

Contract No.

PROFESSIONAL SERVICES AGREEMENT

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PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

This Agreement is made and entered into this day by and between Williamson County, Texas, a political subdivision of the State of Texas, (*the "County"*) and *Baker-Aicklen & Associates, a Texas Corporation (the "Landscape Architect")*.

WHEREAS, *County* proposes to master plan the *Byers's Tract Park (the "Project")* within Williamson County, Texas;

WHEREAS, *County* desires to obtain professional services for the *Project*;

WHEREAS, *Landscape Architect* has the professional ability and expertise to fulfill the requirements of the *Project*, and to counsel *County* in the master planning the park.

NOW, THEREFORE, *County* and *Landscape Architect* agree to the performance of the professional services by *Landscape Architect* and the payment for these services by *County* as set forth herein.

Section I
Employment of the Landscape Architect

County agrees to employ *Landscape Architect* and *Landscape Architect* agrees to perform professional Landscape Architectural services for the *Project* as stated in the Sections to follow. As a condition to employment, it is specifically agreed that any disputes arising hereunder shall be submitted to the County Judge or his designee and/or agent as designated in the Scope of Services in Appendix A, or as otherwise designated (*individually or collectively the "County Judge"*). The *County Judge* shall have complete authority for the purpose of resolving technical matters.

Section II
Basic Services of the Landscape Architect

- A. In consideration of the compensation herein provided, *Landscape Architect* shall perform professional Landscape Architectural services for the *Project*, which are acceptable to the *County Judge*, based on standard Landscape Architectural practices and the scope of work described in the Work Authorizations to this Agreement. *Landscape Architect* shall also serve as *County's* professional Landscape 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 *Landscape Architect's* services.
- B. *Landscape Architect* shall not commence work until *Landscape Architect* has been thoroughly briefed on the scope of the *Project* and has been notified in writing by the *County Judge* to proceed, as evidenced by a Work Authorization in the form of Attachment A to Exhibit I.

- C. **County** shall provide **Landscape 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 **Landscape Architect**; however, any and all such information shall remain the property of **County** and shall be returned, if the **County Judge** so instructs **Landscape Architect**.
- D. **Landscape Architect** shall perform the following Basic Scope of Services:
 - 1. The basic Scope of Services shall generally consist of all elements of work, materials and equipment required for the development of the **Project**, including any Public Hearings, satisfactory to the **County Judge** and the County's Commissioners Court, in accordance with the requirements, policies, and general practices of Williamson County.
 - 2. As part of the Scope of Services, **Landscape Architect** shall submit its Work Products to **County** for review at intervals as deemed necessary by Landscape Architect.
 - 3. The detailed Scope of Services for each phase of the **Project** shall be set forth and fully described in each Work Authorization issued as a part of this Agreement, and same shall be expressly incorporated and made a part hereof.

Section III

Fee schedule and Right to Audit

- A. For and in consideration of the performance by **Landscape Architect** of the work described in the Scope of Services as defined in the Work Authorizations, **County** shall pay and **Landscape Architect** shall receive the fee set forth in the Work Authorizations. Exhibits I and II are attached hereto and made a part hereof. Invoices shall be submitted by **Landscape Architect** on a monthly basis and shall be considered past due if not paid within thirty (30) calendar days of the receipt of invoice by **County**.
- B. For the performance of services not specifically described in the Scope of Services **Landscape Architect** shall receive the additional services compensation described in Exhibit III, which is attached hereto and made a part hereof. In the event of any dispute over the classification of **Landscape Architect's** services as basic or additional services under this agreement, the decision of the **County Judge** shall be final and binding on **Landscape Architect**.
- C. **County** believes it has sufficient funds currently available and authorized for expenditure to finance the costs of this Agreement. **Landscape Architect** understands and agrees that the County's payment of amounts under this Agreement is contingent on the **County** receiving appropriations or other expenditure authority sufficient to allow the **County**, in the exercise of reasonable administrative discretion, to continue to make payments under this Agreement.
- D. **Landscape Architect** agrees to maintain appropriate accounting records of costs,

expenses, and payrolls of employees working on the *Project*, together with documentation of evaluations and study results for a period of three (3) years after final payment for completed services and all other pending matters concerning this Agreement have been closed.

- B. *Landscape Architect* further agrees that *County* or its duly authorized representatives shall, until the expiration of three (3) 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 *Landscape Architect*, which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. *Landscape Architect* agrees that *County* shall have access during normal working hours to all necessary *Landscape 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 *Landscape Architect* reasonable advance notice of intended audits.

Section IV Period of Service

- A. *Landscape Architect* shall perform the professional services described in Appendix A, the Scope of Services, in accordance with the Production Schedule attached hereto as Exhibit IV and made a part hereof.
- B. This Agreement shall become effective upon the date approved by *County* and will remain in full force and effect for the period required for the design, construction contract award and construction of the *Project*, including any extensions of time, unless terminated earlier as provided for herein. *Landscape Architect* shall complete all design work as described in the Scope of Services as set forth in Exhibit IV from receipt by *Landscape Architect* of *County's* written Work Authorization and in accordance with the production timeline approved by *County*.
- C. Neither *Landscape Architect* nor *County* shall be responsible for delays caused by "Acts of God", non-county governmental processes, national emergency, or any other causes beyond *Landscape Architect's* or *County's* reasonable control. Upon the discovery of such an event, *Landscape Architect* shall notify *County*, and attend a special meeting with the *County Judge* to propose a program for a solution to the problem, and, if necessary, to establish an estimated period of time of suspension or extension of the work. A written request for an extension of time, when properly documented and justified by the circumstances, will be granted by the *County Judge*.
- D. *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) days of receipt by *Landscape Architect* of written Notice of Reinstatement from *County*. *Landscape Architect*, upon receipt of a Notice of Suspension shall follow the procedures described in the attached Exhibit V, which is attached hereto and made a part hereof. In the event such suspension of the *Project* or the *Landscape Architect's* services hereunder extends for a period of ninety (31) days or more, consecutive or in the aggregate, *Landscape*

Architect may terminate this Agreement in writing and such termination shall be treated as a Notice of Termination as provided herein.

