

AGREEMENT FOR ARCHITECTURAL

THIS AGREEMENT FOR ARCHITECTURAL SERVICES ("Agreement") is made and entered into by and between **Williamson County**, a body corporate and politic under the laws of the State of Texas, hereinafter "County", and **POPULOUS, INC.** hereinafter "Architect".

RECITALS

The County intends to renovate an existing facility located near Taylor, Texas in order to meet the entertainment and agricultural venue needs of the County (hereinafter called the "Project"); and

The County desires that the Architect perform certain professional architectural services in connection with the Project; and

The Architect represents that it is qualified and desires to perform such services;

NOW, THEREFORE, the County and the Architect, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

SECTION I

SCOPE OF AGREEMENT

The Architect agrees to perform professional architectural services in connection with the Project as stated herein, and for having rendered such services, the County agrees to pay to the Architect compensation as stated in the sections to follow.

SECTION II

CHARACTER AND SCOPE OF SERVICES

A. In consideration of the compensation herein provided, Architect shall perform professional architectural services for the Project, in accordance with the terms of this Agreement, based on standard architectural practices and the scope of work described on the Exhibit(s) attached to this Agreement. Architect shall also serve as County's professional architect in those phases of the Project to which this Agreement applies and will consult with and give advice to County during the performance of Architect's services.

B. Architect shall not commence work until Architect has been thoroughly briefed on the scope of the Project and has been notified in writing to proceed, as evidenced by a Notice to Proceed.

C. County shall provide Architect with all existing plans, maps, studies, reports, field notes, statistics, computations, and other data in its possession relative to existing facilities and to this particular Project at no cost to Architect; however, any and all such information shall remain the property of County and shall be returned, if the County so instructs Architect.

D. Architect shall perform the following Basic Scope of Services (sometimes referred to herein as the "Basic Scope of Services", "Basic Services" or the "Scope of Services"):

1. The Basic Scope of Services shall generally consist of those services described in Exhibit A and include usual and customary services provided in accordance with Exhibit A.
2. The following documents shall be used in the development of the Project:
 - a. National Environmental Policy Act (NEPA);
 - b. Texas Accessibility Standards (TAS) of the Architectural Barriers Act, Article 9102, Texas Civil Statutes, Effective April 4, 1994, including latest revisions;
 - c. Americans with Disabilities Act (ADA) Regulations;
 - d. Southern Building Code, latest edition;
 - e. Uniform Building Code. Note: Williamson County will use the 1997 Uniform Building Code (May 1, 1997), including latest revisions, as a guide for design;
 - f. National Electrical Code, latest edition;
 - g. Williamson County Design Criteria & Project Development Manual, latest edition; and
 - h. All other local, state and federal documents, codes and regulations to which the Project must comply.
3. As part of the Scope of Services, Architect shall submit its work products to County for review at regular intervals and as requested by County.
4. The detailed Scope of Services for the Project is set forth herein as **Exhibit "A"** to this Agreement, and is expressly incorporated and made a part hereof.

SECTION III

ADDITIONAL SERVICES AND CHARGES

For the performance of the services not specifically described as Basic Services under Section II above (sometimes referred to herein as "Additional Services"), County shall pay and Architect shall receive, under a negotiated written contract modification, Additional Services compensation based upon the method and rates set forth **Exhibit "B"**:

The Architect shall not, however, be compensated for work made necessary by Architect's negligent errors or omissions. In the event of any dispute over the classification of Architect's services as Basic or Additional Services under this Agreement, the matter shall be determined in accordance with **SECTION XVIII**, below.

It is expressly understood and agreed that Architect shall not furnish any Additional Services without the prior written authorization of the County. The County shall have no obligation to pay for such Additional Services which have been rendered without the prior written authorization of the County as hereinabove required. Furthermore, in no event will the County be obligated to compensate the Architect for any Additional Services and charges in excess of the amount set forth herein below. Likewise, in no event will the Architect be obligated to perform any Additional Services unless a negotiated written contract modification has been executed.

SECTION IV

TIME FOR PERFORMANCE

Architect agrees to complete the services called for in Exhibit "A" of this Agreement within ONE HUNDRED TWENTY (120) calendar days from the date of this Agreement is effective.

