

ARCHITECTURAL SERVICES CONTRACT

STATE OF TEXAS

COUNTY OF NUECES

THIS CONTRACT FOR ARCHITECTURAL SERVICES is made by and between the County of Nueces, hereinafter called "County" and LNV, Inc.

herein after called "Architect" for the purpose of contracting for architectural services.

WITNESSETH

WHEREAS, Government Code, Chapter 2254, Subchapter A, "Professional Services Procurement Act" provides for the procurement of professional services of architects; and

WHEREAS, the County desires to contract for architectural services described as follows: Construction management, and coordination with the Texas Historical Commission, at the Hilltop Community Center campus as it pertains to the drawings and specifications prepared by JEC Architects, Inc. regarding ADA facility improvements. This project is currently under construction by Progressive Structures, Inc. LNV, Inc. will represent the county throughout the remainder of the construction process.

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

AGREEMENT

ARTICLE 1 SCOPE OF SERVICES TO BE PROVIDED BY COUNTY

The County will furnish items and perform those services for fulfillment of the contract as identified in Attachment A – Services To Be Provided By The County, attached hereto and made a part thereof this contract.

ARTICLE 2
SCOPE OF SERVICES TO BE PROVIDED BY ARCHITECT

The Architect shall perform those architectural services for the fulfillment of the contract as identified in Attachment B – Services To Be Provided By The Architect, attached hereto and made a part thereof this contract.

The Architect shall prepare a schedule of work, identified as Attachment C – Work Schedule, attached hereto and made a part thereof this contract. The work schedule shall contain a complete schedule such that the Architect's Scope of Services under this contract can be accomplished within the specified time and contract cost. Attachment C – Work Schedule shall identify the task, the total maximum dollar amount payable for each task, and time allotted to complete the job by date or working days. Attachment D – Fee Schedule shall identify the hourly rates for each job title, total number of hours for each job title and the total maximum dollar amount payable for each job title.

ARTICLE 3
STANDARD OF CARE

The Architect shall perform the services contemplated hereunder:

1. With the professional skill and care ordinarily provided by competent architects practicing in the same or similar locality and under the same or similar circumstances and professional license; and
2. As expeditiously as is prudent considering the ordinary professional skill and care of a competent architect.

**ARTICLE 4
CONTRACT PERIOD**

After execution of this contract, the Architect shall not proceed with the work until authorized in writing by the County to proceed, as provided in Article 6 – Work Authorizations. This contract shall terminate at the close of business on January 31st 2020, unless extended by supplement agreement duly executed by the Architect and the County prior to the date of termination, as provided in Article 11 – Supplemental Agreements, or otherwise terminated, as provided in Article 20 – Termination. Any work performed or cost incurred after the date of termination shall be ineligible for reimbursement.

**ARTICLE 5
COMPENSATION AND METHOD OF PAYMENT**

The maximum amount payable under this contract is \$147,000.00, unless modified as provided in Article 11 – Supplemental Agreements

All payments will be made in accordance with the hourly rates for each job title established in Attachment D – Fee Schedule.

The Architect shall prepare and submit to the County, no more frequently than once per month, an invoice and a progress report stating the percent completion of the work accomplished during the billing period. The invoice and progress report shall contain sufficient detail such that the billing can be reviewed for compliance with both the work schedule and fee schedule.

The County reserves the right to withhold payment pending verification of satisfactory work.

The County assumes no liability for work performed or costs incurred prior to the date authorized by the County to begin work, during periods when work is suspended, or subsequent to the contract completion date.

**ARTICLE 6
WORK AUTHORIZATIONS**

The County will issue work authorizations, in the form identified and attached hereto as Attachment E – Work Authorization, to authorize the Architect to perform one or more tasks. The amount payable for a work authorization shall be supported by the estimated cost of each work task as described in the work authorization. The work authorization will not waive the County’s or Architect’s responsibilities and obligations established in this contract. The work authorization will be issued by the Nueces County Director of Public Works. The executed work authorization(s) shall become a part of this contract.

Upon satisfactory completion of the work authorization, the Architect shall submit to the County for review and acceptance the deliverables as specified in the executed work authorization.

Work included in a work authorization shall not begin until the County and the Architect have signed the work authorization. All work must be completed on or before the completion date specified in the work authorization. The Architect shall promptly notify the County of any event, which will affect completion of the work authorization.

ARTICLE 7 PROGRESS

The Architect shall, from time to time during the progress of the work, confer with the County. The Architect shall prepare and present such information as may be pertinent and necessary, or as may be requested by the County, in order to evaluate features of the work. Upon request by the County, the Architect shall make presentations to the Commissioners Court.

