

# DRAFT AIA® Document B141™ – 1997 Part 1

## Standard Form of Agreement Between Owner and Architect with Standard Form of Architect's Services

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**AGREEMENT** made as of the **Twenty-third** day of **December** in the year Two-Thousand and Eight.

*(In words, indicate day, month and year)*

**BETWEEN** the Architect's client identified as the Owner:  
*(Name, address and other information)*

County of Hidalgo  
100 E. Cano, 2<sup>nd</sup> Floor  
Edinburg, Texas 78539

and the Architect:  
*(Name, address and other information)*

ERO International, LLP  
300 South 8<sup>th</sup> Street  
McAllen, Texas 78501  
Phone Number: (956) 661-0400  
Fax Number: (956) 661-0401

For the following Project:  
*(Include detailed description of Project)*

#### **Phase I:** **EXISTING CONDITIONS**

Prepare Drawings of existing conditions of the site (including sidewalks, parking, etc.) and buildings (floor plans and exterior elevations) on the Courthouse Square bounded by McIntyre Street on the north, Closner Blvd. on the east, Cano Street on the South and 10<sup>th</sup> Ave. on the west.

#### **Phase II:**

(Approved in Commissioners' Court on December 16, 2008 to complete described Exhibit "D" Appendix A)

- (A) **PROPERTY CONDITION ASSESSMENT; ENVIRONMENTAL ASSESSMENT**
- (B) **NEEDS ANALYSIS AND PROGRAMMING**

Phase II (A) Perform a facilities assessment, building code assessment and deferred maintenance assessment of the site, buildings and physical plant.

#### **ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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Phase II (B) Needs Analysis & Programming.

Phase III:

**DESIGN AND CONSTRUCTION**

Design the renovation of the 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> floors to accommodate new courtrooms and ancillary spaces.

All Phases are on an "**As Needed Basis**" as approved by Commissioners' Court and no work should be commenced by the Architect until Architect receives a written Notice to Proceed by Owner. No work is guaranteed under any Phase described herein.

The Owner and Architect agree as follows:

**ARTICLE 1.1 INITIAL INFORMATION**

**§ 1.1.1** This Agreement is based on the following information and assumptions.

*(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")*

**§ 1.1.2 PROJECT PARAMETERS**

**§ 1.1.2.1** The objective or use is:

*(Identify or describe, if appropriate, proposed use or goals.)*

Evaluate existing courthouse for possible renovation.

**§ 1.1.2.2** The physical parameters are:

*(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports about the site.)*

100 North Clossner, Edinburg, Texas 78539

**§ 1.1.2.3** The Owner's Program is:

*(Identify documentation or state the manner in which the program will be developed.)*

N/A

**§ 1.1.2.4** The legal parameters are:

*(Identify pertinent legal information, including, if appropriate, land surveys and legal descriptions and restrictions of the site.)*

N/A

**§ 1.1.2.5** The financial parameters are as follows.

- .1 Amount of the Owner's overall budget for the Project, including the Architect's compensation, is:
- .2 Amount of the Owner's budget for the Cost of the Work, excluding the Architect's compensation, is:
- .3 A stipulated amount of \$216,580.00 for Architectural services for Phase I.
- .4 A stipulated amount of \$95,000.00 for Architectural services for Phase II (A);
- .5 A stipulated amount of \$125,000.00 for Phase II (B);
- .6 An allowance of \$20,000.00 for Phase II (A) & (B) to apply to travel and reimbursable expenses shall not be exceeded without prior written acceptance of the Owner.
- .7 Phase III to be determined by written agreement between Owner and Architect at a later date if project warrants the work and Architect is issued a written Notice to Proceed by Owner.

**§ 1.1.2.6** The time parameters are:

*(Identify, if appropriate, milestone dates, durations or fast track scheduling.)*

Phase I – 4 months period upon approval of Commissioners' Court

Phase II (A) – 3 months period upon approval of Commissioners' Court

Phase II (B) – 5 months period upon approval of Commissioners' Court  
Phase III- To be negotiated at a later date.

§ 1.1.2.7 The proposed procurement or delivery method for the Project is:

*(Identify method such as competitive bid, negotiated contract, or construction management.)*

Competitive Bid.