- E. Either party may terminate this Agreement for the substantial failure of the other party to perform in accordance with the terms of this Agreement (the substantiality of such failure to be based on standard Landscape Architectural practices and the scope of work described on the Exhibits attached to this Agreement), through no material fault of the terminating party. *County* may terminate this Agreement for convenience (reasons other than substantial failure by *Landscape Architect* to perform) by delivering a written Notice of Termination which shall take effect on the tenth (10th) day following the date of such notice. *Landscape Architect* shall follow the procedures specified in Exhibit V upon issuance or receipt of such notice. In the event of termination of this Agreement because of the substantial failure of *Landscape Architect* to perform, *County* may prosecute the work to completion by contract or otherwise and, in such a case, *Landscape Architect* shall be liable for any additional costs incurred by *County*. In the event of *County's* termination for convenience, it is understood and agreed that only the amounts due to *Landscape Architect* for services provided and expenses incurred to and including the date of termination, will be due and payable. No penalty will be assessed for *County's* termination of this Agreement for convenience.
- F. **INTENTIONALLY OMITTED**
- G. **INTENTIONALLY OMITTED**
- H. All references to time in this Agreement shall be measured in calendar days unless otherwise specified.

Section V Coordination with the County

- A. The *County Judge* will act on behalf of *County* with respect to the work to be performed under this Agreement. The *County Judge* shall have complete authority to interpret and define *County's* policies and decisions with respect to *Landscape Architect's* services. The *County Judge* may designate representatives to transmit instructions and receive information.
- B. *Landscape Architect* shall not commence work on any phase of the *Project* until a thorough briefing on the scope of the *Project* is received and a written Work Authorization is issued by the *County Judge* in substantially the form of Attachment A to Exhibit I.
- C. *Landscape Architect* shall furnish all available data and reasonable assistance necessary for the development of applications or supporting documentation for any permits, grants, or planning advances as applicable to the professional services to be rendered pursuant to this Agreement, provided that *Landscape Architect* shall not be obligated to develop additional data, appear at hearings, or prepare extensive reports, unless compensated for such work under other provisions of this Agreement.

- D. *Landscape Architect* shall have the responsibility at all times under the terms of this Agreement to advise *County* whether in *Landscape Architect's* judgment it is feasible to proceed with the recommendations given any constraints affecting the *Project*.
- E. *Landscape Architect* shall cooperate and coordinate with *County's* staff, and other Landscape Architects and contractors as reasonable and necessary and as required by the *County Judge*.

Section VI Review of Work Product

- A. *Landscape Architect's* Landscape Architectural work product will be reviewed by *County* under its applicable technical requirements and procedures.
- B. Reports, plans, specifications, and supporting documents, (the "Work Products"), shall be submitted by *Landscape Architect* on or before the dates specified in the Production Schedule set forth in Exhibit IV. Upon receipt of the 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 Work Products in compliance with the requirements of this Agreement. The completeness of any Landscape Architectural work product submitted to *County* shall be determined by *County* within ten (10) calendar days of such submittal and *County* shall notify *Landscape Architect* in writing if such work product has been found to be incomplete
- C. If the submission is complete, *County* shall notify *Landscape Architect* and *County's* technical review process will begin. *County* shall have thirty (30) calendar days in which to complete technical review and complete review form provided by *Landscape Architect*, and return to *Landscape Architect* for consideration, acceptance and/or incorporation into the Work Products.
- D. If the submission is incomplete, *County* shall notify *Landscape Architect*, who shall perform such professional services as are required to complete the work and resubmit it to *County*. This process shall be repeated until a submission is complete.
- E. *County* shall review the completed work for compliance with the scope of work. If necessary, the completed work shall be returned to *Landscape Architect*, who shall perform any required work and resubmit it to *County*. This process shall be repeated until the work is accepted. "Acceptance" shall mean that in the *County Judge's* opinion substantial compliance with the requirements of this Agreement has been achieved.
- F. After acceptance, *Landscape Architect* shall perform any required modifications, changes, alterations, corrections, redesigns, and additional work necessary to receive final approval by the *County Judge*. "Approval" in this sense shall mean formal recognition that the work has been fully carried out.
- G. After approval of final Work Products, *Landscape Architect* shall, without additional compensation, perform any work required as a result of *Landscape Architect's*

development of the products which is found to be in error or omission due to *Landscape Architect's* negligence. However, any work required or occasioned for the convenience of *County* after approval of a final product shall be paid for as Additional Services.

