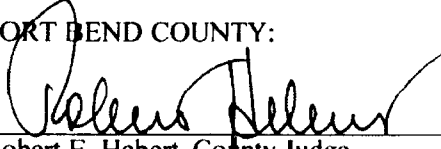
- 16.04 If there is a conflict between this Agreement and any Exhibits, the provisions of this Agreement shall prevail.

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SECTION XVII  
EXECUTION

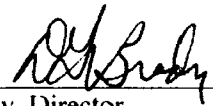
This Agreement shall not become effective until executed by County.

FORT BEND COUNTY:

  
\_\_\_\_\_  
Robert E. Hebert, County Judge

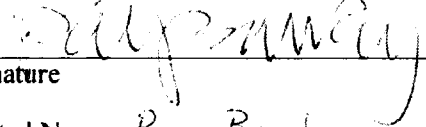
5-25-2010  
Date

Attest:   
\_\_\_\_\_  
Dianne Wilson, County Clerk

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

5/19/10  
Date

ARCHITECT: BAILEY ARCHITECTS

  
\_\_\_\_\_  
Signature

5/11/10  
Date

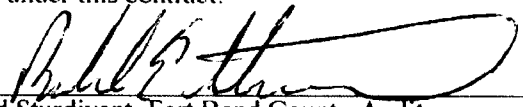
Printed Name: Reg Bailey

Title: President

I:\Mary\Courthouse Restoration\Bailey Architects.Agr.3887

**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$388,000.00 to accomplish and pay the obligation of Fort Bend County under this contract.

  
\_\_\_\_\_  
Ed Sturdivant, Fort Bend County Auditor

- Exhibit A: THC Funding Agreement Attachment C – Scope of Work
- Exhibit B: THC Funding Agreement Attachment C – Scope of Services
- Exhibit C: Architect's Fee Proposal for Architectural Services dated May 12, 2010
- Exhibit D: THC Funding Agreement Attachment D – Project Schedule

**Exhibit "A"**  
**THC Funding Agreement Attachment C – Scope of Work**

Funding Agreement Attachment C  
Scope of Work  
Fort Bend County Courthouse

**Scope of Work**

**Design and Planning Services for the Restoration of the Fort Bend County Courthouse,  
Richmond**

**Project Philosophy and Description**

The Scope of Work is identified in the approved Master Plan of 2000, as supplemented and amended by the Round VI Grant Application. The restoration project will remove the 1935 and 1957 additions and restore the Fort Bend County Courthouse and the Courthouse Square to its original condition when first occupied by the County in 1909.

**1. Proposed Site Plan**

- a. All trees and shrubbery inside of the perimeter ring of trees will be removed and the site restored to grass from the curb to the building.
- b. New pecan trees (approx. 7) will be added to complete the perimeter ring of trees.
- c. Three existing monuments will remain on site (M.B. Lamar statue, Deaf Smith Monument, Fallen Soldiers' Memorial)
- d. Picnic tables and associated walks will be removed.
- e. Existing flag pole to remain.
- f. Construct accessible parking along south curb.
- g. Construct new accessible entrance with ramp at new south entry
- h. Construct brick enclosure on southeast corner of site for new HVAC chilliers, transformers, utility meters, etc.
- i. Existing perimeter and axial sidewalks will be renovated to remove unsafe conditions.
- j. Remove signage from proximity of building (closer to sidewalk).

**2. Building Exterior**

- a. Additions built on the south side of the courthouse in 1935 and 1957 will be completely removed and the original south façade reconstructed.
- b. Brick masonry will be repaired, pointed, and cleaned.
- c. Cast stone masonry will be repaired, cleaned of paint, and restored to its original buff color to match the brick.
- d. The cast stone columns and capitals will be cleaned of paint and restored to the original buff color to match the brick.
- e. Existing wood windows (replaced in 1980 and renovated after recent hurricanes) will be rehabilitated. Research needed into original exterior colors of windows. Install clear solar control film to inside of window glass.
- f. Existing entry doors will be rehabilitated. Research needed into original exterior colors of doors.
- g. Roof:
  - 1.) Clean and repair copper cornices and pediments.
  - 2.) Reconstruct east and west balustrades.

