

ARCHITECTURAL SERVICES AGREEMENT

DRAFT

Dated: _____, 2016

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ARCHITECTURAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of the ___ day of _____, 2016, by and between COMAL COUNTY, TEXAS, a political subdivision of the State of Texas, acting by and through the Comal County Commissioners Court (hereinafter referred to as "Owner"), and HDR Architecture, Inc., a Nebraska corporation (hereinafter referred to as "Architect"), (collectively referred to as the "Parties").

BACKGROUND INFORMATION

Owner desires to retain the services of an architect to assist Owner in the design of the Comal County Jail and renovation of the Comal County Sheriff's Office building. Owner and Architect desire to execute and enter into this Agreement for the purpose of setting forth their agreement with regard to the foregoing.

STATEMENT OF AGREEMENT

WHEREAS, Owner having reviewed the qualifications and proposal of Architect, desires to contract with Architect for architectural and engineering services in connection with the construction of the Comal County Jail and renovation of the Comal County Sheriff's Office building, more fully described in Article 2 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 #2015-500 for Architectural Services for construction of the Comal County Jail and renovation of the Comal County Sheriff's Office building, for compensation provided herein; and

NOW, THEREFORE, in consideration of the mutual covenants and agreement herein contained, the compensation to be paid to Architect hereunder, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1. DEFINITIONS

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

1.1 **"Architect"** means HDR Architecture, Inc., its principals, employees, agents, and consultants described in its Response to Request for Qualifications #2015-500 for Architectural Services for construction of the Comal County Jail and renovation of the Comal County Sheriff's Office building.

1.2 **“Architect’s Team”** means the individual(s) designated in writing by Architect as its representative and authorized to act on behalf of Architect, including all principals, employees, agents, and consultants described in its Response to Request for Qualifications #2015-500 for Architectural Services for construction of the Comal County Jail and renovation of the Comal County Sheriff’s Office building.

1.3 **“Contract Documents”** shall consist of this Architectural Services Agreement, the construction manager-at-risk agreement, Construction Documents, Construction Document Change Orders and Change Directives, any Amendments or Addenda to the aforementioned agreements, and any other documents and attachments thereto that together form the entire integrated agreement between the Owner and the Architect.

1.4 **“Contract Sum”** means the Construction Cost described in the approved Guaranteed Maximum Price approved by the Comal County Commissioners Court.

1.5 **“Contract Time”** means the period of time established for completion of the Project as evidenced by the issuance of the Final Certificate of Architect, the completion of As Built drawings, and installation of furniture, fixtures, and equipment (“FFE”). Contract Time commences upon the execution of this Agreement by both Parties.

1.6 **“Construction Cost”** shall include the cost at current market rates of labor and materials furnished by the construction manager-at-risk and equipment designed, specified, selected or specially provided for by Architect, including the costs of management or supervision of construction or installation provided by a separate construction manager-at-risk or contractor, plus a reasonable allowance for its overhead and profit.

1.7 **“County Representative”** means the individual appointed by the Comal County Commissioners Court to facilitate and coordinate Project issues, namely, the County Engineer.

1.8 **“Improvements”** means, collectively, all buildings, structures, and other improvements, including but not limited to construction of the new jail and renovation of the existing jail and administrative offices, all Site development, improvements and landscaping, to be developed on the Site pursuant to this Agreement.

1.9 **“Project”** means the Site and the Improvements, specifically the construction of the Comal County Jail and renovation of the Comal County Sheriff’s Office building, including but not limited to:

Phase One – Construct a new County Jail of approximately 155,000 square feet containing 573 long-term beds, a 16-bed infirmary, a booking area with temporary holding cells, support areas, a detention administration area and visitations spaces for attorneys and families.

Phase Two – Once the new jail is built, all of the inmates will be transferred from the existing jail; the interior of the existing jail will be demolished and renovated as offices for the Sheriff's Office.

Phase Three – Upon completing the renovation of the existing jail, the Sheriff will relate staff into the newly renovated office space completed in Phase Two. The previously occupied Sheriff's Office area will then be demolished and renovated into additional office space. Upon completion, the Sheriff's Office will contain approximately 68,000 square feet, including space for future expansion.

1.10 "Project Team" means Architect, construction manager-at-risk, County Representative, and program manager.

1.11 "Site" means that certain tract or parcel of land located in the county of Comal, Texas upon which the Improvements are to be developed and constructed as contemplated by this Agreement.

ARTICLE 2. ARCHITECT'S SERVICES

2.1 Basic Services.

(a) Architect's Basic Services consist generally of the phases described below and within the limits Owner has budgeted as provided herein 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 Agreement as listed below:

1. Architectural, including signage/graphics, colors and materials selection
2. Civil engineering, including traffic impact analysis, if necessary
3. Structural engineering
4. Mechanical, Electrical, Plumbing, Fire Protection engineering
5. Communications and IT design
6. Cost Estimating
7. Kitchen & Laundry design
8. Landscape design
9. Security Equipment design
10. Security Electronics design
11. Accessibility (TAS) services
12. Program and Concepts Verification
13. Interior Design Consulting, including Furniture, Fixtures & Equipment as defined below:
 - a. Group 1: Items that are permanently attached or fixed to the building, or are permanently connected to the mechanical, electrical or plumbing

systems. These items include but are not limited to: counters, cabinets, detention furniture, kitchen and laundry equipment, fixed seating, dental chairs, bench seating, lockers, mailboxes, computers required to run the security electronics, and HVAC equipment, etc.

- b. Group 2: Movable items limited to office systems furniture, desks, chairs, filing cabinets, credenzas, and miscellaneous furniture.

(b) Architect shall be responsible for engaging any and all consultants under contract to the Architect required to provide any and all necessary services reasonably essential for the completion of the work to be performed by Architect and the fulfillment of its obligations and responsibilities arising under this Agreement. Architect shall specifically be responsible to engage the consultants for work on the Project, as included in the Architect's Response to Request for Qualifications #2015-500 for Architectural Services for construction of the Comal County Jail and renovation of the Comal County Sheriff's Office building attached hereto and incorporated herein as Exhibit A. The costs for such consultants shall be included in Architect's Basic Services. All consultants retained by the Architect are subject to the Owner's approval, which approval shall not be unreasonably withheld. In addition, after approval, all substitutions of consultants by the Architect are subject to the Owner's approval, which approval, shall not be unreasonably withheld. Except that if the Owner so elects, Owner may engage certain consultants directly and the Architect agrees to and shall as a part of its services hereunder coordinate such consultant's work, however. Architect shall not be responsible for the accuracy, completeness, or technical merit of the work or services of Owner's consultant.

(c) Owner shall furnish a Site survey showing property lines, topography, existing improvements, utilities, and other available information that may be needed for complete Site design. Owner shall engage the following consultants at its own cost for the Project: Geotechnical Engineer (soils testing services), Materials Testing, Inspection Services, and Environmental Testing. Architect is entitled to review and to reasonable rely upon the information and data generated by such consultants. Owner may utilize the services of such other consultants and contractors as Owner, in its sole judgment, determines to be in its interest and beneficial to the Project; however, nothing herein shall obligate Owner to retain any such consultants or contractors, nor shall Owner's engaging or not engaging such consultants or contractors alter or reduce Architect's duties or obligations hereunder. Architect shall provide Owner with written notice identifying other consultants engaged by Architect (or its consultants) in connection with the Project. Architect's failure to list such consultants or to give subsequent notice thereof shall not alter or reduce Architect's duties or obligations hereunder. Architect will advise and inform Owner concerning what test, inspections and reports are required by law related to the design of the Project or should be obtained by Owner because of the particular circumstances of the Project.

(d) Architect shall endeavor to perform all its professional services agreed hereunder in a manner satisfactory and acceptable to Owner. Architect shall use its best efforts to perform all its professional services agreed hereunder 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 New Braunfels. 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.

(e) 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. Architect shall secure all governmental approvals in conjunctions with Owner, except that no waiver shall be requested of any code, standard, or specification by Architect without the prior written consent of Owner.

(f) Architect, as part of the Basic Services, shall perform all of the architectural and engineering services required for the proper construction of the Project. The term "Basic Services" as used herein shall mean and include, but not be limited to, the following services:

(1) The design of all Site, Site development, foundation, structural roof, exterior wall, exterior finish, interior wall, interior finish, sanitary, electrical, plumbing, heating, ventilating, air conditioning, fire protection, signage, graphics, security, landscaping, drainage, and other work necessary to be performed in order to construct the Project.

(2) The design of all systems, including without limitation the electrical, plumbing, heating, ventilating, air conditioning, fire protection, and security.

(3) The determination of the availability to the Project of water, telephone, gas, electricity, wastewater, and other required utilities.

(4) The advising of Owner with respect to the use of materials and equipment to be incorporated into the Project, with respect to the obtaining of cost savings through the use of alternate materials and equipment for the Project and with respect to the evaluation of electrical, plumbing, heating, ventilating, air conditioning, fire protection, security, and other systems to be incorporated into the Project.