At the request of the County or the Architect, conferences shall be held at the Architect's office, the County's office, or at other locations designated by the County. These conferences shall also include an evaluation of the Architect's services and work when requested by the County.

Should the County determine that the progress in production of the work does not satisfy the work schedule, the County will review the work schedule with the Architect to determine corrective action needed.

The Architect shall promptly advise the County in writing of events which have a significant impact upon the progress of work, including:

- (1) problems, delays, or adverse conditions which will materially affect the ability to attain contract objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods; this disclosure will be accompanied by a statement of the action taken, or contemplated, and any County assistance needed to resolve the situation; and
- (2) favorable developments or events, which would enable meeting the work, schedule goals sooner than anticipated.

ARTICLE 8 SUSPENSION

The County may suspend the work, but not terminate the contract, by giving written notice a minimum of thirty (30) calendar days prior to the date of suspension. The thirty (30) day notice may be waived if approved in writing by both parties.

The work will be reinstated and resumed in full force and effect within sixty (60) calendar days of receipt of written notice from the County to resume the work. The sixty (60) day notice may be waived if approved in writing by both parties.

If the County suspends the work, the contract period, as determined in Article 4 – Contract Period, is not affected and the contract will terminate on the date specified unless the contract is amended as provided in Article 11 – Supplemental Agreements.

ARTICLE 9 ADDITIONAL WORK

If the Architect determines that any work it has been directed to perform is beyond the scope of this agreement and constitutes extra work, it shall promptly notify the County in writing. In the event the County determines that such work constitutes extra work and exceeds the maximum amount payable, the County shall so advise the Architect and a supplemental agreement may be executed, as provided in Article 11 – Supplemental Agreements.

The Architect shall not perform any additional work or incur any additional costs prior to the execution, by both parties, of a supplemental agreement. The County shall not be responsible for actions by the Architect or any costs incurred by the Architect relating to additional work not directly associated with the performance of the work authorized in this contract or as amended.

ARTICLE 10 CHANGES IN WORK

If the County finds it necessary to request changes to previously satisfactorily completed work or parts thereof which involve changes to the original scope of services or character of work under the contract, the Architect shall make such revisions if requested and as directed by the County. This will be considered additional work and paid for as specified under Article 9 – Additional Work.

The Architect shall make such revisions to the work to correct errors appearing therein, when required to do so by the County. No additional compensation will be paid for the correction of errors.

ARTICLE 11 SUPPLEMENTAL AGREEMENTS

The terms of this contract may be modified by supplemental agreement if the County determines that there has been a significant change in the scope, complexity, or character of the service to be performed, or the duration of the work. Additional compensation, if appropriate, shall be identified as provided in Article 5 – Compensation and Method of Payment.

Both parties must execute any supplement agreement within the contract period specified in Article 4 – Contract Period.

The Architect shall make no claim for extra work done or materials furnished until the County issues full execution of the supplemental agreement and authorization to proceed. The County reserves the right to withhold payment pending verification of satisfactory work performed.

ARTICLE 12 PUBLIC INFORMATION ACT

All data, basic sketches, charts, calculations, plans, specifications, and other documents created or collected under the terms of this contract are the exclusive property of the County and shall be furnished to the County upon request. All documents prepared by the Architect and all documents furnished to the Architect by the County shall be delivered to the County upon completion or termination of this contract. The Architect, at its own expense, may retain copies of such documents or any other data, which it has furnished the County under this contract. Release of information will be in accordance with the Texas Public Information Act. Architect shall have no liability for any use of the aforementioned documents other than for the project originally intended.

ARTICLE 13 PERSONNEL, EQUIPMENT AND MATERIAL

The Architect shall furnish and maintain, at its own expense, office space for the performance of all services, and adequate and sufficient personnel and equipment to perform the services as required. All employees of the Architect shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of the Architect who, in the opinion of the County, is incompetent, or whose conduct is detrimental to the work, shall immediately be removed from association with the project when so instructed in writing by the County.

The County may instruct the Architect to remove any employee from association with the work authorized in this contract if, in the sole opinion of the County, the work of the employee does not comply with the terms of this contract or if the conduct of the employee is detrimental to the work.

The Architect certifies that it presently has adequate qualified personnel in its employment for performance of the services required under this contract. The Architect may not change the project manager without prior consent of the County.