- 3.) Repair wood decking and framing.
  - 4.) Replace built-up roofing, flashing, and parapets with single membrane system (pvc or TPO)
  - 5.) Repair copper domes, retain original material to greatest extent possible.
  - 6.) Replace cement asbestos shingles with slate shingles and self-adhered polyethylene membrane underlayment and copper flashing.
- h. Foundations:
- 1.) Prepare soils tests to evaluate movement and expansion of soils.
  - 2.) Investigate potential need and options for new perimeter and interior foundations (strip or pier) to stabilize building movement and make minor level adjustments.
- i. Repair west entry concrete steps.
- j. Remove metal rails at center of east and west entries. Install new rails at each side of steps.
- k. Install drains in basement window wells.

### 3. Building Interior, Proposed Floor Plans

- a. Public spaces (entry lobbies, rotunda, corridors, courtroom) shall be restored to original 1909 configuration.
- b. Office areas shall be restored to the original 1909 configuration to the greatest extent possible.
- c. Courthouse occupants will include the district courtroom with associated jury and judge spaces; District Clerk space to serve courtroom; Law Library; archive area for county historic documents.
- c. Provide for new accessible elevator cab, new accessible restrooms.
- d. Clean, repair, restore, reconstruct original materials and finishes to greatest extent possible (ceramic mosaic tile floors, wood floors, glazed brick wainscots, plaster walls and ceilings, varnished wood trim and door/window frames).
- e. Restore rotunda "skylight" glazing with lighting above.
- f. Further investigation (including exploratory demolition) is needed to clarify the configuration of the original courtroom:
  - 1.) No current information on 1909 location of judge's bench and balcony.
  - 2.) No information on location of judge's bench and balcony between 1909 and 1934.
  - 3.) 1934 drawings imply that bench was on the north and balcony was on the south end of courtroom, supported with columns and with a stair on south wall.
  - 4.) 1934 drawings indicate removal of the balcony, forming a two-story high space throughout. No information whether the courtroom was actually remodeled as shown on the drawings.
  - 5.) No information on location of judge's bench and balcony between 1934 and 1979.
  - 6.) A third floor was inserted into the high courtroom at an unknown date.
  - 7.) The bench was on the south wall at the 1979 date.

### 4 Building Systems

- a. Remove all HVAC equipment, ductwork, piping, and conduit.
- b. Install new energy efficient HVAC system, properly zoned, with new controls.
- c. Upgrade electrical service (underground) and main panels. Provide new circuits throughout building.
- d. Provide new data and phone service throughout building.
- e. Provide alarm and fire protection sprinkler systems throughout building.
- f. Provide new energy efficient lighting throughout.
  - 1.) Rehabilitate or replace fixtures in historically sensitive areas.
  - 2.) Replace fixtures in office areas with appropriate energy efficient fixtures.
- g. Upgrade sanitary drains to the street.
- h. Upgrade storm drains (from roof) to the street.

5. Accessibility

- a. Construct accessible parking along south curb.
- b. Construct new accessible entrance with ramp and steps at new south entry.
- c. Provide for new accessible elevator cab, new accessible restrooms.

6. Courthouse Occupants upon Restoration:

A new judicial center is currently under construction to accommodate the needs of the growing county. Many of the functions currently in the historic courthouse will relocate to the new facility. The following functions are currently planned for the restored courthouse.