SECTION V

SUBMITTAL PROCESS AND REVISIONS TO ARCHITECT'S WORK PRODUCT

A. Submittal Process. Architect's Work Product will be reviewed by County under its applicable technical requirements and procedures, as follows:

1. Reports, plans, surveys, field notes, original drawings, computer tapes, graphic files, tracings, calculations, analyses, reports, specifications, data, sketches and/or schematics prepared by Architect and supporting documents (collectively referred to herein above and hereinafter as the Architect's "Work Product(s)"), shall be submitted by Architect to County.
2. Upon receipt of the Architect's Work Products, the submission shall be checked for completion. "Completion" shall be defined as: all of the required items (as defined by the Scope of Services described herein) have been included in the Architect's Work Products in compliance with the requirements of this Agreement. The completeness of any Architect's Work Product submitted to County shall be determined by County within fourteen (14) days of such submittal and County shall notify Architect in writing within such time period if such Architect's Work Product has been found to be incomplete.
3. If the submission is Complete, County's technical review process will then begin. If the submission is incomplete, County shall notify Architect, who shall perform such professional services as are required to complete the work and resubmit it to County within seven (7) days. This process shall be repeated until a submission is complete.
4. Within seven (7) days of determining that a particular Architect's Work Product is Complete, County shall review the completed work for compliance with the Scope of Work and determine whether or not to accept such Architect's Work Product. If necessary, the completed work shall be returned to Architect, who shall perform any required work and resubmit it to County. Required work shall be limited to work necessary to conform to deliverables set forth at that stage of the Scope of Services as set forth in Exhibit A. This process shall be repeated until the work is accepted. "Acceptance" shall mean that in the County's

reasonable opinion substantial compliance with the requirements of this Agreement has been achieved.

5. After Acceptance, Architect shall perform any required modifications, changes, alterations, corrections, redesigns, and additional work necessary to receive final approval by the County. "Approval" in this sense shall mean formal recognition that the work has been fully carried out in accordance with the terms of this Agreement and the generally accepted standard of care.

B. Revision to Architect's Work Product. Architect shall make, without expense to County, such revisions to the Architect's Work Product as may be required to correct negligent errors or omissions so the Architect's Work Product meets the requirements of the Agreement, but after the approval of the Architect's Work Product any revisions, additions, or other modifications made at County's request which involve extra services and expenses to Architect shall entitle Architect to additional compensation for such extra services and expenses; provided, however, Architect hereby agrees to perform any necessary corrections to the Architect's Work Products which are found to be in negligent error or omission as a result of the Architect's development of the Architect's Work Product, at any time, without additional compensation. If it is necessary due to such error or omission by Architect to revise any Work Product in order to make the Project constructible, Architect shall do so without additional compensation.

C. Days. All references to a "day" in this Agreement shall mean a calendar day unless otherwise specified.

SECTION VI

THE ARCHITECT'S COMPENSATION AND REIMBURSABLE EXPENSES

For and in consideration of the services rendered by the Architect, and subject to the limit of appropriation under Section X, the County shall pay to the Architect a firm fixed fee of SEVENTY FIVE THOUSAND and No/100 DOLLARS (\$75,000.00) hereinafter called the "Basic Fee", plus FIVE THOUSAND and No/100 DOLLARS (\$5,000.00) for any and all other reimbursable costs and expenses incurred by Architect in the performance of the Basic Scope of Services.

SECTION VII

TIME OF PAYMENT AND RIGHT TO AUDIT

During the performance of the services provided for in this Agreement, monthly payments shall be made based upon that portion of the services which has been completed.

On or about the last day of each calendar month during the performance of the services to be provided under this Agreement, the Architect shall submit a sworn statement to the County, in a form acceptable to the Williamson County Auditor, setting forth the percentage of the services provided for by this Agreement which were completed during such calendar month, and the compensation which is due plus the amounts payable under Section III (Additional Services and Charges) which have not been previously billed or paid. In the event the statement includes charges based upon hourly billing rates for services or any other rates based upon the amount of

time worked by an individual or individuals in performing services, whether the charges are being billed directly to the County or whether they are the basis of invoices from subcontractors for which the Architect seeks reimbursement from the County, the charges shall be accompanied by an affidavit signed by an officer or principal of the Architect certifying that the work was performed, it was authorized by the County and that all information contained in the invoice that is being submitted is true and correct.

