

CONTRACT FOR PROFESSIONAL SERVICES
BROWN REYNOLDS WATFORD ARCHITECTS, INC.
RELOCATION OF FIRE STATION 2
CITY PROJECT NUMBER 700-D0-1206

This Contract, dated _____, is between the **City of Bryan**, a Texas home-rule municipal corporation, (the City) and **Brown Reynolds Watford Architects, Inc.**, a corporation (the Architect), whereby the Architect agrees to provide the City with certain professional services as described herein and the City agrees to pay the Architect for those services.

1. Scope of Services

In consideration of the compensation stated in paragraph 2, the Architect agrees to provide the City with the professional services as described in Attachment A, the Scope of Services, which is incorporated herein by reference for all purposes, and which services may be more generally described as follows: Provide Professional services to design Bryan Fire Station No. 2 to be located at the intersection of Lawrence Street and Maloney Avenue in Bryan, Texas. The Fire Station will be approximately 21,000 square feet with an estimated construction budget of \$ 6,300,000.00.

2. Payment

In consideration of the Architect's provision of the professional services in compliance with all terms and conditions of this Contract, the City shall pay the Architect according to the terms set forth in Attachment B. Except in the event of a duly authorized change order, approved by the City in writing, the total cost of all professional services provided under this Contract may not exceed Six Hundred Seventeen Thousand Nine Hundred and No/100 Dollars (\$ 617,900.00).

3. Time of Performance

- A. All design work and other professional services provided under this Contract must be completed by the following date: September 30, 2016. The City Engineer may agree to an extension of the time for completion. Any extension of the time for completion approved by the City Engineer, however, shall only be effective upon the execution of an instrument in writing stating the terms of the extension and signed by both the City Engineer and the Architect. The Schedule is more fully defined in Attachment C.
- B. **Time is of the essence of this Contract.** The Architect shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified.

4. **Warranty, Indemnification, & Release**

- A. As an experienced and qualified design professional, the Architect warrants that the information provided by the Architect reflects high professional and industry standards, procedures, and performances. The Architect warrants the design preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, and the performance of other services under this Contract, is pursuant to a high standard of performance in the profession. The Architect warrants that the Architect will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Architect, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy and competency of their designs, information, plans, specifications or any other document, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid documents prepared by the Architect, its employees, associates, agents, or subcontractors.
- B. The Architect shall promptly correct any defective designs or specifications furnished by the Architect at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the Architect's services hereunder or of the Project itself shall in no way alter the Architect's obligations or the City's rights hereunder.
- C. In all activities or services performed hereunder, the Architect is an independent contractor and not an agent or employee of the City. The Architect and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Architect shall be responsible for the professional services and the final work product contemplated under this Contract. Except for materials furnished by the City, the Architect shall supply all materials, equipment, and labor required for the professional services to be provided under this Contract. The Architect shall have ultimate control over the execution of the professional services. The Architect shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and City shall have no control of or supervision over the employees of the Architect or any of the Architect's subcontractors.
- D. The Architect must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as their personal property, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Architect, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.
- E. **Responsibility for damage claims (indemnification): Architect shall defend, indemnify and save harmless the City and all its officers, agents, and employees from all suits, actions, or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property resulting from the Architect's negligent performance of the**

work, or by or on account of any claims or amounts recovered under the Workmen's Compensation Law or any other law, ordinance, order or decree, and his sureties shall be held until such suit or suits, action or actions, claim or claims for injury or damages as aforesaid shall have been settled and satisfactory evidence to the effect furnished the City. Architect shall defend, indemnify and save harmless the City, its officers, agents and employees in accordance with this indemnification clause only for that portion of the damage caused by Architect's negligence.

- F. Release. The Architect releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Architect or its employees and any loss of or damage to any property of the Architect or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Architect's negligent performance of the work. Both the City and the Architect expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance.

5. Architect's Insurance

The Architect agrees to maintain, on a primary basis, for the duration of this contract the insurance coverage and limits as described below. The Architect must deliver to the City a certificate(s) of insurance evidencing that such policies are in full force and effect within 5 business days of notification of the City's intent to award a contract. Failure to meet the insurance requirements and provide the required certificate(s) and any necessary endorsements within five business days **may cause the contract to be rejected.** The City reserves the right to obtain complete, certified copies of all required insurance policies at any time.