§ 1.1.2.8 Other parameters are:

*(Identify special characteristics or needs of the Project such as energy, environmental or historic preservation requirements.)*

### § 1.1.3 PROJECT TEAM

§ 1.1.3.1 The Owner's Designated Representative is:

*(List name, address and other information.)*

Hidalgo County Commissioners' Court, Valde Guerra, Commissioners' Court Executive Director, and Daniel Flores, Buildings and Ground Director as referenced on the AIA 201 General Conditions in section 2.1.1, as authorized representatives.

100 E. Cano, 2nd Floor, Edinburg, Texas 78539

§ 1.1.3.2 The persons or entities, in addition to the Owner's Designated Representative, who are required to review the Architect's submittals to the Owner are:

*(List name, address and other information.)*

Hidalgo County Commissioners' Court

100 East Cano, 2<sup>nd</sup> Floor

Edinburg, Texas 78539

§ 1.1.3.3 The Owner's other consultants and contractors are:

*(List discipline and, if known, identify them by name and address.)*

§ 1.1.3.4 The Architect's Designated Representative is:

*(List name, address and other information.)*

Eli R. Ochoa, PE, AIA

300 South 8<sup>th</sup> Street

McAllen, Texas 78501

Telephone Number: (956) 661-0400

Fax Number: (956) 661-0401

Eochoa@erointernational.com

§ 1.1.3.5 The consultants retained at the Architect's expense are:

*(List discipline and, if known, identify them by name and address.)*

§ 1.1.4 Other important initial information is:

§ 1.1.5 When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be the 1997 edition of AIA Document A201 as modified by Owner and attached hereto as Exhibit "C".

§ 1.1.6 The information contained in this Article 1.1 may be reasonably relied upon by the Owner and Architect in determining the Architect's compensation. Both parties, however, recognize that such information may change and, in that event, the Owner and the Architect shall negotiate appropriate adjustments in schedule, compensation and Change in Services in accordance with Section 1.3.3.

## ARTICLE 1.2 RESPONSIBILITIES OF THE PARTIES

§ 1.2.1 The Owner and the Architect shall cooperate with one another to fulfill their respective obligations under this Agreement. Both parties shall endeavor to maintain good working relationships among all members of the Project team.

### § 1.2.2 OWNER

§ 1.2.2.1 Unless otherwise provided under this Agreement, the Owner shall provide full information in a timely manner regarding requirements for and limitations on the Project. The Owner shall furnish to the Architect, within 15 days after receipt of a written request, information necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 1.2.2.2 The Owner shall periodically update the budget for the Project, including that portion allocated for the Cost of the Work. If the Owner should increase or decrease the overall budget, the portion of the budget allocated for the Cost of the Work, or contingencies included in the overall budget or a portion of the budget, the Architect may make corresponding change in the Project scope as agreed to in writing by the Owner.

§ 1.2.2.3 The Owner's Designated Representative identified in Section 1.1.3 shall be authorized to act on the Owner's behalf with respect to the Project. The Owner or the Owner's Designated Representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 1.2.2.4 The Owner shall furnish the services of consultants other than those designated in Section 1.1.3 or authorize the Architect to furnish them as a Change in Services when such services are requested by the Architect and are reasonably required by the scope of the Project as agreed to in writing by the Owner.

§ 1.2.2.5 Unless otherwise provided in this Agreement, the Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 1.2.2.6 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 1.2.2.7 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's Instruments of Service provided however, that failure of the Owner to provide such notice shall in no way affect the Architect's obligations hereunder, nor shall such failure relieve the Architect from any liability for failure to discover and correct any such fault defect, error, omission or inconsistency.

### § 1.2.3 ARCHITECT

§ 1.2.3.1 The services performed by the Architect, Architect's employees and Architect's consultants shall be as enumerated in Article 1.4.

§ 1.2.3.2 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Architect shall submit for the Owner's approval a schedule for the

performance of the Architect's services which initially shall be consistent with the time periods established in Section 1.1.2.6 and which shall be adjusted, upon mutual agreement if necessary, as the Project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the Architect or Owner.

**§ 1.2.3.3** The Architect's Designated Representative identified in Section 1.1.3 shall be authorized to act on the Architect's behalf with respect to the Project.