The County shall review the statements within thirty (30) days of receipt and approve them with such modifications, if any, as it deems appropriate. The County shall pay each statement within thirty (30) days after the County's approval; provided, however, that the approval or payment of any statement shall not be considered to be evidence of performance by the Architect to the point indicated by such statement or of receipt or acceptance by the County of the services covered by such statement.

Furthermore, the Architect agrees to maintain, for a period of seven years, detailed records identifying each individual performing the services, the date or dates the services were performed, the applicable hourly rates, the total amount billed for each individual and the total amount billed for all persons, and provide such other details as may be requested by the County Auditor for verification purposes. Architect agrees that County or its duly authorized representatives shall, until the expiration of three years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Architect which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Architect shall retain its records in accordance with its corporate policy and further agrees that County shall have access during normal working hours to all necessary Architect facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. County shall give Architect reasonable advance notice of intended audits.

SECTION VIII

SUSPENSION AND TERMINATION

A. Suspension. County may suspend the work at any time for any reason without terminating this Agreement by giving written Notice of Suspension and the work may be reinstated and this Agreement resumed in full force and effect within thirty (30) calendar days of receipt by Architect of written Notice of Reinstatement from County. In the event such suspension of the Project or the Architect's services hereunder extends for a period of ninety (90) consecutive calendar days or more, Architect may terminate this Agreement in writing.

B. Termination. County may terminate this Agreement at any time by notice in writing to the Architect. Upon receipt of such notice, the Architect shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement. Within sixty (60) days after receipt of notice of termination, the Architect shall submit a statement, showing in detail the services performed under this Agreement to the date of termination. The County shall then pay the Architect that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of charges as have been previously made. Copies of all completed or partially completed designs, drawings, electronic data files and

specifications prepared under this Agreement shall be delivered to the County when and if this Agreement is terminated.

C. Termination by Architect. If County 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, the Architect shall give seven days' written notice to the County before suspending services. In the event of a suspension of services, the Architect shall have no liability to the County for delay or damage caused the County 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.

SECTION IX

NOTICE

Any notice required to be given under the provisions of this Agreement 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 the County or the Architect at the following addresses. If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

To the Architect: Populous, Inc.
 174C Market Place Blvd.
 Knoxville, TN 37922

Attention: Charles D. Smith, Principal

To the County: Williamson County Judge
 Dan A. Gattis (or successor)
 710 Main Street, Suite 101
 Georgetown, Texas 78626

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

SECTION X

LIMIT OF APPROPRIATION

Prior to the execution of this Agreement, Architect has been advised by County, and Architect clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that County shall have available the total maximum sum of EIGHTY THOUSAND AND NO/100 DOLLARS (\$80,000.00) specifically allocated to fully discharge any and all costs for any and all services or reimbursable expenses incurred under or out of this Agreement, which shall not exceed said specifically allocated sum, notwithstanding any word,

statement or thing contained in or inferred from the preceding provision of this Agreement which might in any light by any person be interpreted to the contrary.

SECTION XI

SUCCESSORS AND ASSIGNS

The County and the Architect bind themselves and their successors and assigns to the other party of this Agreement and to the successors and assigns of such other party, in respect to all covenants of this Agreement. Neither the County, nor the Architect shall assign or transfer its interest in this Agreement without written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

SECTION XII

INSURANCE REQUIREMENTS

Architect shall maintain in full force and effect worker's compensation insurance, professional liability insurance, and general liability insurance during the entire term of this Agreement, in the amount set forth in **Exhibit "C" - Insurance Requirements**, and shall instruct and authorize insurer to immediately notify County directly in the event that any said policy coverage is changed or terminated. Said liability insurance policy shall be purchased from a reliable company licensed or authorized to do business in Texas. Proof of required insurance shall be submitted on Certificate(s) of Insurance and Endorsement (s) issued to County, as required in **Exhibit "C"**.

