

STATE OF TEXAS §
COUNTY OF TARRANT §

KNOW ALL MEN BY THESE PRESENTS

THIS CONTRACT is made and entered into as of the 15th day of January, 2008, by and between the COUNTY OF TARRANT, a political and legal subdivision of the State of Texas (hereinafter referred to as "COUNTY"), and Carter Burgess, Inc., with offices located at 777 Main Street, Fort Worth, Texas, 76102 (hereinafter referred to as the "ARCHITECT").

W I T N E S S E T H

WHEREAS, the COUNTY having reviewed the qualifications and proposal of the ARCHITECT, desires to contract with the ARCHITECT for architectural and engineering services in connection with design and construction of the Project, the scope of which is more fully described in Section 1.01(f) below; and

WHEREAS, ARCHITECT has agreed to provide such professional services with the use of the consultants described in its response to Request for Qualifications (RFQ-2006-085) for Architectural Services for the compensation provided herein;

NOW, THEREFORE, COUNTY and ARCHITECT, in consideration of the terms, covenants, and conditions herein contained, do hereby contract as follows:

ARTICLE 1 **DEFINITIONS**

- 1.01 (a) ARCHITECT - means Carter Burgess, Inc., and their consultants as described in their response to the RFQ.
- (b) ARCHITECT'S TEAM - means Charles Nixon and Gary Ryan.
- (c) CONSTRUCTION TEAM - means the Architect, the COUNTY'S Representative and designated representatives of Commissioners Court.
- (d) COUNTY'S REPRESENTATIVE - means the individual appointed by Commissioners Court to facilitate and coordinate Project issues.
- (e) DAY - means the calendar day, unless otherwise specifically designated.
- (f) PROJECT - means the total programming, design and construction administration of the renovation in the Plaza Building, 200 Taylor, Fort Worth, for the Tarrant County Tax Office. The project also includes Plaza Building 1) design and renovation of the east and west main building entries to rework the security stations, 2) add a staircase at the west side, 3) total building (and garage across the street) security system design and 4) exterior building and site signage design for all departments.

ARTICLE II **ARCHITECT'S SERVICES**

2.01 Programming Phase

The programming phase shall as a minimum address the following requirements:

- Use preliminary program as provided by Owner
- Review requirements and layout with Owner's representatives
- Prepare and issue meeting minutes
- Define space and operational requirements
- Define other ancillary/support space requirements
- Develop strategies for balancing cost, quality and quantity

The cost of the programming phase is \$XXXXX.

2.02 Basic Services

(a) The ARCHITECT'S Basic Services consist generally of the phases described below and include the architectural services and structural, security system integration for the entire building, card access, signage/graphics (signage for complete site of 4 acres, 2nd and 3rd floors), mechanical, plumbing and electrical design services, for the Project within the limits the COUNTY has budgeted and in accordance with the standard of care required of other architects on similar projects. This shall include, but not be limited to, ARCHITECT'S employment of sufficient qualified personnel and consultants to fully and timely accomplish the services promised and agreed to in this Contract. The COUNTY shall furnish a site survey showing property lines, topography, existing improvements, utilities and all other information needed for complete site design.

(b) ARCHITECT shall use reasonable efforts and endeavor to perform all its professional services agreed hereunder in a manner satisfactory and acceptable to the COUNTY, in keeping with the professional standard of care provided by architects in similar projects. 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, as authorized and approved by the City of Fort Worth. Extending utilities not located on a street directly adjacent to the site or enlarging existing utilities to requirements of this facility, which may be necessitated, shall be extended or enlarged by separate contract and not as part of this Project.

(c) ARCHITECT'S Working Drawings and Specifications for the Project shall meet applicable federal, state, and local codes in effect at the time construction documents are complete. The ARCHITECT shall endeavor to secure all governmental approvals in conjunction with COUNTY, except that no waiver shall be requested of a code, standard or specification by ARCHITECT without the prior written consent of Owner's Representative.

(d) The description of services is necessarily general rather than specific in detail, and shall not be construed so as to exclude any services customarily provided by experienced and competent architects incident to projects of the nature and scope of this Project.

