



ARCHITECT'S CONTRACT  
FOR  
FIRE STATION NO. 4  
CONSTRUCTION MANAGER-AT-RISK PROJECT

STATE OF TEXAS                                    §  
  §                                   KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF GUADALUPE                    §

THIS CONTRACT is made and entered into as of the \_\_\_\_ day of (enter month), 2026, by and between the CITY OF SEGUIN, a municipal corporation of Guadalupe County, Texas (hereinafter called "CITY", which term shall be construed to include any officer, representative, or Board of the CITY having authority to represent or act for it, in relation to any part of the subject of this Contract), and Martinez Architects, LP with offices located at 900 Rockmead, Suite 250 Kingwood, Texas 77345 hereinafter called "ARCHITECT".

WITNESSETH:

WHEREAS, CITY intends to construct a new Fire Station No. 4, hereinafter called the "Project", at a total budgeted construction cost not to exceed \$7,000,000.00 for the completion of the Project. This budgeted amount will be the CITY’s targeted amount for the Guaranteed Maximum Price (GMP) under a Construction Manager-at-Risk construction contract; and

WHEREAS, CITY desires to contract with ARCHITECT for complete architectural and engineering services in connection with the design and construction of the Project, and for assistance in administering the Construction Contract during construction of the Project, all as stipulated in this Contract and within the budgeted limits set by CITY; and

WHEREAS, ARCHITECT has agreed to provide such professional services for the compensation provided in this Contract.

NOW, THEREFORE, CITY and ARCHITECT, in consideration of the mutual promises, terms, covenants and conditions contained in this Contract, agree as follows:

ARTICLE 1  
SCOPE OF SERVICES; COMPENSATION; CONTRACT ADMINISTRATION

1.1. ARCHITECT, as an independent ARCHITECT and professional consultant in its relationship with CITY, agrees to perform all professional services for the Project as set forth in this Contract and in ARCHITECT's Proposal Letter to CITY, dated *April 24, 2026* (“Proposal Letter”), attached hereto as **EXHIBIT 1** and made a part of this Contract; provided, however, that

in the event of any conflict between the terms of the Proposal Letter and this Contract, the terms of this Contract shall control.

1.2. CITY shall compensate ARCHITECT in accordance with the terms and conditions of this Contract as follows:

1.2.1. For ARCHITECT's Basic Services, as defined I this Contract and the Proposal Letter, including the services of any professional consultants engaged for complete architectural services and complete structural, mechanical, electrical, and civil engineering services, a maximum lump sum amount not to exceed *(\$685,000)* ("Basic Fee").

1.2.2. For approved Reimbursable Expenses, as defined in Article 5 hereof, an allowance not to exceed *(\$106,500)*. Eligible Reimbursable Expenses, other than Special Consultants, shall be billed to the CITY at cost. Eligible Reimbursable Expenses for Special Consultants shall be billed to the CITY at 1.10 times the amount billed ARCHITECT for same.

1.2.3. ARCHITECT must receive written, advance authorization from CITY before performing any Additional Services. For ARCHITECT's Additional Services, if any be authorized in advance by CITY as hereinafter provided, a supplemental fee to be computed as follows:

A. Principals' time at a fixed rate of \$250 per hour. For purposes of this Contract, the Principals are:

*Ricardo Martinez – Principal*  
*Justin Myers – Principal*  
*Paul Garrison - Principal*

B. Employees' time shall be paid at the following agreed rates:

Project Manager \$175 per hour  
Project ARCHITECT \$150 per hour  
CADD Technician \$125 per hour  
Administrative Asst. \$75 per hour

C. Additional Services of Basic Consultants (including structural, mechanical, electrical, and civil engineering) shall be computed at 1.10 times the amounts billed to ARCHITECT.

D. Unless subsequently changed by Supplemental Agreement to this Contract, ARCHITECT's total compensation under this Contract for Basic Services shall not exceed *(\$685,000)*, plus a not-to-exceed amount of *(\$106,500)* for approved Reimbursable Expenses. These amounts, totaling *(\$791,500)*, represent the absolute maximum limit of CITY's liability to ARCHITECT under this Contract, unless the limit is changed by Supplemental Agreement to this Contract.