Architect shall require that any and all other contractors and/or consultants engaged or employed by Architect carry and maintain the same insurance and coverages in relation to the services to be rendered by such contractors and/or consultants. Architect shall submit to County proof of such insurance. The maintenance in full current force and effect of such form and amount of insurance, in such amount as County shall have accepted, shall be a condition precedent to the Architect's exercise or enforcement of any rights under this Agreement. The insurance policies shall incorporate a provision requiring written notice to the County at least thirty (30) days prior to any cancellation, non-renewal or material modification of the policies.

SECTION XIII

PUBLIC CONTACT

Contact with the news media, citizens of Williamson County or governmental agencies shall be the responsibility of the County. Under no circumstances shall the Architect release any material or information developed in the performance of its services hereunder without the express written permission of the County.

SECTION XIV

COMPLIANCE AND STANDARDS

The Architect shall render the services hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the architectural profession to comply with all applicable state, federal, and local laws, ordinances, rules and regulations relating to the services to be rendered hereunder, and Architect's performance. To the extent that Architect performs any engineering services as a part of this Agreement, Architect shall also be required to use that degree of care and skill commensurate with the engineering profession to comply with all applicable state, federal, and local laws, ordinances, rules and regulations relating to the engineering services rendered hereunder.

SECTION XV

OWNERSHIP OF DOCUMENTS, COPYRIGHT

Upon payment in full to the Architect for its services, the County shall be the absolute and unqualified owner of all of the Architect's Work Product prepared pursuant to this Agreement by the Architect and its subcontractors with the same force and effect as if the County prepared same. Provided the County is not in breach of its payment obligations under this Agreement, copies of all completed or partially completed Work Product prepared pursuant to this Agreement by the Architect shall be delivered to County when and if this Agreement is terminated or upon completion of this Agreement, whichever occurs first. The Architect may retain one (1) set of reproducible copies of such documents and such copies shall be for the Architect's sole use in preparation of studies or reports for Williamson County only. The Architect is expressly prohibited from selling, licensing or otherwise marketing or donating such documents, or using such documents in the preparation of other work for any other client, without the prior express written permission of the County.

The County acknowledges that circumstances, including the non-involvement of Architect, the passage of time, or technological changes may make the use of these documents inappropriate in future situations. County waives any claim against Architect arising from the re-use of such documents and agrees to defend, indemnify, and hold the Architect harmless from any and all liability for injury or loss allegedly arising from such re-use.

County expressly acknowledges and agrees that the drawings and specifications to be provided by Architect under the Agreement will contain innumerable design details, features and concepts, which collectively form part of the design for the project, but which separately are and shall remain the sole and exclusive property of Architect. These details are repetitive in nature, not Project specific, function rather than form-oriented, and were not developed for or identifiable with the Project. Nothing herein shall be construed as a limitation on Architect's absolute right to re-use such component design details, features and concepts on other projects, in other contexts or for other clients.

SECTION XVI

INDEMNIFICATION

EXCEPT FOR EXPENSES OR LIABILITIES ARISING FROM THE NEGLIGENCE OR INTENTIONAL ACTS OF THE COUNTY, THE ARCHITECT HEREBY EXPRESSLY AGREES TO INDEMNIFY AND HOLD THE COUNTY AND ITS OFFICERS, AGENTS, OFFICIALS, REPRESENTATIVES AND EMPLOYEES HARMLESS AGAINST ANY AND ALL EXPENSES AND LIABILITIES ARISING OUT OF THE NEGLIGENT PERFORMANCE, ACTION OR INACTION OF THE ARCHITECT IN CONDUCT OF THIS AGREEMENT, AS FOLLOWS:

FOR MATTERS OTHER THAN THOSE ARISING FROM THE RENDERING OR FAILURE TO RENDER PROFESSIONAL SERVICES, THE ARCHITECT EXPRESSLY AGREES TO THE EXTENT THAT THERE IS A CASUAL RELATIONSHIP BETWEEN ITS NEGLIGENCE, ACTION OR INACTION, OR THE NEGLIGENCE, ACTION OR INACTION OF ANY OF ITS EMPLOYEES OR ANY PERSON, FIRM OR CORPORATION DIRECTLY OR INDIRECTLY EMPLOYED BY THE ARCHITECT AND ANY DAMAGE, LIABILITY, INJURY, LOSS OR EXPENSE (WHETHER IN CONNECTION WITH BODILY INJURY OR DEATH OR PROPERTY DAMAGE) THAT IS SUFFERED BY THE COUNTY AND/OR ITS OFFICERS OR EMPLOYEES OR BY ANY MEMBER OF THE PUBLIC, TO INDEMNIFY AND SAVE THE COUNTY AND ITS OFFICERS AND EMPLOYEES HARMLESS AGAINST ANY AND ALL LIABILITIES, PENALTIES, DEMANDS, CLAIMS, LAWSUITS, LOSSES, DAMAGES, COSTS, AND EXPENSES ARISING OUT OF THE NEGLIGENCE, ACTION OR INACTION OF THE ARCHITECT. SUCH COSTS ARE TO INCLUDE WITHOUT LIMITATION, DEFENSE, SETTLEMENT AND REASONABLE ATTORNEY'S FEES INCURRED BY THE COUNTY AND ITS OFFICERS AND/OR EMPLOYEES. THIS PROMISE TO INDEMNIFY SHALL INCLUDE, WITHOUT LIMITATION, BODILY INJURIES OR DEATH OCCURRING TO THE ARCHITECT'S EMPLOYEES AND ANY PERSON, DIRECTLY OR INDIRECTLY EMPLOYED BY THE ARCHITECT (INCLUDING WITHOUT LIMITATION ANY EMPLOYEE OF ANY SUBCONTRACTOR), THE COUNTY'S OFFICERS OR EMPLOYEES, THE EMPLOYEES OF ANY OTHER INDEPENDENT CONTRACTORS, OR OCCURRING TO ANY MEMBER OF THE PUBLIC.

FOR MATTERS ARISING OUT OF THE RENDERING OR FAILURE TO RENDER PROFESSIONAL SERVICES, THE ARCHITECT WILL INDEMNIFY AND SAVE THE COUNTY AND ITS OFFICERS AND EMPLOYEES HARMLESS FROM AND AGAINST ALL LIABILITIES, PENALTIES, DEMANDS, CLAIMS, LAWSUITS, LOSSES, DAMAGES, COSTS AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY NEGLIGENT ACT, ERROR OR OMISSION OF THE ARCHITECT OR ANY OF ITS EMPLOYEES OR ANY PERSON, FIRM OR CORPORATION DIRECTLY OR INDIRECTLY EMPLOYED BY THE ARCHITECT IN THE RENDERING OR FAILURE TO RENDER PROFESSIONAL SERVICES UNDER THIS AGREEMENT. SUCH COSTS ARE TO INCLUDE, WITHOUT LIMITATION, DEFENSE, SETTLEMENT AND REASONABLE ATTORNEYS' FEES INCURRED BY THE COUNTY AND ITS OFFICERS AND/OR EMPLOYEES. THIS PROMISE TO INDEMNIFY SHALL INCLUDE, WITHOUT LIMITATION, BODILY INJURIES OR DEATH OCCURRING TO THE ARCHITECT'S EMPLOYEES AND ANY PERSON, DIRECTLY OR INDIRECTLY EMPLOYED BY THE ARCHITECT (INCLUDING WITHOUT LIMITATION ANY EMPLOYEE OF ANY SUBCONTRACTOR), THE COUNTY'S OFFICERS OR EMPLOYEES, THE EMPLOYEES OF ANY OTHER INDEPENDENT CONTRACTORS, OR OCCURRING TO ANY MEMBER OF THE PUBLIC.