(5) The preparation of all drawings, specifications, and other documents necessary for the construction of the Project and of all design schedules and other documents necessary in connection with the phasing of the construction of the Project and the eliciting of alternative competitive bids with respect to the construction of the Project, provided, however, that Owner shall, prior to the commencement of the Construction Documents Phase and based upon information and recommendations made to Owner by Architect and program

manager decide and advise Architect whether the structural building system to be shown on and described in the drawings, specifications, and other documents required to be prepared hereunder by Architect during the Construction Documents Phase shall be precast, masonry, or steel cell, or a combination thereof, systems so that the drawings, specifications, and other documents required to be prepared hereunder by Architect during the Construction Documents Phase are not required to be produced on the basis of the possible utilization of alternative structural building systems.

(6) The advising of Owner with respect to the classifications of construction work included in each aspect of the Project and with respect to the trades required for the construction of each aspect of the Project.

(7) The advising and preparation as provided for in Article 2.6 of Owner with respect to the preparation of bidding documents necessary for the construction of the project by the construction manager-at-risk.

(8) The providing to the Owner, program manager, and construction manager-at-risk of estimates of the probable construction cost of various portions of the Project in detail sufficient to permit Owner to evaluate proposals received for the construction of various portions of the Project.

(9) The participation in meetings with Owner, program manager, and construction manager-at-risk in order to advise in the coordination of the construction of the Project.

(10) The observation and administration of the construction provided as specifically set forth in Article 2.7.

(11) The preparation and evaluation of proposed change orders with respect to the construction of the Project.

(12) The review and approval for design intent of all shop drawings, product data, and samples submitted to Architect for conformity with design concepts developed by Architect.

(13) The preparation of drawings, specifications, other documentation, and supporting data; evaluating the construction manager-at-risk proposals; and providing other services in connection with Change Orders and Change Directives.

(14) The making of readily visible and reasonably necessary investigations of existing conditions as may be necessary in order to enable Architect to

perform the Basic Services required hereunder to be performed by the Architect.

(15) The providing of design support assistance in the initial testing, adjusting, and balancing of all equipment and systems incorporated into the Project.

(16) The provision of services to Owner with respect to the correction of any defective or nonconforming work incorporated into the construction of the Project. Under certain circumstances, County Representative may authorize Additional Services of Architect with respect to the correction of defects and nonconforming work.

(17) The preparation of a set of reproducible record drawings showing the Project as constructed and based upon marked-up prints, as-built drawings provided by the construction manager-at-risk, and other information furnished to Architect.

(18) All deliverables shall be both hard copy and electronic format compatible with Owner's systems. For each deliverable, Architect shall provide four (4) copies of drawings and other documents which illustrate the scale and relationship of the Project components. All plans and drawings shall be prepared and submitted by Architect to Owner for approval on a standard drafting sheet, with all lettering clearly legible when the sheets are reproduced and reduced to half size.

(19) Project Team shall determine what electronic system is utilized for project management, web-based communications, and document control. If there is a dispute as to which system is utilized, the County Representative will make the final determination.

(20) Architect acknowledges that, in order to obtain the approval of the Owner 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 up to six (6) such presentations is part of Basic Services.

(21) Architect shall testify in any judicial proceeding concerning the design and construction of the Project when requested in writing by Owner, and Architect shall make available to Owner any personnel or consultants employed or retained by Architect for the purpose of reviewing, studying, analyzing or investigating any claims, contentions, allegations, or legal actions relating to, or arising out of, the design or construction of the Project.

(g) Architect shall perform, as part of Basic Services, any and all architectural and engineering services reasonably required in order to accomplish fully the tasks required to be performed hereunder by Architect. The entire compensation of the 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 Article 5 and any Reimbursable Expenses payable to Architect in respect to the performance hereunder of Basic Services as set forth in Article 4.

(h) Architect's Basic Services shall be completed in accordance with the Project Timeline, as summarized below, except as adjusted for approved extensions. All services provided by Architect pursuant to Articles 2.3, 2.4, 2.5, 2.6, and 2.7 shall be included as Basic Services.

TABLE 2.1(h)

<i>Phase</i>	<i>Completion Time</i>	
Program and Concepts Verification/Schematic Design Phase	Four and a half (4.5) months	From commencement of Contract Time to beginning Design Development
Design Development Phase	Three (3) months	From completion of the Schematic Design Phase
Construction Documents Phase	Six (6) months	From completion of Design Development Phase
Construction Phase	Thirty (30) months	From completion of Construction Documents Phase

2.2 Additional Services. The term "Additional Services" as used herein shall mean and include, but not be limited to, the following services by Architect:

(a) The services described in this Article are not included in Basic Services and they shall be paid for by Owner as provided in this Agreement, in addition to the compensation for Basic Services. The services described under Articles 2.2 and 2.2.2 shall only be provided if authorized or confirmed in writing by Owner. If services described under Contingent Additional Services in Article 2.2.1 are required due to circumstances beyond the Architect's control, Architect shall notify Owner in writing prior to commencing such services. Any Contingent Additional Services shall be approved by Owner in writing prior to commencement of such services, and any fee for such Contingent Additional Services shall be set forth in a separate written amendment to this Agreement as agreed to by both Parties.

(b) Any Additional Services which might be necessary in connection with the design of the Project shall be performed by Architect under this Agreement upon the written request of County Representative, provided that, upon being requested hereunder by Owner to perform any estimated increase in the compensation of Architect and any increase in the estimated costs of the construction of the Project resulting from Additional Services and of the effect, if any, of such Additional Services upon the date of completion of Basic Services

required hereunder to be performed by Architect and provided that, before any such Additional Services shall be commenced by Architect, County Representative shall have approved in writing both the amount of any estimated increase in compensation of Architect resulting from any such Additional Services and the effect of any such Additional Services upon the date for completion of Basic Services required hereunder to be performed by Architect. Notwithstanding anything to the contrary set forth in this Agreement, Owner may, in its sole discretion, choose to secure Additional Services from sources other than Architect or outside of this Agreement.

(c) The compensation of Architect shall be increased, subject to an approved written design change order, as approved by Owner, on account of Additional Services performed hereunder by Architect, and Owner shall pay Architect, as compensation for such Additional Services, an amount equal to the aggregate of the following sums:

(1) An amount equal to a negotiated lump sum or at the hourly rate for personnel of Architect, including without limitation architects, engineers, designers, draftsmen, and specification writers, for the time actually spent by such personnel in performing Additional Services under this Agreement.

(A) For purposes of calculating the amount of any payment for Additional Services, personnel of Architect shall not include persons stationed or engaged off the site of the Project in general administrative work, such as office managers, secretaries, switchboard operators, or clericals, and the base hourly rate applicable to personnel of Architect shall not exceed the following base hourly rates. Hourly rates listed below may be increased at the request of Architect and as authorized in writing by Owner.

senior principal	\$205 per hour
principal	\$185 per hour
project manager	\$175 per hour
project architect	\$125 per hour
staff senior architect	\$120 per hour
staff intern architect	\$90 per hour
staff senior engineer	\$135 per hour
staff junior engineer	\$90 per hour
CADD draftsman	\$85 per hour
specifications writer	\$105 per hour
administrative support	\$60 per hour
construction administrator	\$135 per hour

(2) An amount equal to the amount paid or payable by Architect to consultants for all Additional Services performed by such consultants under

this Agreement if and to the extent such expenses are approved in writing by County Representative prior to contracting said Additional Services.

(3) An amount equal to other expenses incurred by Architect in performing Additional Services under this Agreement if and to the extent such expenses are approved in writing by County Representative prior to expenditure.

(d) The compensation of Architect shall be increased on account of Additional Services performed hereunder by Architect as set forth in Article 2, provided, however, that notwithstanding the actual cost of any such Additional Services, the compensation of Architect shall not be increased on account of any Additional Services performed hereunder by Architect by an amount greater than the estimated increase in the compensation of Architect given to Owner with respect to such Additional Services.

2.2.1 Contingent Additional Services. The term "Contingent Additional Services" as used herein shall mean and include, but not be limited to, the following services by Architect:

(a) Making revisions in drawings, specifications, or other documents when such revisions are required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents.

(b) Providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity, Owner schedule, or the method of bidding or negotiating and contracting for construction.

(c) Providing consultation concerning replacement of work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such work.

(d) Providing services made necessary by the default of construction manager-at-risk, by major defects or deficiencies in the work of construction manager-at-risk, or by failure of performance of either Owner or construction manager-at-risk under the contract for construction.

(f) Providing services in evaluating an extensive number of claims submitted by construction manager-at-risk or by others in connection with the work, provided, however, that if and to the extent that any such claims arise out of or are the result of any negligent or wrongful act or omission of Architect or any failure by Architect to perform Basic Services or Additional Services subject to and in accordance with the terms and provisions set forth in this Agreement, such services shall be included in Basic Services required to be performed hereunder by Architect and shall not be treated hereunder as Contingent Additional Services or Optional Additional Services.

