

TEXAS HISTORICAL COMMISSION
real places telling real stories

June 25, 2019

The Honorable James Oakley
Burnet County Courthouse
220 S. Pierce
Burnet, TX
78611

Dear Judge Oakley:

Please find enclosed a Funding Agreement for your Texas Historic Courthouse Preservation Program grant which needs to be signed by you and returned to the Texas Historical Commission at your earliest opportunity. Information on the Funding Agreement can be found in the *Round X Master Planning Project grant manual, March 2019*, a copy of which you should have received or can be found on our website.

We are pleased to mention that \$25 million in funding for Round XI THCPP grants was approved in the 86th Legislative session. Your efforts this calendar year to update your courthouse preservation master plan will be useful to prepare for the next application cycle. Further information on the timeline for the next application will be made available in September.

We look forward to working with you again towards the preservation of your historic courthouse. If you have any questions regarding this letter, please contact us at 512.463-6094.

Sincerely,



Sharon Fleming, AIA
Director, Texas Historic Courthouse Preservation Program

Cc: File



**STATE OF TEXAS
COUNTY OF BURNET**

FUNDING AGREEMENT

This Funding Agreement ("Agreement") is entered into by and between the State of Texas, acting by and through the Texas Historical Commission ("Commission") and Burnet County, a political subdivision of the State of Texas ("County").

For good and valuable consideration, the receipt of which is hereby acknowledged, the parties do hereby contract, covenant, and agree as follows:

**ARTICLE I
PURPOSE**

- 1.01 The purpose of this Agreement is to provide for the administration of the grant of funds for development of an updated Courthouse Preservation Master Plan ("Project") for the rehabilitation and restoration of the Burnet County Courthouse ("Property").

**ARTICLE II
AUTHORITY**

- 2.01 This Agreement is authorized under the Historic Courthouse Preservation Program, Texas Government Code §§442.0081, et seq. ("Program"), and the rules promulgated thereunder at 13 Texas Administrative Code §§12.1, et seq., and the Interlocal Cooperation Act, Government Code Chapter 791.
- 2.02 This Agreement is subject to the Uniform Grant and Contract Management Act, Government Code Chapter 783, and the conditions and assurances promulgated thereunder by the Office of the Governor.

**ARTICLE III
PERIOD OF THE AGREEMENT**

- 3.01 This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until the completion of the planning work for the Property as provided in Article V hereof, and the Commission's final approval of such work, and the satisfactory completion of the grant requirements as stipulated in the Texas Historic Courthouse Preservation Program Round X Master Planning Project grant manual which is hereby incorporated by reference as if set forth fully herein, or until earlier terminated as provided in Article VIII hereof.

**ARTICLE IV
GRANT OF FUNDS**

- 4.01 The amount of the grant under the Program which is the subject of this Agreement shall be \$44,900.00. The grant of funds shall be paid to the County in accordance with the procedure described in Article VII hereof.

- 4.02 A statement of the source of funds is shown as Attachment “A” and incorporated herein for all purposes (“Source of Funds Statement”). The Source of Funds Statement itemizes the absolute dollar amounts to be contributed by state and local sources and identifies total available funds in an amount equivalent to the estimated project costs stated in Attachment “A” and incorporated herein for all purposes (“Project Cost Estimate”) The Commission’s funding participation shall not exceed the amount of the grant award specified herein.
- 4.03 The County shall be responsible for contributing all local funds at an amount not less than that specified in the Source of Funds Statement and Verification.
- 4.04 The County shall be responsible for funding any costs that are not eligible for reimbursement associated with the Project including any cost overruns in excess of the Project Cost Estimate. Notwithstanding the foregoing, the Commission may agree, but is under no obligation, to reimburse additional eligible costs in excess of the Project Cost estimate but under no circumstances shall the Commission’s contribution exceed \$50,000.00
- 4.05 If the amount of the grant award changes at any time during the course of the Project, bilateral amendments may be required. Notwithstanding the foregoing, no amendment shall be considered valid unless made pursuant to Article IX herein.

ARTICLE V SCOPE OF WORK

- 5.01 The parties hereby agree that the Scope of Work the County shall perform under this Agreement is shown as Attachment “B” and incorporated herein for all purposes (“Scope of Work”). Changes shall not be made to the Project or approved documents describing it without prior approval of the Commission and substantive changes may require bilateral amendments to this Agreement. Notwithstanding the foregoing, no amendment shall be considered valid unless made pursuant to Article IX herein.