- H. In the event of any dispute over the classification of *Landscape Architect's* Work Products as complete, accepted, or approved under this Agreement, the decision of the *County Judge* shall be final and binding on *Landscape Architect*, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

Section VII **Revision to Work Product**

Landscape Architect shall make without expense to *County* such revisions to the work product as may be required to correct negligent errors or omissions so the work product meets the needs of *County*, but after the approval of the work product any revisions, additions, or other modifications made at *County's* request which involve extra services and expenses to *Landscape Architect* shall entitle *Landscape Architect* to additional compensation for such extra services and expenses, provided however, that *Landscape Architect* agrees to perform any necessary corrections to the Work Products, which are found to be in negligent error or omission as a result of the *Landscape Architect's* development of the work product, at any time, without additional compensation. If it is necessary due to such error or omission by *Landscape Architect* to revise the plans in order to make the *Project* constructable, *Landscape Architect* shall do so without additional compensation. In the event of any dispute over the classification of *Landscape Architect's* services as Basic or Additional Services under this Agreement, the decision of the *County Judge* shall be final and binding on *Landscape Architect*, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

Section VIII **Landscape Architect's Responsibility and Liability**

- A. *Landscape Architect* covenants to undertake no task in which a professional license or certificate is required unless he or someone under his direction is appropriately licensed. In the event such licensed individual's license expires, is revoked, or is canceled, *Landscape Architect* shall inform *County* of such event within five working days.
- B. *Landscape Architect* shall be responsible for conformance with applicable federal and state laws, county permitting requirements, and city ordinances currently in effect, except as otherwise directed by the *County Judge* regarding county permitting or similar requirements properly waivable by the *County Judge*.
- C. Acceptance and approval of the final plans by *County* shall not release *Landscape Architect* of any responsibility or liability for the accuracy and competency of his designs, working drawings, specifications, or other documents or work performed under this Agreement. Neither acceptance nor approval by *County* shall be an assumption of responsibility or liability by *County* for any defect, error, or omission in the designs, working drawings, specifications, or other documents prepared by *Landscape Architect*.

- D. **LANDSCAPE ARCHITECT** SHALL INDEMNIFY, PROTECT, AND SAVE HARMLESS **COUNTY**, ITS OFFICIALS AND EMPLOYEES AND ITS AGENTS AND AGENTS' EMPLOYEES FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LIABILITY, LOSS, DAMAGE, ATTORNEY'S FEES, COSTS, AND EXPENSES (INCLUDING, BUT NOT LIMITED TO EXPENSES RELATED TO EXPERT WITNESSES) OF ANY KIND WHATSOEVER, TO THE EXTENT ARISING FROM ANY NEGLIGENT ACT, ERROR OR OMISSION OF **LANDSCAPE ARCHITECT** OR ANY OF ITS SUBCONTRACTORS IN CONNECTION WITH THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT; PROVIDED, HOWEVER, **LANDSCAPE ARCHITECT** SHALL NOT BE RESPONSIBLE FOR THE NEGLIGENCE OF ANY OTHER PARTY, OTHER THAN ITS SUBCONTRACTORS.
- E. **Landscape Architect's** opinions of probable **Project** cost or construction cost represent **Landscape Architect's** professional judgment as a design professional familiar with the construction industry, but **Landscape Architect** does not guarantee that proposals, bids, or the construction cost, itself, will not vary from **Landscape Architect's** opinions of probable cost.
- F. **Landscape Architect** shall perform all services and responsibilities required of **Landscape Architect** under this Agreement using at least that standard of care which a reasonably prudent Landscape Architect in Texas, who is licensed by the Texas Board of Architectural Examiners as applicable, would use in similar circumstances.
- G. **Landscape Architect** represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for performance of the services required under this Agreement and that **Landscape Architect** shall furnish and maintain, at its own expense, adequate and sufficient personnel and equipment, in the reasonable opinion of **County**, to perform the services when and as required and without delays. It is understood that **County** will approve assignment and release of all key **Landscape Architect** and professional personnel.
- H. All employees of **Landscape Architect** shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of **Landscape Architect**, who in the opinion of **County** is incompetent or whose conduct becomes detrimental to the work or coordination with **County**, shall upon **County's** and/or **County Judge's** request be immediately removed from association with the **Project**.
- I. **Landscape Architect** shall furnish all equipment, transportation, supplies, and materials required for its operations under this Agreement.
- J. **Landscape Architect** shall place his Texas Professional Landscape Architect's seal of endorsement on all documents and Landscape Architectural data furnished to **County**, as required by law.
- K. **Landscape Architect** is an independent contractor under this Agreement. Neither he nor any officer, agent nor employee of **Landscape Architect** shall be classified as an employee of the **County**.

Section IX

Ownership of Documents

- A. Any and all documents, including the original drawings, estimates, computer tapes, graphic files, tracings, calculations, analyses, reports, specifications, field notes, and data prepared by **Landscape Architect** are the property of both the **Landscape Architect** and the **County** and upon completion of the work or termination of this Agreement or as otherwise instructed by **County** and/or **County Judge**, shall deliver a copy to the **County**.
- B. Any reuse by **County** of any such documents described in subsection A above, shall be at the **County's** sole risk and without liability or legal exposure to the **Landscape Architect**. Should **Landscape Architect** be terminated, **Landscape Architect** shall not be liable for **County's** use of partially completed designs, plans, or specifications on this, except to the extent such documents were deemed complete or otherwise "Accepted" or "Approved" as provided herein or represent completed work sealed by **Landscape Architect**, or Civil Engineer, or Surveyor, as applicable, as specified by professional standards. The **Landscape Architect** shall not be liable for **County's** use of any documents described in Section A above, on any other project.
- C. **Landscape Architect** will not be responsible for any use or any modifications to the plans and documents described in subsection A performed by any entity other than Williamson County, and **County's** respective Landscape Architects and contractors, without the specific written consent of **Landscape Architect**.