- (e) ARCHITECT is responsible for inspection of the work to ensure the work meets applicable building and fire codes. Architect is to provide a letter to the Owner that the work meets building and fire code.
- (f) ARCHITECT is responsible for preparation and presentation to the City of Fort Worth any required zoning ordinance issues. This includes any required change in zoning and any required variances. This also includes any required meetings with any neighborhood association or interested party.
- (g) ARCHITECT'S Basic Services shall be in accordance with the following schedule, except as adjusted for approved extensions. Architect shall not be penalized for delays in this schedule beyond his control or delays occasioned by action or inaction by Commissioners Court.

Programming Phase – 2 week review of existing program

Schematic Design Phase – 4 Weeks

Design Development Phase – 6 Weeks

Construction Document Phase – 8 Weeks

Bidding Phase – 5 Weeks

Construction Contract Administration Phase – 20 Weeks

**Time above does not include owner approval time.

The fee for Basic Services is not to exceed \$XXXXXX

2.03 Schematic Design Phase

(a) ARCHITECT shall consult with the COUNTY to clarify the list of priorities for the Project and shall conform the Schematic Design to such requirements and priorities as determined in the Pre-Design Programming Phase.

(b) ARCHITECT shall prepare, for consideration of and approved by COUNTY, the Schematic Design Studies, and submit three (3) copies of drawings and/or other documents which illustrate the scale and relationship of the Project components within the time allotted under the agreed Performance Schedule, adjusted for approved time extensions and the Studies shall consist of at least the following:

- (1) Floor plans based on finalized programming data;
- (2) Integration of furniture standards into finalized floor plans;
- (3) Outline specifications and development of preliminary finishes concepts;
- (4) Statistical summary of design areas comparing the program in 2.02; and
- (5) Drawings necessary to adequately present the concept

(c) Schematic design shall include the normal and customary disciplines for the standard of care of designing a confinement expansion of this size including, architectural design, structural design, mechanical design, electrical design, civil design, landscape design, and interior design. Materials research and specifications shall also be included in this phase of the Project.

(d) ARCHITECT shall provide COUNTY with a schematic design statement of probable construction cost. Should the ARCHITECT'S statement of probable construction cost exceed the Project budget, the ARCHITECT shall work with the COUNTY and make changes to bring the Project into the budget, and the ARCHITECT shall present the COUNTY with appropriate cost reduction options at completion of the schematic design phase.

(e) ARCHITECT will make recommendations to the COUNTY where a conflict may exist between the established budget and the schematic design cost estimate. Said recommendations will provide for adjustments to enable construction of the facility within the budget and during the forecast period that the project will be bid.

(f) ARCHITECT will submit each month a statement, in triplicate, to the COUNTY for payment of the percentage of work done during this phase of the Contract. Fifteen percent (15%) of the Basic Services Fee shall be authorized for this phase of the work.

2.04 Design Development Phase

(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 and character of the facility as to architectural, structural, mechanical, life safety, electrical and other systems, materials, and such other essentials as may be necessary and appropriate resulting in fully developed floor plans, 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 Performance Schedule.

(b) ARCHITECT shall submit three (3) complete sets of the proposed Design Development Documents to the COUNTY'S Representative for review and approval.

(c) ARCHITECT shall submit outline specifications for all major elements of construction including, but not limited to: architectural, structural, mechanical, interior, electrical, signage/graphics, security, ffe (furniture, fixtures and equipment). 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) ARCHITECT will develop a project cost.

(e) ARCHITECT will submit each month a statement, in triplicate, to the COUNTY'S Representative for its review and recommendations to the COUNTY of the payment of the percentage of work done during this phase of the Contract. Twenty percent (20%) of the Basic Service Fee shall be authorized for this phase of the work.

2.05 Construction Documents Phase

(a) ARCHITECT shall prepare from the approved Design Development Documents Working Drawings and Specifications setting forth in detail the requirements of the Project, including the necessary bidding information. The COUNTY'S Representative shall furnish the ARCHITECT the bidding forms and COUNTY'S General and Supplementary General Conditions, and shall assist the ARCHITECT in drafting Special Conditions of the Contract. ARCHITECT will compile a Project manual including the Conditions of the Contract, Bidding Documents and Specifications. The COUNTY'S form of Contract as developed by the COUNTY may be utilized. ARCHITECT shall submit a completed Architectural Barriers Project Registration Form and any other documents required to the Texas Department of Licensing and Regulation prior to submittal of Construction Documents to COUNTY for approval. COUNTY will be responsible for all fees required by reviewing agencies.