ARTICLE VI COUNTY’S RESPONSIBILITIES

- 6.01 The County shall ensure that all matters pertaining to the Project are conducted in conformance with the procedures provided by the Texas Historic Courthouse Preservation Program, all applicable state and federal laws, rules and regulations and the legal directives of the Commission and its staff.
- 6.02 The County shall provide for the procurement of all necessary architecture, engineering, and consultant services related to the Project. The County’s contract(s) for professional services shall be submitted to the Commission.
- 6.03 The County shall ensure that the Project shall be in accordance with the treatment for restoration, rehabilitation, reconstruction or preservation, as applicable, described the U.S. Secretary of the Interior’s Standards for the Treatment of Historic Properties, 1995 (36 Code of Federal Regulations Part 68) as determined by the Commission.

- 6.04 The County shall submit all documents necessary for the Project and required under the Scope of Work to the Commission for review and approval. The County shall make all necessary revisions to the Project as determined by the Commission during the Project . The County shall not make changes to the documents required to be delivered under the Scope of Work without prior approval by the Commission.
- 6.05 The County shall ensure that the Project's completion schedule ("Project Schedule"), shown in Attachment "B", is met unless an extension is approved in advance by the Commission. Extension requests shall be made in writing by the County at least 14 days prior to the scheduled deadline.
- 6.06 The County shall be responsible for resolving any environmental matters that are identified during the course of the Project, and shall provide the Commission with written certification from appropriate regulatory agencies that any such identified environmental matters have been remediated, if so required.
- 6.07 The County accepts this grant award and acknowledges that there is no guarantee of further funding in this round or any future round for this project. All grants in this program are subject to future appropriation of funds by the Texas Legislature and a competitive award by the THC.
- 6.08 The County shall make the Property available to the Commission for regular site visits necessary to evaluate the courthouse and the Commission shall be notified of and have the right to attend interim progress meetings.
- 6.09 Pursuant to 13 Texas Administrative Code §§12.7 (e)(1) the County shall only use funds granted under this Agreement to perform the work authorized in Attachment "B", Scope of Work, or as otherwise approved in writing by the Commission.

ARTICLE VII REIMBURSEMENT

- 7.01 The County shall be reimbursed for costs and expenses incurred to perform the work related to the Project by submitting to the Commission documentation showing that such costs and expenses have been paid. Reasonable, allowable, and allocable costs incurred by the County shall be eligible for reimbursement at an amount not to exceed the State grant funding amount listed in the Source of Funds Statement included in Attachment "A". The Commission shall reimburse the County for such expenses and costs in accordance with the State Prompt Payment Law after the County submits the documentation required hereunder.
- 7.02 The total Project Cost Estimate is attached as Attachment "A" and incorporated herein for all purposes. The Project Cost Estimate includes the itemized cost of architectural and engineering services. Non-Program eligible costs and expenses shall be included in the estimate but itemized separately and are not included in the local match figure indicated in the Source of Funds Statement. Only costs and expenses identified as eligible and included as such in the Project Cost Estimate shall be eligible for reimbursement in

accordance with Article VII hereof.

- 7.03 Documentation necessary for reimbursement of eligible Project costs and expenses shall include a certified statement of services rendered with a copy of the payment check.
- 7.04 Reimbursement of eligible Project costs and expenses shall be held by the Commission until the Project described in the Scope of Work is complete and determined satisfactory within the sole discretion of the Commission. Interim reimbursements may be made at the discretion of the Commission.
- 7.05 Project costs and expenses incurred prior to the date the Project was selected by the Commission for a grant award under the Program, are not eligible for reimbursement except as otherwise agreed by the Parties in writing.

