FIRST AMENDED AND RESTATED CONTRACT FOR GENERAL CONSTRUCTION

PROJECT: **Williamson County Jail Magistrate Court, Elevator Addition, and Chiller Addition** ("Project")

GENERAL CONTRACTOR: **J. T. Vaughn Construction, LLC** ("GC")
10355 Westpark Drive
Houston, TX 77042

ARCHITECT & ENGINEER: **Talex, Inc.** ("A/E")
Thomas R. Alexander, PE
763 Tumbleweed Trail
Lockhart, TX 78644

COUNTY'S DESIGNATED REPRESENTATIVE: **Williamson County Facilities Department**
Attn: Director of Facilities
3101 SE Inner Loop
Georgetown, Texas 78626

THIS FIRST AMENDED AND RESTATED CONTRACT FOR GENERAL CONSTRUCTION ("Contract") is made and entered into effective as of the latest date of the signatories indicated at the conclusion of this document (the "Effective Date"), by and between **Williamson County**, a body corporate and politic under the laws of the State of Texas ("County") and GC.

RECITALS

WHEREAS,

WHEREAS, GC and County previously entered that certain Contract for General Construction dated effective August 31, 2021 ("Original Contract") for the **renovation of the magistrate court and supporting spaces, plus the addition of a new elevator and new chiller at the Williamson County Jail** (hereinafter called the "Project"); and

WHEREAS, following complete execution of the Original Contract and prior to GC's commencement of the Work, changes in the Construction Documents became necessary for reasons beyond the parties' control and, GC was not able to perform the work during the time period in which the A/E revised and amended the original Construction Documents; and

WHEREAS, A/E has now revised and amended the original Construction Documents and the GC and County now wish to amend and restate the Original Contract so that GC can commence construction pursuant to and in accordance the new Construction Documents; and

WHEREAS, County desires a GC who will render, diligently and competently in accordance with the highest standards used in the profession, all general contractor services which shall be necessary or advisable for the expeditious, economical, and satisfactory completion of the Project; and

NOW, THEREFORE, County and GC, in consideration of the mutual undertakings herein contained, do mutually agree as follows:

ARTICLE 1
SCOPE OF WORK

GC has overall responsibility for and shall provide complete construction services and furnish all materials, equipment, tools and labor as necessary or reasonably inferable to complete the Work, or any phase of the Work, in accordance with the Specifications and Drawings for the Project and County's requirements. The Specifications and Drawings were prepared for County by A/E. GC shall do everything required by the Contract Documents.

ARTICLE 2
GENERAL PROVISIONS

2.1 Contract Documents.

Contract Documents consist of this Contract and all exhibits and attachments listed, contained, or referenced in this Contract, the Williamson County Uniform General Conditions ("UGCs"), Supplementary or other Conditions, if any, the Drawings, Specifications, Addenda issued prior to the Effective Date of this Contract, The Bid/ Proposal Documents as defined by the Invitation for Bidders/Request for Proposals, and all Change Orders and any other Modifications issued after the Effective Date of this Contract, all of which form this Contract and are as fully a part of this Contract as if attached to this Contract.

2.1.2 Entire Agreement; Extent and Effect of Amended And Restated Contract

This Contract represents the entire and integrated agreement between the Parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Contract, this Contract shall govern. To the extent of any direct conflict or inconsistency between any of the Contract Documents, GC shall immediately notify County and seek clarification from A/E and County. GC and County hereby agree this Contract amends and restates the Original Contract and shall replace, supplant, and supersede the Original Contract as of the Effective Date hereof.

2.1.3

The term "GC" shall be interchangeable with the terms "Proposer," "Bidder," Respondent," "Contractor," and "General Contractor" or other similar terms as appropriate in the Contract Documents.

2.2 Relationship of the Parties.

GC accepts the relationship of trust and confidence established by this Contract and shall cooperate with A/E and County and exercise GC's skill and judgment in furthering the

interests of County; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with County's interests.