(b) ARCHITECT shall prepare a statement of probable construction cost based on the Construction Documents. Should the ARCHITECT'S statement of probable construction cost exceed the Project budget, the ARCHITECT shall work with the COUNTY'S Representative and make changes to bring the project into budget, and the ARCHITECT shall present the COUNTY with the appropriate cost reduction options prior to completion of the construction document phase.

(c) ARCHITECT shall submit three (3) complete sets of Proposed Construction Documents to the COUNTY'S Representative for review and approval prior to the advertisement of bids for the construction of Project, and within the agreed Performance Schedule following approval of the Design Development Documents. Following approval, ARCHITECT shall provide to COUNTY at said time, the following items:

(1) Three (3) unbound copies of approved specifications for use with subsequent binding of the signed construction contracts. Contract Documents shall be subject to the approval of the Tarrant County Criminal District Attorney's Office – Civil Section; and,

(2) A complete set of reproducible drawings with seal affixed.

(d) ARCHITECT will submit each month a statement, in triplicate, to the COUNTY'S Representative for its review and recommendations to the COUNTY for payment of the percentage of work done during this phase of the Contract. Forty percent (40%) of the Basic Services Fee shall be authorized for this phase of the work.

2.06 Bidding Phase

(a) Following COUNTY'S approval of the Construction Documents and of the latest Statement of Probable Construction Cost, ARCHITECT shall assist COUNTY in awarding construction contracts following legal public bid requirements. During the bid process, ARCHITECT shall assist COUNTY'S Representative and COUNTY as follows:

- (1) Participate in the pre-bid conference, 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;
- (2) Preparation of required addenda to Contract Documents;
- (3) Participate in pre-award conference and bid opening; and
- (4) Prequalify bidders.

(b) ARCHITECT'S assistance to the COUNTY shall include review and comment on the written recommendations for awards prepared by the COUNTY'S REPRESENTATIVE, and assist it in a more detailed analysis of specific bids. Reviews shall also consider the responsiveness of bids and their conformity with Bid Documents.

(c) ARCHITECT will submit each month a statement, in triplicate, to the COUNTY'S REPRESENTATIVE for its review and recommendations to the COUNTY for payment of the percentage of work done during this phase of the Contract. One percent (1%) of the Basic Services Fee shall be authorized for this phase of the work.

2.07 Construction Phase – Administration of the Construction Contract(s)

(a) The Construction Phase will commence with the award of the first construction contract or purchase order and will terminate sixty (60) days after acceptance by COUNTY of the Project as described herein. It is understood, however, that the ARCHITECT shall continue to assist the COUNTY in correction of defects in Project materials and workmanship, resolution by the Contractors of defects in Project materials and workmanship, resolution of Project related claims and disputes, but in no case past one year after the final completions of the Project.

(b) When requested by the COUNTY, ARCHITECT will render interpretations necessary for the proper execution or progress of the work with reasonable promptness as required by the demands of the Project.

(c) ARCHITECT will keep the COUNTY informed in writing, through the COUNTY'S Representative, of the progress of the Project, on a monthly basis, during the Construction Phase; and after issuance of the work order to proceed with the work, all of the COUNTY'S instructions to the Project Manager will be issued through the COUNTY'S Representative. Instructions which modify the drawings and specifications shall be issued by the ARCHITECT to the COUNTY'S Representative.

(d) ARCHITECT shall provide, during construction, on-site construction observation, visiting the site to the extent necessary 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'S Representative by the 10th of each month. The ARCHITECT shall submit a report which shall constitute a representation by ARCHITECT to the COUNTY, based on observations at the site that to the best of the 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 the ARCHITECT'S report).

ARCHITECT shall employ all reasonable measures to safeguard COUNTY against defects and deficiencies in the completed work (consistent with Paragraph (d) (above) of the General Contractor. 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. ARCHITECT shall not be responsible for the failure of the General Contractor to perform the work in accordance with the contract documents. However, ARCHITECT will promptly inform COUNTY'S Representative whenever defects and deficiencies in the completed work [consistent with Paragraph 2.07(d) of the General Contractor.

(e) ARCHITECT shall have authority through the COUNTY'S 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 the COUNTY for such work rejection. ARCHITECT shall make recommendations on all claims and disputes of among the COUNTY and General Contractor 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 the COUNTY, such assistance will include the availability of knowledgeable witnesses in the employ of ARCHITECT for expert testimony.

(f) ARCHITECT shall review shop drawing, samples and other submissions of the contractor for conformance with the design concept of the Project and with the information given in the Contract Documents.