Section X Miscellaneous

- A. **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.
- B. **Venue and Governing Law.** It is contemplated that this Agreement shall be performed in Williamson County, Texas, and the venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.
- C. **Equal Opportunity in Employment.** **Landscape Architect** agrees, during the performance of the services under this Agreement, to comply with the equal opportunity in employment provisions cited in Exhibit VI, which is attached hereto and made a part hereof.

D. **Certificate of Landscape Architect.** *Landscape Architect* certifies that neither *Landscape Architect* nor any members of *Landscape Architect's* firm has:

- (1) Employed or retained for a commission, percentage, brokerage, contingency fee, or other consideration, any firm or person (other than a bonafide employee working solely for *Landscape Architect*) to solicit or secure the work provided by the Agreement.
- (2) Agreed, as an expressed or implied condition for obtaining this contract, to employ or retain the services of any firm or person other than in connection with carrying out the work to be performed under this Agreement.
- (3) Paid or agreed to pay to any firm, organization, or person (other than bonafide employees working solely for *Landscape Architect*) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the work provided under this Agreement.

Landscape Architect further agrees that this certification may be furnished to any local, state or federal governmental agencies in connection with this Agreement and for those portions of the **Project** involving participation of agency grant funds and is subject to all applicable state and federal, criminal and civil laws.

E. **Notice.** Any notice to be given hereunder shall be in writing and may be affected by personal delivery in writing or by registered or certified mail, return receipt requested, addressed to the proper party, at the following address:

LANDSCPAE ARCHITECT:	Baker-Aicklen & Associates 507 West Liberty Ave. Round Rock, Texas 78664
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COUNTY:	Williamson County Judge Dan Gattis(or successor) 301 S.E. Inner Loop, Ste. 109 Georgetown, Texas 78626
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with copy to:	Williamson County Attorney Jana Duty (or successor) 405 M.L.K. St., Box #7 Georgetown, Texas 78626
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F. **Insurance Requirements.** *Landscape Architect* agrees during the performance of the services under this Agreement to comply with the INSURANCE REQUIREMENTS provisions described in Exhibit VII, which is attached hereto and made a part hereof.

- G. **Property Taxes.** Notwithstanding anything to the contrary herein, to the extent **County** becomes aware that **Landscape Architect** is delinquent in the payment of property taxes related to property located in Williamson County at the time of invoicing, **Landscape Architect** hereby assigns any payments to be made for services rendered hereunder to the Williamson County Tax Assessor-Collector for the payment of said delinquent taxes. Notwithstanding the above, **County** shall not have an affirmative duty to determine if **Landscape Architect** is delinquent in the payment of property taxes.
- H. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of **County** and **Landscape Architect** and their respective successors, executors, administrators, and assigns. Neither **County** nor **Landscape Architect** may assign, sublet, or transfer its interest in or obligations under this Agreement without the written consent of the other party hereto.
- I. **Bidding Exemption.** This Agreement is exempted from the bidding requirements of the County Purchasing Act pursuant to Section 262.024(a)(4) of the Local Government Code as this is a contract for professional services.
- J. **Taxpayer Identification.** **Landscape Architect** shall provide to **County Judge** upon submittal of **Landscape Architect's** initial invoice requesting payment Internal Revenue Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code, its rules and regulations.
- K. **Compliance with Laws.** **Landscape Architect** shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required, the **Landscape Architect** shall furnish the **County** with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.
- L. **Reports of Accidents.** Within 24 hours after **Landscape Architect** becomes aware of the occurrence of any accident or other event which results in, or might result in, injury to the person or property of any third person (other than an employee of the **Landscape Architect**), whether or not it results from or involves any action or failure to act by the **Landscape Architect** or any employee or agent of the **Landscape Architect** and which arises in any manner from the performance of this Agreement, the **Landscape Architect** shall send a written report of such accident or other event to the County, setting forth a full and concise statement of the facts pertaining thereto. The **Landscape Architect** shall also immediately send the County a copy of any summons, subpoena, notice, or other documents served upon the **Landscape Architect**, its agents, employees, or representatives, or received by it or them, in connection with any matter before any court arising in any manner from the **Landscape Architect's** performance of work under this Agreement.
- M. **Definition of Landscape Architect.** The term "Landscape Architect" as used herein is defined as including Registered Professional Landscape Architects, as applicable to the

work to be performed under this Agreement, and any reference to professional standards in regards to a Registered Landscape Architect shall relate to those standards promulgated by the Texas Board of Architectural Examiners.

- N. ***Gender, Number and Headings.*** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.
- O. ***Incorporation of Exhibits and Attachments.*** All of the Exhibits and Attachments, and Appendices referred to in the Agreement are incorporated by reference as if set forth verbatim herein.
- P. ***Entity Status.*** By my signature below, I certify that the ***Landscape Architect*** is a Texas Corporation and is duly authorized to transact and do business in the State of Texas.
- Q. ***Construction.*** Each party hereto 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.
- R. ***Independent Contractor Relationship.*** Both parties hereto, 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.
- S. ***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.
- T. ***Interest and Late Payments.*** ***County's*** payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. Invoices shall be paid by ***County*** within thirty (30) days from the date of the Williamson County Auditor's receipt of an invoice. Interest charges for any late payments shall be paid by ***County*** in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of ***County's*** fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. In the event that a discrepancy arises in relation to an invoice, such as an incorrect amount on an invoice or a lack of documentation that is required to be attached to an invoice to evidence the amount claimed to be due, ***County*** shall notify the party requesting payment of such an invoice of

documentation that is required to be attached to an invoice to evidence the amount claimed to be due, **County** shall notify the party requesting payment of such an invoice of the discrepancy. Following **County's** notification of any discrepancy as to an invoice, the party requesting payment must resolve the discrepancy and resubmit a corrected or revised invoice, which includes all required support documentation, to the Williamson County Auditor. **County** shall pay the invoice within thirty (30) days from the date of the Williamson County Auditor's receipt of the corrected or revised invoice. **County's** payment of an invoice that contains a discrepancy shall not be considered late, nor shall any interest begin to accrue until the thirty-first (31st) day following the Williamson County Auditor's receipt of the corrected or revised invoice.