The requirements as to types and limits, as well as the City's review or acceptance of insurance coverage to be maintained by Architect, is not intended to nor shall in any manner limit or qualify the liabilities and obligations assumed by the Architect under the Agreement.

- A. **Commercial General Liability Insurance** – Limit of liability not less than \$1,000,000 per occurrence Architect agrees to maintain a standard ISO version Commercial General Liability occurrence form, or its equivalent providing coverage for, but not limited to, Bodily Injury and Property Damage, Premises/Operations, Products/Completed Operations, Independent Architects.
- B. **Professional Liability Insurance** – Limit of liability not less than \$1,000,000 per occurrence Architect agrees to maintain Professional (Errors & Omissions) Liability to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error or omission of the Architect or any person employed or acting on the Architect's behalf (including but not limited to sub-contractors). For policies written on a "claims-made" basis, Architect agrees to maintain a retroactive date prior to or equal to the effective date of this contract and that

continuous coverage will be maintained or a supplemental extended reporting period will be purchased with a minimum reporting period not less than two years after the completion of this contract. The Architect is solely responsible for any additional premium for the supplemental extended reporting period.

No "claims made" policies are acceptable without prior approval by the City Attorney. If approved, coverage must be maintained for two years after the completion of this contract.

- C. **Business Automobile Liability Insurance** – Limit of liability not less than \$1,000,000 per occurrence Architect agrees to maintain a standard ISO version Business Automobile Liability, or its equivalent, providing coverage for all owned, non-owned and hired automobiles. Should the Architect not own any automobiles, the business auto liability requirement shall be amended to allow the Architect to agree to maintain only Hired & Non-Owned Auto Liability. This amended coverage requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto policy.
- D. **Workers' Compensation Insurance & Employers' Liability Insurance** – Statutory & \$500,000/\$500,000/\$500,000. The Architect agrees to maintain Worker's Compensation Insurance & Employers Liability. In the event any work is sublet, the Architect shall require the subcontractor similarly to provide the same coverage and shall himself acquire evidence of such coverage on behalf of the subcontractor.
- E. **Additional Insured Endorsements** The Architect agrees to endorse the City as an Additional Insured on each insurance policy required to be maintained, with the exception of the worker's compensation, employer's liability and professional liability policy.
- F. **Waiver Of Subrogation** Waiver of subrogation in favor of the City of Bryan for each required policy. When required by the insurer or should a policy condition not permit Architect to enter into a pre-loss agreement to waive subrogation without an endorsement, then Architect agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Architect enter into such an agreement on a pre-loss basis.
- G. **Deductibles, Coinsurance Penalties, & Self-Insured Retention** Architect shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, or self-insured retention.

- H. **Subcontractor's Insurance** The Architect shall agree to cause each subcontractor employed by Architect to purchase and maintain insurance of the type specified, provided the Architect's insurance does not afford coverage on behalf of the subcontractor.
- I. **Certificate Of Insurance** Architect shall furnish the City with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements. The certificate must be from a company with an A.M. Best rating of "A-VI" or better and/or otherwise acceptable to the City. Certificates must be submitted using the ACORD form and all endorsements must be included with the submittal. The certificate(s) shall contain a provision that coverage under such policies shall not be cancelled or non-renewed until at least thirty (30) days prior written notice, or ten (10) days notice for cancellation due to non-payment of premiums, is given the City of Bryan.

In the event the City is notified that a required insurance coverage will cancel or non-renew during the contract period, the Architect shall agree to furnish prior to the expiration of such insurance, a new or revised certificate(s) as proof that equal and like coverage is in effect. The City reserves the right, but not the obligation, to withhold payment to Architect until coverage is reinstated. If the Architect fails to maintain the required insurance, the City shall have the right, but not the obligation, to purchase the required insurance at Architect's expense.

Certificates and notices should be given to the City at the following address:

**City of Bryan
Attn: Purchasing Department
1309 E. MLK Street
Bryan, TX 77808**

RIGHT TO REVIEW AND ADJUST The City reserves the right to review these requirements and to modify insurance coverage and their limits when deemed necessary and prudent. Furthermore, the City reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition.