(g) ARCHITECT shall prepare Change Orders to the construction contract, in six (6) copies, after review and approval by COUNTY. Each Change Order shall be specific and final as to prices and extensions of time, with no reservations or other provisions allowing for future additional money or time as a result of the particular changes identified and fully compensated in the Change Order. Change Orders shall be submitted through the COUNTY'S Representative for approval by the Commissioners Court.

(h) ARCHITECT shall assist COUNTY in conducting inspections to determine the dates of substantial completion and final completion, shall receive written guarantees and related documents assembled by the COUNTY'S Representative for submittal with the final Certificate for Payment, and shall prepare and present a final Certificate of Payment to the COUNTY'S Representative for COUNTY'S approval and payment. In addition, ARCHITECT shall make an inspection of the Project at least thirty (30) days before expiration of the one (1) year Warranty contained in the Performance Bond.

(i) ARCHITECT shall attend regularly scheduled progress meetings as required by the COUNTY at a site to be selected by the COUNTY with the COUNTY'S Representatives. Minutes of these meetings shall be prepared by the ARCHITECT with copies submitted to all attendees and the COUNTY'S Representative.

(j) ARCHITECT shall have authority, through the COUNTY, to recommend minor changes in the, design/construction documents consistent with the Contract Documents, and not involving an adjustment in the price or an extension of the Project Schedule. Such changes shall be accomplished by Field Order. In addition, ARCHITECT may issue written clarifications to written requests for information which interpret the Plans and Specifications, with copies submitted to COUNTY'S Representative.

(k) ARCHITECT shall prepare and deliver to COUNTY a set of reproducible and standard electronic format Record Construction Drawings and Record Construction Specifications showing significant changes in the work during the construction process and final location of mechanical and electrical service lines and outlets and of water, sewer, gas and storm drainage lines based upon marked-up prints of drawings and other data furnished by the Contractors to ARCHITECT.

(l) ARCHITECT will submit each month, a statement, in triplicate, to the COUNTY for payment of the percentage of work done during this phase of the Contract. Twenty-four percent (24.00%) of the Basic Services Fee shall be authorized for this phase of the work.

(m) ARCHITECT shall be responsible for inspection of the work to ensure the work meets applicable building and fire codes. ARCHITECT shall provide a letter to the Owner that the work meets all applicable building and fire codes.

2.08 Furniture, Fixtures and Equipment

The furniture, fixtures and equipment requirements will be addressed by the ARCHITECT with the following steps:

- Meet with Owner's Representatives and User Groups to determine wants and needs
- Select items required and present to Owner's Representatives for review and approval
- Prepare plans and specifications for bidding purposes
- Assist Owner in receiving, tabulating, and evaluating bids
- Assist Owner in supervision of receiving, setup and installation performed by selected vendor(s).

The Furniture, Fixtures and Equipment phase fee is not to exceed ~~XXXXXXXX~~

ARTICLE III

FIXED LIMIT OF TOTAL BUDGETED CONSTRUCTION COST

3.01 Fixed Limit Of Total Budgeted Construction Cost

The fixed limit of total Budget Construction for this Project is ~~Three Million Three Hundred Forty Two Thousand Five Hundred Dollars (\$3,342,500.00)~~ for the Plaza Building Project. These amounts are established as conditions of this Contract, and shall provide the basis for ARCHITECT'S design decisions. These fixed limits include contingencies for changes in the Project. ARCHITECT, in consultation with COUNTY shall determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, and will make reasonable adjustments in the scope of the Project to bring it within the fixed limit, provided that no changes are made in the approved program. With COUNTY approval, ARCHITECT may also include in the Contract Documents alternate bids to adjust the construction cost to the fixed limit.

3.02 If the lowest responsible bid or bids is within the fixed limit of total budgeted Construction Cost for the Project, or in the case that the Project is not bid, the ARCHITECTS latest detailed estimate of Probable Construction Cost is still less than the fixed limit of total budgeted construction cost for the Project established as a condition of this Contract, COUNTY shall pay the ARCHITECT Fees for Basic Services through the bidding or Construction Document phase, whichever applies, in accordance with this Contract.