(g) Preparing documents for alternate, separate, or sequential bids or providing services in connection with bidding, negotiation, or construction prior to the completion of Construction Documents Phase, not specified in Article 2.1.

2.2.2 Optional Additional Services. The term “Optional Additional Services” as used herein shall mean and include, but not be limited to, the following services by Architect:

- (a) Providing financial feasibility or other special studies.
- (b) Providing planning surveys, site evaluations, or comparative studies of prospective sites.
- (c) Providing services to verify the accuracy of drawings or other information furnished by the Owner.
- (d) Providing services after issuance to Owner of the final Certificate of Payment, or in absence of a final Certificate of Payment, more than sixty (60) calendar days after the date of the completion of construction as shown on the initially approved construction schedule submitted by the construction manager-at-risk (adjusted for weather days) plus sixty (60) additional calendar days, for work the result of which is not from fault, action, or inaction on the part of Architect.

2.3 Program and Concepts Verification and Schematic Design Phase.

(a) During the Program and Concepts Verification part of Schematic Design Architect shall review assumptions and conclusions of the Program and Concepts presented in the RFQ to evaluate options for savings and efficiencies to establish a direction for Schematic Design completion. Architect will consult with Comal County representatives, Sheriff’s Office staff, County Representative, and program manager to clarify and confirm the list of priorities for the Project and shall conform the Schematic Design to such requirements and priorities. Upon completion of the Program and Concepts Verification part of this Phase, Architect will submit a written report of the Program and Concepts Verification findings to Owner including any proposed changes to the Program for Owner’s written approval. Architect shall perform the following services during the Program and Concepts Verification and Schematic Design Phase, including but not limited to:

TABLE 2.3(a)

Project Administration	Services related to schematic design administrative functions including consultation, meetings and correspondence, and progress design review conferences.
Disciplines Coordination	Coordination between the architectural work and engineering work and other involved consultants for the project. When specialty consultants are used, additional coordination beyond basic services may be required and negotiated for appropriate phases of the work.

Document Checking	Review and coordination of project documents.
Consulting Permitting Authority	Consultations, research of critical applicable regulations, preparation of written and graphic explanatory materials. The services apply to applicable laws, statutes, regulations, and codes.
Data Coordination	Review and coordination of data furnished for the project by the Owner and construction manager-at-risk.
Architectural Design	Services responding to scope of work (program/predesign) requirements, and as may be modified by the Program and Concepts verification process, and consisting of preparation of conceptual site and building plans, schematic sections and elevations, preliminary selection of building
Structural Design	Services consisting of recommendations regarding basic structural material and systems, analysis, and development of conceptual design solutions.
Mechanical Design	Services consisting of consideration of alternate materials, systems and equipment, and development of conceptual design solutions for energy sources/conservation, heating, ventilating and air conditioning (HVAC), plumbing, fire protection, and general space requirements.
Electrical Design	Services consisting of consideration of alternate systems, recommendations regarding basic electrical materials, systems and equipment, analysis, and development of conceptual design solutions for power service and distribution, lighting, communication raceways, fire detection and alarms, and general space requirements.
Civil/Site Design	Services consisting of site planning including layout of site features, building position, preliminary grading, location of paving for walkways, driveways and parking, and fencing locations. Also included are the normal connections required to service the building such as water, drainage, and sanitary systems, if applicable.
Specifications	Services consisting of preparation for agency's approval of proposed development of architectural outline specifications, and coordination of outline specifications of other disciplines.
Materials Research	Services consisting of identification of potential of architectural materials, systems, and equipment.
Scheduling	Services consisting of reviewing and updating previously established project schedules or initial development of schedules for decision-making, design, and documentation.
Cost Estimating	<p>Services consisting of development of a probable construction cost from quantity surveys and unit costs of building elements for the project.</p> <p>Parametric costs shall reflect the level of design elements presented in the schematic design documents, plus appropriate design contingencies to encompass unidentified scope ultimately included in the program. Assist Owner and construction manager-at-risk with analyzing scope, schedule, and budget options to stay within the Project budget.</p>

Presentations	Services consisting of appropriate presentation(s) of schematic design documents by the Architect to Owner.
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(b) Architect shall provide a preliminary evaluation of schedule and construction budget requirements by the end of the Program and Concepts Verification and Schematic Design Phase.

(c) Architect shall prepare, for consideration of and written approval by the County Representative, the Schematic Design Studies (“Studies”), and submit the drawings and other documents which illustrate the scale and relationship of the Project components within the time allotted under the agreed Performance Schedule, as detailed in Article 2.1(f), adjusted for approved time extensions, and the Studies shall consist of at least the following:

- (1) Site plan showing plans for each level;
- (2) Elevations for all structures with two or more sections for each structure;
- (3) Outline specifications;
- (4) Statistical summary of design areas;
- (5) Drawings necessary to adequately present the concept; and
- (6) All submittals shall be in electronic format, pursuant to Section 2.1(d)(18).

Notwithstanding the foregoing, any approval by Owner or County Representative shall not relieve Architect from liability for errors or omissions of Architect.

(d) Schematic Design Phase shall include the normal and customary disciplines for the standard of care of designing a Project of this size, including, but not limited to, architectural, structural, mechanical, electrical, civil, landscape, and interior designs. Materials research and specifications shall also be included in this phase of the Project.

(e) Architect shall provide Owner a schematic design statement of probable construction cost. Should the statement of probable construction cost exceed the Project budget, Architect shall work with the construction manager-at-risk, County Representative, and program manager, to make changes to bring the Project into the budget, and shall present County Representative and program manager with appropriate cost reduction options at completion of the Schematic Design Phase.

(f) Architect in coordination with construction manager-at-risk will make recommendations to Owner where a conflict may exist between the established Project

budget and the Schematic Design cost estimate. Said recommendations will provide for adjustments to enable construction of the Project within the budget and during the forecast period that the Project will be bid.

(g) Architect will submit each month a statement to the County Representative and program manager for review and recommendations to Owner for written approval of the payment for the percentage of work done during this phase of the Contract. Twenty Percent (20%) of the Basic Services Fee shall be authorized for this phase of the work.

2.4 Design Development Phase.

(a) Architect shall prepare Design Development Documents based on the approved Schematic Design Documents to include adequate specifications for each element of the Project for consideration and approval by the Owner. 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. Design Development Phase shall be completed within the agreed Performance Schedule, as detailed in Article 2.1(f). Architect shall perform the following services during the Design Development Phase, including but not limited to:

TABLE 2.4(a)

Project Administration	Services consisting of design development administrative functions including consultation, meetings and correspondence, and progress design review conferences with Owner.
Disciplines Coordination	Coordination of the architectural work and the work of engineering with other involved consultants for the project.
Document Checking	Review and coordination of documents prepared for the project.
Permitting Authority Consulting	Consultations, research of critical applicable regulations, preparation of written and graphic explanatory materials. The services apply to applicable laws, statutes, regulations, and codes. Assist in obtaining approval from approving agencies as required.
Owner Data Coordination	Review and coordination of data furnished for the project by Owner.
Architectural Design	Services consisting of continued development and expansion of architectural schematic design documents to establish the final scope, relationships, forms, size, and appearance of the project through plans, sections and elevations, typical construction details, three-dimensional sketches, materials selections, and equipment layouts.

Structural Design	Services consisting of continued development of the specific structural system(s) and schematic design documents in sufficient detail to establish basic structural system and dimensions, structural design criteria, foundation design criteria, preliminary sizing of major structural components, critical coordination clearances, and outline specifications or materials lists.
Mechanical Design	Services consisting of continued development and expansion of mechanical schematic design documents and development of outline specifications or materials lists to establish approximate equipment sizes and capacities, preliminary equipment layouts, required space for equipment, chases and clearances, acoustical and vibration control, visual impacts, and energy conservation measures.
Electrical Design	Services consisting of continued development and expansion of electrical schematic design documents and development of outline specifications or materials lists to establish criteria for lighting, electrical and communication raceways, approximate sizes and capacities of major components, preliminary equipment layouts, required space for equipment, chases, and clearances.
Civil/Site Design	Services consisting of continued development of civil/site schematic design documents and development of outline specifications required for the project that are normally prepared by Architect.
Specifications	Services consisting of preparation for Owner's approval of proposed General and Supplementary Conditions of the Contract for construction, development of architectural outline specifications, coordination of outline specifications of other disciplines, and production of design manual including design criteria, and outline specifications of materials lists.
Scheduling	Services consisting of reviewing and updating previously established schedules for the project.
Cost Estimating	Services consisting of development of a probable construction cost from quantity surveys and unit costs of building elements for the project. Parametric costs reflect the level of design elements presented in the design development documents, plus appropriate design contingencies. Assist user agency with analyzing scope, schedule and budget options to stay within the Project budget.
Presentations	Services consisting of appropriate presentation(s) of design development documents by Architect to Owner.