2.3 General Conditions.

2.3.1
The term "Contractor" as used herein or in the UGCs shall mean GC.

2.3.2
The term "Owner" as used herein or in the UGCs shall mean County.

2.3.3
The term "Architect" as used herein or in the UGCs shall mean A/E.

ARTICLE 3
CONTRACT TIME

3.1
County shall provide a Notice to Proceed in which a date for commencement of the work shall be stated. GC shall achieve Substantial Completion of the Work within **Two Hundred Seventy (270) calendar days** after such commencement date. As such completion date may be extended by approved Change Orders. Unless otherwise specified in writing, GC shall achieve Final Completion within **thirty (30) calendar days** of Substantial Completion. The time set forth for completion of the work is an essential element of the Contract.

3.2 Liquidated Damages.
GC acknowledges and recognizes that County is entitled to full and beneficial occupancy and use of the completed Work following expiration of the Contract Time and that County has entered into, or will enter into, binding agreements upon GC's achieving Substantial Completion of the Work within the Contract Time. GC further acknowledges and agrees that if GC fails to complete substantially or cause the Substantial Completion of any Phase of the Work within the Contract Time, County will sustain extensive damages and serious loss as a result of such failure. In the cases of missed scheduled events, which incur exact losses of revenue and exact expenses for fees and other cancellation costs, GC shall be responsible for the exact amount of damages sustained by County. In other cases, the exact amount of such damages will be extremely difficult to

ascertain. Therefore, County and GC agree as set forth below:

3.2.1

Subject to the other terms and conditions herein, if Substantial Completion is not achieved by the date specified above or by such date to which the Contract Time may be extended, the Contract Sum shall be reduced by **Five Hundred Dollars ($ 500) per calendar day** as liquidated damages and not as a penalty, until the date of Substantial Completion. Force majeure shall apply relative to both rain/snow delays (acts of nature) and/or supply delays over which GC has no control, and such force majeure delays shall not be subject to such reduction of the Contract Sum.

3.2.2

County may deduct liquidated damages described herein from any unpaid amounts then or thereafter due GC under this Contract. Any liquidated damages not so deducted from any unpaid amounts due GC shall be payable by GC to County at the demand of County, together with the interest from the date of the demand at a rate equal to the prime interest rate as published by the Wall Street Journal on the **first (1st) business day** after such amounts are demanded.

3.2.3

Notwithstanding anything to the contrary in this Contract, if County is unable to recover any portion of liquidated damages in accordance with the terms and conditions herein because it is found to be unenforceable or invalid as a penalty or otherwise, then, County shall be entitled to recover from GC all of County's actual damages in connection with the failure by GC to achieve Substantial Completion of the Work within the Contract Time, including, without limitation, direct, indirect, or consequential damages.

ARTICLE 4
GC REPRESENTATIONS

4.1

In order to induce County to enter into this Contract, GC makes the following representations:

4.1.1

GC has examined and carefully studied the Contract Documents and the other

related data identified in the Bid/Proposal Documents.

4.1.2
GC has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

4.1.3
GC is familiar with and is satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, and performance of the Work.

4.1.4
GC has considered the information known to GC; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by GC, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) GC's safety precautions and programs.

4.1.5
Based on the information and observations referred to in **Paragraph 4.1.4** above, GC does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Sum, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

4.1.6
GC is aware of the general nature of work to be performed by County and others at the Site that relates to the Work as indicated in the Contract Documents.

4.1.7
GC has given A/E written notice of all conflicts, errors, ambiguities, or discrepancies that GC has discovered in the Contract Documents, and the written resolution thereof by A/E is acceptable to GC.

4.1.8
The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 5
THE CONTRACT SUM

5.1 Contract Sum.
County shall pay GC for completion of the Work in accordance with the Contract Documents the amount of **Two Million Three Hundred Sixty-Four Thousand Three Hundred Thirty-Nine Dollars ($ 2,364,339)**.

5.2 Contract Payments.
Method and terms of payment of the Contract Sum shall be in accordance with the Contract Documents.