3.03 If the lowest responsible bid exceeds its portion of the fixed limit total budgeted Construction Cost for the Project, and as a result thereof, or otherwise, the latest estimate of Probable Construction Cost exceeds such fixed limit of total budgeted construction cost for the Project established as a condition of this Contract, COUNTY as its option may either (1) give written approval of an increase in such fixed limit, with no obligation to increase ARCHITECT'S fee unless there has been a change in scope since conclusion of the approved Design Development drawings and statement of probable cost, or (2) authorize rebidding within a reasonable time, and cooperate in revising the Project scope and quality as required to reduce the Probable Construction Cost. In the case of (2), ARCHITECT, without additional charge, shall promptly modify the Drawings and Specifications as necessary to bring the Project cost within the budgeted fixed limit, or within any higher fixed subsequently authorized by COUNTY. The providing of this service shall be the limit of ARCHITECT'S

responsibility in this regard, and having done so, ARCHITECT shall be entitled to its fees in accordance with this Contract.

ARTICLE IV
REIMBURSABLE EXPENSES

4.01 Reimbursable Expenses are in addition to the compensation for Basic Services and include expenditures made by the ARCHITECT and the ARCHITECT'S employees for the expenses listed in the following paragraphs:

- (a) Expense of photographic reproduction techniques when used in connection with Additional Service, if any;
- (b) Expense of renderings requested by the COUNTY, other than provided under section 2.03(b);
- (c) Reimbursable expenses of special consultants for Additional Services;
- (d) Transportation outside of Tarrant County in connection with the Project relating to visitation of similar facilities; and
- (e) Long distance communications in connection with Additional Services for the Project.
- (f) Printing.

All of these expenses must be approved in writing in advance by the Owner's Representative.

The not to exceed allowance for reimbursables is \$XXXXXX. All unused reimbursable allowance will be returned to Tarrant County.

ARTICLE V
COMPENSATION AND PAYMENTS TO THE ARCHITECT

5.01 The fee amount for compensation for the ARCHITECT'S Basic Services as described in Article II is based on the scope of the Project described in Article I. Completion of the Project and compensation for the ARCHITECT'S Basic Services shall not exceed XXXXXX, as fixed at the time of the COUNTY'S acceptance of the ARCHITECT'S contract.

Total fees for Programming, Basic Architectural Services, FF&E and Reimbursables shall not exceed XXXXXXXXXX. Payments on account of additional services shall be made monthly in proportion to the degree of completion as described in Article V, paragraph 5.03.

5.02 Payments on account of the ARCHITECT' S Basic Services shall be made monthly in proportion to the degree of completion of each phase of the work. Payment shall be made on percentages of the Basic Fee as follows:

Schematic Design Phase	\$(15%)
Design Development Phase	\$(20%)

Construction Documents Phase	\$(40%)
Bidding Phase	\$(1%)
Construction Phase	\$(24%)
TOTAL	\$(100.00%)

- 5.03 Payment for authorized reimbursable expenses for ARCHITECT, as hereinabove referred to, shall be made following presentation, review and approval of the ARCHITECT'S detailed invoice in triplicate.
- 5.04 No deduction shall be made from the ARCHITECT'S compensation on account of penalty, liquidated damages or other sums withheld from payments to Contractor.
- 5.05 No addition shall be made to the ARCHITECT'S compensation based upon project construction claims, whether paid by the COUNTY or denied.
- 5.06 If any work designed or specified by the ARCHITECT during any phase is abandoned or suspended by COUNTY, in whole or in part, ARCHITECT is to be paid for the services performed prior to receipt of written notice from the COUNTY through its Representative of such abandonment or suspension.
- 5.07 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 Tarrant County Auditor. All payments to ARCHITECT shall be made on the basis of the invoices submitted by the ARCHITECT and approved by the COUNTY'S Representative. Such invoices shall conform to the schedule of service and costs set out above. All Reimbursable Expenses shall be clearly shown. Should additional backup material be requested by the COUNTY'S Representative, 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 Contract available to the COUNTY or its representative for inspection and auditing purposes.
- 5.08 COUNTY reserves the right to correct any error that may be discovered in any invoice that may have been paid to the ARCHITECT and to adjust the same to meet the requirements of the Contract. Following approval of invoices, COUNTY will pay ARCHITECT within thirty (30) days after receipt by COUNTY of a conforming invoice; however, under no circumstances shall ARCHITECT be entitled to receive interest on amounts due.

ARTICLE VI
ARCHITECT'S ACCOUNTING RECORDS

- 6.01 Records of ARCHITECT'S direct personnel expenses, Architect and reimbursable expenses pertaining to the Project and records of accounts between COUNTY and ARCHITECT shall be kept on a generally recognized accounting basis and shall be available to COUNTY or its authorized representative at mutually convenient times for a minimum of three (3) years after Final Certificate for Payment to Contractor for the completed Project.