(b) Architect shall submit, pursuant to Article 2.1(d)(18), the proposed Design Development Documents to County Representative for review and written approval by Owner. Notwithstanding the foregoing, any approval by Owner or County Representative shall not relieve Architect from liability for errors or omissions of Architect.

(c) Architect shall submit outline specifications for all major elements of construction, including, but not limited to, architectural, structural, mechanical, civil design, landscape, interior, electrical, signage/graphics, security, FFE, 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) Architect shall coordinate with construction manager-at-risk to provide Owner with a statement of probable construction cost based on the Design Development Documents. Should the statement of probable construction cost exceed the Project budget, Architect shall work with the construction manager-at-risk, County Representative, and program manager, to make changes to bring the Project into the budget, and shall present County Representative and program manager with appropriate cost reduction options at completion of the Design Development Phase.

(e) Architect in coordination with construction manager-at-risk will make recommendations to Owner where a conflict may exist between the established Project budget and the design development cost estimate. Said recommendations will provide for adjustments to enable construction of the Project within the budget and during the forecast period that the Project will be bid.

(f) Owner shall have the right to disapprove any portion of Architect's work on the Project on any reasonable basis, including aesthetics or cost considerations. In the event that any phase of Architect's work is not approved by Owner, Architect shall proceed, when requested by Owner, with revisions to the design work or documents prepared for that phase to attempt to satisfy Owner's objections. These revisions will be made without adjustments to the compensation provided for hereunder, unless revisions are made to drawings previously approved under previous phases or such, revisions are a change in Project Scope in which cases such revisions services shall be paid as Additional Services.

(g) Architect will submit each month a statement to the County Representative and program manager for review and recommendations to Owner for written approval of the payment for the percentage of work done during this phase of the Contract. Twenty-Five Percent (25%) of the Basic Service Fee shall be authorized for this phase of the work.

2.5 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. Architect will compile a Project manual including the conditions of the contract, bidding documents, and specifications. Architect shall perform the following services during the Construction Documents Phase, including but not limited to:

TABLE 2.5(a)

Project Administration	Services consisting of construction documents, administrative functions (including consultation, meetings and correspondence), and progress design review conferences.
Disciplines Coordination	Coordination of the architectural work, with the work of engineering, and with other involved consultants for the project.
Document Checking	Review and coordination of documents prepared for the project.
Permitting Authority Consulting	Consultations, research of critical applicable regulations, preparation of written and graphic explanatory materials. The services apply to applicable laws, statutes, regulations, and codes. Assist in obtaining approval from approving agencies as required.
Owner Data Coordination	Review and coordination of data furnished for the project by Owner and construction manager-at-risk.
Architectural Design	Services consisting of preparation of drawings based on approved design development documents setting forth in detail the architectural construction requirements for the project.
Structural Design	Services consisting of preparation of final structural engineering calculations, drawings, and specifications based on approved design development documentation, which details structural construction requirements for project.
Mechanical Design	Services consisting of preparation of final mechanical engineering calculation, drawings and specifications based on approved design development documentation, setting forth in detail the mechanical construction requirements for the project.
Electrical Design	Services consisting of preparation of final electrical engineering calculation, drawing and specifications based on approved design development documentation, setting forth in detail the electrical construction requirements for the project.
Civil/Site Design	Services consisting of preparation of final civil/site design drawings and specifications based on approved design development documentation required for the project.
Specifications	Services consisting of activities of development and preparation of bidding documents, conditions of the contract, architectural specifications, coordination of specifications prepared by other disciplines, and compilation of the project manual.
Cost Estimating	Services consisting of development of a probable construction cost from quantity surveys and unit costs of building elements for the project. Parametric costs shall reflect the level of design elements presented in the Construction Documents plus appropriate design contingencies to encompass unidentified scope ultimately included in the program. Assist user agency with analyzing scope, schedule, and budget options to stay within the Project budget.

Scheduling	Services consisting of reviewing and updating previously established schedules for the project.
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(b) Architect will be responsible for filing all other governmental applications, including any applications under the American's with Disabilities Act and any other federal or state statutes or regulations applicable to the Project. Owner will, with respect to such filings, execute the documents required to be executed by Owner. Owner will be responsible for the payment of all application fees with respect to such governmental filings. Architect shall obtain all necessary approvals from the Texas Commission on Jail Standards. Architect will coordinate with the various jurisdictions and, in a timely manner, make adjustments reasonably necessary to the Construction Documents so that they will satisfy the requirements for issuance of the permits or approvals.

(c) Architect shall coordinate with construction manager-at-risk to provide Owner with a statement of probable construction cost based on the Construction Documents. Should the statement of probable construction cost exceed the Project budget, Architect shall work with the construction manager-at-risk, County Representative, and program manager, to make changes to bring the Project into the budget, and shall present County Representative and program manager with appropriate cost reduction options at completion of the Construction Document Phase.

(d) Architect in coordination with construction manager-at-risk will make recommendations to Owner where a conflict may exist between the established Project budget and the construction document cost estimate. Said recommendations will provide for adjustments to enable construction of the Project within the budget and during the forecast period that the Project will be bid.

(e) Architect shall submit, pursuant to Article 2.1(d)(18), proposed Construction Documents to the County Representative for review and official approval by Owner prior to the advertisement of bids for the construction of the Project, and within the agreed Performance Schedule, as detailed in Article 2.1(f), following approval of the Design Development Documents. Following approval, Architect shall provide to Owner at said time, the following items:

- (1) Tracing of the Project Title Sheet, signed by Architect, with seal affixed. This tracing shall be returned to County Representative to print Contract Documents when the signatures of Owner have been properly affixed;
- (2) Three (3) unbound copies of approved plans and specifications for use with subsequent binding of the signed construction contracts. Contract Documents shall be subject to the approval of the Comal County Criminal District Attorney's Office prior to submittal to the Comal County Commissioners Court or Comal County Purchasing Director;

- (3) A complete set of reproducible drawings with seal affixed; and
- (4) Electronic copy of approved plans, specifications, and construction contracts.

Notwithstanding the foregoing, any approval by Owner or County Representative shall not relieve Architect from liability for errors or omissions of Architect.

(f) Architect will submit each month a statement to the County Representative and program manager for review and recommendations to Owner for written approval of the payment for the percentage of work done during this phase of the Contract. Thirty-One Percent (31%) of the Basic Services Fee shall be authorized for this phase of the work.

2.6 Bidding Process.

(a) Each bid phase, as further described in Article 1.10, will be identified by Project Team, and all statutory bidding requirements regarding construction manager-at-risk delivery method will be complied with by Architect. Architect shall perform the following services regarding the bidding process as part of the Construction Documents Phase, including but not limited to:

TABLE 2.6(a)

Project Administration	Services consisting of bidding administrative functions.
Disciplines Coordination	Coordination between the architectural work and the work of engineering and other involved consultants for the Project.
Bidding	Services consisting of participation in pre-bid conferences, responses to questions from bidders, and clarification or interpretations of the bidding documents, attendance at bid opening.
Analysis of Substitutions	Services consisting of consideration, analysis, comparisons, and recommendations relative to substitutions proposed by bidders prior to receipt of bids.
Addenda	Services consisting of preparation of Addenda as may be required during bidding and including supplementary drawings, specifications, and instructions.
Bid Evaluation	Services consisting of validation of bids, participation in review of bids and alternates, evaluation of bids, and recommendation on award of contract.
Contract Agreements	Assist construction manager-at-risk in notification of contract award, assistance in preparation of construction contract agreements when required.

(b) Architect shall, subject to approval of Owner and as part of Basic Services, prepare bidding documents for separate specification divisions. Notwithstanding the

foregoing, any approval by Owner or County Representative shall not relieve Architect from liability for errors or omissions of Architect.

(c) Architect shall not be responsible for publication or distribution of the bidding process. The construction manager-at-risk shall be responsible for publicly bidding all bid phases of the Project in accordance with the law.

(d) Architect shall assist construction manager-at-risk in clarifying documents prior to finalization of its cost proposals to Owner, including on-site visits as required, responding to inquiries to facilitate bidders' understanding of the Construction Documents, the various on-site conditions, and the coordination and scheduling requirements conducted by County Representative, construction manager-at-risk, and program manager for the benefit of all bidders, it being specifically understood that these conferences shall be a forum for the Owner, County Representative, construction manager-at-risk, program manager, and Architect to present the Project parameters to the bidders, including information concerning scheduling requirements, time/cost control requirements, access requirements, administrative requirements, and technical information regarding the Project.

(e) Upon receipt of bids, Architect shall assist Owner, County Representative, program manager, and construction manager-at-risk where necessary to evaluate the bids for completeness, responsiveness, and price, including alternate prices and unit prices. In connection with such evaluation, Architect shall assess the impact of bid prices on Construction Cost and shall make appropriate budget recommendations to Owner based upon the bids received for the purpose of keeping the construction of the Project within Owner's Project budget.