ARTICLE VIII TERMINATION

- 8.01 Termination for Convenience. The Commission may, at its sole discretion, terminate this Agreement without recourse, liability, or penalty, upon written notice to the other Party thirty (30) calendar days before the effective date of such termination. This Agreement may also be terminated prior to completion of the Project by mutual consent and agreement in writing signed by all parties.
- 8.02 Termination for Cause. This Agreement may be terminated by either party upon the failure of the other party to fulfill the obligations set forth in this Agreement, in the manner provided in this Article 8.02 hereof. If an event of termination is based on the failure of a party to fulfill its obligations under this Agreement, then the party seeking termination shall notify the party of such breach and provide such party a reasonable period of time, which shall not be less than thirty (30) days, to cure such breach. If the breach is cured within the time permitted, no termination shall occur. Otherwise, this Agreement shall terminate after the period to cure the breach has expired. Any cost incurred due to such a breach of contract shall be paid by the breaching party.
- 8.03 Termination Not Exclusive Remedy; Survival of Terms and Conditions. Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law, or under this contract. Termination of this Agreement for any reason or expiration of this contract shall not release the Parties from any liability or obligation set forth in this Agreement that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination. The following terms and conditions, (in addition to any others that could reasonably be interpreted to survive but are not specifically identified), survive the termination or expiration of this Agreement: Sections 6.10, 8.04 and Articles: IX, and XIX.
- 8.04 Withdrawal by County. Notwithstanding the foregoing, if the County withdraws from the Project after this Agreement is executed, but prior to completion of the Project, it shall be responsible for all direct and indirect Project costs as identified by the Commission's cost accounting system. All previously reimbursed Project costs shall be repaid to the Commission by the County within sixty (60) days of termination.

- 8.05 Excess Obligations. This Agreement is subject to termination or cancellation, without penalty to the Commission, either in whole or in part, subject to the availability of state funds.

ARTICLE IX CONSTRUCTION OF CONTRACT AND AMENDMENTS

- 9.01 Entire Agreement. This Agreement, including all Attachments, reflects the entire agreement between the Parties with respect to the subject matter therein described, and there are no other representations (verbal or written), directives, guidance, assistance, understandings, or agreements between the Parties related to such subject matter. By executing this Agreement, the County agrees to strictly comply with the requirements and obligations of this contract, including all attachments.
- 9.02 Amendment. This Agreement shall not be modified or amended except in writing, signed by both parties. Any properly executed amendment of this Agreement shall be binding upon the Parties and presumed to be supported by adequate consideration. Any other attempted changes, including oral modifications, written notices that have not been signed by both Parties, or other modifications of any type, shall be invalid.
- 9.03 Severability. If any term or provision of this Agreement is found to be illegal or unenforceable, such construction shall not affect the legality or validity of any of its other provisions. The illegal or invalid provision shall be deemed severable and stricken from the contract as if it had never been incorporated herein, but all other provisions shall continue in full force and effect.
- 9.04 Non-waiver. The failure of any Party to insist upon strict performance of any of the terms or conditions herein, irrespective of the length of time of such failure, shall not be a waiver of that party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under this contract shall constitute a consent or waiver to or of any breach or default in the performance of the same or any other obligation under this contract.
- 9.05 Official Capacity. The Parties stipulate and agree that the signatories hereto are signing, executing and performing this contract only in their official capacity.

ARTICLE X NOTICES

- 10.01 All notices to either party by the other required under this Agreement shall be delivered personally or sent by certified or U. S. Mail, postage prepaid or sent by electronic mail, (electronic notice being permitted to the extent permitted by law but only after a separate written consent of the parties), addressed to such parties at the following addresses:

Commission: Texas Historical Commission
Post Office Box 12276
Austin, Texas 78711

County: The Honorable James Oakley
Burnet County Courthouse
220 S. Pierce
Burnet, TX 78611

ARTICLE XII RESPONSIBILITIES OF PARTIES

- 12.01 The Commission and the County agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

ARTICLE XIII OWNERSHIP OF DOCUMENTS

- 13.01 Upon completion or termination of this Agreement, all documents prepared by either party shall remain the property of such party. Notwithstanding the foregoing, all documents and data prepared under this Agreement ("Work Product") shall be made available to the Commission without restriction or limit on their further use. Accordingly, the County does hereby grant the Commission an unrestricted, royalty-free, non-exclusive, and irrevocable license to use, copy, modify, reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works) at no additional cost to the Commission, in any manner the Commission deems appropriate in the exercise of its sole discretion, any component of such Work Product. The County shall obtain from consultants, contractors, and subcontractors (if any) all rights and data necessary to fulfill the County's obligations to the Commission under this Agreement. If a proposed consultant, contractor, or subcontractor refuses to accept terms affording the Commission such rights, the County shall promptly bring such refusal to the attention of the Commission and not proceed with the agreement in question without further authorization from the Commission.

