



CITY COUNCIL SPECIAL MEETING

November 13, 2023 at 7:00 PM

Hewitt City Hall, 200 Patriot Court, Hewitt, TX 76643

AGENDA

Steve Fortenberry, Mayor, Ward 3

Erica Bruce, Mayor Pro Tem, Ward 3 – **Michael S. Bancale**, Council Member, At-Large

Johnny Stephens, Council Member, Ward 1 – **Johnny Price**, Council Member, Ward 2

Bob Potter, Council Member, Ward 2 – **Brad Turner**, Council Member, Ward 1

The meeting will be streamed live on the city's website at www.cityofhewitt.com/790/Hewitt-TX-TV.

Pursuant to Texas Government Code Sec. 551.127, on a regular, non-emergency basis, members may attend and participate in the meeting remotely by video conference. Should that occur, a quorum of the members will be physically present at the location noted above on this agenda.

DECLARATION OF A QUORUM AND CALL TO ORDER

PLEDGE OF ALLEGIANCE

SPECIAL PRESENTATION(S) AND RECOGNITION(S)

1. Proclamation declaring "Municipal Court Week".

PUBLIC COMMENTS

The City Council invites citizens to speak on any topic not already scheduled for a public hearing. The Texas Open Meetings Act prohibits the Council from discussing, responding to, or acting on any comments or items not properly posted on the agenda. (Note: Members of the public who wish to speak must complete a "Public Comment Form" and present it to the City Secretary before the meeting.)

REGULAR AGENDA ITEMS

2. Approval of minutes for the Workshop/Regular Meeting held October 16, 2023.
3. Presentation of the report from the City Engineer Miles Whitney, P.E.
 - Update on pending utility projects
 - Update on pending street projects
 - Update on pending drainage projects.

4. Briefing and discussion concerning Financial Statements ending October 31, 2023.
5. Discussion and possible action to award Goddard Enterprises with upgrading the City of Hewitt's outdoor warning siren system.
6. Discussion and possible action on Brush Truck Skid Unit replacement and upfitting.
7. Discussion and possible action to authorize the City Manager to enter into an agreement with Martinez Architects for the architectural design of Fire Station 2.
8. Discussion and possible action on **Resolution No. 2023-12** amending and adopting the City of Hewitt's Investment Policy.
9. Discussion and possible action on **Resolution No. 2023-13** approving financing terms with _____ for a term of ____ years at ____%.
10. Discussion and possible action on approving **Resolution No. 2023-14** authorizing the City's membership in the Texas SmartBuy Program.

ADJOURNMENT

I certify that the above notice of meeting was posted on the Public Notice Board located in front of City Hall on **November 8, 2023**, by 5:00 PM.

CITY OF HEWITT

Lydia Lopez

Lydia Lopez, TRMC/CMC
City Secretary

In compliance with the Americans with Disabilities Act, the City of Hewitt will provide reasonable accommodations for persons attending and/or participating in City Council meetings. The facility is wheelchair accessible, with accessible parking available at the front of the building. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting by calling the City Secretary at 254.296.5602 or by fax at 254.666.6014.



COUNCIL AGENDA ITEM FORM

MEETING DATE: November 13, 2023

AGENDA ITEM #: 2.

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Approval of minutes for the Workshop/Regular Meeting held October 16, 2023.

STAFF RECOMMENDATION/ITEM SUMMARY:

Attached is a draft copy of the meeting minutes. Please review and advise if any corrections are needed.

FISCAL IMPACT:

Amount Budgeted - N/A

Line Item in Budget - N/A

SUGGESTED MOTION:

I move approval of the minutes as presented but to allow for corrections.

ATTACHMENTS:

1. 10-16-2023 City Council Workshop-Regular Meeting Minutes



CITY COUNCIL WORKSHOP/REGULAR MEETING

October 16, 2023 at 6:30 PM

Hewitt City Hall, 200 Patriot Court, Hewitt, TX 76643

MINUTES

Steve Fortenberry, Mayor, Ward 3

Erica Bruce, Mayor Pro Tem, Ward 3 – **Michael S. Bancale**, Council Member, At-Large

Johnny Stephens, Council Member, Ward 1 – **Johnny Price**, Council Member, Ward 2

Bob Potter, Council Member, Ward 2 – **Brad Turner**, Council Member, Ward 1

WORKSHOP MEETING - 6:30 PM

WORKSHOP DECLARATION OF A QUORUM AND CALL TO ORDER

Mayor Steve Fortenberry called the Workshop Meeting to order at 6:30 PM, and announced a quorum was present. Council Member Johnny Stephens was absent.

WORKSHOP AGENDA

1. Briefing and discussion concerning water and wastewater rates for Fiscal Year 2023-2024.
City Manager Bo Thomas reviewed portions of the Wildan Water and Wastewater Rate Study to clarify the recommended rate changes in the FY 2023-2024 Budget (agenda item 9).

WORKSHOP ADJOURNMENT

MOTION: Mayor Pro Tem Erica Bruce to adjourn the Workshop meeting at 6:50 PM.

SECOND: Council Member Michael Bancale

AYES: Bancale, Potter, Price, Turner, Bruce, and Fortenberry

NAYES: None

ABSENT: Stephens

MOTION PASSED.

REGULAR MEETING - 7:00 PM

DECLARATION OF A QUORUM AND CALL TO ORDER

Mayor Steve Fortenberry called the Regular Meeting to order at 7:00 PM, and announced a quorum was present. Council Member Johnny Stephens was absent.

PLEDGE OF ALLEGIANCE

Mayor Fortenberry led the Pledge of Allegiance.

PUBLIC COMMENTS

The City Council invites citizens to speak on any topic not already scheduled for a public hearing. The Texas Open Meetings Act prohibits the Council from discussing, responding to, or acting on any comments or items not properly posted on the agenda. (Note: Members of the public who wish to speak must complete a "Public Comment Form" and present it to the City Secretary before the meeting.)

Mayor Fortenberry read the statement above and inquired if the City Secretary received any public comment forms. The City Secretary received no public comment forms.

REGULAR AGENDA ITEMS

2. Approval of minutes for the Workshop/Regular Meeting held October 2, 2023.

MOTION: Mayor Pro Tem Erica Bruce moved approval of the minutes as presented but to allow for corrections.

SECOND: Council Member Michael Bancale

AYES: Bancale, Potter, Price, Turner, Bruce, and Fortenberry

NAYES: None

ABSENT: Stephens

MOTION PASSED.

3. Presentation of the report from the City Engineer Miles Whitney, P.E.

Update on pending utility projects

Update on pending street projects

Update on pending drainage projects.

City Engineer Miles Whitney presented a review of the listed projects.

4. Update and discussion on SAFER Grant and staffing plan.

City Manager Bo Thomas advised the Council that the SAFER Grant was not awarded. He reiterated during budget discussions that the plan to hire six additional firefighters was contingent on the grant award; however, the FY 2023-2024 budget could be adjusted to hire three additional firefighters if the grant was not awarded. Mr. Thomas provided two handouts detailing the new General Fund Projection. He stated that this item was to seek the Council's consent to make the necessary adjustment to the FY 2023-2024 budget to hire three firefighters. Staff would reapply for the grant and re-evaluate as time progresses. Council agreed to move forward with the hiring of three firefighters.

5. Discussion concerning Financial Statements ending September 30, 2023.

City Manager Bo Thomas advised that Finance Director Lee Garcia previously sent the September Financial Statements electronically for the Council to review and inquired if the Council had any questions. The Council raised no questions or concerns.

6. Discussion and possible action on approval of the Quarterly Investment Report for the quarter ending September 30, 2023.

City Manager Bo Thomas presented the quarterly investment report prepared by Valley View Consulting, L.L.C. Council Member Bob Potter commended the staff for investing funds to improve interest revenue dramatically.

MOTION: Mayor Pro Tem Erica Bruce moved to approve the quarterly report as of September 30, 2023.

SECOND: Council Member Bob Potter

AYES: Bancale, Potter, Price, Turner, Bruce, and Fortenberry

NAYES: None

ABSENT: Stephens

MOTION PASSED.

7. Discussion and possible action on the Capital Improvement Projects on Briarfield and E. Wall Streets.

City Manager Bo Thomas reviewed the previous discussion on the cost comparison options for bidding on these two Capital Improvement Projects. He sought Council direction on how to proceed with bidding on the projects. Council Member Michael Bancale preferred to proceed with the urban profile (curb and gutter).

MOTION: Council Member Michael Bancale moved to choose the urban profile (curb and gutter) for the Capital Improvement Projects on Briarfield and E. Wall Streets.

SECOND: Council Member Johnny Price

AYES: Bancale, Potter, Price, Turner, Bruce, and Fortenberry

NAYES: None

ABSENT: Stephens

MOTION PASSED.

8. Discussion and possible action on proposal award for the Commerce Park Water Plant Improvement - Well No. 8, Project No.: 1-03655.

City Manager Bo Thomas gave an overview of the proposal process and the results of the evaluation committee review. He also advised the Council that he received an email from the low proposer expressing his disagreement with the evaluation of the proposal. Mayor Fortenberry noted the low proposer was not present at the meeting.

MOTION: Mayor Pro Tem Erica Bruce moved approval to award the Commerce Park Water Plant Improvement - Well No. 8 Project No. 1-03655 to Weisinger Incorporated.

SECOND: Council Member Bob Potter

The City Secretary polled the Council.

AYES: Bancale, Potter, Price, Turner, Bruce, and Fortenberry

NAYES: None

ABSENT: Stephens

MOTION PASSED.

9. Discussion and possible action on **Resolution No. 2023-11** establishing water and wastewater rates for Fiscal Year 2023-2024.

City Manager Bo Thomas presented.

MOTION: Council Member Michael Bancale moved approval of **Resolution No. 2023-11** establishing water and wastewater rates for FY 2023-2024.

SECOND: Council Member Johnny Price

AYES: Bancale, Potter, Price, Turner, Bruce, and Fortenberry

NAYES: None

ABSENT: Stephens

MOTION PASSED.

10. Discussion and possible action on rescheduling the City Council meetings through January 2024.

City Manager Bo Thomas presented the potential options for rescheduling the City Council meetings through January 2024.

MOTION: Council Member Michael Bancale moved to change both November Council meeting dates to November 13 and November 27, to meet only on December 11, 2023, and move January Council meeting dates to January 8 and January 22.

SECOND: Council Member Potter

AYES: Bancale, Potter, Price, Turner, Bruce, and Fortenberry

NAYES: None

ABSENT: Stephens

MOTION PASSED.

ADJOURNMENT

MOTION: Mayor Pro Tem Erica Bruce moved to adjourn the Regular Meeting at 7:47 PM.

SECOND: Council Member Johnny Price

AYES: Bancale, Potter, Price, Turner, Bruce, and Fortenberry

NAYES: None

ABSENT: Stephens

MOTION PASSED.

Approved: _____

ATTEST:

Lydia Lopez, City Secretary

Steve Fortenberry, Mayor



COUNCIL AGENDA ITEM FORM

MEETING DATE: November 13, 2023

AGENDA ITEM #: 3.

SUBMITTED BY: Miles Whitney, City Engineer

ITEM DESCRIPTION:

Presentation of the report from the City Engineer Miles Whitney, P.E.

Update on pending utility projects

Update on pending street projects

Update on pending drainage projects.

STAFF RECOMMENDATION/ITEM SUMMARY:

The City Engineer will present and answer any questions regarding the Engineer's report.

FISCAL IMPACT:

Amount Budgeted - N/A

Line Item in Budget - N/A

SUGGESTED MOTION:

No action is required.