- U. **Texas Public Information Act.** To the extent, if any, that any provision in this Agreement is in conflict with Tex. Gov't Code 552.001 *et seq.*, as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that **County**, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to **County** as to whether or not the same are available to the public. It is further understood that **County's** officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that **County**, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to **County** by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.
- V. **Acknowledgement.** As a duly authorized representative of **Landscape Architect**, I acknowledge by my signature below that I have read and understand the above paragraphs and that **Landscape Architect** has the obligation to ensure compliance with its provisions by itself and its employees, agents, and representatives.
- W. **Governing Terms and Conditions.** If there is an irreconcilable conflict between the terms and conditions set forth in Sections I. through XI. of this Agreement and the terms and conditions set forth in any Exhibit, Appendix or Attachment to this Agreement, the terms and conditions set forth in Sections I. through XI. of this Agreement shall control over the terms and conditions set forth in any Exhibit, Appendix or Attachment to this Agreement.
- X. **Entire Agreement.** This Agreement represents the entire and integrated Agreement between **County** and **Landscape Architect** and supersedes all prior negotiations, representations, or agreements, either oral or written. This Agreement may be amended only by written instrument signed by both **County** and **Landscape Architect**. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND THIS CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COUNTY COMMISSIONERS COURT.

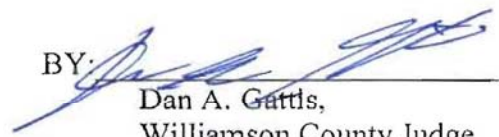
EXECUTED this 5th day of May, 2011.

THE LANDSCAPE ARCHITECT:

WILLIAMSON COUNTY:

BAKER-AICKLEN & ASSOCIATES, INC.

BY: 

BY: 
Dan A. Gattis,
Williamson County Judge

Printed Name: R. David Strutton

Date: 05-13-2011

Title: C.E.O.

Date: May 5th, 2011

Reviewed as to Form By:

County Attorney

County Auditor

EXHIBIT I

COMPENSATION FOR PROFESSIONAL SERVICES

SECTION 1 - BASIS FOR COMPENSATION

- 1.1 The lump sum fee for the performance of the Scope of Services described in the Agreement shall be outlined in **Work Authorizations**.
- 1.2 The basis of compensation for additional services of principals and employees engaged in the performance of the work shall be the hourly rates set forth in attached Exhibit II.
- 1.3 *Landscape Architect* shall be reimbursed for non-labor and subcontract expense incurred in the performance of the services under this Agreement at invoice cost.

SECTION 2 – LUMP SUM FEE

- 2.1 *Landscape Architect* and *County* acknowledge the fact that the lump sum fee is the total estimated costs of services to be rendered under this Agreement. This lump sum fee is the agreed upon fee for the performance of the various phases of work provided for under this Agreement.

SECTION 3 – WORK AUTHORIZATIONS

- 3.1 *County* will prepare and issue Work Authorizations, in the form identified and attached hereto as Attachment A to authorize the *Landscape Architect* to perform one or more tasks. Each Work Authorization will include a description of the work to be performed, a description of the tasks, generally address development and compliance with a schedule, and a fee amount agreed upon by the *County* and *Landscape Architect*. The amount payable for a Work Authorization shall be described in the Work Authorization. The Work Authorization will not waive the *Landscape Architect's* responsibilities and obligations established in this Agreement. The executed Work Authorizations shall become part of this Agreement.
- 3.2 Work included in a Work Authorization shall not begin until *County* and *Landscape Architect* have signed the Work Authorization. All work should be completed on or before the completion date if specified in the Work Authorization. The *Landscape Architect* shall promptly notify the *County* of any event which will affect completion of the Work Authorization, although such notification shall not relieve the *Landscape Architect* from costs or liabilities resulting from delays in completion of the Work Authorization. Any changes in the Work Authorization shall be enacted by a written Supplemental Work Authorization before additional work may be performed or additional costs incurred. Any Supplemental Work Authorization must be executed by both parties within the period specified in the Work Authorization. The *Landscape Architect* shall not perform any proposed work or incur any additional costs prior to the execution, by both parties, of a Supplemental Work Authorization.

SECTION 4 - ADDITIONAL SERVICES

- 4.1 For additional services, compensation shall be negotiated in accordance with Exhibit III.
- 4.2 *Landscape Architect* shall be compensated for extra services not included in the Scope of Services described in the Agreement developed on the basis specified in Exhibit III; however, *Landscape Architect* shall not be compensated for work made necessary by *Landscape Architect's* negligent errors or omissions.
- 4.3 Any amounts paid or payable under this Agreement shall be solely pursuant to a validly issued Work Authorization or any Supplemental Work Authorization related thereto.