6. Termination

- A. The City may terminate this Contract at any time upon **thirty (30)** calendar days written notice. Upon the Architect's receipt of such notice, the Architect shall cease work immediately. The Architect shall be compensated for the services satisfactorily performed prior to the termination date.
- B. If, through any cause, the Architect fails to fulfill its obligations under this Contract, or if the Architect violates any of the agreements of this Contract, the City has the right to terminate this Contract by giving the Architect **five (5)** calendar days written notice to the Architect. The Architect will be compensated for the services satisfactorily performed

before the termination date.

- C. No term or provision of this Contract shall be construed to relieve the Architect of liability to the City for damages sustained by the City because of any breach of contract by the Architect. The City may withhold payments to the Architect for the purpose of setoff until the exact amount of damages due the City from the Architect is determined and paid.

7. Miscellaneous Terms

- A. This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.
- B. Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

The City of Bryan
Attn: W. Paul Kaspar, P.E.
P.O. Box 1000
Bryan, Texas 77805

Brown Reynolds Watford Architects, Inc.
Attn: Ray Holliday, AIA, ASLA, LI
2700 Earl Rudder Freeway S., STE. 4000
College Station, Texas 77845

- C. No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.
- D. This Contract represents the entire and integrated agreement between the City and the Architect and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.
- E. This Contract and all rights and obligations contained herein may not be assigned by the Architect without the prior written approval of the City.
- F. The Architect, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Bryan, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The Architect must obtain all necessary permits and licenses required in completing the work and providing the services required by this Contract.

G. The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

Party of the First Part
CITY OF BRYAN, TEXAS

Approved as to Form:

Approved:

Janis K. Hampton, City Attorney

By: _____
Jayson P. Bienski, Mayor

Prepared and Recommended:

Attest:

W. Paul Kaspar, P.E., City Engineer

By: _____
Mary Lynne Stratta, City Secretary

Approved for Processing:

Date: _____

Jayson Barfknecht, P.E., Ph.D.
Director of Public Works

Party of the Second Part
ARCHITECT:

Kean Register, City Manager

By: _____

Printed Name: Mark E. Watford, FAIA

Title: Principal

Date: _____

Firm's License No. _____

Witness

ATTACHMENT “A” SCOPE OF SERVICES

BASIC SCOPE OF SERVICES

The basic scope of services proposed for this project includes the following:

Architectural

- Description of basic services listed below under **Scope of Services by Project Phase**.

Landscape

- Landscape design to meet Zoning Ordinance requirements as applicable and drought-tolerant / Native vegetation goals: strictly around footprint of building.

Landscape Irrigation

- Irrigation system design and documentation

Civil

- Topographic Survey / Boundary, Easements Descriptions Survey
- Geotechnical Report
- Detention Pond
- Drainage, grading and paving design
- Grading spot elevations adequate for TAS compliance
- On-site water and sewer utilities

Structural

- Foundation and structural framing
- Screening walls, retaining walls, and exterior stairs (as applicable)

Mechanical, Plumbing and Electrical

- Mechanical systems, including temperature controls systems and written sequence of operations
- Fire protection (sprinkler system) performance specification
- Electrical power, lighting, and fire alarm systems
- Coordination with utility companies for electrical power, telephone, fiber, cable TV, etc. service entrances.
- Emergency generator
- Conduit and boxes for low voltage wiring
- Station radio, antenna and alerting systems
- Lightning protection
- Security Design

PROJECT UNDERSTANDING

Design

For designs, two review submittals will be made to the City of Bryan (50% and 90%). The 50% submittal will include the design sheets at a 50% level of completion with all applicable standards and a preliminary cost estimate. For the 90% submittal completed design plans will be included with all standards, special specifications and a construction cost estimate. The final submittal (100%) will address all of the City of Bryan comments and will be a complete package that includes construction drawings, bid book with specifications and construction cost estimate.

Generally construction plan sheets shall be organized as follows:

- Title Sheet
- Life Safety
- Civil Sheets
- Landscape and Irrigation
- Structural
- Architectural
- Mechanical
- Plumbing
- Electrical

A preliminary estimate of probable construction cost with the preliminary plans submittal.

The final project deliverables for the design will be 1 set of 22" x 34" design sheets on bond and one digital set in PDF, CAD and Tif formats as described above, the construction cost estimates and specifications.