ATTACHMENTS:

1. Hewitt-Engineer's Report-11.7.23



CITY ENGINEER'S REPORT

November 7, 2023

Utility Projects

Chaparral, Crescent, and Will Boleman

The contractor continues to install the replacement waterlines.

Commerce Park Plant Improvements

- Well
Contractor is mobilizing.
- Plant
 - TCEQ has provided some review comments and those are being addressed.

Street/Transportation Projects

Chaparral, Crescent, and Will Boleman

The street portion of the project is to progress after waterlines replacements are completed.

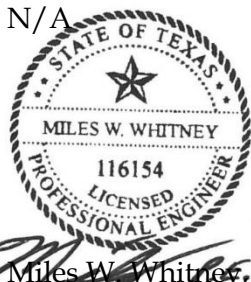
E. Wall and Briarfield

Working on proposed street grading to minimize other utility adjustments and driveway adjustments. Once this grading design is nearing completion, we will be getting with other franchise utilities to have them adjusted where deemed necessary.

Drainage Projects

N/A

By:



Miles W. Whitney, P.E.

Note: All dates are approximate and subject to change.



COUNCIL AGENDA ITEM FORM

MEETING DATE: November 13, 2023

AGENDA ITEM #: 4.

SUBMITTED BY: Lee Garcia, Finance Director

ITEM DESCRIPTION:

Briefing and discussion concerning Financial Statements ending October 31, 2023.

STAFF RECOMMENDATION/ITEM SUMMARY:

The financial statements ending October 31, 2023, were sent electronically on November 6, 2023. This is an opportunity for the council to ask any questions or make comments.

FISCAL IMPACT:

Amount Budgeted - N/A

Line Item in Budget - N/A

SUGGESTED MOTION:

No action required.

ATTACHMENTS:

None



COUNCIL AGENDA ITEM FORM

MEETING DATE: November 13, 2023

AGENDA ITEM #: 5.

SUBMITTED BY: Jim Devlin, Assistant City Manager

ITEM DESCRIPTION:

Discussion and possible action to award Goddard Enterprises with upgrading the City of Hewitt's outdoor warning siren system.

STAFF RECOMMENDATION/ITEM SUMMARY:

The City of Hewitt has operated its own outdoor warning siren system for many decades. This system is utilized to warn the public of inclement weather events and advise them to seek shelter. The City's system needs an upgrade to ensure its operational status and keep up with advancements in technology.

The upgrade done by Goddard Enterprises would include direct connectivity with the National Weather Service, replacing outdated sirens and associated equipment, relocating a siren/pole for better area coverage, providing audible lightning detection in Hewitt and Warren Park, and creating a mobile application providing immediate notice of inclement weather and other hazards to citizens.

FISCAL IMPACT:

Amount Budgeted - \$172,182.73

Line Item in Budget - 15-50810-15-06

SUGGESTED MOTION:

I move approval to authorize Goddard Enterprises to perform the outdoor warning siren system upgrade in the amount of \$172,182.73

ATTACHMENTS:

1. Hewitt, Texas TIPS Quote for Siren System 9 18 2023
2. Hewitt TX_Map Siren

**Prepared for Hewitt Texas**

To Jonathan Christian
Email jchristian@cityofhewitt.com
Phone (254) 379-3283

Prepared by Andy Goddard

Joe Goddard Enterprises
Address 11950 Thousand Oaks Drive Edmond, Oklahoma 73034
Phone 405-830-9057 Website www.goddardenterprises.net

Quote number 610 Date September 18, 2023 Valid until October 31, 2023

Hewitt, Texas

TIPS Quote for Siren System 9/18/2023

Pricing Provided by TIPS USA!

Please issue all TIPS purchase orders to Joe Goddard Enterprises, LLC
Issue all TIPS purchase orders to:

- Office@goddardenterprises.net
- Andy@goddardenterprises.net

Participation Fees and Reporting of Sales

- Goddard Enterprises will report all sales on behalf of Vendor.
- Goddard Enterprises will facilitate and pay administration fees on behalf of Vendor.

TIPS Contract Information

Contract Number: #220105 - Federal Signal Corp - Awarded TIPS Vendor
Goddard Enterprises is an Authorized Reseller of TIPS contract #220105

The Interlocal Purchasing System (TIPS) is a national purchasing cooperative offering competitively solicited contracts to education government and nonprofit agencies, saving them both time and money. TIPS provides a proven, streamlined process that eliminates the purchasing stress for Members. TIPS is housed at and managed by the Region 8 Education Service Center located in Pittsburg, Texas. The benefits of using TIPS are available to Education, Government and Non-Profit Agencies

Becoming a member is free and easy!

- Membership Information: <https://www.tips-usa.com/membership.cfm>
- FAQ: <https://www.tips-usa.com/faq.cfm>
- About TIPS: <https://www.youtube.com/watch?v=kZdD9-VyhxY>

CommanderOne-S & ComanderOne-M (Per Quote)

CommanderOne Standard with Messaging

CommanderOne® is the latest innovation that allows you to connect with your most critical asset anytime, anyplace. The CommanderOne cloud-based platform enables you to control your warning sirens from any desktop or mobile device.

Works with one way and two way siren systems. AccuWeather Patented Map-based Weather Alerting and Polygon Activation Technology allows for custom automatic activations. CommanderOne mobile app provides ease of activation from any smartphone or web-enabled device.



3,280.00

x 1

3,280.00

CommanderOne-L

CommanderOne Lightning

FEATURES

Federal Signal's Lightning Alerting is an addition to our flagship CommanderOne® siren activation and monitoring system. This feature is ideal to alert industrial or chemical plants, outdoor recreational areas, parks, and campuses where lightning is a threat to employees and communities.

Lightning Alerting extends the weather capabilities of CommanderOne by allowing users to define a Lightning Point, choose up to 2 radii, and customize the emergency communication within each radius. When lightning is detected within a radius, you can quickly activate emergency communications such as outdoor sirens, email notifications, and text messages for each radius.

Included in Lightning Alerting feature is (DND) Do Not Disturb and Snooze Intervals. The DND features allow the user to set times in which alerts will not be activated when the plant is closed. The user can also set up Snooze Intervals within the app which will allow you to pause notifications to avoid over alerting.

Users can also specify an All Clear action. All Clear is used to end events by sending out messages, tones, or turning off any visual signals. Use all clear to let users know that lightning has not occurred for a specified time and it is safe to resume activities.

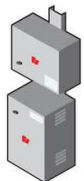


2,500.00

x 1

2,500.00

ByteSpeed PC ByteSpeed PC Bytespeed Performance NUC Computer. Designed for CommanderOne Siren System. Processor: Intel i5-10210U Memory: Kingston 8gb DDR4 3200mhz non-ecc. SSD: Samsung 980 evo 250gb 2.5" sata, mz-77e250b/am Accessory: Vesa mount for NUC PC. Accessory: USB to Serial connection License: Windows 10 Pro (Optional upgrade to Windows 11 Pro) Peripherals: 21" Asus HD Monitor, Wireless keyboard and mouse. 	1,928.02 x 1 1,928.02
SS2000+R SS2000+ Encoder The SS2000+ controller is the most advanced stand-alone control unit. The SS2000+ interfaces to an analog or digital radio system to provide control of sirens or giant voice systems. The SS2000+ has 24 programmable activation hotkeys and 20 contact closure inputs for interfacing with remote control systems. The hotkeys can provide specific types of warnings or test activations. Hotkeys are now accessible from a new web interface commonly used in dispatch centers. The new web interface can provide improved redundancy allowing multiple points of access to a single SS2000+ unit. Available in a desktop and rack mount console. 	4,290.00 x 1 20% discount 3,432.00
Base Station Base Station Radio, available in VHF and UHF models. Includes 100 foot of coax, Radio power supply, radio coax feed jumper, FM2 Bracket, and 3dB gain fiberglass antenna. 	3,894.29 x 1 20% discount 3,115.43
AMB-W Antenna Mounting Bracket Federal Signal antenna mounting bracket, wall	204.00 x 1 20% discount 163.20

2001-130 2001-130 High Powered Outdoor Siren The Federal Signal 2001-130 siren is a high power, rotating, unidirectional outdoor warning siren. The high-decibel output provides maximum coverage with minimum installation cost. The siren's projector produces a 60-degree projection of sound which rotates at 3 RPM and can produce three distinct warning signals: steady, wail and fast wail. 	10,450.00 x 5 20% discount 41,800.00
DCFCTDB Two Way Siren Controller Two-way siren controller for 48VDC Sirens. Two-way radio control and status monitoring. Available in VHF and UHF configurations. Simultaneous two-tone sequential, DTMF, EAS, POCSAG, and digital AFSK decoding for security. Able to utilize multiple communication paths for redundancy. Controls mechanical sirens, including models 2001-130, Equinox, 508-128 and Eclipse8. Solar options available. Push buttons for local activation. UL Listed for general signaling. DNV Certified 	9,200.00 x 5 20% discount 36,800.00
RF100-Two-Way Antenna Kit Laird Fiberglass antenna, permanent install. 35FT LMR400 coax, low loss. FM2 antenna mount bracket. 	365.76 x 8 2,926.08
AMB-P Antenna Mounting Bracket Federal Signal side of pole antenna bracket. 16" offset. Mounts to any utility pole.	155.00 x 5 20% discount 620.00
KIT-24/48 PN: 270371 Solar Panel Kit Solar Panel Side of Pole Mount Reinforced Manufactured. SunWise 195 Watt, 24V Solar Module, C1D2, Large J-box. VictronConnect Smart Solar MPPT regulator 12/24/48. 	4,578.78 x 5 20% discount 18,315.12

RF100 The RF100 is powered from 120/240 Vac or 24 Vdc. The siren/speaker can be ordered with either a VHF or UHF radio. An external antenna connection provides RF communication to our complete line of system control products including the SS2000+ web-enabled controller, our Commander PC controller (Commander®), and our cloud-based controller (CommanderOne®) with severe weather auto-activation capabilities. The RF100 has built-in high powered siren tones and can store digital voice or tone messages and can provide live PA. The RF100 provides outputs to drive external devices such as strobes or LED signaling devices. 	2,283.26 x 2 4,566.52
RF100 solar RF100 solar kit This kit provides a stainless steel battery box and Solar kit with batteries.	2,365.98 x 2 4,731.96
Turnkey System Install Goddard Enterprises crew for build out and installation of warning siren. All building supplies provided by Goddard Enterprises. All heavy equipment such as trucks and hardware will be supplied by Goddard Enterprises unless otherwise agreed upon.	
Install Standard Professional Install Goddard Enterprises crew for build out and installation of warning siren. • Standard Installation of the siren • Set of AC Delco M24M680 Batteries • Class 2, 50ft wood pole - Standard Install • All heavy equipment provided by Goddard Enterprises • Provide onsite installation services for control stations • Conducting on-site site surveys & 811 locates preparing installation design plans • Complete turnkey installation of the outdoor warning system and all hardware. • All heavy equipment such as trucks and hardware will be supplied by Goddard Enterprises. Optimization and Configuration Optimization and Configuration Finalize setup and configuration of installed system. Technition with small bucket truck. Install of base station equipment and base radio. Configuration of commander software. Antenna cable run. Installation base antenna. Configuration of all RTUs • 5 days of Optimization and Configuration	5,397.45 x 1 5,397.45

Installation - Siren Tech II (Journeyman) Installation - Siren Tech II (Journeyman) • (2) Installation - Siren Tech II (Journeyman)	160.71 x 45 7,231.95
Digger Derrick with Operator Digger Derrick with Operator Installation - Digger Derrick with Operator	275.00 x 45 12,375.00
Bucket Truck with Operator Bucket Truck with Operator Installation - Bucket Truck with Operator	250.00 x 45 11,250.00
Wooden pole Class 2-50 ft wooden pole	1,250.00 x 5 6,250.00
Shipping & Handling Shipping & Handling Shipping & Handling	5,500.00 x 1 5,500.00
Subtotal, includes discount of 26,061.44 Total	172,182.73 \$172,182.73

Digging and Removal Clause

Rock Clause: Rock, poor soil conditions, water in excavations and other unforeseen site conditions may incur additional charges upon digging. Sites that are unable to be removed using standard service equipment will incur additional charges upon removal. Areas of excavations where utilities are present may require hydrovac technology and will incur additional charges.