1.2.4. The times and further conditions of payment shall be as described in Article 6 below.

1.3. This Contract shall be administered on behalf of the CITY by the Fire Chief or designee and the Owner's Representative, Fitzpatrick Design Construction Services Group LLC. ARCHITECT shall fully comply with any and all instructions from the Owner's Representative. Any dispute between ARCHITECT and CITY or need for interpretation regarding what performance is required of ARCHITECT under this Contract shall be submitted to the Owner's Representative, and the Director's decision in the matter shall be final and binding.

ARTICLE 2  
ARCHITECT'S SERVICES

2.1. Basic Services. ARCHITECT's Basic Services consist generally of the five phases described below, and include complete architectural services and complete structural, mechanical, electrical, and civil engineering services, and such other services as may be necessary to assist the CITY in the design and construction of the Project, within the budgeted limits set by CITY. All services set out in ARCHITECT's Proposal Letter are to be performed whether specifically set out in this Contract or not. ARCHITECT agrees that upon execution of this Contract, it will submit to CITY within ten (10) days a list of all additional consultants it intends to utilize, not previously identified in ARCHITECT's Proposal Letter, delineating their respective tasks. All of ARCHITECT's subconsultants shall be subject to the approval of CITY through its Owner's Representative, and CITY reserves the right to reject any subconsultant. ARCHITECT shall perform all work under this Contract in a manner satisfactory and acceptable to CITY, represented by its Owner's Representative. ARCHITECT's Final Plans and Specifications shall include plans and profiles necessary to tie all Project water, sewer and storm drainage lines into adjacent existing lines and facilities, as authorized and approved by Owner's Representative. A performance schedule shall be provided within (10) days of notice to proceed and agreed to by ARCHITECT and Owner's Representative ("Performance Schedule"), and ARCHITECT agrees to use its best efforts to complete all services under this Contract in accordance with the Performance Schedule, which Schedule shall be automatically incorporated into this Contract by reference upon agreement of ARCHITECT and the Director without need of a Supplemental Agreement. The Construction Manager-at-Risk ("CMaR") delivery method planned for the Project anticipates close interaction, coordination and cooperation among the CITY, Owner's Representative, the ARCHITECT, and the CMaR throughout the life of the Project. The ARCHITECT shall participate in the development and review of the CMaR's Guaranteed Maximum Price Proposal. All services shall be performed to the highest professional standard.

2.1.1. Schematic Design Phase.

A. ARCHITECT shall observe and provide opinion of those environmental conditions in the immediate vicinity of the Project site which may influence the design of the Project. ARCHITECT shall, for consideration and approval by the Owner's Representative and the CMaR, prepare the Schematic Design Studies and submit to the Owner's Representative two printed copies of drawings and other documents which illustrate the scale and relationship of the Project components within the time allotted under the agreed Performance Schedule. Such evaluation shall include a basic assessment of how the Project integrates into an adjacent regional park, which shall also be in its Schematic Design Phase, under the purview of the City of Seguin Parks Department and its consultant team(s).

B. ARCHITECT shall submit to CITY a Statement of Probable Construction Cost based on current area, volume, or other unit costs in a standard format schedule of values and as acceptable to the Owner's Representative. Prior to submitting the Statement of Probable Construction Cost to Owner, the ARCHITECT shall review its Probable Construction Cost estimate in comparison with the construction cost estimate prepared by the CMaR, and shall reconcile any differences between the two construction cost estimates in coordination with the CMaR; if the ARCHITECT is unable to reconcile all differences between the two construction

cost estimates, then the ARCHITECT shall provide a detailed explanation of the differences to the CITY.

C. ARCHITECT will make recommendations to CITY where a conflict may exist between the established Project Budget and projected market costs. The recommendations will provide for adjustments to enable construction of the facility within the budget and during the forecast period that the Project will be bid.

D. ARCHITECT shall submit outline specifications for all major elements of construction including but not limited to: structural, mechanical and electrical systems, special equipment.

E. The ARCHITECT shall provide the CMAr with copies of the Project documents at the CMAr's expense to assist the CMAr in fulfilling its responsibilities to the CITY.

F. After approval of the Schematic Design documents by the Director, ARCHITECT will submit a Statement, in triplicate, for services rendered for the unpaid balance of the Basic Fee, not to exceed fifteen (15%) percent of the Basic Fee, as authorized under Article 6.1.