ARTICLE 14 SUBCONTRACTING

The Architect shall not assign, subcontract or transfer any portion of the work under this contract without prior written approval of the County. All subcontracts shall include the

provisions required in this contract and shall be approved as to form, in writing, by the County prior to work being performed under the subcontract.

**ARTICLE 15
EVALUATION OF WORK**

The County and its authorized representatives shall have the right at all reasonable times to review or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If a review or evaluation is being made on the premises of the Architect or a subcontractor, the Architect shall provide and require its subcontractor to provide all reasonable facilities and assistance for the safety and convenience of the County representatives in the performance of their duties. If funds by other agencies or entities are to be used for payment of the services under this contract or for any construction project as a consequence of this contract, the Architect's services and work may be subject to periodic review and approval by other agencies or entities, including city, county, state, and/or federal agencies.

**ARTICLE 16
SUBMISSION OF REPORTS**

All applicable study reports in preliminary form for review by the County before a final report is issued. The County's comments on the Architect's preliminary report shall be addressed in the final report.

**ARTICLE 17
SUBMISSION OF PLANS AND SPECIFICATIONS**

Unless otherwise directed, preliminary plans and any supporting documentation submitted for review shall be in triplicate.

The submission of plans and specifications for letting shall consist of two, original paper copies of all documents, along with a compact disc (CD).

Plan Sheet size shall be 24" X 36", unless otherwise directed.

**ARTICLE 18
COMPUTER DOCUMENTS AND INFORMATION EXCHANGE**

All computer files must be compatible with the County's computer systems without conversion or modifications and must plot consistent with any reproducible plots submitted.

All plots and graphics media provided by the Architect shall be delivered to the County. Final payment for the work associated with this contract will not be made until the files furnished by the Architect have been demonstrated to be usable in the required formats.

ARTICLE 19
VIOLATION OF CONTRACT TERMS / BREACH OF CONTRACT

Violation of the contract terms or breach of contract by the Architect shall be grounds for termination of the contract and any increased cost arising from the Architect's default, breach of contract, or violation of contract terms shall be paid by the Architect. This agreement shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

ARTICLE 20
TERMINATION

This contract shall terminate at the close of business on January 31st, 2020, unless extended as provided in Article 11 – Supplemental Agreements.

This contract may be terminated before the stated termination date by any of the following conditions:

1. By mutual agreement and consent, in writing, of both parties;
2. By the County, by notice in writing to the Architect as a consequence of failure by the Architect to perform the services set forth herein in a satisfactory manner;
3. By either party, upon the failure of the other party to fulfill its obligations as set forth herein;
4. By the County, for reasons of its own and not subject to the mutual consent of the Architect upon not less than thirty (30) calendar days written notice to the Architect; and
5. By written notice from the County upon satisfactory completion of all services and obligations described herein.

Should the County terminate this contract as herein provided, no fees other than fees due and payable at the time of termination shall thereafter be paid to the Architect. In determining the value of the work performed by the Architect prior to termination the County shall be the sole judge. Compensation for work at termination will be based on a percentage of the work completed at that time. Should the County terminate this contract under Item 4 of the above paragraph, the amount charged during the thirty (30) calendar day notice period shall not exceed the amount charged during the preceding thirty (30) calendar days.

If the Architect defaults in the performance of this contract or if the County terminates this contract for fault on the part of the Architect, the County will give consideration to the actual costs incurred by the Architect in performing the work to the date of default,

the amount of work which was satisfactorily completed to the date of default, the value of the work which is usable to the County, the cost to the County of employing another firm to complete the work required and the time required to do so, and other factors which affect the value to the County of the work performed at the time of default.

The termination of this contract and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of the County and the Architect under this contract, except the obligations set forth in Articles 12, 15, 20, 21, 22, 23 and 24 of this contract. If the termination of this contract is due to the failure of the Architect to fulfill its contract obligations, the County may take over the project and prosecute the work to completion. In such case, the Architect shall be liable to the County for any additional cost occasioned to the County.

ARTICLE 21 COMPLIANCE WITH LAWS

The Architect shall comply with all applicable Federal, State, and local laws, statutes codes, ordinances, rules, and regulations, and the orders and decrees of any court, or administrative bodies or tribunals, in any manner affecting the performance of this contract, including, without limitation, worker's compensation laws, minimum salary and wage statues and regulations, and licensing laws and regulations. When required, the Architect shall furnish the County with satisfactory proof of its compliance.