Terms & Conditions

This estimate is an approximation and is not guaranteed. The estimate is based on information provided from the customer regarding project requirements, needs, and wants. Actual cost may change once all project elements are finalized or negotiated. Prior to any changes of cost, the customer will be notified. Estimate valid for 30 days unless otherwise indicated.

Goddard Enterprises reserves the right to accept or reject any order, in our sole discretion. Order acceptance is expressly limited by and to the terms and conditions stated herein, which supersede any terms and conditions set forth in any document you provided to us.

Prices are subject to change and are exclusive of any applicable sales or other taxes, freight, handling and insurance charges. Freight quotations are provided as estimates only – actual freight charges are determined at the time of shipping and may differ from the amount originally quoted. The cost of any equipment within this estimate exceeding \$30,000 will be due at time of shipment unless otherwise arranged with Goddard Enterprises.

Any Installation that requires network access will be customers responsibility to facilitate and must be completed before work or commissioning can begin. All network requirements must meet factory recommendations to gain factory support.

Rock Clause: Rock, poor soil conditions, water in excavations and other unforeseen site conditions may incur additional charges upon digging.

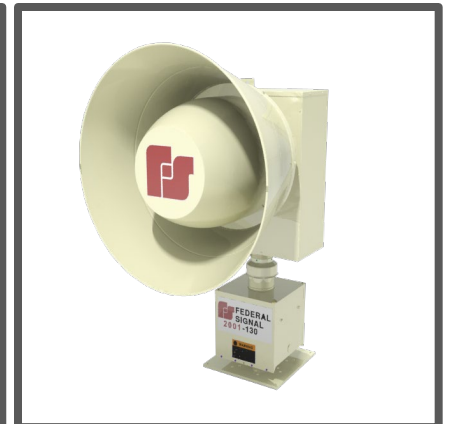
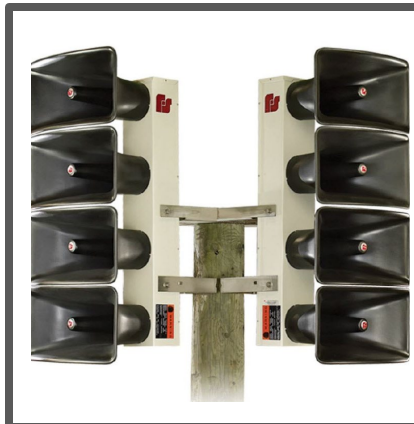
This quotation/proposal and any files or attachments transmitted with it contain Information that is confidential and privileged. This document may contain information that is intended only for the use of the individual(s) and entity(ies) to whom it is addressed. If you are the intended recipient, further disclosures are prohibited without proper authorization from Goddard Enterprises. If you are not the intended recipient, any disclosure, copying, printing, or use of this information is strictly prohibited and possibly a violation of federal or state law and regulations. If you have received this information in error, please delete it and call 405-282-1978 immediately.

You agree to be bound by these Terms and Conditions in effect at the time of purchase. You also agree that we may change any of the Terms and Conditions upon 15 days written notice to you and that such changed Terms and Conditions will apply to any subsequent transactions with us. Additionally, you agree that in the event that any portion of these Terms and Conditions are found to be unenforceable, the remainder will remain in full force and effect.

SoundPLAN MAP PRESENTED TO:

HEWITT, TX

NOVEMBER 6, 2023



SOUND PROPAGATION MODEL

Submitted By:

Federal Signal Corporation

2645 Federal Signal Drive

University Park, IL 60484

708.534.3400 • www.fedsig.com

Sound Propagation Model

Federal Signal Corporation utilized 'SoundPLAN', an internationally recognized noise modeling software, to estimate the Siren sound level. The SoundPLAN model is based on the International Standardization ISO 9613 and considers physical effects including geometrical divergence, atmospheric absorption, ground effect, reflection from surfaces, and screening by obstacles.

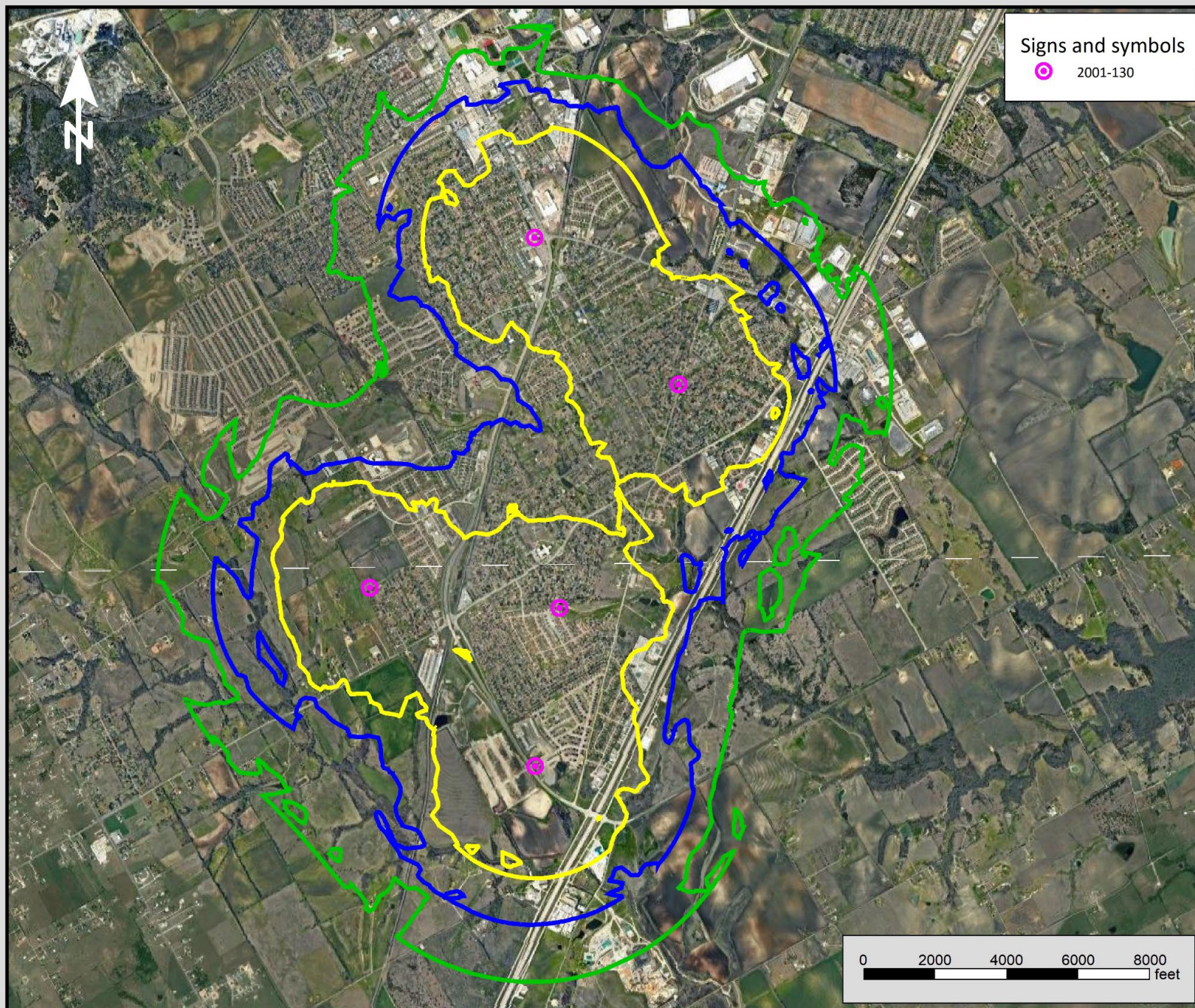
The environmental conditions applied in this noise model are based on the summertime daily averages for the area in interest include:

- **Temperature 68.60°F**
- **Humidity 67.17%**
- **Air Pressure 1013.37 mbar**

Siren data for this noise model includes:

Name/ID	MAP	Type	Latitude	Longitude	Height (ft)
Siren001	MAP001	2001-130	31.466042	-97.198831	45'
Siren002	MAP001	2001-130	31.454600	-97.186180	45'
Siren003	MAP001	2001-130	31.439405	-97.214099	45'
Siren004	MAP001	2001-130	31.437613	-97.197163	45'
Siren005	MAP001	2001-130	31.425527	-97.199564	45'

Note: The technical specifications on the enclosed document are only estimates. This correspondence may contain confidential information intended for the use of the individual. If the reader of this is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying is strictly prohibited without written authorization from Federal Signal Corporation. Maps are generated by computer simulator which are approximate anticipated coverage for outdoor sirens, that are based on a variety of factors, and do not guarantee coverage.



Hewitt TX

Acoustic Analysis

ISO9613-2

MAP 001

Lmax

in dB(C)

	= 80
	= 75
	= 70

FEDERAL SIGNAL
Moves. Cleans. Protects.



COUNCIL AGENDA ITEM FORM

MEETING DATE: November 13, 2023

AGENDA ITEM #: 6.

SUBMITTED BY: Jonathan Christian, Fire Chief

ITEM DESCRIPTION:

Discussion and possible action on Brush Truck Skid Unit replacement and upfitting.

STAFF RECOMMENDATION/ITEM SUMMARY:

Due to the lack of available parts and the age of the current Brush Truck 2's tank and pump, we are asking to replace the outdated unit with a new tank and pump skid unit that will bolt onto the current truck bed. We have recently completed this same replacement process and upfitting for Brush 1 after its pump suffered a catastrophic failure. Our brush trucks have been deployed to several state mutual aid events, and we have been compensated for the use of our equipment and staff. We are asking to use a portion of those funds to purchase the skid unit as well as some additional wildland firefighting equipment required for larger Texas Intrastate Fire Mutual Aid System (TIFMAS) deployments.

After mounting the new skid unit, we will also need to purchase new storage and toolboxes for additional equipment storage around the skid unit as well as on the truck bed. The estimated cost of the replacement and upfitting should not exceed \$27,000, with the new skid unit at \$15,000, wildland equipment estimated at \$7,000, and the additional storage boxes and bed modifications estimated at \$5,000. Recommend authorization to use TIFMAS funds to replace the skid unit and add additional storage and equipment to Brush 2.

FISCAL IMPACT:

Amount Requested - \$27,000

Line Item in Budget - 10206500000 TIFMAS account

SUGGESTED MOTION:

I move approval of the use of TIFMAS funds to purchase a replacement skid unit, (pump and tank), along with additional wildland firefighting equipment and associated modifications of the truck bed for storage capacity, for an amount not to exceed \$27,000.

ATTACHMENTS:

1. KSHELTO6_QUOTENEW_M929082300



COUNCIL AGENDA ITEM FORM

MEETING DATE: November 13, 2023

AGENDA ITEM #: 7.

SUBMITTED BY: Jonathan Christian, Fire Chief

ITEM DESCRIPTION:

Discussion and possible action to authorize the City Manager to enter into an agreement with Martinez Architects for the architectural design of Fire Station 2.