(f) Architect shall work with County Representative, program manager, and construction manager-at-risk to ensure that the line item budgets are met through competitive bidding to the point that if exceeded, adjustments to the contract scope of work shall be made until these budgets are met throughout the entire Project.

2.7 Construction Phase.

(a) The Construction Phase will commence when Owner issues a Notice to Proceed to the construction manager-at-risk to begin construction on the Project and will terminate sixty (60) days after acceptance by Owner of the Project as described herein. It is understood, however, that Architect shall continue to assist Owner in correction of defects in Project materials and workmanship, resolution by the trade contractors of defects in Project materials and workmanship, and resolution of Project-related claims and disputes, but in no case past one year after the final completion of the Project. Acceptance of the Project by Owner shall be deemed to have occurred upon the occurrence of the following events: (i) the issuance by Architect of a certificate of substantial completion of the Project; (ii) the issuance by the appropriate governmental authority of a certificate of occupancy for the Project; and

(iii) the commencement of beneficial occupancy of the Project by Owner. Architect shall perform the following services as part of the Construction Phase, including but not limited to:

TABLE 2.7(a)

Project Administration	Services consisting of construction contract administrative functions including consultation, conferences, communications, and progress reports.
Disciplines Coordination Document Checking	Coordination between the architectural work and the work of engineering and other involved consultants for the project. Reviewing and checking of documents (required submittals) prepared for the project.
Permitting Authority Consulting	Services relating to applicable laws, statutes, regulations and codes of regulating entities relating to Owner's interests during construction of the project.
Construction Administration	Services consisting of processing of submittals, including receipt, review of and appropriate action on shop drawings, product data, samples, and other submittals required by the Contract Documents. Distribution of processed submittals to program manager, construction manager-at-risk, contractor, and field representatives as required. Maintenance of master file of submittals and related communications.
Construction Field Observation	Services consisting of visits to the site at intervals appropriate to the stage of construction or as otherwise agreed to become generally familiar with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Contract Documents, and preparing related reports and communications.
Documents	Services consisting of preparation, reproduction, and distribution of clarification documents and interpretations in response to requests for clarification by construction manager-at-risk or Owner. Maintenance of records and coordination of communications relative to requests for clarification or information (RFI). Preparation, reproduction and distribution of drawings and specifications to describe work to be added, deleted or modified, review of proposals, review and recommend changes in time for substantial completion, assisting in the preparation of modifications of the contracts and coordination of communications, approvals, notifications, and record-keeping relative to changes in the work.
Scheduling	Services consisting of monitoring the progress of the construction manager-at-risk relative to established schedules and making status reports to Owner.
Cost Accounting	Services consisting of maintenance of records of payments on account of the contract and all changes thereto, evaluation of applications for payment and certification thereof, and review and evaluation of cost data submitted by the construction manager-at-risk for work performed.

Project Closeout	Services initiated upon notice from the construction manager-at-risk that the work is sufficiently complete, in accordance with the Contract Documents, to permit occupancy or utilization for the use for which it is intended, and consisting of a detailed inspection for conformity of the work to the Contract Documents, issuance of certificate of substantial completion, issuance of a list of remaining work required (punch list), final inspections, receipt and transmittal of warranties, affidavits, receipts, releases and waivers of lien or bonds, permits, and issuance of final certificate for payment.
Record Documents (As-Builts)	Receive and review the construction manager-at-risk's marked up field records. Supply the record documents to Owner.
Operations and Maintenance Manuals	Services consisting of processing, reviewing, commenting on, taking appropriate action, and transmitting Operations and Maintenance Manuals provided by the construction manager-at-risk to Owner.
Warranty Period	Continued assistance to investigate contract problems that arise during the warranty period.

(b) When requested by County Representation, program manager, or construction manager-at-risk, 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 Owner informed in writing, of the progress of the Project, on a monthly basis, during the Construction Phase.

(d) Architect shall provide, during construction, on-site construction observation, visiting the site once each week, at a minimum, to generally familiarize itself with the progress and quality of the completed work, and to determine if the work is proceeding in such a way as when it is complete it will be in accordance with the Contract Documents. Architect shall not, however, be required to make continuous on-site inspections to check the work. Field Reports of each visit shall be prepared by Architect and submitted to County Representative, or as designated in writing by County Representative, by the 10th of each month. Architect shall submit a report which shall constitute a representation by Architect to Owner, based on observations at the site that to the best of Architect's knowledge, information, and belief, the quality of the completed work is in accordance with the Contract Documents. Architect will be provided work space at the Site by Owner or construction manager-at-risk. Work space at a minimum shall include desk, 2 chairs, computer connectivity, telephone, and access to construction documents.

(e) Architect shall use all best efforts and measures to implement its responsibilities under this Agreement to safeguard Owner against defects and deficiencies in the completed work, consistent with Paragraph (d) above, of construction manager-at-risk and the trade contractors. Architect shall not be responsible for construction means, methods, techniques, sequences of procedures, safety precautions, and programs employed in connection with the work. However, Architect will promptly inform County Representative,

or as designated in writing by County Representative, whenever defects and deficiencies in the completed work are observed, or when any observed actions or omissions are undertaken by construction manager-at-risk or the trade contractors which are not in the best interest of Owner and the Project. Architect shall, without additional compensation, promptly correct any errors, omissions, deficiencies, or conflicts in the work product of Architect or its consultants, or both.

(f) Architect shall make recommendations on all claims and disputes among Owner, construction manager-at-risk, and the trade contractors relating to the execution and progress of the work or the interpretation of the Contract Documents, based upon such review and analysis by Architect as may be reasonably required. In the event of litigation, where Architect is named as an additional party with Owner, such assistance will include the availability of knowledgeable witnesses in the employ of Architect for expert testimony.

(g) Architect shall review shop drawings, samples, and other submissions of the construction manager-at-risk for conformance with the Contract Documents and give necessary approvals.

(h) Architect shall prepare Change Orders to the construction contract, and provide copies in accordance with Section 2.1(d)(18), after review and written approval by Owner. 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 County Representative, or as designated in writing by County Representative, for review by County Representative and written approval by Owner.

(i) Architect shall assist Owner in conducting inspections to determine the date of final completion, shall receive written guarantees and related documents assembled by construction manager-at-risk for submittal with the final Certificate for Payment, and shall prepare and present a final Certificate for Payment to County Representative for Owner 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.

(j) Architect shall attend regularly scheduled progress meetings as required by Owner at a site to be selected by Owner in Comal County, Texas, with construction manager-at-risk, County Representative, and program manager. Minutes of these meetings shall be prepared by construction manager-at-risk with copies submitted to all attendees, County Representative, and program manager.

(k) Architect may 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 Change Directive. In addition, Architect may issue written clarifications to written requests for

information which interpret the Plans and Specifications, with copies submitted to County Representative, or as designated in writing County Representative.

(l) Architect shall prepare and deliver to County Representative a set of reproducible and electronic format, acceptable to Owner, 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 construction manager-at-risk to Architect.

(m) Architect will submit, not later than the end of each month, a statement to County Representative for payment of the percentage of work done during the previous month, during this phase of the contract. Twenty-four percent (24%) of the basic services fee shall be authorized for this phase of the work.

2.8 Certificates for Payment.

(a) Architect shall review and certify the amounts due construction manager-at-risk and shall issue certificates in such amounts.

(b) Architect's certification for payment to construction manager-at-risk shall constitute a representation to Owner, based on Architect's evaluation of the work as provided in Article 2.7(d) and on the data comprising the construction manager-at-risk's application for payment, that the project has progressed to the point indicated and that, to the best of Architect's knowledge, information and belief, the quality of the project is in accordance with the Contract Documents.

(c) The issuance of a certificate for payment shall not be a representation that Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Project, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from subcontractors and material suppliers and other data requested by Owner to substantiate the construction manager-at-risk's right to payment, or (4) ascertained how or for what purpose construction manager-at-risk has used money previously paid on account of the Contract Sum.

(d) Architect shall receive from construction manager-at-risk and forward to the Owner: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment and (2) if required by Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the contracts, to the extent and in such form as may be designated by Owner for Owner's review. If a Subcontractor refuses to furnish a release or waiver required by Owner, construction manager-at-risk may furnish a bond satisfactory to Owner to indemnify Owner against such lien. If such lien remains unsatisfied after payments

are made, construction manager-at-risk shall refund to Owner all money that Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorney's fees.

(e) Architect shall have authority to reject work that does not conform to the Contract Documents. Whenever Architect considers it necessary or advisable, Architect shall have authority to require inspection or testing of the work in accordance with the provisions of the Contract Documents whether such work is fabricated, installed, or completed.

(f) If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of construction manager-at-risk by the Contract Documents, Architect shall specify appropriate performance and design criteria that such services must satisfy. Shop drawings and other submittals related to the work designed or certified by the design professional retained by the construction manager-at-risk shall bear such professional's written approval when submitted to Architect. Architect shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications or approvals performed by such design professionals.