**§ 1.2.3.4** The Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the Owner.

**§ 1.2.3.5** Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

**§ 1.2.3.6** The Architect shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project.

**§ 1.2.3.7** The Architect shall be entitled to rely on the reasonable accuracy and completeness of services and information furnished by the Owner. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any errors, omissions or inconsistencies in such services or information.

**§ 1.2.3.8** The Architect shall be a representative of the Owner with respect to this Project, and shall not engage in any activity or course of conduct which is detrimental to the Owner's best interests. The Architect shall take all reasonable steps necessary to comply with the terms and conditions set forth in Section 2.6.2.Evaluation of the Work.

## **ARTICLE 1.3 TERMS AND CONDITIONS**

### **§ 1.3.1 COST OF THE WORK**

**§ 1.3.1.1** The Cost of the Work shall be the total cost or, to the extent the Project is not completed, the estimated cost to the Owner of all elements of the Project designed or specified by the Architect.

**§ 1.3.1.2** The Cost of the Work shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. .

**§ 1.3.1.3** The Cost of the Work does not include the compensation of the Architect and the Architect's consultants, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the Owner.

### **§ 1.3.2 INSTRUMENTS OF SERVICE**

**§ 1.3.2.1** Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service for use solely with respect to this Project. The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights. Original drawings and specifications are the property of the Architect; however, the Project is the property of the Owner, and Architect may not use the drawings and specifications therefore for any purpose not related to the Project without Owner's consent. Owner shall be furnished with such reproductions of drawings and specifications as Owner may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Article 1.3.8, Architect will revise drawings to reflect changes made during construction and he will promptly furnish the Owner with one

complete set of reproducible record prints. Prints shall be furnished, as an additional service, at any other time requested by Owner. All such reproductions shall be property of the Owner, who may use them without Architect's permission for any proper purpose related to the Project, including but not limited to, additions to or completion of the Project.

**§ 1.3.2.2** Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to reproduce the Architect's Instruments of Service solely for purposes of constructing, using and maintaining the Project, provided that the Owner shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. Any termination of this Agreement prior to completion of the Project shall terminate this license. Upon such termination, the Owner shall refrain from making further reproductions of Instruments of Service and shall return to the Architect within seven days of termination all originals and reproductions in the Owner's possession or control. If and upon the date the Architect is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the Owner to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project.

**§ 1.3.2.3** Submission or distribution of Instruments of Service to meet official regulatory requirements or to other vendors for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Owner.

**§ 1.3.2.4** Prior to the Architect providing to the Owner any Instruments of Service in electronic form or the Owner providing to the Architect any electronic data for incorporation into the Instruments of Service, the Owner and the Architect shall by separate written agreement set forth the specific conditions governing the format of such Instruments of Service or electronic data, including any special limitations or licenses not otherwise provided in this Agreement.

### **§ 1.3.3 CHANGE IN SERVICES**

**§ 1.3.3.1** Change in Services of the Architect, including services required of the Architect's consultants, may be accomplished after execution of this Agreement, without invalidating the Agreement, if mutually agreed in writing, if required by circumstances beyond the Architect's control, or if the Architect's services are affected as described in Section 1.3.3.2. In the absence of mutual agreement in writing, the Architect shall notify the Owner prior to providing such services. If the Owner deems that all or a part of such Change in Services is required, the Owner shall give prompt written notice to the Architect, and the Architect shall provide those services. Except for a change due to the fault of the Architect, Change in Services of the Architect shall entitle the Architect to an adjustment in compensation pursuant to Section 1.5.2, and to any Reimbursable Expenses described in Section 1.3.9.2 and Section 1.5.5.

**§ 1.3.3.2** If any of the following circumstances affect the Architect's services for the Project, the Architect shall be entitled to an appropriate adjustment in the Architect's schedule and compensation:

- .1
- .2 enactment or revision of codes, laws or regulations or official interpretations which necessitate changes to previously prepared Instruments of Service;
- .3 decisions of the Owner not rendered in a timely manner;
- .4 significant change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget, or procurement method;
- .5 failure of substantial performance on the part of the Owner or the Owner's consultants or contractors;
- .6 preparation for and attendance at a public hearing, a dispute resolution proceeding or a legal proceeding except where the Architect is party thereto;
- .7 change in the information contained in Article 1.1., unless such change is requested by the Architect.