STAFF RECOMMENDATION/ITEM SUMMARY:

This is a standard form of agreement between the owner (City of Hewitt), and the Architect for the design process and fees in relation to Fire Station 2. After the selection of Martinez Architects to proceed with the initial proposal, they have submitted this agreement that includes the parameters of design as well as a lump sum fee for the service. Recommend authorizing the city to enter into an agreement with Martinez Architects for the design of Fire Station 2.

FISCAL IMPACT:

\$310,000 from CO Bond

SUGGESTED MOTION:

I move approval to authorize the City Manager to enter into an agreement with Martinez Architects for an amount not to exceed \$310,000.

ATTACHMENTS:

1. Martinez Architects Agreement



AIA® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 18 day of October in the year 2023
(In words, Eighteenth day of October in the year Two Thousand Twenty Three.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

City of Hewitt
Hewitt Fire Department
100 Patriot Ct. Suite B
Hewitt, Texas 76643

and the Architect:
(Name, legal status, address and other information)

Martinez Architects, LP
900 Rockmead, Suite 250
Kingwood, Texas 77339

for the following Project:
(Name, location and detailed description)

City of Hewitt
Hewitt Fire Department
Hewitt Fire Station 2
Old Temple Road
Hewitt, Texas 76643

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Project is based on initial program information provided by Hewitt Fire Department. Martinez Architects shall coordinate with The City of Hewitt and Hewitt Fire Department to identify program requirements to develop building design and site layout.

Building Program
Single Story situated on 5.4 acres
10,000 square foot
3 – 14x14 drive thru bays (65' – 70' bays)
6 Dormitory
Officer Office/Dormitory
Living Area (Dayroom, Kitchen, Dining)
Ancillary Support for Apparatus Bay
Infrastructure for Owner provided IT Systems

§ 1.1.2 The Project's physical characteristics:

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User Notes:

(2033732180)

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

City of Hewitt
Hewitt Fire Department
5.4 Acre Site on Old Temple Road at Intersection of Lillard Street
Project Site currently being used as for staging by road construction company

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)

\$5,000,000 total project budget

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

TBD

.2 Construction commencement date:

TBD

.3 Substantial Completion date or dates:

TBD

.4 Other milestone dates:

N/A

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

TBD

(Paragraphs deleted)

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Jonathan Christian, Fire Chief
City of Hewitt
Hewitt Fire Department
100 Patriot Ct. Suite B
Hewitt, Texas 76643
jchristian@cityofhewitt.com

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

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(List name, address, and other contact information.)

T.B.D.

§ 1.1.9 The Owner shall retain the following consultants and contractors:

(List name, legal status, address, and other contact information.)

(Paragraphs deleted)

.3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

N/A

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:

(List name, address, and other contact information.)

Ricardo Martinez
Martinez Architects, LP
900 Rockmead, Suite 250
Kingwood, Texas 77339

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:

(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Matrix Structural Engineers
5177 Richmond Ave. Suite 670
Houston, Texas 77056

.2 Mechanical Engineer:

Emerald MEP
1100 NW Loop 410, Suite 700
San Antonio, Texas 78213

.3 Electrical Engineer:

Emerald MEP
1100 NW Loop 410, Suite 700
San Antonio, Texas 78213

.4 Civil Engineer:

Hill Country Civil, LLC
1042 North Park Ridge
New Braunfels, Texas 78130

§ 1.1.11.2 Consultants retained under Supplemental Services:

N/A

Init.

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User Notes:

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§ 1.1.12 Other Initial Information on which the Agreement is based:

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect at Architect's sole expense and for the duration of this Agreement, shall maintain insurance coverage in amounts not less than the following:

§ 2.5.1 Commercial General Liability with policy limits of not less than One Million (\$ 1,000,000) for each occurrence and One Million (\$ 1,000,000) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million (\$ 1,000,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage

than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than Five Hundred Thousand (\$ 500,000) each accident, Five Hundred Thousand (\$ 500,000) each employee, and Five Hundred Thousand (\$ 500,000) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million (\$ 1,000,000) per claim and Two Million (\$ 2,000,000) in the aggregate.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner. The Architect shall promptly notify the Owner of any direct communications with the Contractor that affect the Architect's Services.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the

further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to recommend to the Owner that the Owner reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and recommend action to the Owner matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect within Basic Services

Init.

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Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.2 Multiple preliminary designs	Architect within Basic Services
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Architect within Basic Services
§ 4.1.1.5 Site evaluation and planning	Architect within Basic Services
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Architect within Basic Services
§ 4.1.1.9 Landscape design	Architect within Basic Services
§ 4.1.1.10 Architectural interior design	Architect within Basic Services
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Not Provided
§ 4.1.1.14 Conformed documents for construction	Additional Services
§ 4.1.1.15 As-designed record drawings	Additional Services
§ 4.1.1.16 As-constructed record drawings	Additional Services
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Architect within Basic Services
§ 4.1.1.21 Telecommunications/data design (infrastructure)	Not Provided
§ 4.1.1.22 Security evaluation and planning (infrastructure)	Not Provided
§ 4.1.1.23 Commissioning	Additional Services
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Not Provided
§ 4.1.1.29 Other services provided by specialty Consultants	N/A
§ 4.1.1.30 Other Supplemental Services	N/A
§ 4.1.1.31 MEP/T Engineering Design	Architect within Basic Services
§ 4.1.1.32 Structural Engineering Design	Architect within Basic Services

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

Topographical Survey, Geotechnical Investigation, Conforming Documents and Commissioning shall be coordinated through Architect's office and invoiced to the Owner in accordance with Section §11.3 if elected by the Owner for Martinez Architects to provide under this agreement.

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

Owner to provide the following services if required for the site Phase I Environmental Site Assessment and Platting

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

(Paragraphs deleted)

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

(Paragraph deleted)

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any

event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be litigation. Venue for any action arising out of this Agreement shall be held exclusively in state court located in McLennan County Texas:
(Check the appropriate box.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other: (Specify)

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement without reasonable justification, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage directly caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all disputed sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 consecutive days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

(Paragraphs deleted)

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of Texas, excluding that jurisdiction's choice of law rules.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for

the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," then to the extent allowed by Texas law, the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1
(Paragraphs deleted)
Lump Sum Base
(Insert percentage value)

\$310,000

.3 Other
(Lump Sum)

(Paragraphs deleted)

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Survey - perform topographical survey of initial existing conditions performed by a licensed engineer in the State of Texas - \$10,000

Survey - perform confirmation topographical survey of grading prior to issuance for construction - \$5,000

Geotechnical Investigation - perform geotechnical investigation of soils and structural design of building foundation and site pavement - \$5,500

Martinez Architects to coordinate and provide conforming documents at the completion of the project based on General Contractor provided information, Owner modifications incorporated during construction - \$8,500

Commissioning Services - Martinez Architects to consult with third party engineer licensed to perform commissioning (NEBB Certified Technical Commissioning Agent - \$18,500

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Zero percent (0 %), or as follows:

(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	Fifteen	percent (	15	%)
Design Development Phase	Ten	percent (	10	%)
Construction Documents Phase	Thirty	percent (	30	%)
Procurement Phase	Five	percent (	5	%)
Construction Phase	Forty	percent (	40	%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. (If applicable, attach an exhibit of hourly billing rates or insert them below.)

Employee or Category	Rate (\$0.00)
Principal	\$250/hr
Project Manager	\$200/hr
Project Architect	\$175/hr
Technical Personnel	\$100/hr

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1
(Paragraphs deleted)
Permitting and other fees required by authorities having jurisdiction over the Project;
- .2 Printing, reproductions, plots, and standard form documents;
- .3 Postage, handling, and delivery;
- (Paragraph deleted)
- .4 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .5 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;

(Paragraphs deleted)

Init.

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- .6 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .7 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Zero percent (0 %) of the expenses incurred.

§ 11.9 **Architect's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

N/A

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of Zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

(Paragraph deleted)

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice.

(Paragraphs deleted)

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

12.1.1 The Architect shall obtain the Owners approval before proceeding to a subsequent phase of work as identified in the fee schedule.

12.1.2 In the event any provisions of the Agreement is held invalid or unenforceable, such holding shall only apply to such provision and shall not affect or render invalid or unenforceable any other provisions of the Agreement.

12.1.3 The Texas Board of Architectural Examiners has jurisdiction over individuals licensed under the Architects Registration Law, Texas Civil Statutes Article 249a

Texas Board of Architectural Examiners

P.O. Box 12337

Austin, Texas 78711-2337

12.1.4 Architect shall indemnify and hold harmless Owner, its directors, officers, employees, agents and assigns (the "Indemnified Parties") from and against any and all claims, demands, or causes of action (and all losses, liabilities, expenses, and judgements incurred in connection therewith, including but not limited to reasonable attorneys' fees and expenses, court costs, and other expenses incurred in enforcing this Indemnity Provision) or from any other loss or claim arising from third party personal injury or property damage brought by Architect or any of Architect's employees, directors, officers, agents, outside advisory or support consultants, or in connection with, resulting from , or arising out of, the negligent acts, errors or omissions, or misconduct of Architect's employees, directors, officers, agents, outside advisory or support consultants, or representatives, in the performance of Architect's professional services under this Agreement

12.1.5 The Architect agrees that all records of the Owner held by the Architect will be maintained according to the provisions of the Public Information Act, Ch. 552, Texas Government Code, and the Local Government Records Act, Ch. 201-205, Texas Local Government Code, each as amended

12.1.6 Anti-Boycott Verification. As required by Chapter 2271, Texas Government Code, Architect hereby verifies that Architect, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, does not boycott Israel and will not boycott Israel through the term of this Agreement. The term "boycott Israel" in this paragraph has the meaning assigned to such term in Section 808.001 of the Texas Government Code, as amended.

12.1.7 Foreign Terrorists Organizations. Pursuant to Chapter 2252, Texas Government Code, Architect represents and certifies that, at the time of execution of this Agreement neither the Architect, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201 or 2252.153 of the Texas Government Code.

12.1.8 Fossil Fuels Boycott Verification. As required by 2274.002, Texas Government Code (as added by Senate Bill 13, 87th Texas Legislature, Regular Session), as amended, Architect hereby verifies that Architect, including any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, does not boycott energy companies, and will not boycott energy companies during the term of this Agreement. As used in the foregoing verification, "boycott energy companies" shall have the meaning assigned to the term "boycott energy company" in Section 809.001, Texas Government Code, as amended.

12.1.9 Firearms Discrimination Verification. As required by Section 2274.002, Texas Government Code (as added by Senate Bill 19, 87th Texas Legislature, Regular Session, "SB 19"), as amended, Architect hereby verifies that Architect, including any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, (i) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and (ii) will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. As used in the foregoing verification, "discriminate against a firearm entity or trade association" shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19), as amended.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect 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 Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

To be incorporated by reference as part of this agreement

- .3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)
(Paragraphs deleted)

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

ARCHITECT (Signature)

Init.

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User Notes:

(2033732180)

Jonathan Christian – Fire Chief
City of Hewitt, Hewitt Fire Department
(Printed name and title)

Ricardo Martinez, AIA - Principal
(Printed name, title, and license number, if required)



Init.

/

Additions and Deletions Report for

AIA® Document B101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:25:42 ET on 10/23/2023.

PAGE 1

AGREEMENT made as of the 18 day of October in the year 2023
(In words, *indicate day, month and year.*)Eighteenth day of October in the year Two Thousand Twenty Three.

...

City of Hewitt
Hewitt Fire Department
100 Patriot Ct. Suite B
Hewitt, Texas 76643

...

Martinez Architects, LP
900 Rockmead, Suite 250
Kingwood, Texas 77339

...