ARTICLE VII
TERMINATION, DEFAULT, TIME OF THE ESSENCE AND FORCE MAJEURE

- 7.01 In connection with the work outlined in this Contract, it is agreed and fully understood by ARCHITECT that COUNTY may cancel or indefinitely suspend further work hereunder or terminate this Contract upon seven (7) days written notice to ARCHITECT with the understanding that immediately upon receipt of said notice, all work and labor being performed under this Contract shall cease. ARCHITECT shall invoice the COUNTY for all services performed and shall be compensated in accordance with the terms of this Contract for all service accomplished prior to the receipt of said notice. No amount shall be due for loss of anticipated profits. Reproducible original plans, field surveys, maps, cross sections and other data, designs and instruments of service related to the Project shall become the property of the COUNTY upon termination of this Contract and payment therefore, and shall be promptly delivered to COUNTY in a reasonable organized form without restriction on future use. Should COUNTY subsequently contract with a new architect for continuation of services on the Project, ARCHITECT shall cooperate in providing information.
- 7.02 Nothing contained in paragraph 7.01 above shall require the COUNTY to pay for any service under the terms of this agreement which is not performed in accordance with this Contract or which is not submitted in substantial compliance with the terms of this Contract. The COUNTY shall not be required to make any payments to the ARCHITECT when the ARCHITECT is in material default under this Contract, nor shall this Article constitute a waiver of any right, at law and at equity, which the COUNTY may have if the ARCHITECT is in material default, including the right to bring legal action for damages or to enforce specific performance of this Contract.
- 7.03 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 the ARCHITECT, or if the ARCHITECT'S service should be stopped for a period of thirty (30) days by the COUNTY'S failure to make payment thereon, then ARCHITECT may, upon ten (10) days written notice to the COUNTY and the COUNTY'S Representative, terminate this agreement and recover from the COUNTY payment for all service rendered.
- 7.04 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 Contract within the agreed Project Performance Schedule, adjusted for approved time extensions, and due to the fault of the ARCHITECT will constitute a material breach of this Contract. The ARCHITECT shall be fully responsible for its delays which were avoidable or for failures to use reasonable efforts in accordance with the terms of this Contract. Where damage results to the COUNTY due to the ARCHITECT'S failure to perform in these circumstances, the 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.
- 7.05 Neither COUNTY nor ARCHITECT shall be deemed in violation of this Contract 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.

ARTICLE VIII
OWNERSHIP OF DOCUMENTS

- 8.01 All plans and drawings will be prepared and submitted by ARCHITECT to COUNTY for approval on a minimum 24-inch by 36-inch, maximum 32-inch by 42-inch, drafting sheet, with all lettering processed in ink or pencil and clearly legible when the sheets are reproduced and reduced to half size.
- 8.02 Provided Architect is paid pursuant to this contract, all ARCHITECT'S design and instruments of service under this Contract, including, but not limited to, tracings, drawings, estimates, specifications, studies and other documents, completed or partially completed, shall be the property of the COUNTY; and ARCHITECT specifically waives and releases any proprietary rights or ownership claims therein. ARCHITECT may retain a reproducible copy of all instruments of service; however, the COUNTY reserves the right, so long as such instruments of service exist, to obtain copies, reproducible or otherwise, from ARCHITECT at COUNTY'S expense, but without any additional fee or charge by ARCHITECT.
- 8.03 ARCHITECT shall be liable to COUNTY for any loss or damage to any such documents while they are in the possession of, or while being worked upon, by the ARCHITECT, or anyone connected with the ARCHITECT, including agents, employees, consultants or subcontractors. All documents damaged shall be replaced or restored by ARCHITECT without cost to COUNTY.
- 8.04 The documents referenced in this Article 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. Any adaptation or use by the COUNTY of these documents on extension of this Project or other unrelated projects shall be the COUNTY'S sole risk. The COUNTY agrees to hold harmless the ARCHITECT against all damages, claims and losses arising out of such reuse of the plans except as to any reuse by the COUNTY for a subsequent phase of this Project in conjunction with the ARCHITECT.
- 8.05 Upon completion of the construction of the Project, ARCHITECT shall, within thirty (30) calendar days following receipt from Contractor of up-dated record drawings, deliver to COUNTY the reproducible Record Drawings and Record Specifications in reproducible and in PDF and AutoCad electronic format as previously described in Section 2.07 (k) hereinabove.