#### 2.1.2. Design Development Phase.

A. ARCHITECT shall prepare Design Development Documents based on the approved Schematic Design Documents to include adequate Specifications for elements of the Project for consideration and approval by the Owner's Representative and review by the CMAr. A two printed copies (as determined by the Owner's Representative) of the Design Development Documents will be submitted to the Owner's Representative for distribution, each copy consisting of drawings and other documents to fix and describe the size, cross sections, and character of the Project as to architectural, structural, mechanical, and electrical systems, materials, and such other essentials as may be necessary and appropriate. The Design Development Phase shall be completed within the agreed Performance Schedule. The ARCHITECT shall provide the CMAr with copies of the ARCHITECT's documents at the CMAr's expense to assist the CMAr in fulfilling its responsibilities to the CITY.

B. ARCHITECT shall submit to CITY a Revised Statement of Probable Construction Cost in a form acceptable to the Owner's Representative. Prior to submission of its Revised Statement of Probable Cost to the CITY, ARCHITECT shall review its estimate in comparison with the construction cost estimate prepared by the CMAr, and shall reconcile any differences between the two estimates in coordination with the CMAr. Any variance in the estimated construction costs that will adversely affect the established Project Budget will be submitted to the Owner's Representative with appropriate comments and recommendations prior to beginning the Construction Documents Phase.

C. At the completion of the Design Development Phase, or such other time as City may specify to ARCHITECT, at City's sole option and discretion, City will furnish ARCHITECT with a Guaranteed Maximum Price ("GMP") proposal prepared by the CMAr based upon the Design Development Documents prepared by the ARCHITECT and approved by the CITY. The ARCHITECT shall assist the CITY and further advocate the CITY's interests in CITY's negotiations with the CMAr in an effort to develop a GMP proposal acceptable to CITY, in CITY's sole option and discretion. If the CITY does not accept the CMAr's GMP proposal, the ARCHITECT shall participate with the CITY and CMAr in constructability reviews and shall revise the documents as necessary in order to reach an agreement. If CMAr's GMP proposal

exceeds the cost quantity survey furnished to CITY by ARCHITECT, and CITY directs ARCHITECT to revise the documents, then ARCHITECT shall revise the documents at its own expense so that the GMP proposal for constructing the Project shall not exceed the City's budgeted construction costs limits and any previously approved construction cost estimate. If it is determined to be in the CITY's best interest, instead of requiring the ARCHITECT to revise the drawings and specifications, the CITY reserves the right to accept a GMP proposal that exceeds the stipulated budgeted construction cost limitation. ARCHITECT shall analyze the final GMP proposal document, together with supporting assumptions, clarifications, and contingencies, and shall submit a detailed written analysis of the document to the CITY. Such analysis shall include, without limitation, reference to and explanation of any inaccurate assumptions and clarifications.

D. After the GMP has been accepted, the ARCHITECT shall incorporate into the Design Development Documents any revisions which are necessary due to inaccurate assumptions and clarifications made in the development of the GMP at no additional cost to CITY.

E. After approval of the Design Development Documents by the Director, the ARCHITECT will submit a Statement, in triplicate, for services rendered for the unpaid balance of the Basic Fee, not to exceed thirty-five (40%) percent of the Basic Fee, as authorized under Article 6.1.

### 2.1.3. Construction Documents Phase.

A. ARCHITECT shall prepare from the approved Design Development Documents, for consideration and approval by the Owner's Representative and review by the CMaR, complete Working Drawings and Specifications. The Working Drawings and Specifications shall set forth in complete detail the requirements of the entire Project in accordance with all of CITY's standard General Provisions. ARCHITECT shall draft all special provisions or conditions of the Contract Documents subject to the approval of the Owner's Representative. CITY may, upon prior consultation, approve of any changes to the General Provisions that may be necessary for specific situations. Any special conditions pertaining to the Project that are approved by CITY will be included under the Special Conditions portion of the Construction Documents. ARCHITECT shall obtain the approval of the Texas Department of Licensing and Regulation prior to submittal of all Construction Documents to CITY for approval. Any fees charged by the Department for this approval shall be paid by ARCHITECT and billed to CITY as a reimbursable expense under Article 5 of this Contract. The ARCHITECT shall provide the CMaR with copies of the ARCHITECT's documents at the CMaR's expense to assist the CMaR in fulfilling its responsibilities to the CITY.