- a. District Court and support facilities (judge's chambers, jury room)
- b. 14<sup>th</sup> Court of Appeals
- c. Attorney General's Court
- d. Special Court Docket & Trials
- e. Archival Records Storage and Study Facility
- f. County Historical Commission

**Exhibit "B"**  
**THC Funding Agreement Attachment C – Scope of Services**  
Funding Agreement Attachment C  
Scope of Work  
Fort Bend County Courthouse

**Scope of Services**

The A/E will provide comprehensive services associated the Schematic Design, Design Development and Construction Documents phases of basic services. The Architect will submit the documents for review by the THC at the specified intervals and present the plans for comment to the County. The documents shall be revised to the mutual acceptance of the THC and the County to a point of 95% completion.

**Deliverables by Phase**

- 1) Pre-Design (review submittal at end of phase)
  - a) review and update of Master Plan restoration recommendations
  - b) updated survey of materials and conditions
  - c) review and update of Master Plan and Round V cost estimates
  - d) measured floor plans, elevations and roof plan
  - e) set of /historic existing conditions keyed for demolition, post-demolition keyed for new work
  - f) site plan noting all existing features and identifying new work
- 2) Schematic Design phase documents (review submittal at end of phase)
  - a) schematic structural proposal for new elevator shaft
  - b) proposed accessibility solutions
  - c) masonry, window, room finish, and door survey forms
  - d) narrative description of MEP systems/equipment, proposed type and location
- 3) Design Development phase documents (review submittal at end of phase)
  - a) plans, elevations and section drawings noted for specific work required
  - b) site plan, including survey and noting all sitework, grading, new equipment, hardscape and landscape features
  - c) completed window survey, draft recommendations
  - d) completed masonry condition survey, draft recommendations
  - e) schematic mechanical/electrical and plumbing proposals
  - f) geo-technical reports and foundation structural proposal
  - g) reflected ceiling plans
  - h) roof plans and enlarged plan details
  - i) accessible designs for building entrance, first floor restrooms and courtroom
  - j) outline specifications identifying all relevant subdivisions
  - k) paint analysis and haz/mat reports
  - l) updated cost estimate
- 4) Construction Documents (60% complete, preliminary submittal) including:
  - a) plans, elevation and building sections with notes, references and symbols
  - b) site plan indicating all sitework with details of new construction
  - c) survey and schedule for window and door rehabilitation
  - d) survey and recommendations for masonry survey
  - e) proposed finishes and color schedule
  - f) proposed hardware schedule

- g) proposed interior elevations and casework
  - h) draft project specifications, selected light fixture cut sheets
  - i) security and audio-visual proposals
  - j) updated cost estimate
- 5) Construction Documents (95% complete submittal) including:
- a) floor plans, elevation and building sections with notes, references and symbols
  - b) site plan indicating all sitework with details of new construction
  - d) survey and schedule for window and door rehabilitation
  - e) survey and recommendations for masonry survey
  - f) finishes and hardware schedules
  - g) interior elevations and casework
  - h) enlarged floor plans and construction details
  - i) complete project specifications and general requirements with bell tower alternate
  - j) final opinion of probable cost with 10% contingency and 8% escalation, assumes 2012 bid date

**Work products of the architect's consultants**

- 1) Engineering consultants will provide:
- a) mechanical/electrical/plumbing engineering for systems design
  - b) civil engineer to locate utilities and services
  - c) structural engineer for structural design and loading calculations

**Items outside the architect's scope to be contracted and performed by Fort Bend County:**

- 1) Other consultants may include:
- a) audio/visual consultant for courtroom acoustics and equipment
  - b) historic paint analysis of exterior and interior painted finishes
  - c) security consultant
  - d) geo-technical engineer to test soils and engineer foundation reinforcement
  - e) hazardous materials survey

**Exhibit "C"**  
**Architect's Fee Proposal for Architectural Services dated May 12, 2010**

5/12/10

351 Naught Drive, Suite 400  
Houston, Texas 77058  
713.461.9141  
713.461.9142  
www.baileyarchitects.com

Restoration of the Fort Bend County Courthouse  
May 12, 2010  
Page 1

**Agreement for Architectural Services – Exhibit "C"**  
**Between Bailey Architects and Fort Bend County, Texas**

For purposes of this agreement, Fort Bend County is referred to as FBC and the Texas Historical Commission as THC.