SECTION 5 - REQUIRED SUPPORTING DOCUMENTATION

- 5.1 Upon submittal of the initial invoice for service, *Landscape Architect* shall provide *County Judge* with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification that is complete in compliance with the Internal Revenue Code, its rules and regulations.
- 5.2 All invoices submitted to *County Judge* will be accompanied by an original, complete packet of supporting documentation. Invoices should contain the Consultants representation of the percentage of completion relative worked executed towards the completion of the *Project*.
- 5.3 For additional services performed pursuant to Section III B of this Agreement, a separate invoice or itemization of this work will be presented with the same requirements for supporting documentation as in Section 5.2 of this Exhibit.
- 5.4 Invoices requesting reimbursement for expenditures related to the project (reimbursables) must be accompanied by copies of the provider's invoice which was previously paid by *Landscape Architect*.

ATTACHMENT A

WORK AUTHORIZATION NO. WAI

This Work Authorization is made pursuant to the terms and conditions of the Agreement entered into by and between Williamson County, Texas, a political subdivision of the State of Texas, (*the "County"*) and Baker-Aicklen & Associates (*the "Landscape Architect"*).

Part 1. The *Landscape Architect* will provide the following services described in the attached Exhibit A – Services to be Provided by *Landscape Architect*.

Part 2. The maximum amount payable for services under this Work Authorization without modification is \$65,000.

Part 3. Payment to the *Landscape Architect* for the services established under this Work Authorization shall be made in accordance with the Agreement.

Part 4. This Work Authorization shall become effective on the date of final acceptance of the parties hereto and shall terminate on October 18, 2011, unless extended by a Supplemental Work Authorization.

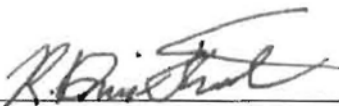
Part 5. This Work Authorization does not waive the parties' responsibilities and obligations provided under the Agreement.

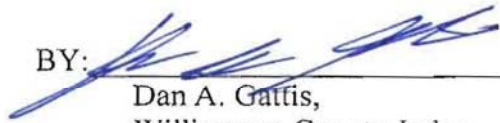
Part 6. This Work Authorization is hereby accepted and acknowledged below.

EXECUTED this 5th day of May, 2011.

BAKER-AICKLEN & ASSOCIATES

WILLIAMSON COUNTY

BY: 

BY: 
Dan A. Gaffis,
Williamson County Judge

Printed Name: R. David Strutton

Date: 05-13-2011

Title: C.E.O.

Date: May 5, 2011

LIST OF EXHIBITS TO BE ATTACHED

Exhibit A - Services to be Provided by *County*

Exhibit B - Services to be Provided by *Landscape Architect*

Exhibit C - Work Schedule

Exhibit D - Fee Schedule

EXHIBIT A

Services to be Provided by County

The County shall attempt to provide full information regarding requirements for the project including:

A. Assistance

1. Knowledge of, and copy(s) of other consultant work adjacent to or affecting any areas of work included in this contract, in AutoCad format, if at all possible. For example road, utility, land acquisition, or potential development projects.
2. Assist the Consultant by placing at its disposal all available reports, plans, specifications, and other data relative to this project.
3. Examination of all studies, reports, sketches, estimates, specifications, drawings and other documents presented by the Consultant and shall render in writing responses pertaining to a reasonable amount of time so as not to delay the work of the Consultant.
4. Payment of all Permitting/Review Fees necessary for the successful completion of this Agreement. Permit Fees may include but not be limited to the Texas Department of Licensing and Regulation (TDLR), Texas Commission on Environmental Quality (TCEQ), United States Army Corp of Engineers (USACE), Williamson County & Cities Health District, City of Austin (COA), and City of Cedar Park (COCP).

B. Responsibilities

1. It is the Responsibility of the County to provide the design team with complete and accurate information concerning known existing physical and legal conditions of the site that are beyond the scope of the professional services described in this document. Certain unusual or unforeseeable subsurface conditions not identifiable by surface topographic survey including, but not limited to, illegally dumped toxic or hazardous materials, abandoned building foundations or utility lines, excessive groundwater due to springs or other such features, or artifacts of archaeological or paleontological significance may materially alter the scope of the project in a manner not provided for in this contract.
2. Likewise, active or pending legal disputes involving property Ownership, rights-of-way, environmental status, easement rights, governmental or departmental jurisdiction or similar matters may complicate the project in a manner that could not reasonably be anticipated at this time. Any change to the scope of the project required by such conditions as are listed above, or any duplication of services necessitated thereby, may be considered grounds for contract modification or an additional services Agreement.

3. Environmental and Cultural Resources Surveys.
4. Geotechnical Investigation(s) including field work, borings and report document(s).
5. Compaction Control and Testing during construction.
6. Utility Connection and Inspection Fees.
7. Water and Wastewater Impact Fees.
8. Any other items required and not included in the Basic Services to be provided by the Landscape Architect.
9. Clearing of Land necessary to facilitate design surveying and staking services.
10. Waters of the U.S. determination necessary for US Army Corp of Engineer issues.

EXHIBIT B

Services Provided by *Consultant*

Basic Services

Given the above-stated scope of work, we will provide the following basic services:

A. Data Collection/Inventory/Analysis

1. Conduct a project initiation meeting with the Client's Team and obtain existing information and base data and establish project goals and objectives.
2. Conduct a team site investigation trip in & around project area to determine surrounding influences and establish on site conditions critical to the projects development.
3. Research, collect, and assess all city, county and surrounding communities' applicable documents, as well as any applicable regulatory requirements, and development standards.
4. Research and assess surrounding land use trends, recreational trends (current & future) and demographic growth trends.
5. Initiate site investigations so as to assess limited environmental, geological, cultural, and habitat resources.
6. Initiate and assess current floodplain and wetlands.