THE LIMITS OF INSURANCE REQUIRED IN THIS AGREEMENT AND/OR AGREEMENT EXHIBITS SHALL NOT LIMIT THE ARCHITECT'S OBLIGATIONS UNDER THIS SECTION. THE TERMS AND CONDITIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THE AGREEMENT AND/OR AGREEMENT EXHIBITS OR THE SUSPENSION OF THE WORK HEREUNDER. TO THE EXTENT THAT ANY LIABILITIES, PENALTIES, DEMANDS, CLAIMS, LAWSUITS, LOSSES, DAMAGES, COSTS AND EXPENSES ARE CAUSED IN PART BY THE ACTS OF THE COUNTY OR THIRD PARTIES FOR WHOM THE ARCHITECT IS NOT LEGALLY LIABLE, THE ARCHITECT'S OBLIGATIONS SHALL BE REDUCED IN PROPORTION TO THE COUNTY'S FAULT. THE OBLIGATIONS HEREIN SHALL ALSO EXTEND TO ANY ACTIONS BY THE COUNTY TO ENFORCE THIS INDEMNITY OBLIGATION.

IN THE EVENT THAT CONTRACTORS INITIATE LITIGATION AGAINST THE COUNTY IN WHICH THE CONTRACTOR ALLEGES DAMAGES AS A RESULT OF ANY ACTS, ERRORS OR OMISSIONS OF THE ARCHITECT OR ANY OF ITS EMPLOYEES OR ANY PERSON, FIRM OR CORPORATION DIRECTLY OR INDIRECTLY EMPLOYED BY THE ARCHITECT, INCLUDING, BUT NOT LIMITED TO, DEFECTS, ERRORS, OR OMISSIONS IN THE CONSTRUCTION

DOCUMENTS OR IN THE ADMINISTRATION OF THE AGREEMENT BY THE ARCHITECT OR ANY OF ITS EMPLOYEES OR ANY PERSON, FIRM OR CORPORATION DIRECTLY OR INDIRECTLY EMPLOYED BY THE ARCHITECT, AND/OR INADEQUATE SERVICES PURSUANT TO THE CONSTRUCTION PHASE-ADMINISTRATION OF THE CONSTRUCTION CONTRACT AS DEFINED AND REQUIRED BY THIS AGREEMENT, AGREEMENT EXHIBITS AND THE CONSTRUCTION CONTRACT DOCUMENTS, THEN THE COUNTY SHALL HAVE THE RIGHT TO JOIN THE ARCHITECT IN ANY SUCH PROCEEDINGS.

SECTION XVII

MODIFICATIONS

This instrument contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent written modification signed by both parties hereto.

SECTION XVIII

DISPUTE RESOLUTION/AUTHORITY OF COUNTY JUDGE

Any controversy, claim or dispute arising out of or relating to the interpretation, construction, or performance of this Agreement, or breach thereof, shall be referred to voluntary, nonbinding mediation to be conducted by a mutually acceptable mediator prior to resorting to litigation or arbitration.

The County Judge or his/her designee and/or agent as designated by the County Judge (individually or collectively the "County Judge") shall decide any and all questions on behalf of the County which may arise as to the interpretation of this Agreement and all questions as to the acceptable fulfillment of this Agreement by the Architect. -Nothing contained in this section shall be construed to authorize the County Judge to alter, vary or amend any of the terms or provisions of this Agreement.

SECTION XIX

MERGER

The Parties agree that this Agreement contains all of the terms and conditions of the understanding of the parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence and preliminary understandings between the parties and others relating hereto are superseded by this Agreement.

SECTION XX

SEVERABILITY

If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the parties shall be construed and enforced in accordance therewith. The parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is the desire and intention of each that such provision be reformed and construed in such a manner that it will, to

the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.

SECTION XXI

VENUE AND GOVERNING LAW

This Contract shall be performable in Williamson County, Texas. Each party to this Agreement hereby agrees and acknowledges that venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in either Williamson County, Texas or in the Austin Division of the Western Federal District of Texas. Furthermore, this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding, however, its choice of law rules.

SECTION XXII

EQUAL OPPORTUNITY IN EMPLOYMENT

The parties to this Agreement agree that during the performance of the services under this Agreement they will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The parties to this Agreement will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship.

SECTION XXIII

NO THIRD PARTY BENEFICIARIES

This Agreement is for the sole and exclusive benefit of the parties hereto, and nothing in this Agreement, express or implied, is intended to confer or shall be construed as conferring upon any other person any rights, remedies or any other type or types of benefits.