ARTICLE XIV VENUE AND COMPLIANCE WITH LAWS AND REGULATIONS

- 14.01 The parties hereof shall comply with all applicable Federal, State, and Local laws, statutes, ordinances, rules, and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement. When required, either party shall furnish satisfactory proof of their compliance with such requirements stated above.
- 14.02 The Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the contract is fixed in any court of competent jurisdiction of Travis County, Texas.

**ARTICLE XV
LIMITATION OF LIABILITY**

- 15.01 The Commission shall not be liable for any direct or consequential damages to County or any third party for any act or omission of the County in the performance of this Agreement. The Commission shall not indemnify nor guarantee any obligation of the County.

**ARTICLE XVI
ATTACHMENTS**

- 16.01 The following documents are included in and shall be a part of this Agreement for all purposes:

Attachment "A" Source of Funds Statement and Verification, Project Cost Estimate,

Attachment "B" Scope of Work, Project Schedule

Attachment "C" Executed Contract or fee proposal between the County and Consultant

**ARTICLE XVII
DISPUTE RESOLUTION**

- 17.01 The dispute resolution process provided for in Government Code Chapter 2260 shall be used, as further described herein, by the parties to attempt to resolve any claim for breach of this Agreement made by either party.
- 17.02 A claim by the County for breach of this Agreement that cannot be resolved between the parties in the ordinary course of business shall be submitted to the negotiation process provided in Government Code Chapter 2260, Subchapter B. Compliance by County with Government Code Chapter 2260, Subchapter B is a condition precedent to the filing of a contested case proceeding under Government Code Chapter 2260, Subchapter C.
- 17.03 The contested case process provided in Government Code Chapter 2260, Subchapter C is County's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by Commission if the parties are unable to resolve their disputes under this Article XVII.
- 17.04 Compliance with the contested case process as provided in Article 17.02 hereof is a condition precedent to seeking consent to sue from the Texas Legislature under Civil Practices and Remedies Code Chapter 107. Neither the execution of this Agreement by the Commission nor any other conduct of any representative of Commission relating to the Agreement shall be considered a waiver of sovereign immunity to suit.
- 17.05 The submission, processing, and resolution of any claim by County hereunder is governed by 1 Texas Administrative Code §§68.1, et seq., now and as hereafter amended.

- 17.06 Neither the occurrence of an event alleged to constitute breach of this Agreement nor the pendency of a claim constitute grounds for the suspension of performance by the County, in whole or in part.

ARTICLE XVIII

ETHICAL AFFIRMATIONS AND CONFLICTS OF INTEREST

- 18.01 Dealings with Public Servants. Pursuant to Section 2155.003 of the Texas Government Code, County represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Agreement.
- 18.02 False Statements. County represents and warrants that all statements and information prepared and submitted in this Agreement or in any application for grant or loan funds contemplated by this Agreement are current, complete, true, and accurate. Submitting an application for funding under this Agreement with a false statement or material misrepresentations made during the performance of this Agreement is a material breach of contract and may void the submitted application and any this resulting Agreement.
- 18.03 County represents and warrants that the acceptance of funding and performance under this Agreement will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.

ARTICLE XIX

AUDITS, INSPECTION OF BOOKS, RECORDS, AND WORK, AND PUBLIC INFORMATION ACT

- 19.01 State Auditor's Right to Audit. Pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under any contract or indirectly through a subcontract under the contract. The acceptance of funds by the County or any other entity or person directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the County or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. County shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the Agreement and the requirement to cooperate is included in any subcontract it awards.
- 19.02 Inspection of Books, Records, and Work. The parties to this Agreement shall maintain all books, documents, papers, accounting records and other documentation relating to costs incurred under this Agreement and shall make such materials available to the Commission, the County, and the Comptroller, or their duly authorized representatives for review and inspection at its office during the contract period and for seven (7) years from

the date of completion of the work defined under this Agreement or until any impending litigation, or claims are resolved. Additionally, the Commission, the County, and the Comptroller and their duly authorized representatives shall have access to all the governmental records that are directly applicable to the Agreement for the purpose of making audits, examinations, excerpts, and transcriptions. The Commission may, during normal business hours, inspect the work on the Property undertaken through this Agreement.