B. The ARCHITECT shall assist the CITY and the CMaR on matters such as construction phasing and scheduling, bid or proposal alternates, special cash allowances, liquidated damages, the construction contract time period, and other construction issues appropriate for the Project. ARCHITECT shall assist the CITY and CMaR in the preparation of the necessary bidding information, bidding forms, RFP information, and RFP forms, and the Conditions of the Contract.

C. ARCHITECT shall furnish CITY in writing a revised Statement of Probable Construction Cost, indicating cost changes resulting from changes in Project requirements or general market conditions, in a standard format schedule of values to the Owner's Representative. ARCHITECT shall review its construction cost Statement of Probable Construction Cost in comparison with the construction cost estimate prepared by the CMaR, and shall reconcile any

differences between the two cost estimates in coordination with the CMaR. If the ARCHITECT is unable to reconcile all differences between the two estimates with the CMaR, then the ARCHITECT shall provide a detailed explanation of the differences to the CITY.

D. Following incorporation of any changes to satisfy approval by the Owner's Representative of the Design Development Documents, ARCHITECT shall, within the agreed Performance Schedule, submit two (2) complete sets of proposed Construction Documents to the Owner's Representative for review and official approval prior to the advertisement of bids for construction of the Project. Following approval of proposed Construction Documents, ARCHITECT shall prepare and have on hand two (2) additional sets at ARCHITECT's expense for bidding purposes. Should additional sets of Construction Documents be required or requested by the Owner's Representative or the CMaR, ARCHITECT will be reimbursed for the actual cost of reproduction, upon approval in advance by CITY, or if the additional sets are requested by the CMaR, the CMaR. At the same time, ARCHITECT shall also file with the Owner's Representative the following items:

- (1) Two (2) copies of detailed cost estimates in a form acceptable to the CITY.
- (2) Two (2) bound copies of the approved Project Construction Manual.

The Project Construction Manual shall include the General Provisions, Specifications and Special Provisions, Advertisement, Instructions to Bidders and Bid Proposal Form, CITY's Bid Bond, Contract, Performance and Payment Bond Forms, approved Wage Rate schedules, Federal regulations (if any are applicable to the Project), and other required documents for construction of the Project. Should additional bound copies of the Project Construction Manual be required or requested by the Owner's Representative or the CMaR, ARCHITECT will be reimbursed for the actual cost of reproduction, upon approval in advance by CITY, or if the additional sets are requested by the CMaR, the CMaR.

#### 2.1.4. Bidding Phase.

A. Following CITY's approval of the Construction Documents and of the latest Statement of Probable Construction Cost and/or the GMP, ARCHITECT shall assist CITY and CMaR by providing clarifications and responses for Bid questions, preparing addenda, accounting for addenda issued; and attending pre-bid and pre-proposal conferences. ARCHITECT shall answer inquiries from bidders and proposers at CITY's request. ARCHITECT shall answer inquiries from bidders and proposers at CITY's request, and shall prepare and issue any necessary addenda to the bidding or proposal documents. Architect shall subsequently incorporate these clarifications and responses into the Construction Documents as part of Basic Services.

B. Bidding for construction shall be conducted by the CMaR with the assistance and participation of the ARCHITECT and CITY. Upon completion of the Bid period, CMaR shall provide a final Bid Tabulation indicating the proposed Project Construction Cost. If the cost exceeds the GMP pricing, the ARCHITECT shall assist with reconciling variances and determining the appropriate response with the CMaR and CITY. In the event the construction documents need to be revised, except for items related to clarifications and responses in 2.1.5.A., this service shall be considered Additional Services. The ARCHITECT shall prepare and submit a Fee proposal to the Director for approval before proceeding. Proceeding without approval shall indicate revisions are part of Basic Services.

C. Upon CITY approval of the final Construction Cost, ARCHITECT shall incorporate any and all approved revisions to the Construction Documents used for bidding and provide the CITY with three (3) printed sets of completed Construction Documents. ARCHITECT shall provide BIM drawing files to CMaR for use in preparing shop drawings and submittals.