SECTION XXIV

CONSTRUCTION

Each party to this Agreement acknowledges that it and its counsel have reviewed this Agreement and that the normal rules of construction are not applicable and there will be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Agreement.

SECTION XXV

RELATIONSHIP OF THE PARTIES

Each party to this Agreement, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

SECTION XXVI

NO WAIVER OF IMMUNITIES

Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to County, its past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party. County does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

SECTION XXVII

NO WAIVER

No action or inaction taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and such action or inaction will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature.

SECTION XXVIII

EXHIBITS

The parties agree that the Exhibits referenced herein are incorporated by reference for all purposes. In the event of any conflict, discrepancy, or inconsistency among any of the documents which make up this Agreement, the following shall control:

- a. As between this Agreement and its Exhibits or any other documents which make up this Agreement, this Agreement shall govern.
- b. In the event of any conflict, discrepancy, or inconsistency among any of the other Agreement Exhibits, the Architect shall diligently review all such documents and notify the County immediately upon discovery of the same for resolution by the County.
- c. Any documents not included or expressly contemplated in this Agreement do not, and shall not, form a part of this Agreement. The Agreement

Exhibits are intended to be complimentary, and a requirement in one document shall be deemed a requirement in all documents.

SECTION XXIX

EXECUTION

The County executes this Agreement by and through the County Judge acting pursuant to Order of the Commissioners' Court of Williamson County, Texas, so authorizing. This Agreement shall not become effective until the last party hereto signs the Agreement. The Architect's duly authorized representative acknowledges by his/her signature below that he/she has read and understands the above paragraphs and that Architect has the obligation to ensure compliance with its provisions by itself and its employees, agents, and representatives.

WILLIAMSON COUNTY:

By: _____

Dan A. Gattis
Williamson County Judge

Date Signed: 04-19-2011, 20__

ARCHITECT:

Name of Company: _____

Populogs, Inc.

By: _____

Charles D. Smith

Printed Name: _____

Charles D. Smith

Title: _____

Principal / Senior Architect

Date Signed: _____

April 12, 2011

EXHIBIT "A"

BASIC SCOPE OF SERVICES

THE FOLLOWING SCOPE OF SERVICES IS INTENDED TO BE CONSISTENT WITH THE AGREEMENT. TO THE EXTENT THIS SCOPE OF SERVICES IS INCONSISTENT WITH THE AGREEMENT, THE AGREEMENT WILL SUPERSEDE THE SCOPE OF SERVICES AND WILL BE CONTROLLING.

THE ARCHITECT SHALL PROVIDE EXPERT TESTIMONY IN ANY ADMINISTRATIVE OR COURT PROCEEDINGS THROUGH AN APPROPRIATE ARCHITECT OR ENGINEER PROFESSIONAL TO BE DETERMINED BY COUNTY AS ADDITIONAL SERVICES AT THE RATE OF COMPENSATION SET FORTH IN THE AGREEMENT.

In consideration of the compensation provided in the Agreement, Architect shall perform the following Basic Services, based on standard architectural practices:

- Phase 1 - Research and Analysis
- Phase 2 - Development of Alternatives
- Phase 3 - Final Conceptual Design Presentation

Phase 1 - Research and Analysis

Task 1.1 - Project Initiation

- A. Provide client with a list of items needed.
- B. Client establishes a study committee with a chairman.
- C. Discuss goals and objectives.
- D. Intensive two or three-day data collection/buildings and site analysis work session in Taylor.
- E. Team evaluates all aspects of the site, the existing building, penning, and associated facilities.
- F. Between 15 and 20 site and facility analysis diagrams will be developed.
- G. Solicit user input from local officials, citizens, county staff and all user and stakeholder groups through scheduled individual interviews.
- H. Conduct a publicized open house.
- I. Review scope of work, schedule, contract, and final products with client.

Task 1.2 - Physical Site Analysis

- A. Prepare base map.
- B. Review zoning, transportation, and county comprehensive plan.
- C. Review property deeds, site survey or other legal documents.
- D. Review off-site factors.
- E. Review on-site factors.

Review of environment and utility issues are cursory in nature; no engineering studies are included in this proposal.