City of Hewitt
Hewitt Fire Department
Hewitt Fire Station 2
Old Temple Road
Hewitt, Texas 76643

PAGE 2

Project is based on initial program information provided by Hewitt Fire Department. Martinez Architects shall coordinate with The City of Hewitt and Hewitt Fire Department to identify program requirements to develop building design and site layout.

Building Program
Single Story situated on 5.4 acres
10,000 square foot
3 – 14x14 drive thru bays (65' – 70' bays)
6 Dormitory
Officer Office/Dormitory
Living Area (Dayroom, Kitchen, Dining)
Ancillary Support for Apparatus Bay
Infrastructure for Owner provided IT Systems

PAGE 3

City of Hewitt
Hewitt Fire Department
5.4 Acre Site on Old Temple Road at Intersection of Lillard Street
Project Site currently being used as for staging by road construction company

...

\$5,000,000 total project budget

...

TBD

...

TBD

...

TBD

...

N/A

...

TBD

§ 1.1.6 ~~The Owner's anticipated Sustainable Objective for the Project:~~
~~(Identify and describe the Owner's Sustainable Objective for the Project, if any.)~~

§ 1.1.6.1 ~~If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™-2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204-2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204-2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.~~

...

Jonathan Christian, Fire Chief
City of Hewitt
Hewitt Fire Department
100 Patriot Ct. Suite B
Hewitt, Texas 76643
jchristian@cityofhewitt.com

PAGE 4

T.B.D.

...

.1 — Geotechnical Engineer:

.2 — Civil Engineer:

...

N/A

...

Ricardo Martinez
Martinez Architects, LP
900 Rockmead, Suite 250
Kingwood, Texas 77339

...

Matrix Structural Engineers
5177 Richmond Ave. Suite 670
Houston, Texas 77056

...

Emerald MEP
1100 NW Loop 410, Suite 700
San Antonio, Texas 78213

.3 Electrical Engineer:

Emerald MEP
1100 NW Loop 410, Suite 700
San Antonio, Texas 78213

.4 Civil Engineer:

Hill Country Civil, LLC
1042 North Park Ridge
New Braunfels, Texas 78130

...

N/A

PAGE 5

§ 2.5 The Architect ~~shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9 at Architect's sole expense and for the duration of this Agreement, shall maintain insurance coverage in amounts not less than the following:~~

§ 2.5.1 Commercial General Liability with policy limits of not less than ~~(\$—)~~ One Million (\$ 1,000,000) for each occurrence and ~~(\$—)~~ One Million (\$ 1,000,000) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than ~~(\$—)~~ One Million (\$ 1,000,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

PAGE 6

§ 2.5.5 Employers' Liability with policy limits not less than Five Hundred Thousand (\$ 500,000) each accident, Five Hundred Thousand (\$ 500,000) each employee, and Five Hundred Thousand (\$ 500,000) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million (\$ 1,000,000) per claim and Two Million (\$ 2,000,000) in the aggregate.

...

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner. The Architect shall promptly notify the Owner of any direct communications with the Contractor that affect the Architect's Services.

PAGE 8

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect ~~shall, as an Additional Service,~~ shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

PAGE 9

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect ~~shall, as an Additional Service,~~ shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

...

§ 3.6.2.2 The Architect has the authority to recommend to the Owner that the Owner reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and ~~decide~~ recommend action to the Owner matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

PAGE 11

§ 4.1.1.1 Programming	<u>Architect within Basic Services</u>
§ 4.1.1.2 Multiple preliminary designs	<u>Architect within Basic Services</u>

§ 4.1.1.3	Measured drawings	<u>Not Provided</u>
§ 4.1.1.4	Existing facilities surveys	<u>Architect within Basic Services</u>
§ 4.1.1.5	Site evaluation and planning	<u>Architect within Basic Services</u>
§ 4.1.1.6	Building Information Model management responsibilities	<u>Not Provided</u>
§ 4.1.1.7	Development of Building Information Models for post construction use	<u>Not Provided</u>
§ 4.1.1.8	Civil engineering	<u>Architect within Basic Services</u>
§ 4.1.1.9	Landscape design	<u>Architect within Basic Services</u>
§ 4.1.1.10	Architectural interior design	<u>Architect within Basic Services</u>
§ 4.1.1.11	Value analysis	<u>Not Provided</u>
§ 4.1.1.12	Detailed cost estimating beyond that required in Section 6.3	<u>Not Provided</u>
§ 4.1.1.13	On-site project representation	<u>Not Provided</u>
§ 4.1.1.14	Conformed documents for construction	<u>Additional Services</u>
§ 4.1.1.15	As-designed record drawings	<u>Additional Services</u>
§ 4.1.1.16	As-constructed record drawings	<u>Additional Services</u>
§ 4.1.1.17	Post-occupancy evaluation	<u>Not Provided</u>
§ 4.1.1.18	Facility support services	<u>Not Provided</u>
§ 4.1.1.19	Tenant-related services	<u>Not Provided</u>
§ 4.1.1.20	Architect's coordination of the Owner's consultants	<u>Architect within Basic Services</u>
§ 4.1.1.21	Telecommunications/data design (infrastructure)	<u>Not Provided</u>
§ 4.1.1.22	Security evaluation and planning (infrastructure)	<u>Not Provided</u>
§ 4.1.1.23	Commissioning	<u>Additional Services</u>
§ 4.1.1.24	Sustainable Project Services pursuant to Section 4.1.3	<u>Not Provided</u>
§ 4.1.1.25	Fast-track design services	<u>Not Provided</u>
§ 4.1.1.26	Multiple bid packages	<u>Not Provided</u>
§ 4.1.1.27	Historic preservation	<u>Not Provided</u>
§ 4.1.1.28	Furniture, furnishings, and equipment design	<u>Not Provided</u>
§ 4.1.1.29	Other services provided by specialty Consultants	<u>N/A</u>
§ 4.1.1.30	Other Supplemental Services	<u>N/A</u>
§ 4.1.1.31	MEP/T Engineering Design	<u>Architect within Basic Services</u>
§ 4.1.1.32	Structural Engineering Design	<u>Architect within Basic Services</u>

PAGE 13

Topographical Survey, Geotechnical Investigation, Conforming Documents and Commissioning shall be coordinated through Architect's office and invoiced to the Owner in accordance with Section §11.3 if elected by the Owner for Martinez Architects to provide under this agreement.

...

Owner to provide the following services if required for the site Phase I Environmental Site Assessment and Platting

...

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall

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User Notes:

(2033732180)

give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 — Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 — Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 — Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 — Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 — Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 — () reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 — () visits to the site by the Architect during construction
- .3 — () inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 — () inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within () months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

PAGE 14

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™ 2017, Sustainable Projects Exhibit, attached to this Agreement.

PAGE 15

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, Information and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

PAGE 17

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following: litigation. Venue for any action arising out of this Agreement shall be held exclusively in state court located in McLennan County Texas:

...

[☒] Litigation in a court of competent jurisdiction

...

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, Agreement without reasonable justification, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage directly caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all

~~disputed~~ sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

PAGE 18

§ 9.3 If the Owner suspends the Project for more than 90 ~~cumulative~~ consecutive days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

...

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

~~(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)~~

.1 — Termination Fee:

.2 — Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

...

§ 10.1 This Agreement shall be governed by the law of the ~~place where the Project is located,~~ State of Texas, excluding that jurisdiction's choice of law rules. ~~If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern~~ Section 8.3.

PAGE 19

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," ~~then to the extent allowed by Texas law,~~ the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, ~~arbitrator's order,~~ or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

...

.1 Stipulated Sum
— ~~(Insert amount)~~

.2 — ~~Percentage Basis~~ Lump Sum Base

...

\$310,000

() % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

...

(Describe the method of compensation)
(Lump Sum)

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

...

Survey - perform topographical survey of initial existing conditions performed by a licensed engineer in the State of Texas - \$10,000
Survey - perform confirmation topographical survey of grading prior to issuance for construction - \$5,000
Geotechnical Investigation - perform geotechnical investigation of soils and structural design of building foundation and site pavement - \$5,500
Martinez Architects to coordinate and provide conforming documents at the completion of the project based on General Contractor provided information, Owner modifications incorporated during construction - \$8,500
Commissioning Services - Martinez Architects to consult with third party engineer licensed to perform commissioning (NEBB Certified Technical Commissioning Agent - \$18,500

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Zero percent (0 %), or as follows:

PAGE 20

Schematic Design Phase	<u>Fifteen</u>	percent (	<u>15</u>	%)
Design Development Phase	<u>Ten</u>	percent (	<u>10</u>	%)
Construction Documents Phase	<u>Thirty</u>	percent (	<u>30</u>	%)
Procurement Phase	<u>Five</u>	percent (	<u>5</u>	%)
Construction Phase	<u>Forty</u>	percent (	<u>40</u>	%)

...

<u>Principal</u>	<u>\$250/hr</u>
<u>Project Manager</u>	<u>\$200/hr</u>
<u>Project Architect</u>	<u>\$175/hr</u>
<u>Technical Personnel</u>	<u>\$100/hr</u>

...

- ~~.1~~ Transportation and authorized out-of-town travel and subsistence;
- ~~.2~~ Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- ~~.3~~ Permitting and other fees required by authorities having jurisdiction over the Project;
- ~~.4~~ 2 Printing, reproductions, plots, and standard form documents;
- ~~.5~~ 3 Postage, handling, and delivery;
- ~~.6~~ Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- ~~.7~~ 4 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;

- ~~.8~~ .5 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- ~~.9~~ All taxes levied on professional services and on reimbursable expenses;
- ~~.10~~ Site office expenses;
- ~~.11~~ .6 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- ~~.12~~ .7 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Zero percent (0 %) of the expenses incurred.

PAGE 21

N/A

...

§ 11.10.1.1 An initial payment of Zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

~~§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$ —) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.~~

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. ~~Amounts unpaid (—) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.~~
~~(Insert rate of monthly or annual interest agreed upon.)~~

—%

...

12.1.1 The Architect shall obtain the Owners approval before proceeding to a subsequent phase of work as identified in the fee schedule.

12.1.2 In the event any provisions of the Agreement is held invalid or unenforceable, such holding shall only apply to such provision and shall not affect or render invalid or unenforceable any other provisions of the Agreement.

12.1.3 The Texas Board of Architectural Examiners has jurisdiction over individuals licensed under the Architects Registration Law, Texas Civil Statutes Article 249a

Texas Board of Architectural Examiners

P.O. Box 12337

Austin, Texas 78711-2337

12.1.4 Architect shall indemnify and hold harmless Owner, its directors, officers, employees, agents and assigns (the "Indemnified Parties") from and against any and all claims, demands, or causes of action (and all losses, liabilities, expenses, and judgements incurred in connection therewith, including but not limited to reasonable attorneys' fees and expenses, court costs, and other expenses incurred in enforcing this Indemnity Provision) or from any other loss or claim arising from third party personal injury or property damage brought by Architect or any of Architect's employees, directors, officers, agents, outside advisory or support consultants, or in connection with, resulting from, or arising out of, the negligent acts, errors or omissions, or misconduct of Architect's employees, directors, officers, agents, outside advisory or support consultants, or representatives, in the performance of Architect's professional services under this Agreement

12.1.5 The Architect agrees that all records of the Owner held by the Architect will be maintained according to the provisions of the Public Information Act, Ch. 552, Texas Government Code, and the Local Government Records Act, Ch. 201-205, Texas Local Government Code, each as amended

12.1.6 Anti-Boycott Verification. As required by Chapter 2271, Texas Government Code, Architect hereby verifies that Architect, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, does not boycott Israel and will not boycott Israel through the term of this Agreement. The term "boycott Israel" in this paragraph has the meaning assigned to such term in Section 808.001 of the Texas Government Code, as amended.