(g) Architect shall conduct inspections to determine the date or dates of final completion and shall receive from construction manager-at-risk and forward to Owner for Owner's review and records, written warranties and related documents required by the Contract Documents as assembled by the construction manager-at-risk, and shall issue a final certificate for payment based upon a final inspection indicating the work complies with the requirements of the Contract Documents. Architect shall, in conjunction with Owner, make determinations as to whether all or significant portions of the construction of the Project are complete and shall notify construction manager-at-risk of any observed incomplete or defective work incorporated into the Project. When incomplete or defective work has been remedied by construction manager-at-risk, Architect shall advise Owner of the acceptability and completeness of all or significant portions of the Project and shall, issue a certificate of final completion pertaining to the construction of the Project. Architect shall, in conjunction with Owner and after the correction of all punch list items, make a final inspection of the Project and shall make a report to Owner which will indicate whether Architect finds the construction of the Project to be acceptable and in accordance with the Contract Documents and relevant project data. Architect shall, in conjunction with construction manager-at-risk, County Representative, program manager and Owner, participate in the check-out and starting of all utilities and operating systems incorporated into the Project.

(h) Architect shall assist construction manager-at-risk by providing schematic electronic drawings and specifications for construction manager-at-risk to provide appropriate operational charts relating to mechanical and electrical systems for posting in mechanical equipment rooms located in the Project. Architect shall provide evaluation services during the one-year period after final completion of construction of the Project for the purpose of assisting Owner in determining the cause of and potential solutions for any significant Project problems and finding a solution to such problems. Architect shall conduct at least one follow-up inspection of the Project within the year following the aforementioned

one-year period to verify that all defective or non-conforming work incorporated into the construction of the project has been properly corrected. Architect shall assist County Representative, program manager, and construction manager-at-risk in their role to ensure that the Project final completion dates set for on this Project have been accomplished within the time frames and schedules set.

ARTICLE 3. FIXED LIMIT OF TOTAL BUDGETED CONSTRUCTION COST

3.1 The fixed limit of Construction Cost for this Project is sixty-two million, two hundred ninety-one thousand, six hundred ninety-six dollars (\$62,291,696). This amount is established as a condition of this Agreement, and shall provide the basis for Architect's design decisions. Architect, in consultation with Owner, County Representative, program manager, and construction manager-at-risk, 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. With Owner approval, Architect may also include in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit.

3.2 If the fixed limit of Construction Cost is exceeded by the lowest bona fide bid or negotiated proposal, Owner shall (1) give written approval of an increase in such fixed limit; (2) authorize rebidding or renegotiating of the project within a reasonable time; (3) terminate in accordance with Article 7.1; or (4) cooperate in revising the Project scope and quality as required to reduce the Construction Cost.

ARTICLE 4. REIMBURSABLE EXPENSES

4.1 Reimbursable expenses are in addition to the compensation for Basic Services and include expenditures made by Architect and Architect's employees for the expenses listed in the following paragraphs:

- (a) Expense of renderings and models requested by Owner, other than provided under Article 2.3(c); and
- (b) Travel expenses in connection with the Project relating to visitation of other facilities outside of Comal County, Texas, if approved in advance by County Representative.

4.2 All of the above reimbursable expenses must be approved in writing by the County Representative. Architect shall comply with all requirements and policies of Owner regarding travel and travel reimbursement. Expenses not indicated as reimbursable expenses are part of the Architect's Basic Services fee.

ARTICLE 5. COMPENSATION AND PAYMENTS TO ARCHITECT

5.1 The fee amount for compensation for Architect's Basic Services as described in Article 2 is based on the scope of the project described in Article 1. Completion of the Project and compensation for Architect's Basic Services shall not exceed four million, seven hundred ninety four, thousand dollars (\$4,794,000) as fixed at the time of Owner's acceptance of Architect's Agreement.

5.2 Payments for 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:

Program and Concept Verification and Schematic Design Phase	20%
Design Development Phase	25%
Construction Documents Phase	31%
Construction Phase	24%
<hr/>	
TOTAL	100%

5.3 Payment for authorized reimbursable expenses, as defined in Article 4, for Architect, as hereinabove referred to, shall be made following presentation, review and approval of Architect's detailed invoice.

5.4 No deduction shall be made from Architect's compensation on account of penalty, liquidated damages, or other sums withheld from payments to construction manager-at-risk.

5.5 No addition shall be made to Architect's compensation based upon Project construction claims, whether paid by Owner or denied.

5.6 If any work designed or specified by Architect during any phase is abandoned or suspended by Owner, in whole or in part, Architect is to be paid for the services performed prior to receipt of written notice from Owner through County Representative of such abandonment or suspension.

5.7 Architect's invoices to Owner shall provide complete information and documentation to substantiate Architect's charges. All payments to Architect shall be made on the basis of the invoices submitted by Architect to County Representative, or as designated in writing by County 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 County Representative or program manager, Architect shall comply promptly with such request. Architect shall make all records and books relating to this agreement available to Owner, County Representative, or program manager for inspection and auditing purposes.

5.8 Owner 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 this Agreement. Following approval of invoices, Owner will pay Architect within thirty (30) days after receipt by Owner of a conforming invoice.

5.9 Notwithstanding anything contained in this Agreement to the contrary, Owner shall not be obligated to make payment to the Architect hereunder if any one or more of the following conditions exist, except as provided below: (1) any part of such payment is attributable to services which are not performed in accordance with this Agreement; provided, however, that payment shall be made as to the part thereof attributable to services which were performed in accordance with this Agreement; (2) Architect has failed to make payments which are past due to consultants or other third parties used in connection with the services for which Owner has made payment to Architect, in such event, Owner may withhold an amount equal to the amount of the payments which are past due to consultants or other third parties.

ARTICLE 6. ARCHITECT'S ACCOUNTING RECORDS

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

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

6.3 Record Retention Period. Such books and records shall thereafter be available to Owner at all reasonable times for inspection, audit, examination and transcription for a period of three (3) years from the termination of this Agreement.

ARTICLE 7. TERMINATION, DEFAULT, AND TIME OF THE ESSENCE

7.1 In connection with the work outlined in this Agreement, it is agreed and fully understood by Architect that Owner may cancel or indefinitely suspend further work hereunder or terminate this Agreement 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 Agreement shall cease. Architect shall invoice Owner 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 plans, field surveys, maps, cross sections and other data, designs and instruments of service related to the Project shall become the property of Owner upon termination of this Agreement and payment therefor, and shall be promptly delivered to Owner in a reasonable organized form without restriction on future use. Should Owner subsequently contract with a new Architect for continuation of services on the Project, architect shall cooperate in providing information.

7.2 Nothing contained in Article 7.1 above shall require Owner to pay for any service under the terms of this Agreement which is not performed in accordance with this Agreement. Owner shall not be required to make any payments to Architect when Architect is in material default under this agreement, nor shall this article constitute a waiver of any right, at law and at equity, which Owner may have if Architect is in material default, including but not limited to the right to bring legal action for damages or to enforce specific performance of this Agreement. In the event of termination for any reason, Architect's sole recovery from Owner shall be compensation as authorized by this Agreement for services performed prior to termination, together with Reimbursable Expenses then due. In no event shall Architect be entitled to the anticipated or unearned fees, anticipated or lost profits or fees.

7.3 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 Owner's failure to make payment thereon, then Architect may, upon ten (10) days written notice to Owner and County Representative, terminate this Agreement and recover from Owner payment for all service rendered.

7.4 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 Timeline, as detailed in Article 2.1(f), 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. If Architect fails to expeditiously perform the services to meet the time limits established by the schedule, the Owner may, in addition to such other rights and remedies allowed by this Agreement or by law, require Architect to expend additional efforts working overtime, without additional cost to the Owner, until the schedule is maintained.

7.5 In the event of any termination under this Article 7.5, Architect consents to Owner's selection of another architect of Owner's choice to assist Owner in any way in completing the Project. Architect further agrees, subject compensation pursuant to this Agreement, to cooperate and provide any information requested by Owner in connection with the completion of the Project and consents to and authorizes the making of any reasonable changes to the design of the Project by Owner and such other architect as Owner may desire

at Owner's full risk and responsibility. Any services provided by Architect which are requested by Owner after termination shall be fairly compensated by Owner, pursuant to the provisions related to a Change in Service. This paragraph shall survive termination of this Agreement.

ARTICLE 8. OWNERSHIP OF DOCUMENTS

8.1 Provided Architect is paid pursuant to this Agreement, all Architect's design and instruments of service under this Agreement, including, but not limited to, tracings, drawings, estimates, specifications, studies and other documents, completed or partially completed, shall be the property of Owner. Architect specifically waives and releases any proprietary rights or ownership claims therein. Architect may retain a reproducible copy of all instruments of service; however, Owner reserves the right so long as such instruments of service exist, to obtain copies, reproducible or otherwise, from Architect at Owner's expense, but without any additional fee or charge by Architect.