B. Site Analysis Process

1. Compile existing site data into a composite overlay of all site related data.
2. Develop a framework plan of on/off site opportunities and constraints.
3. Prepare report of preliminary findings and present to city staff to determine direction and establish governing objectives based on the findings.

C. Program Development Process

1. Prepare for and facilitate a day long input gathering event to include:
 - a. Kick off meeting.
 - b. Regional parks director's input.
 - c. Commissioner Court representatives input.
 - d. Two specific focus groups input.
 - e. Half (½) day public input forum.
2. Summarize findings and develop opportunities and constraints assessment.

3. Prepare report of preliminary findings, establish "Community Vision" Statement and present to city staff.

D. Park Master Planning Process

1. Develop three alternative concept plans delineating overall character and image of the park based on the "Community Vision" and goals and a preliminary draft report of the master plan (50%).
2. Meet with Staff to review and refine documents.
3. Refine and prepare preliminary master plan and 75% draft report, including opinion of probable construction costs, phases, and funding strategies within the report.
4. Present preliminary master plan and 75% draft report to parks director.
5. Develop final illustrative master plan and supporting graphics, final master plan report document, and completion of a digital project presentation.
6. Deliver all final products to the Director of Parks and Recreation.
7. Presentation of master plan to commissioner's court for adoption 1st reading.
8. Presentation and/or question and answer to commissioner's court for final adoption 2nd reading.
9. Deliver 10 copies to Director of Parks and Recreation

Additional Services

Services requested by the County that are not included in Basic Services are considered Additional Services and shall be paid for by the County. Additional Services shall only be provided if previously authorized by the County. Additional Services may include, but not limited to, the following:

- A. Construction Observation meetings not accounted for/indicated in Basic Services.
- B. Traffic impact Analyses.
- C. Bridge Design (other than pre-engineered structures).
- D. Hazardous Site Assessments.
- E. Land Acquisition services.
- F. Easement acquisition or vacation including preparation of easement documents.
- G. Assistance or representation in litigation concerning the property of proposed project.
- H. Services required after final acceptance of construction work.
- I. Bore services.
- J. Geotechnical testing and research.
- K. Environmental study (i.e., Phase 1 Permit).
- L. U.S. Fish and Wildlife Service: (Environmental Assessment Report).
- M. Providing services other than those outlined in Basic Services.
- N. Revisions to drawings previously approved by the County due to changes in: Project

scope, budget, schedule, or when such revisions are inconsistent with written approvals or instructions previously given; enactment or revision codes, laws, or regulations subsequent to the preparation of such documents.

- O. Preparation of presentation materials for marketing or purposes other than in-progress approvals.
- P. Preparation of as-built drawings.
- Q. Public or other presentations beyond those described in Basic Services.
- R. Provide consultation, drawings, reports and other work products related to permits, approvals and ordinances not described in Basic Services.
- S. Providing professional services for the field selection of plant materials.
- T. Design of on-site and off-site utility extensions beyond those described in Basic Services.

EXHIBIT C

Work Schedule

- A. We are prepared to commence work immediately upon receipt of a signed Agreement and Notice to Proceed. We will coordinate our work schedule with that of the County and other consultants to assure our timely consultation and effective cooperation. A tentative schedule will be provided within ten working days of receipt of the Notice to Proceed.

EXHIBIT D

Fee Schedule

A. Compensation

The **County** agrees to pay the **Consultant** the following lump sum fee for the Project described under Basic Services section. Fees for Basic Services will be billed monthly based on **Consultant's** representation of the percent of total work complete of the **Project**.

Data Collection/Inventory/Analysis	\$17,550.00
Site Analysis Process	\$11,700.00
Program Development Process	\$13,000.00
Park Master Planning Process	\$22,750.00
Total Fee for Basic Services	\$65,000.00

B. Reimbursable Expenses

Basic Services - Reimbursable expenses are included in compensation for basic services.

Approved Additional Services - Reimbursable expenses are in addition to compensation for additional services and include expenses by the Consultant in the interest of the **Project**. Reimbursable expenses include such items as telecommunications, reprographics, computer plots/mapping, deliveries, photography, reproductions; postage; automobile transportation; expenses in connection with out-town—travel; accessibility consultant (required by State Law); cost of map, surveys, drawings and reports necessary to conduct the work and not otherwise furnished by the Client. Reimbursable expenses will be billed at 1.15 times direct cost for additional services.

C. Basis for Compensation

1. The **Consultant's** fee for services is based on the size and scope of the project.

D. Payment

1. **Consultant** will invoice the **County** monthly for Services and reimbursable expenses on a percent complete basis. **County** agrees to promptly pay **Consultant** the full amount of each such invoice. In no event shall **Consultant's** failure to bill monthly constitute default under the terms and conditions of this agreement.
2. Payment is due within 30 calendar days upon receipt by the **County** and payable to "Baker-Aicklen & Associates" (507 West Liberty Ave., Round Rock, Texas 78664). Payments due and unpaid to **Consultant** under this Agreement shall earn interest at the rate of twelve percent (12%) per annum, or lesser if required by law, calculated from the date of the invoice, if the payment is not made within sixty (60) days of the date of the invoice.