**A. PROJECT DEFINITION**

The "Project" consists of the restoration of the Fort Bend County Courthouse located at 400 Jackson Street, Richmond, Texas.

The project scope is identified in **Exhibit "B" of the FBC Agreement for Architectural and Engineering Services** and includes the restoration planning, design, and construction documents services for restoration of the courthouse and courthouse square to the condition when first occupied by the county in 1809, including the demolition of the 1935 and 1957 additions. The final scope of the work shall comply with the recommendations included in the Grant Application for Round VI of the Texas Historic Courthouse Program as administered by the Texas Historical Commission (THC).

Bidding and construction administration services shall be Additional Services as authorized by FBC.

**B. BASIC SERVICES**

1. Restoration Planning:
  - a. Review scope of work as described in Round VI Grant Application with FBC and THC.
  - b. Review existing documentation on current building conditions and conduct site investigations as needed to assemble as-built documents for further use.
  - c. Review Grant Application cost estimate with FBC and THC and finalize estimated project cost.
  - d. Respond to THC comments.
2. Design:
  - a. Based on scope of restoration approved in the previous Restoration Planning phase, drawings and outline specifications will be developed to explain the architectural, structural, mechanical, electrical, plumbing, and civil work.
  - b. Prepare updated estimate of construction cost.
  - c. Submit Design package to THC for review and respond to comments.

BA Bailey Architects, Inc. 2010  
Houston, Texas 77058

Fort Bend County 2010  
Houston, Texas 77058

Restoration of the Fort Bond County Courthouse  
May 12, 2010  
Page 2

3. Construction Documents
  - a. Based on designs approved in the Design phase, drawings and specifications will be prepared suitable for the bidding and construction of the Project ("Construction Documents") to include architecture, structural engineering, civil engineering, MEP engineering, and landscaping. (See Project Definition above)
  - b. Prepare updated estimate of construction cost.
  - c. Submit Construction Document package to THC for review and respond to comments.

**C. AUTHORIZATION** Mr. James D. Knight shall be authorized to act on behalf of FBC with respect to the Project.

**D. PROJECT TEAM** Bailey Architects will staff the project with a team experienced in similar projects. Ray Bailey, FAIA will be Principal-in-Charge. Gerald Moorhead, FAIA will be Project Architect. Alexis McKinney will be Project Associate.

**E. PROJECT SCHEDULE** Bailey Architects will strive to work closely with FBC to meet any reasonable schedule allowing time for proper documentation of the services to be done. FBC acknowledges that there will be numerous decisions required by FBC in order to remain on schedule. Delays in FBC making decisions, or if FBC requests additions/changes, will cause any scheduled completion date to be extended.

Bailey Architects is prepared to begin services following receipt of the authorization to proceed. Schedule for Design and Construction Documents will be proposed at the conclusion of Restoration Planning phase.

**F. ENGINEERING SERVICES** Normal structural, mechanical/electrical/plumbing, and civil engineering services and landscape architecture services necessary for this project are included in the fee for Basic Services (as defined below). No other consultants or engineering services are included in this proposal or in the fee for Basic Services. Additional consultant services such as information technology, security, and acoustics/audio visual, authorized in advance by FBC and agreed to by Bailey Architects, will be billed by Bailey Architects at cost plus 15 percent.

**G. COMPENSATION** Bailey Architects proposes a fixed fee of \$378,000.00 for professional services inclusive of services for the following Phases: Restoration Planning, Design, and Construction Documents (excluding reimbursable expenses). Fees will be billed monthly based on percentage of completion for Basic Services.

Principals, Ray Bailey, FAIA and Ray Leiker, AIA will be billed at a fixed rate of \$165.00 per hour. Other employees range from \$65.00 to \$157.00 per hour. These rates are subject to normal and customary salary adjustments.