"As-built" information from the construction contractor will be incorporated into the plan set to produce record drawings for the project. The contractor will provide a marked plan set to the Architect showing the "as-built" information. The final plan sheets in format described above will be revised to indicate the "as-built" conditions and submitted as "record" drawings and one digital set in AutoCAD format.

BID PHASE SERVICES

The Architect will provide bid tabulation services for the City of Bryan and attend one pre-bid meeting. Architect will also answer questions regarding the design during the project bid phase.

CONSTRUCTION PHASE SERVICES

The Architect will provide construction phase services to include: up to one (1) pre-construction meeting with the selected contractor; review submittals; respond to requests for information (RFI's); review change orders; attend monthly progress meetings and attend one (1) final inspection upon completion of construction.

Architect shall perform final closeout procedures as defined in the Contract Documents, including preparation and verification of Punch Lists for the Contractor's use.

Construction Administration services beyond the following limits shall be an Additional Service:

- Evaluation of Contractor's substitution requests after 30 days following the execution of the Notice to Proceed.
- Owner requested project scope changes resulting in changes to the Construction Documents.
- One (1) eleven (11) month warranty walk through after completion

Construction Administration services provided more than sixty (60) days after the date of the Substantial Completion originally established in the construction contract shall be Additional Services. The monthly lump-sum fee for extended Construction Administration (CA) services shall be the CA portion of the fee divided by the number of months for construction originally established in the construction contract and shall be invoiced monthly.

Twenty four visits to the site by the Architect over the duration of the Project during construction. The 24 visits shall be split into 10 visits during design and 14 visits during construction and any additional site visits requested by the Owner shall be reimbursable expenses to the Architect.

ATTACHMENT 'B'
FEE SUMMARY & ESTIMATED MONTHLY FEE SCHEDULE

Payment to the FIRM will be made as follows:

A. Invoice and Time of Payment

Monthly invoices will be issued by the ARCHITECT for all work performed under this Agreement. Invoices are due and payable on receipt. Invoices will be prepared in a format approved by the CITY prior to submission of the first monthly invoice. Monthly payment of the fee will be in proportion to percent completion of the total work for each fee item outlined below.

B. Upon completion of services enumerated in Attachment A, Scope of Services, the final payment of any balance will be due upon receipt of the final invoice.

BASIC SERVICES

Schematic Design	\$ 123,480.00
Design Development	\$ 92,610.00
Construction Documents	\$ 246,960.00
Bidding	\$ 30,870.00
Construction	\$ 123,480.00
Record Drawings	\$ 500.00
TOTAL BASIC SERVICES	\$ 617,900.00
(Not to Exceed Fee)	

EXAMPLE ESTIMATED MONTHLY FEES:

May 2015	123,480.00	Notice to Proceed, Finalize Schematic Design
June 2015	92,610.00	Design Development
July 2015	82,320.00	Construction Documents
August 2015	82,320.00	Construction Documents
September 2015	82,320.00	Construction Documents
October 2015	30,870.00	Bidding Phase
November 2015	12,348.00	Construction Assistance
December 2015	12,348.00	Construction Assistance
January 2016	12,348.00	Construction Assistance
February 2016	12,348.00	Construction Assistance
March 2016	12,348.00	Construction Assistance
April 2016	12,348.00	Construction Assistance
May 2016	12,348.00	Construction Assistance
June 2016	12,348.00	Construction Assistance
July 2016	12,348.00	Construction Assistance
August 2016	12,348.00	Construction Assistance
September 2016	500.00	Record Drawings
Total	\$617,900.00	

ATTACHMENT “C”

PROJECT SCHEDULE

SCHEDULE:

Notice to Proceed with Design	{05/04/15}
Submit Schematic Design Plans for City Review (20%):	{05/25/15}
Submit 50% Plans for City Review	{07/06/15}
Submit 90% Plans for Last City Review:	{08/31/15}
Submit Final Plans & Specs:	{09/21/15}
Begin Advertisement:	{09/23/15}
Pre Bid Meeting	{10/08/15}
Open Contractor Bids:	{10/22/15}
City Council Construction Contract Award:	{11/10/15}
Construction Complete	{08/08/16}
Record Drawings Submitted	{09/30/16}