### **§ 1.3.4 MEDIATION**

**§ 1.3.4.1** Any claim, dispute or other matter in question arising out of or related to this Agreement may, if agreed to by all parties after the claim or dispute has arisen, be submitted to mediation prior to the institution of legal or equitable proceedings by either party.

§ 1.3.4.2 The Owner and Architect may endeavor to resolve claims, disputes and other matters in question between then by mediation. Request for mediation shall be filed in writing with the other party to this Agreement. However, nothing in this Agreement shall be construed as requiring mandatory mediation of claims, disputes or other matters in question between the parties.

§ 1.3.4.3 The parties shall share the mediator's fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

### § 1.3.5 ARBITRATION

### § 1.3.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Architect waives consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Section 1.3.8.

### § 1.3.7 MISCELLANEOUS PROVISIONS

§ 1.3.7.1 This Agreement shall be governed by the law of the principal place of business of the Owner.

§ 1.3.7.2 Terms in this Agreement shall have the same meaning as those in the 1997 edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement as modified by Owner and incorporated herein as Exhibit "C".

§ 1.3.7.5 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 Owner or Architect.

§ 1.3.7.6 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall notify the Owner immediately if they discover, encounter or otherwise become aware of hazardous materials or toxic substances in any form at the Project site.

§ 1.3.7.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 1.3.7.8 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 1.3.7.9 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to an institutional lender providing financing for the Project. In such event, the lender shall assume the Owner's rights and obligations under this Agreement. The Architect shall execute all consents reasonably required to facilitate such assignment.

### § 1.3.8 TERMINATION OR SUSPENSION

§ 1.3.8.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, prior to

suspension of services, the Architect shall give seven days' written notice to the Owner. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

**§ 1.3.8.2** If the Project is suspended by the Owner for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. . The times schedules shall be equitably adjusted.

**§ 1.3.8.3** If the Project is suspended or the Architect's services are suspended for more than 90 consecutive days, the Architect may terminate this Agreement by giving not less than seven days' written notice.

**§ 1.3.8.4** This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

**§ 1.3.8.5** This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

**§ 1.3.8.6** In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due.

### **§ 1.3.9 PAYMENTS TO THE ARCHITECT**

**§ 1.3.9.1** No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect is responsible. Or at Owner's sole option, payment on account of services rendered and for Reimbursable Expenses incurred can be made at the end of each phase of service upon presentation of the Reimbursable Expenses incurred can be made at the end of each phase of service upon presentation of the Architect's statement of service. Those phases of service are described below:

#### Phase I

(Subject to Commissioners' Court Approval)

Invoicing will be at 25% complete increments (approx. once a month).

- 1) Site visits and coordination
- 2) Photos
- 3) Floor Plans
- 4) Reflected Ceiling Plans
- 5) Exterior Elevations
- 6) Power Plans
- 7) Site Survey

#### Phase II

Invoicing will be at 33% complete increments for Phase II (A) and at 20% complete increments for Phase II (B) (approx. once a month)

- (A) Property Condition Assessment: Environmental Assessment
- (B) Needs Analysis & Programming

#### Phase III

(Subject to Commissioners' Court Approval)

Design and Construction

Compensation method for Phase I and III if needed shall be negotiated with upon mutual agreement should be incorporated into contract by amendment.

§ 1.3.9.2 Reimbursable Expenses are in addition to compensation for the Architect's services and include expenses incurred by the Architect and Architect's employees and consultants directly related to the Project, as identified in the following Clauses:

- .1 traveling out of Owner's County and subsistence approved in advance by the Owner;
- .2 fees paid for securing approval of authorities having jurisdiction over the Project;
- .3 reproductions, plots, standard form documents, Instruments of Service and courier expenses requested and authorized by the Owner;
- .4 expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
- .5 renderings, models and mock-ups requested and authorized by the Owner;
- .6 expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner after execution of this Agreement in excess of that normally carried by the Architect and the Architect's consultants;
- .7 reimbursable expenses as designated in Section 1.5.5;

§ 1.3.9.3 Records of Reimbursable Expenses, of expenses pertaining to a Change in Services, and of services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative at mutually convenient times. Architect shall maintain such reports for a minimum of five (5) years following the completion of the Project.