- 19.03 Public Information Act. County understands that Commission will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material in connection with this Solicitation or any resulting contract may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, County is required to make any information created or exchanged with the State pursuant to this Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

IN WITNESS WHEREOF, this Agreement is executed in duplicate originals as of the dates herein below.

TEXAS HISTORICAL COMMISSION

By: Mark Wolfe
Title: _____
Date: 8/6/19

BURNET COUNTY

By: [Signature]
Title: County Judge
Date: 7/23/19

ATTACHMENT A COUNTY OF BURNET

A grant award was approved by the Texas Historical Commission (“Commission”) on January 25, 2019 to Burnet County (“County”) under Round X of the Texas Historical Courthouse Preservation Program (“Program”), FY 2018-19 biennium for the Burnet County Courthouse Preservation Master Plan (“Project”).

The grant supports planning for the Project as described in the “Scope of Work” in Attachment “B”. The eligible costs associated with performance of the Scope of Work the Project (“Project Cost”) is stated below. See the fee proposal or professional services contract, Attachment “C” for additional information.

SOURCE OF FUNDS

The Source of Funds for this Project shall be:

State grant funding (not more than \$50,000) =	\$44,900
County matching share (not less than \$5,000) =	<u>\$5,000</u>
Maximum Project Cost (see below) =	\$49,900

Note that the county match share includes a credit for the County’s prior master plan costs per 13 TAC 12.7(d).

PROJECT COST

The professional services provided for this project as shown in Attachment “C”, Agreement for an Update to the Master Plan for the Burnet County Courthouse, Burnet Texas (Contract) states that the compensation will be \$49,900.00 with additional services at a standard hourly rates.

Unless further eligible costs are incurred and are approved by the Commission, the maximum Project Cost for this Project shall be per the executed contract at \$49,900.

ATTACHMENT B
COUNTY OF BURNET

SCOPE OF WORK

Notwithstanding any previously executed fee proposal, contract and/or agreement, the County will hire and contract with a third-party consultant (“the Consultant”) and ensure that the Consultant will perform the Scope of Work associated with the Project as described below:

1. Develop a new, updated *Preservation Master Plan for the Burnet County Courthouse* (“Master Plan”). The Master Plan shall conform to the Commission’s revised “*Recommended Outline for Courthouse Preservation Master Plan*” dated 2/2019.
2. The documents associated with the Master Plan shall be submitted for interim review and approval to the County and Commission at the agreed intervals and dates provided in the Project Schedule (below) unless extensions are approved by the Commission.
3. The final version of the Master Plan shall incorporate all comments and be approved by the County and THC.
4. The work undertaken and/or services provided by the Consultant, unless otherwise agreed by the County and Commission will include:
 - a. Reconsider previous existing conditions evaluation and proposed recommendations. Provide a current condition assessment, and a finish schedule, site plan and floor plans to describe the historic courthouse’s and site’s current configuration.
 - b. Provide a full restoration option to the period of 1937,
 - c. Reconsider the functional and programmatic requirements of the County, and how they can be accommodated in the case of a full restoration to 1937 including the removal of the 1974 addition,
 - d. Provide a scope of work that would achieve restoration of the building to 1937, as well as any alternative approaches to design and construction as directed by the County that reflect budgetary or other constraints,
 - e. Preparation of a pre-design Cost Estimate, or Opinion of Probable Cost, for the approach(es) described in the Master Plan (“Project Budget”).
 - f. Qualified structural, mechanical and electrical engineering consultants and the services of other consultants may be necessary to fully assess the building.

5. Site visits will be conducted as necessary to evaluate the courthouse and attend interim progress meetings with the County, Commission and other representatives as directed by the County.

PROJECT SCHEDULE

The services and deliverables will be performed according to the following Project Schedule or earlier. Extension requests shall be made in writing by the County at least 14 days prior to the scheduled deadline:

1. Outline or 30% submittal for the proposed Master Plan including identification of areas of emphasis for consultation between County and THC by August 1, 2019,
2. 60% submittal by September 14, 2019 includes some consultant reports and on-site investigation,
3. 95% submittal for review and comment including Project Budget by November 15, 2019, and
4. Final 100% complete submittal for approval by February 1, 2020.