5.3 Allowable Overhead and Profit Markup on Changes in the Work.
In case of an increase in the Contract Sum due to a change in the Work and in accordance with **UGC 7**, the amounts GC may add to the pricing of a change for overhead and profit are as follows:

5.3.1
For Work performed directly by GC with its Own Employees: GC may add up to **fifteen percent (15%)** for Work performed directly by GC for any specific change.

5.3.2
For Managing Subcontracted Work: GC may add up to **ten percent (10%)** for managing subcontracted Work for any specific change.

Only one percentage, referenced above, shall be used for the purpose of calculating the markup for a specific change amount. For changes involving both additions and deletions, the allowed markup will be allowed only on the net addition. The allowed markup shall cover all overhead expenses and profit of any kind relating to the specific change.

ARTICLE 6
PROJECT TEAM

County's Designated Representative for purposes of this Contract is as follows:

Williamson County Facilities Department
Attn: Director of Facilities
3101 SE Inner Loop
Georgetown, Texas 78626

County shall have the right, from time to time, to change the County's Designated Representative by giving GC written notice thereof. With respect to any action, decision, or determination which is to be taken or made by County under this Contract, the County's Designated Representative may take such action or make such decision or determination or shall notify GC in writing of an individual responsible for, and capable of, taking such action, decision, or determination, and shall forward any communications and documentation to such individual for response or action. Actions, decisions or determinations by County's Designated Representative on behalf of County shall be done in his or her reasonable business judgment unless express standards or parameters therefor are included in this Contract, in which case, actions taken by County's Designated Representative shall be in accordance with such express standards or parameters. Any consent, approval, decision, or determination hereunder by County's Designated Representative shall be binding on County; *provided, however,* County's Designated Representative shall not have any right to modify, amend, or terminate this Contract or executed Contract Amendment. County's Designated Representative shall not have any authority to execute a Contract Amendment unless otherwise granted such authority by the Williamson County Commissioners Court.

GC's Designated Representative for purposes of this Contract is as follows:

J. T. Vaughn Construction, LLC
Douglas Boram, Sr Project Manager
10355 Westpark Drive
Houston, TX 77042

GC shall have the right, from time to time, to change GC's Designated Representative by giving County written notice thereof. With respect to any action, decision, or determination which is to be taken or made by GC under this Contract, GC's Designated

Representative may take such action or make such decision or determination, or shall notify County in writing of an individual responsible for and capable of taking such action, decision, or determination and shall forward any communications and documentation to such individual for response or action. Actions, decisions, or determinations by GC's Designated Representative on behalf of GC shall be done in his or her reasonable business judgment unless express standards or parameters therefor are included in this Contract, in which case, actions taken by GC's Designated Representative shall be in accordance with such express standards or parameters. Any consent, approval, decision, or determination hereunder by GC's Designated Representative shall be binding on GC. GC's Designated Representative shall have the right to modify, amend, and execute Contract Amendments on behalf of GC.

ARTICLE 7
NOTICE

Any notice required to be given under the provisions of this Contract shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to County or GC at the following addresses. If mailed, any notice or communication shall be deemed to be received **three (3) days** after the date of deposit in the United States Mail. Unless otherwise provided in this Contract, all notices shall be delivered to the following addresses:

County: Williamson County Judge
710 Main Street, Suite 101
Georgetown, Texas 78626

With copy to: Williamson County Facilities Department
Attn: Director of Facilities
3101 SE Inner Loop
Georgetown, Texas 78626

and to: Office of General Counsel
Williamson County
710 Main Street, Suite 102
Georgetown, Texas 78626

GC: J. T. Vaughn Construction, LLC
10355 Westpark Drive
Houston, TX 77042

Attention: Danny Thompson, CEO

Either party may designate a different address by giving the other party **ten (10) days** written notice.

ARTICLE 8
DISPUTE RESOLUTION

Any Claim or Dispute between County and GC shall be resolved in accordance with the provisions set forth in **UGC 15**.