D. Upon award of the first Construction Contract, a statement, in triplicate, for services rendered for the unpaid balance of the Basic Fee, not to exceed eighty (80%) percent of the Basic Fee as authorized under Article 6.1, shall be submitted to the Director for payment.

2.1.5. Construction Phase - Administration of the Construction Contract(s).

A. The Construction Phase will commence with the award of the first Construction Contract and will terminate following the final two-year warranty inspection of the completed Project, correction of all defects in Project materials and workmanship, and resolution of all Project-related claims and disputes.

B. Owner's Representative shall be a representative of the CITY during the Construction Phase, and shall advise and consult with the CITY. Instructions to the CMaR shall be forwarded through the ARCHITECT and all communication by and with the ARCHITECT's consultants shall be through the ARCHITECT, except that CITY reserves the right to communicate directly with the CMaR and consultants as it deems necessary or appropriate at any time. ARCHITECT shall have authority to act on behalf of the CITY to the extent provided in the Contract Documents. Duties, responsibilities, and limitations of authority of the ARCHITECT shall not be restricted, modified, or extended without written acceptance by the CITY.

C ARCHITECT shall review the CMaR's list of proposed subcontractors for the work, initial administrative submittals for Project Schedule, Schedule of Values, Submittal Schedule, and Equipment Matrix to establish appropriate bases for construction monitoring payment processing, and system commissioning. ARCHITECT shall identify necessary revisions to the documents in writing to the CMaR and recommend acceptance of the documents by the CITY when appropriate. ARCHITECT shall review periodic updates of all schedules with the CITY and CMaR to evaluate appropriateness.

D. ARCHITECT shall prepare appropriate materials for and participate in a Pre-Construction Conference at the site prior to commencement of construction by the CMaR.

E. ARCHITECT shall visit the site periodically (not less than every other week, but as appropriate for the work in progress) during the entire construction period to observe the progress and quality of the construction work ("Work") and determine, in general, if the Work is proceeding in accordance with the Contract Documents. Each of ARCHITECT's consultants shall visit the site periodically (not less than monthly) during construction activities related to the consultant's discipline to observe the progress and quality of the Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. ARCHITECT and its consultants shall submit timely written reports of their site visits and meetings. ARCHITECT shall not be required to make exhaustive or continuous on-site visits to inspect the quality or quantity of the Work. City may require site visits and inspections by ARCHITECT or its consultants at any time.

F. ARCHITECT shall attend bi-weekly construction status meetings with the

CMaR and CITY.

G. ARCHITECT shall keep the CITY informed of the progress and quality of the Work, and shall identify defects and deficiencies in the Work of the CMaR. ARCHITECT shall notify CITY in writing of any portions of the work, which ARCHITECT has observed as not being in conformity with the Construction Documents and make recommendations as to correction of the deficiencies or defects. ARCHITECT shall consult with CITY and CMaR when requested by CITY.

H. In addition to site visits for general inspection and observation, ARCHITECT shall visit the site as appropriate for specific purposes related to certification of progress payments, start-up, or mock-up reviews for significant work activities, and for formal Work inspections. ARCHITECT shall provide written reports of all site visits to CITY and CMaR.

I. ARCHITECT shall not have control or charge of, and shall not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, for the acts or omissions of the CMaR, subcontractors, or any other person performing the Work.

J. ARCHITECT shall determine the amounts owing to the CMaR based on observations of Work placed at the site and on evaluations of the CMaR's Application for Payment and shall coordinate its review and evaluation with the CITY and shall certify CMaR's application for Payment in an appropriate time. The recommendation of payment by the ARCHITECT shall constitute a recommendation by the ARCHITECT to the CITY based upon the ARCHITECT's observations at the site and on the data comprising the CMaR's Application for Payment, that the work has progressed to the point indicated and that, to the best of the ARCHITECT's knowledge, information and belief, the quality of the work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the ARCHITECT. The issuance of a Certificate for Payment shall further constitute a representation the CMaR is entitled to payment in the amount certified. However, the issuance of a Certificate of 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 material suppliers and other data requested by the CITY to substantiate the CMaR's right to payment, or (4) ascertained how or for what purpose the CMaR has used money previously paid on account of the Contract Sum.