CONSTRUCTION BUDGET

- 3.1 ARCHITEXAS, along with a cost estimator, will develop a probable construction cost and budget that will be based upon the Building Conditions survey. The budget will be divided according to CSI Format.

MASTER PLAN UPDATE COMPILATION

- 4.1 Compile the findings of the research, evaluation, cost estimates and phasing strategy in the Master Plan Update which will supplement the Master Plan previously approved by the THC.
- 4.2 Present the Master Plan Update to the Commissioner's Court

COMPENSATION

ARCHITEXAS agrees to prepare a Master Plan Update for the Burnet County Courthouse for a fixed fee of \$49,900. Based on the grant program's requirements, Burnet County's portion of this fee is to be \$5,000, which includes reimbursable expenses.

REIMBURSABLES

Expenses incurred in the interest of the project are included in the compensation for professional fees, and include: photographic supplies, printing, copying, postage, mileage, travel expenses (including rental car, lodging and meals), delivery expenses.

PLAN ITEMS AND SCOPE OF WORK TO BE PROVIDED BY THE COUNTY

In order to keep the costs of the Master Plan Update to a minimum, the County will provide the following items for the development of the Master Plan Update:

- Collect and provide ARCHITEXAS a copy of historic drawings, photographs, published information such as newspaper articles, maps and any other available data on the historic courthouse and grounds
- Floor plans, if available, of existing courthouse and grounds
- Provide high resolution digital jpeg images of each historic photograph, drawing, map, and any other historical documents requested by ARCHITEXAS for inclusion in the Master Plan Update
- If the County decides to undergo a comprehensive Environmental Survey of hazardous materials, a copy should be provided to ARCHITEXAS for inclusion in the Master Plan Update. Architexas can coordinate this survey for an additional fee
- Any lifts or ladders needed for building access/inspection over 8'-0"
- Current Site Survey if available
- Review deliverables and provide feedback and necessary approvals to proceed with subsequent tasks

SERVICES NOT INCLUDED AS PART OF THIS PROPOSAL

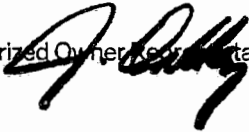
Below is a list of services that are not included:

- Increased services resulting from changes in the project scope
- Civil Engineering services
- Hazardous material surveys, abatement or related cost estimates
- Security, data or telephone system design
- Professional services relating to variance requests by jurisdictional authorities
- Construction documents, bidding or construction administration services
- Geotechnical services
- Testing laboratory services, including materials testing and historic finish analysis

APPROVAL

If you approve of this Agreement, please sign below.

Authorized Owner Representative:



Judge James Oakley



Print



Date

ARCHITEXAS:



Larry Irsik, Senior Principal

Larry Irsik, AIA

Print

December 4, 2018

Date

The services above will be performed in accordance with the following Terms and Conditions:

Terms and Conditions

The Firm (Architexas) shall perform the services outlined in this Agreement for the stated fee arrangement.

Access to Site:

Unless otherwise stated, the Firm will have access to the site for activities necessary for the performance of the services. The Owner (Client) acknowledges that some exploratory work may be required to examine concealed conditions and the Owner will be notified of potential areas of work before any work is performed. The Firm will take precautions to minimize damage due to exploratory activities, but has not included in the fee the cost of restoration of any resulting damage.

Dispute Resolution:

Any claims or disputes made during design, construction or post-construction between the Client and Firm shall be submitted to non-binding mediation. Client and Firm agree to include a similar mediation agreement with all contractors, subcontractors, sub consultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between all parties.

Billings/Payments:

Invoices for the Firm's services shall be submitted on a monthly basis for services performed to date. Invoices shall be payable within 30 days of receipt. If the invoice is not paid within 30 days, the Firm may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate the performance of the service.

Late Payments:

Accounts unpaid 60 days after the invoice date may be subject to a monthly service charge of 1.5% (or the legal rate) on the then unpaid balance. In the event any portion or all of an account remains unpaid 90 days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees.

Indemnification:

The Client and Firm shall, to the fullest extent permitted by law, indemnify and hold harmless the Firm, his or her officers, directors, employees, agents and sub consultants from and against all damage, liability and cost, including reasonable attorney's fees and defense costs, arising out of or in any way connected with the performance by any of the parties above named of the services under this agreement, excepting only those damages, liabilities or costs attributable to the sole negligence or willful misconduct of the Firm.