8.2 Architect shall be liable to Owner for any loss or damage to any such documents while they are in the possession of, or while being worked upon, by Architect, or anyone connected with the Architect, including agents, employees, consultants or subcontractors. All documents damaged shall be replace or restore by Architect without cost to Owner.

8.3 The documents referenced in this article are not intended or presented by Architect to be suitable for reuse by Owner or others on extensions of this project or on other unrelated projects. Any adaptation or use by Owner of these documents on extension of this project or other unrelated projects shall be Owner's sole risk. Notwithstanding the above, upon payment to Architect as required by this Agreement or by law, Owner shall be permitted to use the documents without Architect's approval and without engaging the Architect's services for the ongoing maintenance, remodels, and expansions which may occur from time to time to the Project. Owner agrees to relieve Architect of any liability for use of the documents in conjunction with modifications or expansions, but Architect shall maintain liability for portions of the original documents and the related construction completed in accordance with the original documents. Owner retains the right to transfer ownership of the documents without Architect's approval under these same conditions. This paragraph shall survive termination of this Agreement.

8.4 Upon completion of the construction of the project, Architect shall, within thirty (30) calendar days following receipt from construction manager-at-risk of up-dated record drawings, deliver to Owner the reproducible record drawings and record specifications in reproducible and in standard electronic format. In addition, Architect shall transmit to Owner all manuals, operating instructions, as-built plans, warranties, guarantees and other documents and things required by the Construction Documents and submitted by construction manager-at-risk within thirty (30) days from the date of final completion of the Project.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Owner's intended procurement or delivery is construction manager-at-risk. Cost plus fee guaranteed maximum price construction contract, unless owner in its sole judgment determines other alternative methods to be in the Owner's Interest.

9.2 Owner's general conditions are to be used by Architect in the construction manager-at-risk contract with such adjustments as may be necessary for specific cases or instances, but County Representative must be consulted and must approve of any such changes in writing. Any special conditions pertaining to the Project will be included under the special conditions portion of the Construction Documents.

9.3 This Agreement shall be administered on behalf of Owner by County Representative and program manager, and Architect shall comply with instructions from said County Representative and program manager.

9.4 Architect may not engage any consultant for any portion of the work without prior written consent and approval by Owner. A request by Architect for Owner's consent and approval shall be submitted in writing to County Representative, or as designated in writing by County Representative. If granted, such consent and approval shall not relieve Architect of any of its duties, obligations, liabilities or responsibilities under this Agreement.

9.5 Architect's Team may not change unless approved by County Representative. County Representative retains the right to request replacement of any person assigned by Architect to the project. Owner's decisions in this regard shall not be the basis for any claim for additional compensation by Architect. Owner shall not withhold approval for reasonable request due to personnel voluntarily leaving Architect employment or termination.

9.6 County Representative shall act in all respects on behalf of Owner and such action taken by the Owner's designated representative shall be binding in all respects on Owner. Architect shall not be entitled to rely on the actions of any other individual purported to represent the Owner unless Owner substitutes in writing another person as its County Representative as provided in this Agreement.

9.7 Owner may engage a program manager to oversee design and construction, make recommendations, track budgets and schedules, facilitate communication between all parties and take action as necessary. The program manager shall not act as the County Representative, and Architect shall not be entitled to rely on actions by the program manager to bind the Owner.

9.8 Architect hereby represents to Owner that Architect is financially solvent and possesses sufficient skill, licenses, personnel (employees and consultants), and working capital to complete the services required hereunder; that Architect has visited the site for the

Project and generally familiarized itself with the local conditions under which the services required hereunder are to be performed based upon Architect's observations and review of test and reports furnished to Architect by Owner or obtained by Architect as required under this agreement. Architect shall correlate its observations of same with all of the requirements of this Agreement and of the Contract Documents.

9.9 Architect shall facilitate communications between the Owner and construction manager-at-risk and with any Consultants hired by Architect. Notwithstanding the foregoing, Owner shall have the right to direct communications with anyone, including construction manager-at-risk, Subcontractors, or Architect's consultants at any time, provided Architect shall be copied on all such communications.

ARTICLE 10. INSURANCE

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

TABLE 10.1

Insurance for Claims of Damages	
1) Comprehensive General Liability (Except Products - Completed Operations)	\$2,000,000 / Occurrence \$2,000,000 / Aggregate
2) Personal and Advertising Injury (One Person/Organization)	\$1,000,000
3) Each Occurrence (Bodily Injury and Property Damage)	\$1,000,000
4) Limit Per Person - Medical Expense	\$300,000
5) Personal Injury Liability coverage will include claims arising out of Employment Practices Liability, limited to coverage provided under standard contract.	\$1,000,000
6) Property Damage Liability insurance will provide explosion, collapse and underground coverage where applicable	\$1,000,000
Automobile Liability Insurance - Bodily Injury	
1) Each Person	\$1,000,000
2) Each Accident	\$1,000,000
Automobile Liability Insurance - Property Damage	
1) Each Accident, or	\$1,000,000
2) Combined Single Limit (Bodily Injury and Property Damage)	\$1,000,000
Workers' Compensation	

1) State:	Statutory
Employers' Liability	
1) Bodily Injury by Accident	\$500,000
2) Bodily Injury by Disease - Each Employee	\$500,000
3) Bodily Injury by Disease - Policy Limit	\$500,000

10.2 With respect to the required insurances listed in articles 10.1 and 10.3, Architect shall:

(a) Name Comal County, Texas, as additional insured as its interests may appear, with the exception of worker's compensation insurance and professional liability insurance;

(b) Provide Owner a waiver of subrogation regarding Architect's worker's compensation insurance;

(c) Provide Owner with a thirty (30) day advance written notice of cancellation or material change to said insurance. Such certificate shall be accompanied by endorsement indicating the required coverage and shall bear the endorsement "Not to be cancelled without thirty (30) days prior notice to Comal County, Texas"; and

(d) Provide Owner with certificates of insurance evidencing required coverages upon acceptance of this Agreement by Owner. Architect shall submit copies of each insurance policy to Owner evidencing the effectiveness of the foregoing insurance policies for Owner's approval, which approval shall not be unreasonably withheld.

10.3 During the period of this Agreement and for an additional three (3) year period after the acceptance of the Project pursuant to Article 2.7(a), Architect shall maintain at its expense, Architect's Professional Liability Insurance (errors and omissions insurance) with limits not less than four million dollars (\$4,000,000) with a one-hundred-and-fifty-thousand-dollar (\$150,000) deductible. This paragraph shall survive termination of this Agreement.

10.4 To the fullest extent permitted by law, Architect agrees to indemnify and hold harmless the Indemnified Parties (hereafter defined) from and against any and all claims, demands, actions, causes of action, losses, liabilities, costs and expenses (all of the foregoing being hereinafter individually and collectively called "claims"), including, without limitation, reasonable attorney's fees, or any kind, nature or description (including, without limitation, claims for property loss or damage, or personal injury or death), suffered or incurred by, or asserted against, the Indemnified Parties to the extent, but only to the extent, that the claims are the result of any negligent act or omission or any intentional act of omission in violation of Architect's standard of care, by Architect, its consultant or sub-consultant or anyone directly or indirectly employed by Architect or anyone for whose acts Architect may be liable. As used herein, "Indemnified Parties" shall mean, individually and collectively, the Owner and its respective affiliates, personal representatives, successors, officers, directors

and employees. The terms of this Article 10.4 shall survive the termination of this Agreement. With regard to claims against any party seeking indemnity under this Article 10.4 which are made by an employee of Architect, its consultant or sub-consultant, or anyone directly employed by Architect, or anyone for whose acts Architect may be liable, the indemnification obligations assumed under this Article 10.4 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for Architect or any other employer under Worker's Compensation Act, Disability Benefit Acts, or other similar employee benefit acts. The Indemnified Parties, to the extent specifically identified at the time of contracting, shall be an additional insured on Architect's commercial general liability insurance policy. Such policy shall be primary to any insurance carried independently by the Indemnified Parties. Architect's commercial general liability insurance policy and worker's compensation policy shall also provide waiver of subrogation endorsements in favor of the Indemnified Parties.

10.5 If Architect for any reason fails to obtain and/or maintain in force any of the insurance required under this Article 10, then Architect shall, and Architect does hereby agree to, indemnify Owner against, and hold, save, and defend Owner harmless from, any and all claims, demands, actions, causes of action, suits, liabilities, damages, losses, costs and expenses of any kind or nature whatsoever (including, without limitation, reasonable attorneys' fees and court costs incurred in enforcing this indemnity and otherwise) which Owner may suffer or incur, or which may be asserted against Owner, whether meritorious or not, against which Owner would or should have been insured under any required insurance which Architect does not for any reason obtain or maintain in force. This Article 10.5 shall survive termination of this Agreement.

10.6 None of the requirements contained herein as to types, limits and necessary approvals are intended to and shall not in any manner limit, qualify or quantify the liabilities and obligations assumed by Architect under this Agreement or as otherwise provided by law.