**H. REIMBURSABLE EXPENSES**

Reimbursable expenses are estimated at \$10,000, and will be billed at cost plus 15 percent. Expenses include reproduction costs (not for bidding), plotting, special mailings, document delivery, long distance telecommunications, agency fees (i. e. accessible design), parking, and travel as approved in advance by FBC.

**I. ADDITIONAL SERVICES**

"Additional Services" shall include any of the following circumstances or other matters specifically identified in this Agreement.

1. Bidding / Negotiation
  - a. Assist the FBC in the selection of a qualified general contractor using a bid or Construction Manager at Risk process.
  - b. Assist the FBC in negotiations with selected general contractor to determine final cost.
  - c. Additional scope as may be outlined and as mutually agreed upon in the FBC Agreement for Architectural and Engineering Services.
2. Construction Contract Administration:
  - a. During the construction period, the Architect will attend one (1) scheduled project meeting per month and make other visits to the site as appropriate to the stage of construction to observe the construction to determine, in general, if the construction is proceeding in compliance with the construction documents. The Architect shall not be required to make exhaustive or continuous on-site observations to check the quality or quantity of the construction. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with any construction performed at the Project.
  - b. The Bailey Architects will review and approve the contractor's monthly applications for payment.
  - c. The Bailey Architects will review and approve the contractor's submissions of samples and shop drawings as required in the specifications.
  - d. The Bailey Architects will perform inspections to determine dates of Substantial Completion and Final Completion.
  - e. The Bailey Architects will process Change Orders and respond to contractor's Requests for Information.
3. Use of a 3<sup>rd</sup> party Cost Estimator.
4. Planning, design and/or selection of moveable furnishings, fixtures and equipment not related to fulfilling the historical character as described in Exhibit 'B' of the FBC Agreement for Architectural and Engineering Services.

5. A change in the instructions or approvals previously given by THC that necessitate revisions in the Design and/or the Construction Documents.
6. Design, construction documents, bidding and construction administration services related to increased work as a result of further research and discovery anticipated in **Attachment 'A'** (i.e. Building Interior - Courtroom) or as a result of due diligence.
7. Design, construction documents, bidding, and construction administration services for additional landscaping beyond that described in **Exhibit 'B' of the FBC Agreement for Architectural and Engineering Services**.
8. Enactment or revision of codes, laws, ordinances or regulations or official interpretations which necessitate changes to previously prepared Construction Documents.
9. Failure of performance on the part of the FBC or FBC's consultants or contractors.
10. Preparation for and attendance at (a) a public hearing, (b) before any permitting official or entity, (c) a dispute resolution proceeding or a legal proceeding, except where Bailey Architects is a party thereto.
11. Coordination of Work with FBC's consultants and contractors (not the general contractor) including but not limited to any meetings, selection of materials, drawings and delays in scheduling the Work.
12. A significant change in the Project including but not limited to, size, quality, complexity, project phasing, the FBC's schedule or budget.

In the event of any of the above circumstances, Bailey Architects shall notify FBC in writing prior to providing such Additional Services. If FBC deems that all or a part of such Additional Services are not required, FBC shall give prompt written notice to Bailey Architects and Bailey Architects shall have no obligation to provide those services. If FBC does not give prompt written notice and in reliance on FBC's failure to give such notice, Bailey Architects provides such services, Bailey Architects shall be entitled to additional compensation as set out herein.

Additional Services are not included in the fee for Basic Services and will be billed monthly at hourly rates. Principals, Hay Bailey, FAIA and Hay Leiker, AIA will be billed at a fixed rate of \$165.00 per hour. Other employees range from \$65.00 to \$157.00 per hour. These rates are subject to normal and customary salary adjustments.