ARTICLE 22 INDEMNIFICATION, HOLD HARMLESS, AND DEFEND

THE ARCHITECT SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND, EXCEPT FOR PROFESSIONAL LIABILITY CLAIMS, THE COUNTY, ITS OFFICERS, AND EMPLOYEES AGAINST CLAIMS AND LIABILITY FOR DAMAGES TO THE EXTENT THAT THE CLAIM OR LIABILITY FOR DAMAGES IS BASED WHOLLY ON THE NEGLIGENCE OF ARCHITECT, THE ARCHITECT'S AGENT, CONSULTANT UNDER CONTRACT, OR OTHER ENTITY OVER WHICH ARCHITECT EXERCISES CONTROL.

THE ARCHITECT SHALL INDEMNIFY, AND HOLD HARMLESS THE COUNTY, ITS OFFICERS, AND EMPLOYEES, AGAINST CLAIMS AND LIABILITY FOR DAMAGES TO THE EXTENT THAT THE CLAIM OR LIABILITY FOR DAMAGES IS BASED ON THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE ARCHITECT OR THE ARCHITECT'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL.

**ARTICLE 23
REIMBURSEMENT**

THE ARCHITECT SHALL REIMBURSE THE COUNTY, IN PROPORTION TO THE ARCHITECT'S LIABILITY, FOR ANY SETTLEMENTS OR ATTORNEY'S FEES PAID BY THE COUNTY IN CONNECTION TO ANY CLAIM BASED IN PART ON THE NEGLIGENCE OF THE ARCHITECT.

**ARTICLE 24
ARCHITECT'S RESPONSIBILITY**

The Architect shall be responsible for the accuracy of its work, and shall, without additional compensation, promptly make the necessary revisions or corrections to remedy any such inaccuracies. The Architect will not be relieved of the responsibility for subsequent correction of any such errors or omissions or for clarification of any ambiguities until after the construction phase of the project has been completed.

**ARTICLE 25
ARCHITECT'S SEAL**

The responsible Architect shall sign, seal, and date all appropriate architectural submissions to the County in accordance with the Texas Civil Statutes and the rules of the Texas Board of Architectural Examiners.

**ARTICLE 26
RETENTION, AVAILABILITY OF RECORDS AND AUDIT REQUIREMENTS**

The Architect shall maintain all books, documents, papers, accounting records, and other evidence pertaining to cost incurred and shall make such materials available at its office during the contract period and for four (4) years from the date of final payment under this contract or until pending litigation has been completely and fully resolved, whichever occurs last. The County or any of its duly authorized representatives shall have access to any and all books, documents, papers, and records of the Architect which are directly pertinent to this contract for the purpose of making audits, examinations, excerpts, transcriptions, and for checking the amount of work performed by the Architect.

**ARTICLE 27
INSURANCE**

The Architect shall obtain and maintain insurance in the limits of liability for each of the types of insurance coverage identified as follows:

1. Workers' Compensation, endorsed with a waiver of subrogation in favor of Nueces County in the amount of the statutory obligations imposed under the Texas Workers' Compensation Law ("Statutory Texas").
2. Commercial General Liability, endorsed with the County as an additional insured and endorsed with a waiver of subrogation in favor of Nueces County, in limits of liability not less than one million dollars (\$1,000,000) combined single limit each occurrence and in the aggregate for bodily injury and property damage.
3. Texas Business Automobile Policy, endorsed with the County as an additional insured and endorsed with a waiver of subrogation in favor of Nueces County, in limits of liability not less than two hundred fifty thousand dollars (\$250,000) each person for bodily injury, five hundred thousand dollars (\$500,000) each occurrence for bodily injury, and one hundred thousand dollars (\$100,000) each occurrence for property damage.
4. Professional Liability in limits of one million dollars (\$1,000,000) each occurrence and in the aggregate.

The work shall not be commenced by Architect until after policy, or policies evidencing the insurance coverage herein required, or certificates of such insurance, providing that the insurer shall give County thirty (30) days written notice prior to cancellation, material revision or intention not to renew, have been submitted to the County. In the event the Insurer refuses to provide the County with notice as detailed, the Architect agrees to provide notice in writing immediately, and shall suspend all work until insurance is restored and proof, in a form acceptable to the County, is provided.

The Architect, at his/her expense, shall purchase and maintain in force at all times during the term of this Contract the insurance with limits not less than indicated above. The Architect will be considered in breach of contract should the Architect fail to maintain the required insurance coverage during the contract period of this contract. The termination of this contract resulting from failure to maintain the required insurance will be carried out in accordance with Article 20-Termination.