12.1.7 Foreign Terrorists Organizations. Pursuant to Chapter 2252, Texas Government Code, Architect represents and certifies that, at the time of execution of this Agreement neither the Architect, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201 or 2252.153 of the Texas Government Code.

12.1.8 Fossil Fuels Boycott Verification. As required by 2274.002, Texas Government Code (as added by Senate Bill 13, 87th Texas Legislature, Regular Session), as amended, Architect hereby verifies that Architect, including any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, does not boycott energy companies, and will not boycott energy companies during the term of this Agreement. As used in the foregoing verification, "boycott energy companies" shall have the meaning assigned to the term "boycott energy company" in Section 809.001, Texas Government Code, as amended.

12.1.9 Firearms Discrimination Verification. As required by Section 2274.002, Texas Government Code (as added by Senate Bill 19, 87th Texas Legislature, Regular Session, "SB 19"), as amended, Architect hereby verifies that Architect, including any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, (i) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and (ii) will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. As used in the foregoing verification, "discriminate against a firearm entity or trade association" shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19), as amended.

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(Insert the date of the E203-2013 incorporated into this agreement.)

To be incorporated by reference as part of this agreement

...

(Check the appropriate box for any exhibits incorporated into this Agreement.)

☐ AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204 2017 incorporated into this agreement.)

☐ Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

4 Other documents:

(List other documents, if any, forming part of the Agreement.)

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Jonathan Christian – Fire Chief
City of Hewitt, Hewitt Fire Department

Ricardo Martinez, AIA - Principal

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Ricardo Martinez, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:25:42 ET on 10/23/2023 under Order No. 4104245869 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



COUNCIL AGENDA ITEM FORM

MEETING DATE: November 13, 2023

AGENDA ITEM #: 8.

SUBMITTED BY: Lee Garcia, Finance Director

ITEM DESCRIPTION:

Discussion and possible action on **Resolution No. 2023-12** amending and adopting the City of Hewitt's Investment Policy.

STAFF RECOMMENDATION/ITEM SUMMARY:

The City's Investment Policy shall be reviewed and adopted at least annually by resolution of the City Council. There are no changes in this year's policy from the prior year. Staff recommends adoption, by Resolution, of the proposed Investment Policy dated November 13, 2023.

FISCAL IMPACT:

Amount Budgeted - N/A

Line Item in Budget - N/A

SUGGESTED MOTION:

I move approval of **Resolution No. 2023-12** amending and adopting the City of Hewitt's Investment Policy.

ATTACHMENTS:

1. 2023-12 Investment Policy - Resolution 11 13 23
2. Investment Policy 2023 11 13

RESOLUTION NO. 2023-12

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS, AMENDING AND APPROVING THE CITY OF HEWITT INVESTMENT POLICY; AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND HAS BEEN OPEN TO THE PUBLIC AS REQUIRED BY LAW

WHEREAS, the Hewitt City Council adopted an Investment Policy governing investment of City funds in compliance with the Public Funds Investment Act; and

WHEREAS, the Public Funds Investment Act requires that an annual review of public fund investment policies and strategies be conducted; and

WHEREAS, amendments to the Investment Policy are required by the Public Funds Investment Act to be approved by the Hewitt City Council; and

WHEREAS, the City's Investment Advisors, the City Manager, and the Finance Director, have reviewed the Investment Policy and are in agreement that it is of benefit to the City of Hewitt to amend the Investment Policy; and

WHEREAS, the attached Investment Policy amends the City's former Investment Policy and complies with the Public Funds Investment Act, and authorizes the investment of City funds in safe and prudent investments.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS:

SECTION 1. The facts and recitations contained in the above preamble of this Resolution are hereby incorporated for all purposes.

SECTION 2. The City Council of the City of Hewitt approves the revised investment policy (as shown in the attached Exhibit A) and is hereby adopted by the City of Hewitt to be effective immediately.

SECTION 3. It is hereby officially found and determined that the meeting at which this resolution is passed was noticed and has been open to the public as required by law.

PASSED AND APPROVED this 13th day of November, 2023.

CITY OF HEWITT, TEXAS

Steve Fortenberry, Mayor

ATTEST:

Lydia Lopez, City Secretary

APPROVED AS TO FORM & LEGALITY:

Michael W. Dixon, City Attorney

**INVESTMENT POLICY
CITY OF HEWITT
Approved by City Council
November 13, 2023**

I. POLICY

It is the policy of the City of Hewitt (the “City”) that after allowing for the anticipated cash flow requirements of the City and giving due consideration to the safety and risk of investment, all available funds shall be invested in conformance with these legal and administrative guidelines, seeking to achieve reasonable interest earnings based on market conditions.

Effective cash management is recognized as essential to good fiscal management. Investment interest is a source of revenue to City funds. The City’s investment portfolio shall be designed and managed in a manner intended to maximize this revenue source, to be responsive to public trust, and to be in compliance with legal requirements and limitations.

Investments shall be made with the primary objectives of:

- * **Safety** and preservation of principal
- * Maintenance of sufficient **liquidity** to meet operating needs
- * **Diversification** to minimize market risks
- * **Public trust** from prudent investment activities
- * Achievement of **reasonable interest earnings**

II. PURPOSE

The purpose of this Investment Policy is to establish guidelines and policies controlling the investment of the City’s funds. The Policy is designed to comply with Chapter 2256 of the Texas Government Code, the Public Funds Investment Act, (the “Act”), which requires the City to adopt a written Investment Policy regarding the investment of its funds and funds under its control. This Investment Policy addresses the methods, procedures and practices that must be exercised to ensure effective and judicious fiscal management of the City’s funds. All investments shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

All participants in the City’s investment process shall seek to act responsibly as custodians of the public trust. Investment Officers shall avoid any transaction that might impair public confidence in the City’s ability to govern effectively.

III. SCOPE

This Policy shall govern the investment of all financial assets of the City. All funds accounted for in the City's Annual Comprehensive Financial Report (ACFR) are to be governed by this Policy and include:

- General Fund
- Capital Projects Funds
- Enterprise Funds
- Debt Service Funds, including reserves and sinking funds
- Any new fund created by the City, unless specifically exempted from this Policy by law

This Policy shall apply to all transactions involving the financial assets and related activity for all the foregoing funds.

IV. INVESTMENT OBJECTIVES AND STRATEGIES

The City shall manage and invest its cash with five primary objectives, listed in order of priority: **safety, liquidity, diversification, public trust, and yield.** The safety of the principal invested will represent the primary objective.

The City shall maintain a comprehensive cash management program, which includes timely collection of account receivables, timely payments to vendors in accordance with invoice and available discount terms, and prudent investment of all assets.

Attention to cash management principles will ensure that cash is available when needed and all funds will be invested to obtain the best use of City assets to obtain a reasonable market rate of earnings.

The City shall maintain a "buy and hold" portfolio strategy. Maturity dates are to be matched with cash flow requirements and investments purchased with the intent to be held until maturity. Investments shall not be sold or redeemed prior to maturity with the following exceptions:

- An investment with declining credit may be sold or redeemed early to minimize loss of principal, or
- Liquidity needs of the portfolio require that the investment be sold or redeemed.

Safety [PFLA 2256.005(b)(2)]

Safety of principal is the foremost objective of the City's investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital throughout the portfolio. Safety will be attained through mitigating credit and interest rate risk.

- Credit Risk – The City will minimize credit risk, the risk of loss due to the failure of the issuer or backer of the investment, by purchasing high credit quality securities and diversifying the investment portfolio by market sector and maturity so that potential losses on individual issuers will be minimized.
- Interest Rate Risk – The City will minimize the realized risk that the market value of investments in the portfolio will fall due to changes in general interest rates by analyzing cash flow and investing within the parameters of that cash flow and diversifying by market sector and maturity.

Liquidity [PFIA 2256.005(b)(2)]

The investment portfolio shall remain sufficiently liquid to meet all anticipated operating requirements by structuring the portfolio maturities with cash needs to meet anticipated demands. Because all possible cash demands cannot be anticipated, a portion of the portfolio will be invested in cash equivalent alternatives such as financial institution deposits, money market mutual funds, and local government investment pools that offer same-day liquidity.

Diversification

The portfolio will be diversified by investment types and maturity to avoid market risks and issuer default, as appropriate.

Public Trust

All participants in the City's investment process shall act responsibly as custodians of the public trust. Investment Officers shall avoid any transaction which might impair public confidence in the City's ability to govern effectively.

Yield (Optimization of Interest Earnings) [PFIA 2256.005(b)(3)]

The investment portfolio shall be designed with the objective of attaining a reasonable market yield at all times, taking into account the investment risk constraints and liquidity needs of the City. Return on investment is of lesser importance compared to the safety and liquidity objectives described above.

Investment Strategies by Fund Type:

1. General, Enterprise, or Operating-type Funds

Suitability – Any investment eligible in the Investment Policy is suitable for General, Enterprise, or Operating-type funds.

Safety of Principal – All investments shall be of high quality with no perceived default risk. Market price fluctuations will occur. However, managing the weighted average days to maturity of each fund's portfolio to less than 270 days and restricting the maximum allowable maturity to two years will minimize the price volatility of the portfolio.

Liquidity – General, Enterprise, or Operating-type Funds require the greatest short-term liquidity of any of the fund-types. Financial institution deposit accounts, short-term investment pools and money market mutual funds will provide daily liquidity and may be utilized as a competitive yield alternative to fixed maturity investments.

Marketability – Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement. Historical market “spreads” between the bid and offer prices of a particular security-type of less than ten basis points will define an efficient secondary market.

Diversification – Investment maturities should be staggered throughout the budget cycle to provide cash flow based on the anticipated operating needs of the City. Diversifying the appropriate maturity structure up to the two-year maximum will reduce interest rate risk.

Yield - Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury-Bill portfolio will be the minimum yield objective.

2. Capital Projects Funds

Suitability – Any investment eligible in the Investment Policy is suitable for Capital Projects Funds.

Safety of Principal – All investments will be of high quality with no perceived default risk. Market price fluctuations will occur. However, by managing Capital Projects Funds to not exceed the anticipated expenditure schedule, the market risk of the overall portfolio will be minimized. No stated final investment maturity shall exceed the shorter of the anticipated expenditure schedule or three years.

Liquidity – Most capital projects programs have reasonably predictable draw down schedules. Therefore, investment maturities should generally follow the anticipated cash flow requirements. Financial institution deposit accounts, short

term investment pools and money market mutual funds will provide readily available funds generally equal to one month's anticipated cash flow needs, or a competitive yield alternative for short-term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any expenditure request. This investment structure is commonly referred to as a flexible repurchase agreement.

Marketability – Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement. Historical market “spreads” between the bid and offer prices of a particular security-type of less than ten basis points will define an efficient secondary market.

Diversification – Market conditions and arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for bond proceeds. Generally, if investment rates exceed the applicable cost of borrowing, the City is best served by locking in most investments. If the cost of borrowing cannot be exceeded, then current market conditions will determine the attractiveness of diversifying maturities or investing in shorter and larger amounts. At no time shall the anticipated expenditure schedule be exceeded in an attempt to bolster yield.

Yield – Achieving a positive spread to the cost of borrowing is the desired objective, within the limits of the Investment Policy's risk constraints. The yield of an equally weighted, rolling six-month Treasury-Bill portfolio will be the minimum yield objective for non-borrowed funds.

3. Debt Service Funds

Suitability – Any investment eligible in the Investment Policy is suitable for Debt Service Funds.

Safety of Principal – All investments shall be of high quality with no perceived default risk. Market price fluctuations will occur. However, by managing Debt Service Funds to not exceed the debt service payment schedule the market risk of the overall portfolio will be minimized.