ARTICLE 9
MISCELLANEOUS PROVISIONS

9.1 Meaning of Terms.
Terms in this Contract shall have the same meaning as those in the UGCs.

9.2 No Waiver of Immunity.
Nothing herein shall be construed as a waiver of sovereign immunity by Williamson County.

9.3 Governing Law.
This Contract and all of the rights and obligations of the parties and all of the terms and conditions shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas without reference to its conflicts of law provisions. Williamson County shall be the sole place of venue for any legal action arising from or related to this Contract or the Project in which County is a party.

9.4 Assignment.
County and GC, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Contract. GC shall not assign this Contract without the written

consent of County. If GC attempts to make an assignment without County's consent, GC shall nevertheless remain legally responsible for all obligations under this Contract.

9.5 Other Provisions.

9.5.1

GC represents and warrants the following to County (in addition to any other representations and warranties contained in the Contract Documents), as an inducement to County to execute this Contract, which representations and warranties shall survive the execution and delivery of this Contract, any termination of this Contract, and the final completion of the Work:

.1 that it and its Subcontractors are financially solvent, able to pay all debts as they mature, and possessed of sufficient working capital to complete the Work and perform all obligations hereunder;

.2 that it is able to furnish the tools, materials, supplies, equipment, and labor required to complete the Work and perform its obligations hereunder;

.3 that it is authorized to do business in the State of Texas and properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over it and over the Work and the project;

.4 that its execution of this Contract and its performance thereof is within its duly authorized powers;

.5 that its duly authorized representative has visited the site of the Project, familiarized himself with the local and special conditions under which the Work is to be performed, and correlated its observations with the requirements of the Contract Documents; and

.6 that it possesses a high level of experience and expertise in the business administration, construction, construction management, and superintendence of projects of the size, complexity, and nature of this particular Project, and it will perform the Work with the care, skill, and diligence of such a contractor.

ARTICLE 10
SCOPE OF CONTRACT AND CONTRACT DOCUMENTS

10.1
GC and County hereby agree this Contract amends and restates the Original Contract and shall replace, supplant, and supersede the Original Contract as of the Effective Date hereof and that this Contract represents the entire and integrated agreement between County and GC and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may be amended only by written instrument signed by both County and GC.

10.2
The following documents comprise the Contract Documents:

1. This Contract between County and GC;
2. Exhibit A – Construction Documents
3. Exhibit B – Minimum Insurance Coverages and Minimum Coverage Amounts
4. Exhibit C – Williamson County Vendor Reimbursement Policy
5. Exhibit D – Williamson County Uniform General Conditions

10.3
In the event of a dispute or conflict relating to the terms and conditions of the Contract Documents, applicable documents will be referred to for the purpose of clarification, conflict resolution or for additional detail in the following order of precedence:

1. Contract between County and GC;
2. Special Conditions or Supplementary Conditions (if any);
3. Williamson County Uniform General Conditions;
4. all Addenda issued prior to the Effective Date of the Contract between County and GC; and
5. The Construction Documents

ARTICLE 11
SIGNATORY WARRANTY

The undersigned signatory for GC hereby represents and warrants that the signatory is an officer of the organization for which he/she has executed this Contract and that he/she has full and complete authority to enter into this Contract on behalf of the Company. The above-stated representations and warranties are made for the purpose of inducing County to enter into this Contract.

IN WITNESS WHEREOF, County has caused this Contract to be signed in its name by its duly authorized County Judge, thereby binding the parties hereto, their successors, assigns, and representatives for the faithful and full performance of the terms and provisions hereof. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND, TERMINATE, OR MODIFY THIS CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE WILLIAMSON COUNTY COMMISSIONERS COURT.

GC:
J.T. Vaughn Construction, LLC

By: _____
Signature

Danny Thompson
Printed Name

CEO
Title

Date Signed: September 27, 2022

COUNTY:
Williamson County, Texas

By: _____
Signature

_____
Printed Name

_____
Title

Date Signed: _____