Restoration of the Fort Bend County Courthouse

May 12, 2010

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**J. PAYMENT**

Billings for Basic Services, Reimbursable Expenses and Additional Services will be billed to FBC on or before the tenth (10th) day of the month, and all sums so billed by the tenth (10th) day of the month will be payable in accordance with the terms and conditions of Section III of the FBC Agreement for Architectural and Engineering Services.

FBC will notify Bailey Architects of any disagreement with billings, including, but not limited to, any failure of Bailey Architects to perform services in accordance with this Agreement within the billing period. Unless prior arrangements are made in advance, Bailey Architects shall have the right to suspend performance of its services or not release Construction Documents until the unpaid balance is current.

**K. FBC RESPONSIBILITY**

It is FBC's responsibility to provide as-built Construction Documents of any existing construction affecting the Project as well as any other reasonably available information. Should additional field measurements be required, these will be billed as Additional Services at hourly rates.

It is FBC's responsibility to provide 1) a site survey including metes and bounds, topography, trees, utilities locations, current deed restrictions, easements, setback lines and any other reasonably available information or reasonably required information by Bailey Architects, 2) a geotechnical soils analysis sufficient for foundation design and any governmental permitting and 3) an asbestos report. Should additional field information or investigations be required, these will be billed as Additional Services at hourly rates.

FBC agrees to use its best efforts to identify Bailey Architects as architects in all press releases regarding the project; provided, however, that FBC shall not be liable or responsible for any failure to do so.

Bailey Architects shall submit design documents to FBC at intervals appropriate to the design process for purposes of evaluation and approval by FBC. Bailey Architects shall be entitled to rely on written and oral approvals received from FBC in the further development of the design.

FBC shall provide prompt written notice to Bailey Architects if FBC becomes aware of any fault or defect in the Project including any errors, omissions, or inconsistencies in any of the design documents provided by Bailey Architects.

Bailey Architects shall be entitled to fully rely on the accuracy and completeness of services, consultants and information furnished by FBC without making further inquiry or investigation.

**L. TERMINATION**

This Agreement may be terminated by either party at any time with thirty (30) days written notice, and in the event of termination, Bailey Architects shall be

Restoration of the Fort Bend County Courthouse  
May 12, 2010  
Page 6

paid in full for all services performed to the termination date, including reimbursable expenses.

Bailey Architects' compensation in the event of termination shall be determined under sections G, H and I above.

**M. NOT USED**

**N. LIMITATION OF LIABILITY**

**BAILEY ARCHITECTS AND FBC HEREBY SPECIFICALLY WAIVE ANY AND ALL CLAIMS TO CONSEQUENTIAL AND SPECIAL DAMAGES ARISING OUT OF OR RELATED TO ANY BREACH OR TERMINATION OF THIS AGREEMENT. THIS MUTUAL WAIVER IS APPLICABLE, WITHOUT LIMITATION TO ALL CONSEQUENTIAL AND SPECIAL DAMAGES, DUE TO EITHER PARTY'S BREACH OR TERMINATION IN ACCORDANCE WITH SECTION L HEREIN.**

**TO THE EXTENT ANY DAMAGES OR EXPENSES ARE COVERED BY PROPERTY INSURANCE DURING CONSTRUCTION, FBC AND BAILEY ARCHITECTS WAIVE ALL CLAIMS AND CAUSES OF ACTION AGAINST EACH OTHER AND AGAINST THE CONTRACTORS, CONSULTANTS, AGENTS, AND EMPLOYEES OF THE OTHER FOR SUCH DAMAGES AND EXPENSES, EXCEPT SUCH RIGHTS AS THEY MAY HAVE TO THE PROCEEDS OF SUCH PROPERTY INSURANCE.**

**O. HAZARDOUS WASTE**

Bailey Architects and their consultants shall have no responsibility for the investigation, discovery, presence, handling, removal, disposal, or exposure of persons to hazardous materials or toxic substances in any form at the Project site.

FBC shall obtain the services of a licensed laboratory to verify the presence or absence of hazardous materials or toxic substances and in the event such material or substance is found to be present, to verify that it has been rendered harmless.