Liquidity – Debt Service Funds have predictable payment schedules. Therefore, investment maturities should not exceed the anticipated cash flow requirements. Financial institution deposit accounts, short term investments pools and money market mutual funds may provide a competitive yield alternative for short-term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any debt service payment. This investment structure is commonly referred to as a flexible repurchase agreement.

Marketability – Securities with active and efficient secondary markets are not necessary as the event of an unanticipated cash flow requirement is not probable.

Diversification – Market conditions influence the attractiveness of fully extending maturity to the next “unfunded” payment date. Generally, if investment rates are anticipated to decrease over time, the City is best served by locking in most investments. If the interest rates are potentially rising, then investing in shorter and larger amounts may provide advantage. At no time shall the debt service schedule be exceeded in an attempt to bolster yield.

Yield – Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury-Bill portfolio shall be the minimum yield objective.

4. Debt Service Reserve Funds

Suitability – Any investment eligible in the Investment Policy is suitable for Debt Service Reserve Funds. Bond resolution and loan documentation constraints and insurance company restrictions may create specific considerations in addition to the Investment Policy.

Safety of Principal – All investments shall be of high quality with no perceived default risk. Market price fluctuations will occur. However, by managing Debt Service Reserve Fund maturities to not exceed the call provisions of the borrowing will reduce the investment’s market risk if the City’s debt is redeemed and the Reserve Fund liquidated. No stated final investment maturity shall exceed the shorter of the final maturity of the borrowing or five years. Annual mark-to-market requirements or specific maturity and average life limitations within the borrowing’s documentation will influence the attractiveness of market risk and influence maturity extension.

Liquidity – Debt Service Reserve Funds have no anticipated expenditures. The Funds are deposited to provide annual debt service payment protection to the City’s debt holders. The funds are “returned” to the City at the final debt service payment. Market conditions and arbitrage regulation compliance determine the advantage of investment diversification and liquidity. Generally, if investment rates exceed the cost of borrowing, the City is best served by locking in investment maturities and reducing liquidity. If the borrowing cost cannot be exceeded, then current market conditions will determine the attractiveness of locking in maturities or investing shorter and anticipating future increased yields.

Marketability – Securities with less active and efficient secondary markets are acceptable for Debt Service Reserve Funds.

Diversification – Market conditions and the arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for Debt Service

Reserve Funds. At no time shall the final debt service payment date of the bond issue be exceeded in an attempt to bolster yield.

Yield – Achieving a positive spread to the applicable borrowing cost is the desired objective. Debt Service Reserve Fund portfolio management shall operate within the limits of the Investment Policy’s risk constraints.

V. RESPONSIBILITY AND CONTROL

Delegation of Authority [PFLA 2256.005(f)]

Investment Officer(s)

In accordance with the Act, the City Council designates the City Manager and the Finance Director as the City’s Investment Officers. An Investment Officer is authorized to execute investment transactions and transfer funds between City accounts on behalf of the City. No person may engage in an investment transaction or the management of City funds except as provided under the terms of this Policy. The investment authority granted to an Investment Officer is effective until rescinded by the City Council.

The City Council shall provide periodic training in investments for the Investment Officer(s) through courses and seminars offered by professional organizations, associations, and other independent sources approved by Council. Training will be in accordance with the provisions of the Act and is to ensure the quality and capability of investment management in compliance with the Act. The training must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with the Act.

Investment Officer(s) shall attend ten (10) hours of investment training within twelve (12) months of attaining the position and shall receive eight (8) hours of investment training not less than once in a two-year period that begins on the first day of the City’s fiscal year and consists of the two consecutive fiscal years after that date. The Government Finance Officers Association of Texas (GFOAT), Government Treasurers’ Organization of Texas (GTOT), Texas Municipal League (TML), University of North Texas (UNT), Texas Association of Regional Councils, American Institute of Certified Public Accountants (AICPA), and the Government Finance Officers Association (GFOA) are approved independent training sources.

Internal Controls

The Investment Officer is responsible for establishing and maintaining internal controls to protect the assets of the City from loss, theft, or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

Accordingly, within the scope of the annual audit, the City shall establish a process for annual independent review by an external auditor to assure compliance with this Policy and supporting procedures. At a minimum, the internal controls shall address the following points:

- Avoidance of collusion.
- Separation of transactions authority from accounting and record keeping.
- Custodial safekeeping.
- Delegation of authority to subordinate staff members.
- Written reporting and confirmation for all investments and wire transfers.

Prudence (PFIA 2256.006)

The standard of care as defined by the Act and to be applied by the Investment Officer at all times shall be the “prudent person” rule. This rule states that:

“Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person’s own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.”

In determining whether an Investment Officer has exercised prudence in the performance of their duty, the determination shall be made taking into consideration:

- The investment of all funds, or funds under the City’s control, over which the Officer had responsibility rather than a consideration as to the prudence of a single investment.
- Whether the investment decision was consistent with the written approved Investment Policy of the City.

The Investment Officer, if acting in accordance with written procedures and exercising due diligence, shall not be held personally liable for any specific investment’s credit risk or market price changes, provided that these deviations are reported immediately and the appropriate action is taken to control adverse developments.

Ethics and Conflicts of Interest [PFIA 2256.005(i)]

The Investment Officer(s), and employees involved in the investment process, shall refrain from any personal business activity that would conflict with the proper execution and management of the investment program, or that would impair their ability to make impartial decisions.

Investment Officer(s) shall disclose any personal or business relationship involving material interests in financial institutions with which the City conducts business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Investment Officer(s) shall refrain from undertaking personal investment transactions with the same individual or firm with which business is conducted on behalf of the City.

Any Investment Officer(s) of the City who has a personal business relationship with an organization or is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement disclosing that relationship, in accordance with the Act, with the Texas Ethics Commission and the City Council.

VI. SUITABLE AND AUTHORIZED INVESTMENTS

City funds may be invested only in the instruments described below, all of which are authorized and further defined by the Act. Investment of City funds in any instrument or security not authorized for investment under the Act is prohibited. The City will not be required to liquidate an investment that becomes unauthorized subsequent to its purchase. The City will create a competitive environment for all individual security purchases and sales, financial institution deposits, money market mutual funds, and local government investment pools, as appropriate.

1. Obligations, including letters of credit, of the United States of America, its agencies and instrumentalities, including the Federal Home Loan Banks, but excluding those prohibited by the PFIA.
2. Certificates of Deposit and other evidences of deposit at a financial institution that, i) has its main office or a branch office in Texas and is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor, ii) is secured by obligations in a manner and amount provided by law for deposits of the City, or iii) is placed in compliance with the requirements of the PFIA.
3. Fully collateralized repurchase agreements executed in compliance with the Act, under the terms of an executed Master Repurchase Agreement, and secured in accordance with this Policy.
4. AAA-rated, SEC registered no-load money market mutual funds which strive to maintain a net asset value of \$1.0000 per share.
5. AAA-rated, Texas local government investment pools, which meet all the requirements of the Act. Participation in any pool must be authorized by resolution of the City Council.

Un-Authorized Investments [PFIA 2256.009(b)(1-4)]

Mortgage-backed securities including interest-only or principal-only collateralized mortgage obligations (CMO), inverse floating interest rate CMO or CMO with a maturity date of over 10 years are strictly prohibited for investment by the City.

Credit Rating and Effect of Loss of Required Rating [PFIA 2256.021]

No less than quarterly, the Investment Officer will obtain the current credit rating for each held investment from a reliable source to ensure that the investment has maintained the required minimum rating. All prudent measures will be taken to liquidate an investment that is downgraded to less than the required minimum rating.

VII. INVESTMENT PARAMETERS

Maximum Maturities and Maximum WAM [PFIA 2256.005(b)(4)(B)]

The longer the maturity of securities, the greater the price volatility and market risk. Therefore, it is the City's policy to concentrate its investment portfolio in shorter-term securities which match cash flow needs to limit risks caused by changes in interest rates.

The City shall attempt to match its investments with anticipated cash flow requirements. The City's fund-type investment strategies will determine appropriate maximum maturity and weighted average maturity. Certificates of deposit and repurchase agreements may be collateralized using longer dated investments in accordance with this Policy.

Dollar-weighted average maturity will be calculated using the stated final maturity dates of each security. [PFIA 2256.005(b)(4)(C)]

VIII. AUTHORIZED BANKS AND DEALERS

The process of obtaining and contracting with a primary depository to serve the banking service needs of the City will be governed by Chapter 105 of the Local Government Code: Depositories for Government Funds and Chapter 2257, the Public Funds Collateral Act, Texas Government Code.

At least every five (5) years a primary depository shall be selected for banking services through the City's procurement process, which shall include a formal request for application (RFA). The selection of a depository will be determined through a competitive process and evaluation of applications will include the following selection criteria:

- The ability to qualify as a depository for public funds in accordance with State law.
- The ability to provide required banking services.
- Creditworthiness and financial stability of the depository.
- The ability to provide cost effective services as defined by the City based on the lowest net banking service cost, consistent with the ability to provide the required levels of service.

The City may utilize other financial institutions as depositories for deposits and the purchase of certificates of deposit under the terms of a written depository/collateral agreement as defined by this Policy.

Collateral Policy (PFCA 2257.023)

Collateral Pledged to the City by Depositories

Consistent with the requirements of the Public Funds Collateral Act, it is the policy of the City to require full collateralization of all financial institution deposits in a depository above the FDIC insurance coverage. To anticipate and provide for market price fluctuations and provide a required level of security for all funds, with the exception of deposits secured with irrevocable letters of credit from a U.S. Government Agency at 100% of principal and accrued interest, the depository will provide and maintain collateral whose market value equals or exceeds 102% of the total value of principal and accrued interest on City deposits less an amount insured by the FDIC.

Any financial institution designated as a depository by the City will provide collateral in accordance with this Policy and applicable State law. The City reserves the right, in its sole discretion, to accept or reject any form of insurance or collateralization pledged towards depository deposits. Financial institutions serving as a depository will be required to sign a Depository/Collateral Agreement with the City. The collateralized deposit portion of the Agreement shall define the City's rights to the collateral in case of default, bankruptcy, or closing and shall establish a perfected security interest in compliance with Federal and State regulations, including:

- The agreement must be in writing;
- The agreement must be executed by the Depository and the City contemporaneously with the acquisition of the asset;
- The agreement must be approved by the Board of Directors or designated committee of the Depository and a copy of the meeting minutes must be delivered to the City; and
- The agreement must be part of the Depository's "official record" continuously since its execution.

The written agreement will specify the acceptable collateral, require independent safekeeping of the collateral, require City approval before substitution or release of investment securities, provide for original safekeeping receipts, and complete monthly reporting of collateral including the valuation of securities.

A clearly marked evidence of pledge must be supplied to the City and retained by the Investment Officer(s). A monthly collateral report provided by the custodian shall be reviewed by the Investment Officer(s) to assure that the market value of the pledged securities is adequate.

Collateral may be held only by an independent institution including a Federal Reserve Bank, a Federal Home Loan Bank, or a third-party bank approved by the City.

A Repurchase Agreement, as authorized by the Act, has a defined termination date, is secured by a combination of cash and obligations as described by Section 2256.009(a)(1) and requires the

securities being purchased by the City or cash held by the City to be pledged to the City, held in the City's account, and deposited at the time the investment is made with the City or with a third-party selected and approved by the City. Securities (termed as collateral) are bought (i.e. owned) under a Repurchase Agreement and will be maintained at a margin of 102% and settled delivery versus payment. The collateral terms and conditions will be controlled by a written repurchase agreement.