K. ARCHITECT shall be the interpreter of the technical requirements of the Contract Documents. ARCHITECT shall render interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of either the CITY or the CMaR, and shall render written recommendations within a reasonable time, on all claims, disputes, and other matters in question between CITY and CMaR relating to the execution or progress of the Work or the interpretation of the Contract Documents. Interpretations and recommendations of the ARCHITECT shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in written or graphic form. If the Construction Documents are unclear, ARCHITECT shall issue supplemental documents to amplify or explain portions of the Construction Documents.

L. ARCHITECT shall have authority to reject work which does not conform to the Contract Documents. ARCHITECT shall make recommendations on all claims and disputes of CITY or CMaR relating to the execution and progress of the work or the interpretation of the Contract Documents, based upon such review and analysis by ARCHITECT as may reasonably be required. In the event of litigation, where ARCHITECT is named as an additional party with CITY, assistance will include the availability of knowledgeable witnesses in the employ of ARCHITECT for expert testimony.

M. ARCHITECT shall use its best efforts to promptly review and approve or reject shop drawings, samples, and other submissions of the CMaR for conformance only with the design concept of the Project and with the information given in the Contract Documents. ARCHITECT shall establish and implement precise procedures, to be approved by the Owner's Representative, for expediting the processing and approval of these submissions without delay. Prompt review by ARCHITECT of submissions is of prime importance to CITY and an absolute necessity under the time restraints of the Project.

N. ARCHITECT shall prepare Change Orders, in three (3) copies, after review and approval by CITY. Architect shall assist the City in evaluating Change Order price proposals from the CMaR.

O. ARCHITECT shall conduct inspections to determine the dates of substantial completion and final completion, shall receive written guarantees and related documents assembled by the CMaR for submittal with the final Certificate of Payment, and shall prepare and present a final Certificate for Payment to the Director for CITY's approval and payment. In addition, ARCHITECT shall make an inspection of the Project at least thirty (30) days before the expiration of the two (2) year Warranty period.

P. ARCHITECT shall assemble and deliver to CITY a set of reproducible Record Construction Drawings showing significant changes in the work during the construction process and final location of mechanical and electrical service lines and outlets, based upon marked-up prints of drawings and other data furnished by the CMaR to ARCHITECT. ARCHITECT shall provide Record Construction Specifications which will identify the changes in the specifications on a sheet, which sheet will be inserted at the beginning of each section to which they pertain.

2.2. Project Representation Beyond Basic Services. In the event that circumstances should develop whereby continuous, full-time representation at the Project site is required, the conditions under which the representation shall be furnished, and the Project representatives selected, employed, and directed shall be governed by a written supplemental agreement between CITY and ARCHITECT.

2.3. Additional Services. ARCHITECT shall perform Additional Services, as requested by CITY, after a not-to-exceed amount has been mutually agreed upon in writing by Director and ARCHITECT. Where authorization is required, ARCHITECT shall not proceed until the appropriate City Council authorization or City Manager approval has been obtained. If any Additional Services are authorized in writing by Director in advance of their performance, they shall be paid for in the manner agreed to at the time of authorization or as specifically provided for in the proposal letter.

2.3.1. Preparing Change Orders and supporting data or revising previously approved plans when the changes in approved Plans and Specifications are required by CITY. If changes are required to be made because of error, oversight, clarification, discrepancy, or budget overruns in the work of Contractor, CITY shall not be liable to compensate ARCHITECT for Additional Services or expenses in such connection.

2.3.2. Providing consultation concerning replacement of any Project work damaged by fire or other cause during construction, and furnishing professional services as may be required in connection with the replacement of such work, unless damage was the result of ARCHITECT's error.

2.3.4. Providing other extraordinary professional services over and above the Contract requirements, where required and requested by CITY, including extraordinary professional services which might result if CITY decides to "fast-track" the Project.

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ARTICLE 3  
CITY'S RESPONSIBILITIES

3.1. CITY shall have the following responsibilities under this Contract:

3.1.1. To provide full information regarding CITY's requirements for the Project.

3.1.2. To designate, when necessary, representatives authorized to act on CITY's behalf.

3.1.3. To examine documents submitted by ARCHITECT and render decisions pertaining thereto promptly, in order to avoid unreasonable delay in the orderly progress of ARCHITECT's work.

