

**AGREEMENT FOR
ARCHITECTURAL CONSULTING SERVICES**

This Agreement is made by and between **DRG ARCHITECTS, PLLC** as Independent Consulting Architect (hereinafter “**DRG ARCHITECTS**”), **POLK COUNTY, TEXAS**, a political subdivision of the State of Texas (hereinafter referred to as “**County**”), and the **IAH PUBLIC FACILITY CORPORATION** (hereinafter “**Facility Corporation**”) to be effective as of September 9, 2009.

RECITALS

WHEREAS, to safeguard its interests and ensure the proper use of the proceeds of the funds to finance the construction of the Facility, the County and Facility Corporation find that it is necessary and proper to engage an Independent Consulting Architect to provide the County and Facility Corporation with consulting services regarding the design and construction of the Facility and payments to Contractor therefor; and

WHEREAS, DRG ARCHITECTS is an architectural firm which proposes to use architects of its firm who are licensed to practice architecture in the State of Texas to provide such architectural consulting services to the County and Facility Corporation and proposes to use Registered Professional Engineers in the State of Texas to provide necessary consulting engineering services to the County and Facility Corporation. All such consulting engineering and architectural services being provided by DRG ARCHITECTS will be under the care and supervision of the registered professionals for each discipline of engineering and architecture with such respective individuals being responsible to the Texas Board of Architectural Examiners or Texas Board of Professional Engineers as required by State law.

NOW, THEREFORE, in consideration of the foregoing recitals and the promises and other consideration set forth below, the County, Facility Corporation, and DRG ARCHITECTS agree as follows:

**I.
PROJECT DESCRIPTION**

Consult with and advise and protect the interests of the County and the Facility Corporation in the planning, design and construction of a contiguous addition to the existing Facility intended to expand the inmate holding capacity by a total of 120 prisoners in the intake processing area. The Project will include six (6) holding cells having a minimum capacity of 20 prisoners each, a supplemental laundry to serve the holding population, guard station, and staff toilet. Site improvements will include reworking of existing security fencing to maintain security perimeter and relocation of existing Facility grease trap to allow for Project construction as described in Polk County RFP issued September 9, 2009, hereinafter referred to as the Inmate Holding Addition Project.

II.
GENERAL SCOPE OF ARCHITECT'S SERVICES

The Consulting Architect shall provide consulting architectural/engineering services and construction observation which are normal for projects of this type including, without limitation consultation with the Project Architect, the County and the Facility Corporation in the planning, design, preparation of construction documents, assistance in the bidding process (if any), and construction administration.

III.
INITIAL DOCUMENT / REQUIREMENTS REVIEW

3.1 DRG ARCHITECTS will review Schematic Design, Design and Construction Documents for compliance issues and prepare any comments to the County, Facility Corporation, and the Project Architect that may be required. "Compliance" as used herein means compliance with the construction requirements, Texas Commission on Jail Standards regulations/standards, and compliance with applicable federal, state, and local laws. DRG ARCHITECTS will also review the Construction Documents for quality of materials and construction, energy, and security/life safety issues. DRG ARCHITECTS will familiarize itself with the Construction Documents, the Contract Documents (including Design-Build Agreement), construction requirements/budget/construction schedules, and the approved schedule of values in order to properly review construction pay requests for processing and payment.

3.2 DRG ARCHITECTS shall also serve as a consultant and advisor to the County and Facility Corporation on the feasibility, suitability, use and need for the Facility and the proposed prisoner demand for the Facility by detention agencies.

IV.
**DESIGN AND CONSTRUCTION PAYMENT REQUEST
REVIEW AND RECOMMENDATION**

4.1 Consulting Architect shall visit the site on an average of once a week depending on the construction phase of the Project to observe the work in progress and to determine if the work is in compliance with the Construction Documents. Such observations shall be conducted by architectural and engineering disciplines as necessary based on the trade(s) or work in progress. The Consulting Architect shall keep the County and Facility Corporation informed about the progress and quality of the work, and as to whether the work is being performed in a manner indicating that the work, when fully completed, will be in accordance with the Construction Documents.