§ 1.3.9.4 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

#### ARTICLE 1.4 SCOPE OF SERVICES AND OTHER SPECIAL TERMS AND CONDITIONS

§ 1.4.1 Enumeration of Parts of the Agreement. This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect. This Agreement comprises the documents listed below.

§ 1.4.1.1 Standard Form of Agreement Between Owner and Architect, AIA Document B141-1997 as modified by Owner.

§ 1.4.1.2 Standard Form of Architect's Services: Design and Contract Administration, AIA Document B141-1997, as modified by Owner. (List other documents, if any, delineating Architect's scope of services.)

§ 1.4.1.3 Other documents as follows:

*(List other documents, if any, forming part of the Agreement.)*

Exhibit "A" Supplementary Conditions to the AIA Documents B141-1997 Standard Form of Agreement between Owner and Architect and Standard Form of Architect's Services (*not required-changes incorporated into AIA Document B141-1997 Standard Form of Agreement between Owner and Architect and Standard Form of Architect's Services*)

Exhibit "B" Articles 3 and 4, Conditions to the AIA Document B141- 1997 Standard Form of Agreement between Owner and Architect

Exhibit "C" AIA A-201 as Modified by OWNER

Exhibit "D" APPENDIX A for Phase II (A)

Exhibit "E" APPENDIX B for Phase II (B)

§ 1.4.2 Special Terms and Conditions. Special terms and conditions that modify this Agreement are as follows:

§ 1.4.2 Venue for any disputes or suits shall be in Hidalgo County, Texas.

#### ARTICLE 1.5 COMPENSATION

§ 1.5.1 For the Architect's services as described under Article 1.4, compensation shall be computed as follows:

Phase I is in the amount Two-Hundred-Sixteen Thousand Five Hundred and Eighty Dollars (\$216,580.00)

Phase II (A) is in the amount of Ninety-five thousand dollars (\$95,000.00)

Phase II (B) is in the amount of One-hundred twenty-five thousand dollars (\$125,000.00)

Phase III will be negotiated at a later date.

§ 1.5.2 If the services of the Architect are changed as described in Section 1.3.3.1, the Architect's compensation shall be adjusted. Such adjustment shall be calculated as described below or, if no method of adjustment is indicated in this Section 1.5.2, in an equitable manner.

*(Insert basis of compensation, including rates and multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply.)*

§ 1.5.3 For a Change in Services of the Architect's consultants, compensation shall be computed as a multiple of ( 1.05 ) times the amounts billed to the Architect for such services.

§ 1.5.4 For Reimbursable Expenses as described in Section 1.3.9.2, and any other items included in Section 1.5.5 as Reimbursable Expenses, the compensation shall be computed as a multiple of ( 1.05 ) times the expenses incurred by the Architect, and the Architect's employees and consultants.

§ 1.5.5 Other Reimbursable Expenses, if any, are as follows:

An allowance of \$20,000.00 for Phase II (A) and (B) to apply to travel and reimbursable expenses as described in Section 1.5.4 and shall not be exceeded without prior written acceptance of the Owner.

~~§ 1.5.6 The rates and multiples for services of the Architect and the Architect's consultants as set forth in this Agreement shall be adjusted in accordance with their normal salary review practices.~~

§ 1.5.7 An initial payment of Zero Dollars (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account at final payment. Subsequent payments for services shall be made monthly, and where applicable, shall be in proportion to services performed on the basis set forth in this Agreement.

§ 1.5.8 Payments are due and payable thirty ( 30 ) days from the date of approval by Commissioners' Court of the Owner on the Architect's invoice. Amounts unpaid thirty ( 30 ) days after approval of the invoice shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

*(Insert rate of interest agreed upon.)*

Zero percentage (0%)

*(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)*

§ 1.5.9 If the services covered by this Agreement have not been completed within ( ) months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Section 1.5.2.

This Agreement entered into as of the day and year first written above.

**OWNER**

*(Signature)*

Eli R. Ochoa, PE, AIA-Managing Partner

**APPROVED AS TO FORM:**

Atlas & Hall LLP

*(Signature)*

Steve L. Crain

**ARCHITECT**

*(Signature)*

Juan D. Salinas III, County Judge

**ATTEST:**

*(Signature)*

Arturo Guajardo, Jr., County Clerk