Certifications:

Guarantees and Warranties: The Firm shall not be required to execute any document that would result in its certifying, guaranteeing or warranting the existence of conditions whose existence the Firm cannot ascertain.

Termination of Services:

This Agreement may be terminated by the Client or the Firm should the other fail to perform its obligations hereunder. In the event of termination, the Client shall pay the Firm for all services rendered to the date of termination, all reimbursable expenses, and reimbursable termination expenses.

Ownership of Documents:

All documents produced by the Firm under this Agreement shall remain the property of the Firm and may not be used by the Client for any other endeavor without the written consent of the Firm.

Hazardous Materials Indemnity

The Client agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, partners, employees and subconsultant's (collectively, Consultant) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability, regulatory or any other cause of action, except for the sole negligence or willful misconduct of the Consultant.

Information Provided by Others

The Client shall furnish, at the Client's expense, all information, requirements, reports, data, surveys and instructions required by this Agreement. The Consultant may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof. The Consultant shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the Client and/or the Client's consultants and contractors.

Third Party Beneficiaries

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or the Consultant. The Consultant's services under this Agreement are being performed solely for the Client's benefit, and no other party or entity shall have any claim against the Consultant because of this Agreement or the performance or nonperformance of services hereunder. The Client and Consultant agree to require a similar provision in all contracts with contractors, subcontractors, subconsultant's, vendors and other entities involved in this Project to carry out the intent of this provision.

Consequential Damages

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor the Consultant, their respective officers, directors, partners, employees, contractors or subconsultant's shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the Client and the Consultant shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

Limitation of Liability

To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of the Design Professional and the Design Professional's officers, directors, partners, employees, agents and sub-consultants, and any of them, to the Client and anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages of any nature whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract or warranty, express or implied of the Design Professional or the Design Professional's officers, directors, employees, agents or subconsultants, or any of them, shall not exceed the total compensation received by the Design Professional under this Agreement, or the total amount of \$49,500.00, whichever is less. Liability due to gross negligence is not limited by this paragraph.

Proprietary Information

Proprietary Information: All portions of this proposal are considered by the ARCHITEXAS team to be trade secrets and proprietary information which if released without ARCHITEXAS permission, would give advantage to competitors. As such, these records are exempt for disclosure under Section 3(A)(4) and 3(A)(10) of the Texas Open Records Act. Release and utilization of this project shall be only under conditions established with the ARCHITEXAS team.

Licensure: In accordance with State law, you are hereby notified of the following: The Texas Board of Architectural Examiners, 333 Guadalupe, Suite 2-350, Austin, Texas 78701, Telephone (512) 305-9000, has jurisdiction over complaints regarding the professional practices of persons registered as architects in Texas.

June 21, 2019

The Honorable James Oakley
Burnet County Courthouse
220 S. Pierce
Burnet, TX 78611

Dear Judge Oakley:

Please find enclosed a Funding Agreement for your Texas Historic Courthouse Preservation Program grant which needs to be signed by you and returned to the Texas Historical Commission at your earliest opportunity. Information on the Funding Agreement can be found in the *Round X Master Planning Project grant manual, March 2019*, a copy of which you should have received or can be found on our website.

We are pleased to mention that \$25 million in funding for Round XI THCPP grants was approved in the 86th Legislative session. Your efforts this calendar year to update your courthouse preservation master plan will be useful to prepare for the next application cycle. Further information on the timeline for the next application will be made available in September.

We look forward to working with you again towards the preservation of your historic courthouse. If you have any questions regarding this letter, please contact us at 512.463-6094.

Sincerely,

Sharon Fleming, AIA
Director, Texas Historic Courthouse Preservation Program

Cc: File

TEXAS HISTORICAL COMMISSION
real places telling real stories

June 25, 2019

The Honorable James Oakley
Burnet County Courthouse
220 S. Pierce
Burnet, TX
78611

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Please find enclosed a Funding Agreement for your Texas Historic Courthouse Preservation Program grant which needs to be signed by you and returned to the Texas Historical Commission at your earliest opportunity. Information on the Funding Agreement can be found in the *Round X Master Planning Project grant manual, March 2019*, a copy of which you should have received or can be found on our website.

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Sharon Fleming, AIA
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