**FBC SHALL INDEMNIFY AND HOLD HARMLESS BAILEY ARCHITECTS, THEIR CONSULTANTS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES, BODILY INJURY, DEATH OR PROPERTY DAMAGE ARISING OUT OF OR RESULTING FROM THE PRESENCE OF HAZARDOUS MATERIALS OR TOXIC SUBSTANCES AT THE PROJECT. IT IS SPECIFICALLY AGREED THAT THIS INDEMNITY OBLIGATION SHALL APPLY TO ANY SUCH CLAIMS, DAMAGES, LOSSES AND EXPENSES THAT RESULT IN WHOLE OR IN PART FROM THE NEGLIGENCE OF BAILEY ARCHITECTS, THEIR CONSULTANTS, AGENTS, OR EMPLOYEES.**

Restoration of the Fort Bend County Courthouse  
May 12, 2010  
Page 7

**P. CONTRACT FORM**

In the event this letter of agreement is not executed within thirty (30) days of the date hereof, the amounts of compensation, rates, and multiples set forth shall be subject to re-negotiation.

**Q. MISCELLANEOUS PROVISIONS**

1. This Agreement contains the entire agreement between Bailey Architects and FBC and replaces any and all prior understandings or agreements which in any way concern the Project. This Agreement shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs successors and assigns of FBC and Bailey Architects. There are no promises, representations or warranties concerning the Project which are not expressly stated in this Agreement.
2. Any amendment or change to this Agreement must be in writing and signed by the party against whom such amendment or change is trying to be enforced.
3. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas.
4. If any provision or section of this Agreement is ever found to be unenforceable it will not affect the enforceability of any other provision or section of this Agreement.
5. All headings as used in this Agreement are for the convenience of the parties only and shall not be used in any way to limit the interpretation of any provision or section of this Agreement.

**R. JURISDICTION OF LICENSED ARCHITECTS**

The Texas Board of Architectural Examiners, Post Office Box 12337, Austin Texas 78711-2337 or 333 Guadalupe, Suite 2-350, Austin, Texas 78701-3342, (512) 305-9000, has jurisdiction over individuals licensed under the Architects' Registration Law, Texas Civil Statutes, Article 249a.

**ACCEPTANCE**

FORT BEND COUNTY TEXAS

By: \_\_\_\_\_

Date: \_\_\_\_\_

BAILEY ARCHITECTS, INC



By: Ray Bailey, FAIA President

Date: 5/12/2010

Exhibit "D"  
 THC Funding Agreement Attachment D – Project Schedule

**Project Schedule**

Design and Planning Work for Restoration of the Fort Bend County Courthouse

Overall timeline:

Grant and contract document preparation: February – May 2010  
 Pre-Design and Schematic Design phase: May – September 2010  
 Design Development phase: September – October 2010  
 Construction Documents phase: January – June 2011  
 Preparation of Final Documents: July – August 2011

Date	Action	Notes
25 February 2010	Grant Orientation meeting	
May 2010	Contracts: Funding Agreement & Easement with THC Professional Services with Bailey Architects	
June 2010	Initiate work on Pre-Design phase	
July 2010	Complete Pre-Design phase and submit to Fort Bend County and THC for review and comment	
August 2010	Initiate work on Schematic Design phase	
September 2010	Complete SD phase and submit to Fort Bend County and THC for review and comment	
October 2010	Initiate Design Development phase	
December 2010	Complete DD package and submit to Fort Bend County and THC for review and comment	
January 2011	Initiate CD phase	
May 2011	Submit 60% complete CD package to Fort Bend County and THC for review and comment	
August 2011	Submit 95% complete documents to THC and Fort Bend County for review and comments	
September 2011	Revise documents upon receipt of comments and prepare final plans, specifications and project manual	
October 2011	Provide copies of final documents to Fort Bend County and the THC	