ARTICLE IX
GENERAL, SUPPLEMENTARY AND SPECIAL CONDITIONS:
CONTRACT ADMINISTRATION

- 9.01 COUNTY'S General Conditions are to be used by ARCHITECT with such adjustments as may be necessary for specific cases or instances, but the COUNTY'S Representative must be consulted and must approve of any such changes. Any special conditions pertaining to the Project will be included under the Special Conditions portion of the Construction Documents.
- 9.02 This Contract shall be administered on behalf of the COUNTY by its Representative, and ARCHITECT shall comply with instructions from said COUNTY'S Representative.
- 9.03 ARCHITECT may not engage any consultant for any portion of the Work without prior written consent and approval by the COUNTY. A request by the ARCHITECT for COUNTY'S consent and approval shall be submitted in writing through the COUNTY'S Representative. If granted, such consent and approval shall not relieve ARCHITECT of any of its duties, obligations, liabilities or responsibilities

under this agreement. The County shall be responsible for additional costs of consulting services incurred due to disapproval of a particular consultant.

- 9.04 ARCHITECT'S TEAM, as named above, may not change unless approved by the COUNTY. COUNTY retains the right to request replacement of any person assigned by ARCHITECT to the PROJECT. COUNTY'S decisions in this regard shall not be the basis for any claim for additional compensation by ARCHITECT. County shall not withhold approval for reasonable requests due to personnel voluntarily leaving ARCHITECT employment or termination.

ARTICLE X INSURANCE

- 10.01 During the period of this Contract, ARCHITECT shall maintain, at its expense, insurance with limits no less than those prescribed below:

- (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 + Limit Employer's Liability \$1,000,000.00

- 10.02 With respect to the required insurances listed in Sections 10.01(a), (b) and (c), ARCHITECT shall, if allowed by law and the insurance carrier:

- (a) Name Tarrant County as additional insured as their interests may appear;
- (b) Provide Tarrant County a waiver of subrogation regarding Architect's worker's compensation insurance;
- (c) Provide Tarrant County with a thirty (30) day advance written notice of cancellation or material change to said insurance; and,
- (d) Provide Tarrant County with Certificates of Insurance evidencing required coverages upon acceptance of this Agreement by Commissioners Court.

- 10.03 During the period of this Contract 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).

- 10.04 The Contractor selected for this project shall provide builder's risk insurance protecting the interests of the County and Contractor.

ARTICLE XI RESPONSIBILITY FOR WORK AND INDEMNIFICATION

- 11.01 Approval by the COUNTY shall not constitute, nor be deemed a release of the responsibility and liability of ARCHITECT, its employees, subcontractors, agents and consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and service; nor shall such approval be deemed to be an assumption of such responsibility by the COUNTY for any defect, error or omission in the designs, working drawings, and specifications or other documents prepared by ARCHITECT, its employees, subcontractors, agents and consultants.
- 11.02 ARCHITECT shall indemnify, hold harmless and defend COUNTY, its officers, agents and employees from any loss, damage, liability or expense, including reasonable attorneys fees, on account of damage to property and injuries, including death, to all persons, including employees of ARCHITECT or any of its consultants, which may arise from negligence act, error and omission on the part of ARCHITECT, its employees, agents, consultants, or subcontractors in the performance of this Contract, or any breach of any obligation under this Contract.

ARTICLE XII **ASSIGNMENT**

- 12.01 The parties each hereby bind themselves, their successors, assigns and legal representatives to each other with respect to the terms of this Contract. ARCHITECT shall not assign, sublet or transfer any interest in this Contract without prior written authorization of the Commissioners Court.

ARTICLE XIII **AMENDMENTS**

- 13.01 This Contract, representing the entire agreement between the parties, may be amended or supplemented by mutual agreement of the parties hereto in writing.

ARTICLE XIV **COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES, INC.**

- 14.01 The 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.
- 14.02 ARCHITECT will pay all taxes, if any, required by law arising by virtue of the services performed hereunder. The COUNTY is qualified for exemption pursuant to the provisions of Section 151.309 of the Texas Limited Sales, Excise and Use Tax Act.