ARTICLE 28 SUCCESSORS AND ASSIGNS

The Architect and the County do hereby bind themselves, their successors, executors, administrators, and assigns to each other party of this agreement and to the successors, executors, administrators, and assigns of such other party in respect to all covenants of this contract.

The Architect shall not assign, subcontract, or transfer its interest in this contract without the prior written consent of the County

**ARTICLE 32
SIGNATORY WARRANTY**

The undersigned signatory for the Architect hereby represents and warrants that the signatory is an officer of the organization for which he or she has executed this contract on behalf of the firm.

IN WITNESS WHEREOF, the County and the Architect have executed these presents in duplicate.

COUNTY OF NUECES

ARCHITECT

By: _____
County Judge

By: _____

Title: _____

Date: _____

Date: _____

ATTEST:

County Clerk

List of Attachments

- Attachment A – Services To Be Provided By The County
- Attachment B – Services To Be Provided By The Architect
- Attachment C – Work Schedule
- Attachment D – Fee Schedule
- Attachment E – Work Authorization

SERVICES TO BE PROVIDED BY THE COUNTY

HILLTOP COMMUNITY CENTER
PROFESSIONAL CONSTRUCTION MANAGEMENT SERVICES

1. Nueces County will provide access to the site, facilities, and all existing construction documents, approved submittals, all previous correspondence from the General Contractor, and correspondence with Nueces county that was previously the responsibility of JEC Architects, Inc. pertaining to the work to be performed and managed by LNV, Inc.
2. Nueces County will provide any existing drawings for the site, facility, and any recent projects that would be considered “As built” drawings of this facility to LNV, Inc. as a reference.
3. Nueces County will provide Asbestos and Lead Based Paint survey reports for various areas on the interior of the facility that may be impacted as part of this construction project. Abatement of these materials will be the General Contractor’s responsibility.
4. All applicable permits and inspection fees required by the City to perform the work will be paid for by the General Contractor.
5. All required construction materials testing will be paid for by the County.

SERVICES TO BE PROVIDED BY THE ARCHITECT

HILLTOP COMMUNITY CENTER
PROFESSIONAL CONSTRUCTION MANAGEMENT SERVICES

1. LNV will review construction documents and specifications as developed by JEC Architects, Inc. to become familiar with the scope of work, and the items to be removed, replaced, modified, or added to the existing facility.
2. LNV will correspond with the Texas Historical Commission (THC) regarding the possible registration of the facility and the various impacts on required construction. We will also work with the City of Corpus Christi on coordination of code related items impacted by registration with the THC.
3. LNV will respond to all contractor's Requests for Information (RFIs).
4. LNV, or our representative, will perform weekly construction observation visits as necessary during construction at intervals appropriate to the work progress to verify that the work is in accordance with the construction documents and as requested by Nueces County.
5. LNV will review submittals and change order requests as submitted by contractor.
6. LNV will provide weekly construction progress reports.
7. LNV will prepare supplemental instructions if/as required.
8. LNV will review/ certify the General Contractor's Applications for Payment on a monthly basis and make recommendations for payment to Nueces County.
9. LNV will perform final construction inspection and will provide a "Punch list" of missing, or deficient items, or other items requiring the General Contractor's attention.
10. LNV will receive from the contractor the 'as-built' drawings reflecting final construction with any/all applicable changes noted. These will be authorized per owner's requirements for "as-built" documents, and we will convey these to the owner.
11. LNV will receive and review warranties, certifications, and guarantees as required by the contract documents and convey them to the County.

HILLTOP COMMUNITY CENTER
PROFESSIONAL CONSTRUCTION MANAGEMENT SERVICES

WORK SCHEDULE

Task	Maximum Amount Payable	Working Hrs.
On Site Construction Management	\$110,250.00	630
Field Reports	\$22,050.00	126
Meetings with the County and/or GC	\$ 14,700.00	84

The hours noted above are based on 20 hours per week for a total of 42 weeks.

Total = \$147,000.00

HILLTOP COMMUNITY CENTER
PROFESSIONAL CONSTRUCTION MANAGEMENT SERVICES

FEE SCHEDULE

Job Title	Hourly Rate	Total Hours	Maximum Amount Payable
Project Architect	\$175.00	840	\$147,000.00
Total =			\$147,000.00

WORK AUTHORIZATION

HILLTOP COMMUNITY CENTER
PROFESSIONAL CONSTRUCTION MANGEMENT SERVICES

This work authorization is issued in accordance with the Architectural Services Contract,
dated _____, between Nueces County and

Work Task:

Cost: _____

Deliverables: _____

Completion Date: _____

COUNTY OF NUECES _____

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____