ARTICLE 11. RESPONSIBILITY FOR WORK AND INDEMNIFICATION

11.1 Responsibility for Work. Approval by Owner 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 its designs, working drawings, specifications or other documents and service; nor shall such approval be deemed to be an assumption of such responsibility by Owner 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.

11.2 Indemnification. Architect shall indemnify, hold harmless and defend Owner, 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

any negligence on part of Architect, its employees, agents, consultants, or subcontractors in the performance of this Agreement, or any breach of any obligation under this agreement.

11.3 Relationship to Insurance. In no event shall the liability and indemnification provisions, including Section 11.2 above, diminish, affect, impede or impair, in any manner whatsoever, the benefits to which any party may be entitled under any insurance policy with respect to the Project required by this Agreement or otherwise, or under the terms of any waiver of any subrogation contained therein.

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

11.5 Independent Contractors. No person who shall be engaged as an independent contractor by either Owner or Architect, or both, shall be considered an employee, servant, agent or other person for whom either Owner or Architect (as the case may be) is responsible for the purposes of Indemnification in the foregoing Section of this Article 11.

ARTICLE 12. ASSIGNMENT

12.1 The Parties each hereby bind themselves, their successors, assigns and legal representatives to each other with respect to the terms of this Agreement. Architect shall not assign, sublet or transfer any interest in this Agreement without prior written authorization of Owner.

ARTICLE 13. AMENDMENTS

13.1 This Agreement, representing the entire agreement between the Parties, may be amended or supplemented by mutual agreement of the Parties hereto in writing.

ARTICLE 14. COMPLIANCE WITH LAWS AND REGULATIONS

14.1 Architect, its consultants, agents, employees and subcontractors shall comply with applicable federal, state and local laws and ordinances where applicable, as amended. Architect will obtain all permits and licenses required in the performance of the professional services contracted for herein. The Architect will respond promptly to design-related queries from federal, state and/or local jurisdictions' reviews for code or other legal compliance in order to assist in the receipt of all permits for the Project.

14.2 Architect will pay all taxes, if any, required by law arising by virtue of the services performed hereunder. Owner is qualified for exemption pursuant to the provisions of Article 151.309 of the Texas Limited Sales, Excise, and Use Tax Act.

ARTICLE 15. NON-DISCRIMINATION

15.1 As a condition of this Agreement, Architect hereby covenants that it will take all reasonable action to determine that, in connection with any service under this Agreement, 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 Agreement or work performed hereunder for a minimum period, following project completion, of three (3) years, with full access allowed to authorized representatives of Owner upon request, for purposes of evaluating compliance with this and other provisions of the agreement.

**ARTICLE 16. ENFORCEMENT, VENUE, GOVERNING LAWS;
INCORPORATION OF REQUEST FOR QUALIFICATIONS;
AND NOTICES**

16.1 Enforcement, Venue, Governing Laws. This Agreement shall be enforceable in Comal 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 Comal County, Texas. This agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas and the United States District Court, Western District of Texas, San Antonio Division.

16.2 Incorporation of Request for Qualifications. This Agreement incorporates Architect's response to Request for Qualifications #2015-500 for Architectural Services for construction of the Comal County Jail and renovation of the Comal County Sheriff's Office building, which is attached hereto and incorporated herein by reference. This document is incorporated in order to provide Owner 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 Owner and Architect in writing.

16.3 Notices. All notices to Owner 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:

Owner: Comal County
Attention: County Judge Sherman Krause
100 Main Plaza
New Braunfels, Texas 78130
Facsimile Number: (830) 620-5380

With copy to: Comal County Engineer's Office

Attention: Tom Hornseth, County Engineer
195 David Jonas Dr.
New Braunfels, Texas 78132

With copy to:

Comal County Criminal District Attorney's Office
Attention: Tiffany Leal, Chief Civil Prosecutor
150 N. Seguin Ave, Suite 307
New Braunfels, Texas 78130
Facsimile: (830) 608-2008

Architect:

HDR Architecture, Inc.
Attention: Halden Tally, AIA, LEED AP BD + C
8750 N. Central Expressway, Suite 100
Dallas, Texas 75231
Facsimile: 972-960-4471

ARTICLE 17. TERM

17.1 Unless sooner terminated in accordance with the applicable provisions hereof, or extended by mutual agreement and approved by Owner, the term of this Agreement 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 18. FINANCIAL INTEREST PROHIBITED AND CONFIDENTIALITY

18.1 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.

18.2 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 19. REPRESENTATIONS AND WARRANTIES

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

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

(b) Architect represents and warrants to Owner that: (i) Architect possesses the skill and knowledge ordinarily possessed by well-informed members of its trade or profession; (ii) Architect will use its best efforts to ensure that the Services provided under this Agreement will be performed, delivered, and conducted in accordance with professional standards of care provided by architects in similar projects and in accordance with industry standards, and (iii) following the date of acceptance of this Agreement, the Services provided by Architect to Owner will conform to the representations contained in this Agreement, including all attachments, schedules, and exhibits. All warranties provided by Architect in this Agreement shall be cumulative, shall be deemed consistent and not in conflict, are intended to be given full force and effect and to be interpreted expansively to provide the broadest warranty protection to Owner.

ARTICLE 20. TERMS AND CONDITIONS

20.1 Governing Body, Binding Authority. Architect acknowledges and understands that the Owner is a political subdivision of the State of Texas, and the governing body for the Owner is the Comal County Commissioners Court. County Representative cannot bind the Owner, without prior approval of the Comal County Commissioners Court or as otherwise authorized by law.

20.2 Waiver of Consequential Damages. The Parties agree to waive all claims against each other for any consequential damages that may arise out of or relate to this Agreement. This waiver includes but is not limited to loss of use of the Project, loss of income or profit, loss of financing, loss of reputation, loss of business or opportunities, loss of bonding capacity, or insolvency. The provisions of this section shall also apply to the termination of this Agreement and shall survive such termination.

20.3 Headings. The use of headings, captions and numbers in this Agreement is solely for the convenience of identifying and indexing the various provisions in this Agreement and shall in no event be considered otherwise in construing or interpreting any provision in this Agreement.

20.4 Exhibits. Each and every exhibit referred to or otherwise mentioned in this Agreement is attached to this Agreement and is and shall be construed to be made a part of

this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

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

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

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

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

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

20.10 Entire Agreement. This Agreement contains the entire Agreement of Owner and Architect with respect to the engagement of Architect as the Architect for the Project, and all representations, warranties, inducements, promises or agreements, oral or otherwise, between the parties not embodied in this Agreement shall be of no force or effect.

20.11 Order of Precedence. In the event Owner issues a purchase order or other instrument related to the Architect's services, it is understood and agreed that such document is for Owner's internal accounting purposes only and shall in no way modify, add to, or delete any of the terms and conditions of this Agreement. This Agreement may be executed in multiple original counterparts, each of which shall constitute but one Agreement.

20.12 Immunity. Owner, its elected officials, officers, directors, employees and agents do not waive any sovereign or governmental immunity available to Owner under Federal or Texas law and do not waive any available defenses or remedies at law under Federal or Texas law. Nothing herein shall be construed as a waiver of sovereign or

governmental immunity, defenses, or remedies at law by Owner, its elected officials, officers, directors, employees and agents.

DRAFT

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

OWNER:

Comal County, Texas

By: _____
Sherman Krause, County Judge

Attest: _____
Bobbie Koepf, County Clerk

[COUNTY SEAL]

Architect:

HDR Architecture, Inc., a Nebraska corporation

By: _____ 7/26/2016
Thomas E. Vandever
THOMAS E. VANDEVEER
Managing Member

Attest: SENIOR VICE PRESIDENT.
Title: _____

[CORPORATE SEAL]

DRRAFT

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

HDR Architecture Inc.
Dallas, TX United States

Certificate Number:
2016-90689

Date Filed:
07/26/2016

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Comal County

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

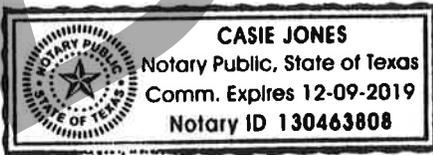
2015-500
Architectural/Engineering Jail Construction and Sheriff's Office Building Renovation

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
Higgason, Heidi	Dallas, TX United States	X	
Brenchley, Michael	Dallas, TX United States	X	
HDR, Inc.	Omaha, NE United States	X	
Wignail, Douglas	Omaha, NE United States	X	
Vandever, George	Pasadena, CA United States	X	
Little, George	Omaha, NE United States	X	

5 Check only if there is NO Interested Party.

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



Michael Brenchley

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Michael Brenchley, this the 26 day of July, 2016, to certify which, witness my hand and seal of office.

[Signature]

Signature of officer administering oath

Casie Jones

Printed name of officer administering oath

Hunan Resacas

Title of officer administering oath