EXHIBIT II

HOURLY RATES

Director of Planning Landscape Architecture	\$150.00 /hr
SPM Planning Landscape Architecture	\$135.00 /hr
Project Planner Landscape Architect	\$125.00 /hr
Staff Planner Landscape Architect	\$115.00 /hr
Production	\$100.00 /hr
Technical Administration	\$60.00 /hr

EXHIBIT III

COMPENSATION FOR ADDITIONAL PROFESSIONAL SERVICES

1. For the performance of work not described in the Basic Scope of Services of the Agreement, **County** shall pay and **Landscape Architect** shall receive, under a negotiated contract modification, compensation based rates set forth in Exhibits I and II to the Agreement.
2. The performance of any additional services must be authorized in writing in advance by the **County Judge**.
3. In the event of any dispute over the classification of **Landscape Architect's** services as either basic or additional services, the decision of the **County Judge** shall be final and binding.

EXHIBIT IV

PRODUCTION SCHEDULE

This Agreement shall become effective upon the date approved by the *County* and will remain in full force and effect for the period required for the design, construction contract award and construction of the *Project*, including any extensions of time, unless terminated earlier as provided for herein. *Landscape Architect* shall complete all work as described in the Scope of Services within a schedule to be coordinated and agreed upon by the *County*.

The number of days expiring from the date of submittal to *County* of a complete work product to the date the review is finished and comments returned to *Landscape Architect* shall not be included within the days allowed for completion.

EXHIBIT V

PROCEDURES FOR TERMINATION OR SUSPENSION

Procedures for *Landscape Architect* to follow upon receipt of Notice of Termination:

1. Upon receipt of a Notice of Termination and prior to the effective date of the termination, *Landscape Architect* shall, unless the Notice otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after receipt of the Notice of Termination *Landscape Architect* shall submit a statement, defining the services performed under this Agreement prior to the effective date of termination.
2. Copies of all completed or partially completed designs, plans, and specifications prepared under this Agreement prior to the effective date of termination shall be delivered to *County* as a pre-condition to final payment.
3. Upon the above conditions being met, *County* shall pay *Landscape Architect* for approved services actually performed under this Agreement, less previous payments.
4. Failure by *Landscape Architect* to submit the required statement and to comply with the above stated conditions without good and reasonable cause shall constitute a waiver by *Landscape Architect* of any and all rights or claims to collect the fee that *Landscape Architect* may rightfully be entitled to for services performed under this Agreement.

Procedures for *Landscape Architect* to follow upon receipt of Notice of Suspension:

1. Upon receipt of a Notice of Suspension and prior to the effective date of the suspension, *Landscape Architect* shall, unless the Notice otherwise directs, immediately begin to phase-out and discontinue all services in connection with the performance of this Agreement and shall prepare a statement detailing the services performed under this Agreement prior to the effective date of suspension. Copies of all completed or partially completed designs, plans and specifications prepared under this Agreement prior to the effective date of suspension shall be prepared for possible delivery to *County*, but shall be retained by *Landscape Architect* unless requested by *County*.
2. During the period of suspension, *Landscape Architect* may submit the above-referenced statement to *County* for payment of the approved services actually performed under this Agreement, less previous payments.

Procedures for *Landscape Architect* to follow upon exercise of right to terminate for substantial failure of *County* to perform:

1. In the event that *Landscape Architect* exercises such right to terminate, within thirty (30) days after receipt by *County* of *Landscape Architect's* Notice of Termination, *Landscape Architect* shall submit a statement detailing the services performed under this Agreement prior to the effective date of termination.
2. Copies of all completed or partially completed reports, designs, plans, studies, specifications and other work product shall be delivered to *County* as a pre-condition to final payment. Upon the above conditions being met, *County* shall pay *Landscape Architect* for approved services actually performed under this Agreement, less previous payments.
3. Failure by *Landscape Architect* to submit the required statement and to comply with the above stated conditions without good and reasonable cause shall constitute a waiver by *Landscape Architect* of any and all rights or claims to collect the fee that *Landscape Architect* may rightfully be entitled to for services performed under this Agreement.

EXHIBIT VI

EQUAL OPPORTUNITY IN EMPLOYMENT

- A. *Landscape Architect* will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. *Landscape Architect* 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. *Landscape Architect* agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
- B. *Landscape Architect* will, in all solicitations or advertisements for employees placed by or on behalf of *Landscape Architect*, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. *Landscape Architect* will send to the labor union representative or workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or worker's representatives of *Landscape Architect's* obligations under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

EXHIBIT VII

INSURANCE REQUIREMENTS

During the life of this Agreement, *Landscape 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 \$500,000 per occurrence and \$1,000,000 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 \$25,000 per occurrence and \$50,000 in the aggregate. *Landscape 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 \$1,000,000.
- E. In the event *Landscape Architect* is self-insured in connection with any or all of the above-required insurance policies, *Landscape Architect* shall submit proof of such self-insurance and all financial statements as reasonably required by the *County* in order to determine the acceptability of such self-insurance.

Landscape Architect shall not commence any field work under this Agreement until he has obtained all required insurance and such insurance or self-insurance has been approved by *County*. *Landscape 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. Approval of the insurance by *County* shall not relieve or decrease the liability of *Landscape 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. *Landscape Architect* shall furnish *County* with a certification of coverage issued by the insurer. *Landscape 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 the *County Judge*, and agreed to and hereby acknowledged by the *Landscape Architect*, that no provision of this Professional Services Agreement shall be construed to require the *County* or the *County Judge* 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 Exhibit 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.

APPENDIX A

SCOPE OF SERVICES

Refer to Exhibit A of each Work Authorization issued as a part of the Agreement.