4.2 During the site visits, the Consulting Architect shall review the design-build firm's request for payment for construction work, completed during the last period. The

Consulting Architect shall review the pay request for completeness, accuracy, documentary support, compliance with the construction documents, and consistency with the approved schedule of values. The Consulting Architect shall issue written recommendation to the County and Facility Corporation as to whether the payment request should be approved in whole or part, for payment.

4.3 Consulting Architect shall review or take necessary action, as specifically delegated by the County and Facility Corporation, on proposed change orders, change directives or other amendments to the Project.

4.4 DRG ARCHITECTS will review each payment request made for the design and construction of the Facility. This review shall include ---

- (a) review of the request itself for completeness, documentary support and compliance with the Contract Documents (including the Design/Build Agreement), and for compliance with the requisition requirements of the Trust Indenture for the Project;
- (b) review of requests for payment against the approved schedule of values;
- (c) job site observation of the work and of stored materials on site to determine progress of the work and whether the work is in compliance with the Construction Documents, and free from material defects. DRG ARCHITECTS shall conduct a job site visit and review prior to issuing its recommendation on each payment request, and more often where such is required to adequately perform review of the work's progress, compliance, conformance with the Construction Documents and quality for purposes of issuing its recommendation on a payment request;
- (d) communication with the Project Architect, Contractor and contractors/materialmen on payment request issues;
- (e) issuing a written recommendation to the County and Facility Corporation as to whether the payment request should be approved in whole or in part, and the amount for which a requisition to the Trustee should be prepared; and
- (f) execute the requisition to the Trustee as "approved by Independent Consulting Architect", and provide a certification to that effect.

4.5 DRG ARCHITECTS shall have the authority to reject defective or non-conforming work, and such is specifically provided for in the Design-Build Agreement. This authority exists even where the Project Architect has not rejected such work. DRG ARCHITECTS shall have the authority to require additional testing or inspection where it deems such necessary.

4.6 Job site review shall include color photographic documentation (of standard quality) of the work to provide a general representation of the status or progress of the work.

4.7 DRG ARCHITECTS shall require that each payment request be supported with adequate documentation, including contractor and vendor invoices, and other documentation showing the costs upon which the request is based.

V.

SUBSTANTIAL AND FINAL COMPLETION

5.1 DRG ARCHITECTS shall verify the Project Architect's determination of Substantial Completion, and, if in agreement with that determination, sign an approval of the Project Architect's Certificate of Substantial Completion.

5.2 DRG ARCHITECTS shall participate in the final walk-through of the Facility for purposes of determining whether the Certificate for Final Payment should issue, and shall verify the accuracy of the Certificate of Final Completion proffered by the Project Architect. If DRG ARCHITECTS is in agreement with the Project Architect's determination, it will sign an approval of the Project Architect's Certificate of Final Completion.

VI.

CHANGE ORDERS AND SUBMITTALS

6.1 DRG ARCHITECTS shall review any proposed change orders and provide consultation and recommendations thereon to the County and Facility Corporation.

6.2 Review architectural and engineering submittals and shop drawings for compliance with Construction Documents and specifications.

VII.

ATTENDANCE AT REGULAR CONSTRUCTION MEETINGS AND REPORTING

7.1 DRG ARCHITECTS shall attend the regular scheduled monthly progress meeting and, in conjunction therewith, meet with the County and Facility Corporation to report on the project and its progress.

7.2 Consulting Architect shall attend and address the Commissioners Court and the Board of the Facility Corporation in person if necessary to report on progress or to discuss any issues that may develop.

7.3 Consulting Architect shall attend plan review meetings with the Texas Commission on Jail Standards and on-site inspections by Commission inspectors.

7.4 DRG ARCHITECTS shall provide the County and the Facility Corporation with a monthly report on the progress of the work, its activities, and a summary of any recommendations, approvals or rejections of work it has issued.

VIII.