Authorized Collateral for Depositories and Repurchase Agreements

The City shall accept only the following types of collateral:

- Obligations of the United States or its agencies and instrumentalities, including mortgage-backed securities which pass the high-risk mortgage obligation test, and irrevocable letters of credit issued by the Federal Home Loan Bank.
- Direct obligations of any U.S. state or its subdivisions rated at least A by at least one nationally recognized rating agency.

All collateral shall be subject to inspection and audit by the Investment Officer(s) and the City's independent auditors.

Authorized Brokers/Dealers (PFIA 2256.025)

The City Council shall, at least annually, review, revise, and adopt a list of qualified broker/dealers (see Attachment A) authorized to engage in securities transactions with the City. To purchase securities, the City must have a list of no less than two broker/dealers.

Authorized brokerage firms may include primary dealers or regional broker/dealers that qualify under Securities & Exchange Commission Rule 15C3-1 (Uniform Net Capital Rule).

Delivery vs. Payment [PFIA 2256.005(b)(4)(E)]

Securities purchased by the City shall be settled into the City's account with the safekeeping agent on a **delivery versus payment** (DVP) basis. DVP assures that City funds will not be released until the purchased security has been received. Securities will be held by an independent third-party safekeeping agent as evidenced by safekeeping receipts.

PFIA Policy Certificates

All local government investment pools and discretionary investment management firms (business organizations) will be required to provide information regarding the business organization and the individual representative as required by the City. Each business organization will be required to sign a certification acknowledging that the business organization has received and reviewed the City's current Investment Policy and that reasonable procedures and controls have been implemented to preclude investment transactions that are not authorized by the City's Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the City's

entire portfolio or requires an interpretation of subjective investment standards, as required by the Act. When material changes are made to the Policy, re-certification is required.

IX. PERFORMANCE BENCHMARK

The City's investment portfolio will be managed in accordance with the parameters specified within this Policy including the objective of a reasonable market yield commensurate with the investment risk constraints and the cash flow requirements of the City.

The weighted average yield to maturity (the standard for calculating portfolio rate of return) on the total portfolio will be the City's performance measurement and will be calculated and reviewed on at least a quarterly basis. In accordance with the City's cash flow needs and based on the maximum weighted average maturity of the adopted Investment Strategy, the City's portfolio shall be designed with the objective of regularly meeting or exceeding the respective Strategy's average yield on the appropriate US Treasury-Bill for the same period. This benchmark is not just a measure of market performance but equally a measure of the risk in the portfolio.

X. REPORTING (*PFA 2256.023*)

The Investment Officers shall prepare for the City Council an investment report on a quarterly basis that summarizes investment strategies employed in the most recent quarter and describes the portfolio in detail and summary information. This reporting shall be made in accordance with the Act.

The quarterly investment report shall include a summary statement of investment activity during the period. This summary will be prepared in a manner that will allow the City Council to ascertain whether investment activities during the reporting period have conformed to the Investment Policy. The report will include the following at a minimum:

- A listing of individual investments held at the end of the reporting period.
- Unrealized gains or losses at the end of the period (the difference between current and prior market value).
- Average weighted yield to maturity of portfolio.
- Fully accrued interest for the reporting period and total earnings for the period.
- The percentage of the total portfolio by type of investment.
- Statement of compliance of the City's investment portfolio with State law and the investment strategy and Policy approved by the City Council.

Market values will be obtained from reputable and independent sources.

In conjunction with the annual audit, an independent auditor will perform a formal annual review of the quarterly reports with the results reported to the City Council by that auditor [*PFIA 2256.023(d)*].

XI. INVESTMENT POLICY ADOPTION [*PFIA 2256.005(e)*]

The City's Investment Policy shall be reviewed and adopted at least annually by resolution of the City Council. It is the City's intent to comply with State laws and regulations. The City's Investment Policy may be revised by Council consistent with changing laws, regulations, or the needs of the City. The City Council shall review and approve the Policy and investment strategies annually, approving any changes or modifications, at a legally scheduled meeting.

Adopted by Hewitt City Council: November 13, 2023

Attachment A

**City of Hewitt, Texas
Authorized Broker/Dealer List**

FHN Financial Capital Markets
Buddy Saragusa
920 Memorial City Way, 13th Floor
Houston, TX 77024
713-435-4375

SouthState|DuncanWilliams
Patrick Boyer
6750 Poplar Avenue
Suite 100
Memphis, TN 38138
901-604-6811

SAMCO Capital Markets, Inc.
Robert Phillips
1700 Pacific Avenue
Suite 2000
Dallas, TX 75201
214-765-1408

Wells Fargo Brokerage Services, L.L.C.
Chuck Landry
1445 Ross Avenue
Suite 210
Dallas, TX 75202
800-937-0998
214-777-4018

Note: The firm name is authorized. Contact data informational only.



COUNCIL AGENDA ITEM FORM

MEETING DATE: November 13, 2023

AGENDA ITEM #: 9.

SUBMITTED BY: Lee Garcia, Finance Director

ITEM DESCRIPTION:

Discussion and possible action on **Resolution No. 2023-13** approving financing terms with _____ for a term of _____ years at _____%.

STAFF RECOMMENDATION/ITEM SUMMARY:

The city published a notice in the Waco Tribune-Herald on October 24th and October 31, 2023, seeking financing in the amount of \$275,000 for three (3) new Police Tahoe SUVs, an enclosed trailer for parks, eight (8) replacement PCs for the library, software for community development and a replacement server for the city. Emails were sent to sixteen potential bidders to be received no later than 11 a.m., Monday, November 13th. Results of the bids will be presented at the council meeting. Staff recommends the bid with the lowest rate of interest.

FISCAL IMPACT:

Amount Budgeted - N/A

Line Item in Budget - N/A

SUGGESTED MOTION:

I move approval of the **Resolution No. 2023-13** accepting the bid from _____ for a term of _____ years at a rate of _____%.

ATTACHMENTS:

1. 2023-13 - Resolution - Leasing Financing
2. Short Term Financing Items

RESOLUTION NO. 2023-13

**A RESOLUTION OF THE CITY OF HEWITT, TEXAS, APPROVING THE
FINANCING TERMS WITH _____ FOR THE PURCHASE OF
VARIOUS CAPITAL ITEMS**

WHEREAS: The City of Hewitt, Texas ("Borrower") has previously determined to undertake a project for the financing of various vehicles and equipment (the "Project"), and the finance officer (the "Finance Officer") has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Borrower hereby determines to finance the Project through _____ ("Lender") in accordance with the proposal dated November 13, 2023. The amount financed will not exceed \$275,000.00, the annual interest rate (in the absence of default or change in tax status) will not exceed ____%, and the financing term will not exceed ____ years from closing.
2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") will be consistent with the foregoing terms. All officers and employees of the Borrower are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Borrower officers or employees, provided that such changes will not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents will be in such final forms as the Finance Officer will approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.
4. The Borrower will not take or omit to take any action the taking or omission of which will cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Borrower hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Borrower intends that the adoption of this resolution will be a declaration of the Borrower's official intent to reimburse expenditures for the Project that are to be financed from the proceeds of the Lender financing described above. The Borrower intends that funds that have been advanced, or that may be advanced, from the Borrower's general fund or any other Borrower fund related to the Project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Borrower officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution will take effect immediately.

Approved this 13th day of November, 2023.

CITY OF HEWITT

Steve Fortenberry, Mayor

ATTEST:

Lydia Lopez, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Michael W. Dixon, City Attorney

CITY OF HEWITT, TX
CAPITAL OUTLAY - SHORT TERM FINANCING
 ANNUAL BUDGET FY 2023-2024

GENERAL FUND				
POLICE DEPARTMENT	3 PD SUVS	55,000	Admin	10-50635-41-01
		95,000	Patrol	10-50635-41-02
		55,000	CID	10-50635-41-03
		205,000		
GENERAL SERVICES	ENCLOSED TRAILER	12,000	Parks	10-50620-50-01
LIBRARY	8 REPLACEMENT PCS	8,000	Library	10-50620-59
COMMUNITY DEVELOPMENT	SOFTWARE	15,000	Permits	10-50615-63
FINANCE	REPLACEMENT SERVER	34,260	Finance	10-50615-64
TOTAL TO BE FINANCED		274,260		



COUNCIL AGENDA ITEM FORM

MEETING DATE: November 13, 2023

AGENDA ITEM #: 10.

SUBMITTED BY: Lee Garcia, Finance Director

ITEM DESCRIPTION:

Discussion and possible action on approving **Resolution No. 2023-14** authorizing the City's membership in the Texas SmartBuy Program.

STAFF RECOMMENDATION/ITEM SUMMARY:

The Texas Comptroller of Public Accounts is authorized to provide purchasing services for local governments. The Texas SmartBuy Membership Program empowers state-funded local buyers such as cities, counties, and school districts with access to the same best value and competitively bid statewide contacts as state agencies. Members are provided access to purchase from various state-term contracts: TXMAS contracts, DIR technology contracts, purchase cards, fuel, and travel contracts for qualified entities -- all leveraged by the buying power of the state of Texas. The annual participation fee is nominal in comparison to the cost savings.

Staff recommends approval.

FISCAL IMPACT:

Amount Budgeted - N/A

Line Item in Budget - N/A

SUGGESTED MOTION:

I move approval of **Resolution No. 2023-14** authorizing the City's membership in the Texas SmartBuy Program.

ATTACHMENTS:

1. TxSmartBuy resolution



Texas SmartBuy Membership Program

Resolution No. 2023-14

State of Texas, County of _____

(County Entity Located In)

Whereas, the Texas Comptroller of Public Accounts is authorized to provide purchasing services for local governments **pursuant to §§271.082 and 271.083 of the Local Government Code.**

Whereas, the _____
(Enter Board of Directors, City Council, Commissioner's Court, School Board, etc.)

of _____, is a:
(Enter Name of Qualified Applicant/Entity)

(Check One of the Following)

- | | |
|--|--|
| ☐ Appraisal District | ☐ Charter/Academy School |
| ☐ Community Supervision/Corrections Department | ☐ Council of Governments/Planning Commissions |
| ☐ County | ☐ Education Service Center |
| ☐ Fire Prevention District | ☐ Hospital District |
| ☐ Judicial District | ☐ Junior/Community College |
| ☐ Library District | ☐ Mental Health/Mental Disability Organization |
| ☐ Municipality | ☐ School District |
| ☐ State-funded Assistance Organization | ☐ Texas Rising Star Care Provider |
| ☐ Special District | ☐ Utility District |
| ☐ Emergency Service | ☐ Drainage |
| ☐ Housing | ☐ Municipal |
| ☐ Political Subdivision | ☐ Special |
| ☐ Port or Transportation Authority | |
| ☐ Workforce Development Board | |

defined as an entity qualified to participate in the Texas SmartBuy Membership Program of the Texas Comptroller of Public Accounts pursuant to §271.081 of the Local Government Code.

_____ and
Primary Contact and Title

Secondary Contact and Title

is/are authorized to execute all documentation for _____ pertaining to its participation in the
(Entity Name)

Texas Comptroller of Public Accounts Cooperative Purchasing Program; and

Whereas, _____ acknowledges its obligation to pay annual participation fees established by the
(Entity Name)

Texas Comptroller of Public Accounts.

Now, Therefore Be it Resolved, that request be made to the Texas Comptroller of Public Accounts to approve
_____ for participation in the Texas Comptroller of Public Accounts Cooperative Purchasing Program.
(Entity Name)

Adopted this _____ day of _____, _____ by _____
(Entity Name)

By: _____
Signature of Chair Printed Name and Title of Chair

Signature of Primary Contact Printed Name and Title of Primary Contact

Signature of Secondary Contact Printed Name and Title of Secondary Contact



Glenn Hegar
Texas Comptroller of Public Accounts