Task 1.3 - Meet with local transportation department, if applicable, to review access and other proposed long-range transportation improvements affecting the site.

Task 1.4 - Develop opportunities and constraints diagrams and review multi-purpose layouts.

Task 1.5 - Develop a list of proposed facilities.

Task 1.6 - Review meeting with the Study Committee to discuss findings to date.

Phase 2 - Development Alternatives

Task 2.1 - Develop two or three alternative concepts.

Task 2.2 - Provide order of magnitude construction cost data for the alternatives.

Task 2.3 - Refine facilities programming.

Task 2.4 - Discuss new programs, new ideas, and alternative layouts.

Task 2.5 - Coordinate work session with the Study Committee to:

A. Review alternative concepts.

B. Select preferred concept or combination of concepts.

Phase 3 - Final Master Plan & Presentation

Task 3.1 - Develop final full-color and mounted master plan.

Task 3.2 - Prepare an order of magnitude construction budget cost estimates.

Task 3.3 - Develop phasing diagrams and a design and construction schedule.

Task 3.4 - Prepare 3-D Sketch-Up aerial rendering.

Task 3.5 - Prepare three eye-level color renderings.

Task 3.6 - Review the refined concept plan, order of magnitude budget cost estimates and project phasing diagrams with the study committee.

Task 3.7 - Prepare a brief final report.

Task 3.8 - Prepare all products for the final master plan and present those to the study committee and commissioners court.

Exhibit "B"

Hourly Rates

Position Classifications	Hourly Rates
Principal	\$283
Senior Planner	\$250
Project Manager	\$190
Architectural Intern	\$72
CADD/Tech	\$93
Administration/Clerical	\$79

Note 1: Hourly rates include office overhead; employee salary and benefits, company profits and all other reimbursable costs and expenses.

Note 2: Hourly rates are applicable from the date of the last party's execution of this Agreement until eighteen months thereafter.

Exhibit "C"

Insurance Requirements

During the term of this Agreement, Architect agrees to provide and maintain the following insurance:

- A. Worker's Compensation in accordance with statutory requirements.
- B. Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, including coverage on same for independent subcontractor(s). WILLIAMSON COUNTY SHALL BE NAMED AS AN ADDITIONAL INSURED UNDER THIS COVERAGE.
- C. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of \$500,000.00 per occurrence and \$1,000,000.00 in the aggregate. Architect shall require any subcontractor(s) to provide Automobile Liability Insurance in the same minimum amounts.
- D. Professional Liability Errors and Omissions Insurance in the amount of \$2,000,000.00 per claim.

Architect shall not commence any field work under this Agreement until he has obtained all required insurance and such insurance has been approved by County. Architect shall not allow any subcontractor(s) to commence work to be performed in connection with this Agreement until all required insurance has been obtained and approved and such approval shall not be unreasonably withheld. Approval of the insurance by County shall not relieve or decrease the liability of Architect hereunder.

The required insurance must be written by a company approved to do business in the State or Texas with a financial standing of at least an A- rating, as reflected in Best's insurance ratings or by a similar rating system recognized within the insurance industry at the time the policy is issued. Architect shall furnish County with a certification of coverage issued by the insurer. Architect shall not cause any insurance to be canceled nor permit any insurance to lapse. ALL INSURANCE CERTIFICATES SHALL INCLUDE A CLAUSE TO THE EFFECT THAT THE POLICY SHALL NOT BE CANCELED OR REDUCED, RESTRICTED OR LIMITED UNTIL TEN (10) DAYS AFTER COUNTY HAS RECEIVED WRITTEN NOTICE AS EVIDENCED BY RETURN RECEIPT OF REGISTERED OR CERTIFIED LETTER.

It is the intention of the County and agreed to and hereby acknowledged by the Architect, that no provision of this Agreement shall be construed to require the County to submit to mandatory arbitration or mediation in the settlement of any claim, cause of action or dispute, except as specifically required in direct connection with an insurance claim or threat of claim under an insurance policy required under this Agreement and/or Exhibits which absolutely requires arbitration or mediation of such claim, or as otherwise required by law or a court of law with jurisdiction over the provisions of this Agreement.