COMPENSATION TO DRG ARCHITECTS

8.1 The total fixed fee to be paid to DRG ARCHITECTS for its consulting services rendered hereunder shall be the total fixed fee sum of \$35,000.00.

The scope of services may be adjusted by mutual agreement of the parties to this Agreement. The fee for such adjustment shall be established as a fixed fee by mutual agreement or, in the case of no formal agreement, on an hourly basis as follows:

Registered Architect	\$150.00 per hour
Professional Engineer	\$150.00 per hour
Planners/Consultants	\$135.00 per hour
Technicians	\$ 75.00 per hour

8.2 Notwithstanding anything herein to the contrary, the payment of compensation hereunder will be made out of the fixed amount for Consulting Architect fees in the project, and the County and/or Facility Corporation do not pledge payment of compensation hereunder from any other source. DRG ARCHITECTS agrees not to look to any other source for payment. The compensation hereunder shall not be a debt of the County or Facility Corporation payable out of taxes or general revenues.

8.3 DRG ARCHITECTS shall not be entitled to be reimbursed for any out of pocket expenses incurred including travel, printing or delivery expenses, and/or postage, handling and delivery of the documents such expenses are included in the fixed fee amount set forth in 8.1 above.

8.4 The compensation to DRG ARCHITECTS shall be paid as follows:

(1) Design Review Phase. Upon review and approval of the Contract Documents, review of all Contract Documents, plans, and drawings for compliance with Jail Standards, material and construction quality, and the requirements of the Project; review and approval of the schedule of values; review of the need for the Facility in the detention community; and review of the site to confirm the location and limitations and the accuracy of the Contract Documents with relation to the site--- thirty percent (30%) of the Fixed Fee.

(2) Construction Phase. The remaining fee - seventy percent (70%) of the fixed fee - shall be based on the construction schedule, and shall be billed monthly in equal amounts. All billings must comply with the requirements of the Trust Indenture.

The Owner will endeavor to pay the invoices within fifteen (15) days of receipt, but shall not be responsible for delays incurred in the Trustee's processing of the request. Final payment shall not be made until after the Certificate of Final Completion is approved.

IX.
MISCELLANEOUS TERMS

9.1 DRG ARCHITECTS shall procure and maintain professional liability insurance in an amount of at least \$1,000,000.00 per occurrence with an insurance company licensed to do business in this State and acceptable to the County and Facility Corporation.

9.2 Notices or other matters required hereunder to be set from one party to the other shall be provided at the following addresses by verified facsimile, Federal Express, or U.S. mail:

DRG ARCHITECTS -----

Wayne Gondeck, President
DRG ARCHITECTS, PLLC
10418 Gulfdale
San Antonio, Texas 78216
Telecopier: (210) 366-0847

County -----

Polk County, Texas
c/o County Judge
Polk County Courthouse
101 West Church Street, Suite 300
Livingston, Texas 77351
Telecopier: (936) 327-6891

Facility Corporation -----

IAH Public Facility Corporation
c/o County Judge
Polk County Courthouse
101 West Church Street, Suite 300
Livingston, Texas 77351
Telecopier: (936) 327-6891

9.3 The venue of any dispute under this Agreement shall lie in a court of competent jurisdiction in Polk County, Texas.

9.4 This Agreement represents the entire and integrated agreement between the County, the Facility Corporation and DRG ARCHITECTS and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the authorized representative of the County, the authorized representative of the Facility Corporation, and the authorized representative of DRG ARCHITECTS.

This agreement entered into by the parties to be effective as of _____, 2009.

DRG ARCHITECTS, PLLC

ATTEST:


Corporate Secretary

By: 
WAYNE GONDECK
President

Date: 9-15-09

POLK COUNTY, TEXAS

By: *John P. Thompson*
John Thompson
County Judge

ATTEST:
Shelana Walker
County Clerk

IAH PUBLIC FACILITY CORPORATION

By: *John D. Thompson*
Title: President

ATTEST:

Darrell Longini
Corporate Secretary