ARTICLE XV **NON-DISCRIMINATION**

- 15.01 As a condition of this Contract, ARCHITECT hereby covenants that it will take all reasonable action to determine that, in connection with any service under this Contract, it and its consultants and subcontractors will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, or physical handicap unrelated to job performance, either directly, indirectly or through contractual or other arrangements. In this regard, ARCHITECT shall keep, retain and safeguard all records relating to this Contract or work performed hereunder for a minimum period, following project completion, of three (3) years, with full access allowed to authorized representatives of the COUNTY upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

ARTICLE XVI

ENFORCEMENT, VENUE, GOVERNING LAWS AND NOTICES

- 16.01 This Contract shall be enforceable in Tarrant County, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Tarrant County, Texas. This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.
- 16.02 This agreement incorporates the ARCHITECT'S proposal in response to the RFQ. This document is incorporated in order to provide the COUNTY and ARCHITECT with a complete understanding of the Project, its requirements and the scope of ARCHITECT'S services. In the event, however, that conflict of interpretation arises between this agreement and the proposal, this agreement shall govern, unless otherwise specifically agreed to between the COUNTY and ARCHITECT in writing.
- 16.03 All notices to the COUNTY by ARCHITECT shall be deemed given when either delivered in person or deposited in the U.S. Mail, postage prepaid, certified mail, return receipt requested, addressed to the appropriate party at the following address:

If to County: Tarrant County Commissioners Court
 100 East Weatherford Street
 Fort Worth, Texas 76196;

with copies to: David Phillips, Director of Facilities Management
 Tarrant County Courthouse
 100 West Weatherford Street Room 460
 Fort Worth, Texas 76196;

and, G.K. Maenius, County Administrator
 Tarrant County Administration Building
 100 East Weatherford Street
 Fort Worth, Texas 76196.

If to Architect: Charles Nixon, Principal
 Carter Burgess, Inc.
 777 Main Street
 Fort Worth, Texas 76102

ARTICLE XVII

TERM

- 17.01 Unless sooner terminated in accordance with the applicable provisions hereof, or extended by mutual agreement and approved by Commissioners Court, the term of this Contract shall be from the date hereof until the final one (1) year warranty inspection and resolution of any outstanding Project-related claims or disputes.

ARTICLE XVIII
FINANCIAL INTEREST PROHIBITED; CONFIDENTIALITY

- 18.01 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.
- 18.02 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.

ARTICLE XIX
ADDITIONAL SERVICES

- 19.01 The following services are not included in Basic Services unless specifically identified in this agreement. They shall be provided if authorized or confirmed in writing by Commissioners Court and they shall be paid for by the COUNTY as provided in this agreement in addition to the compensation for Basic Services.
- (a) Providing financial feasibility or other special studies above that listed in Basic Services.
 - (b) Providing consultation concerning replacement of any Work damaged by fire or other insurable cause during construction, and furnishing services as may be required in connection with the replacement of such Work.
 - (c) Preparing to serve or serving as a witness in connection with any public hearing, arbitration, proceeding or legal proceeding except as provided in Section 2.07(e) herein.
 - (d) Providing any other services not otherwise included in this agreement.
- 19.02 For any other additional services by ARCHITECT, if any, must be authorized in advance by COUNTY, compensation shall be computed as follows:
- (a) Principals' and employees' time at a fixed rate per hour computed by use of the attached Exhibit A.
 - (b) Additional Service of Basic Consultants (including structural, mechanical, electrical and civil engineering) shall be computed at 1.05 times the amounts billed to ARCHITECT. Additional Services of Special Consultants shall be computed at 1.05 times the amount billed ARCHITECT for such services.

IN WITNESS WHEREOF, the COUNTY OF TARRANT has caused this Contract to be signed in duplicate with its corporate name by its County Judge, duly authorized to execute the same in its behalf by Commissioners Court. Order approved by the Court on this 15th day of January, 2008 attested by the County Clerk.

OWNER
State of Texas
County of Tarrant

ARCHITECT

Carter Burgess, Inc.

BY: _____
B. Glen Whitley, County Judge

BY: _____
Authorized Agent

ATTEST

BY: _____
Suzanne Henderson, County Clerk

APPROVED AS TO FORM*:

BY: _____
Ray Rike, Assistant District Attorney

*This attorney represents Tarrant County and makes no representations regarding legality of this Contract. Architect should seek its own counsel regarding this contract.

CERTIFICATION OF AVAILABLE FUNDS
in the amount of: _____

BY: _____
S.Renee Tidwell, County Auditor