3.1.4. To observe the procedure of issuing orders to its Project architects only through ARCHITECT.

3.1.5. To furnish, or direct ARCHITECT to obtain at CITY's expense, a certified survey of the site, giving, as required, grades and lines of streets, alleys, pavements and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, contours and other data pertaining to existing buildings or adjacent to the site, other improvements and trees, full information as to available service and utility lines, both public and private, and test borings, pits, reports and soil bearing values and other necessary operations for determining subsoil conditions.

3.1.6. To furnish, or pay for structural, mechanical, chemical, soil mechanics, and other laboratory tests, reports, and inspections as required by law or the Contract Documents.

3.1.7. To furnish the building permit without charge (electrical, plumbing and other trade permits will be the responsibility of all contractors on the Project; any charges which may be assessed for water utility service connection fees will be paid by CITY and are not to be included by ARCHITECT in the Specifications for the Project).

3.2. CITY also agrees to provide ARCHITECT with items such as: one (1) copy of the General Provisions; Instructions to Bidders and Bid Proposal Forms; Prevailing Wage Rate Schedules; Contract and Bond Forms; Bid Advertisement Form; and other information and materials as may be necessary and practicable for the orderly and expeditious process of the Project work and the awarding of any and all Construction Contracts for the Project. To the extent practicable, these documents shall all be utilized in the preparation of the Construction Documents.

3.3. ARCHITECT shall be entitled to reasonably rely on the accuracy of the services, information, surveys, reports, and other materials which CITY shall furnish at its expense.

3.4. CITY shall arrange and make all provisions for access to the site or other public or private property as required by ARCHITECT and ARCHITECT's consultants to perform the services under this Contract.

3.5. If CITY observes or otherwise becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents, it shall give prompt written notice thereof to ARCHITECT.

ARTICLE 4  
FIXED LIMIT OF TOTAL BUDGETED CONSTRUCTION COST

4.1. To accommodate the Budgeted Construction Cost, the ARCHITECT shall determine what materials, equipment, component systems, and types of construction are to be included in the Construction Documents, may make reasonable adjustments in the scope of the Project, and may include in the Bid Documents alternate bids. ARCHITECT is responsible for ensuring that the CMaR has adequate information for estimating the construction costs throughout the Project.

4.2. It is recognized that neither the ARCHITECT, the CMaR, nor the CITY has control over the cost of labor, materials, or equipment, and that the ARCHITECT and the CITY do not have control over the CMaR's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. However, ARCHITECT is required to provide independent cost estimates under this Contract, to compare its estimates with those of the CMaR, and to work cooperatively with the CMaR in achieving a design which meets the requirements of this Contract. ARCHITECT has the responsibility to provide a design for the Project which can be constructed within the Fixed Limit of the Construction Budget, and has the alternatives described in 4.1. to achieve that responsibility. Therefore, any provision to the contrary notwithstanding, it is understood and agreed that regardless of fault, ARCHITECT and CMaR shall be jointly and severally liable for ensuring that the total cost of all Work to be performed by the CMaR, as measured by the lowest bona fide GMP proposal, does not exceed the Budgeted Construction Cost. If modifications to the Drawings and Specifications are necessary to comply with the Fixed Construction Budget, the ARCHITECT shall so modify the Drawings and Specifications without charge to the CITY.

ARTICLE 5  
REIMBURSABLE EXPENSES

5.1. Reimbursable Expenses are in addition to the fees for Basic and Additional Services and include actual expenditures made by the ARCHITECT, its employees, or its consultants in the interest of the Project for the incidental expenses set forth below. All reimbursable expenses must be authorized in advance. An allowance for Reimbursable Expenses not to exceed **\$106,500** is established as a condition of this Contract.

5.2. When authorized in advance by CITY, reasonable transportation and living expenses of principals and employees when traveling in connection with the Project, essential long distance calls and telegrams, fees paid for the securing of approval of authorities having jurisdiction over the Project, postage, and reproduction of Drawings and Specifications, excluding copies for ARCHITECT's office use and the required number of sets at each phase of the work for CITY's review, approval, and records, shall be reimbursable.

5.3. If authorized in advance by CITY, the expense of extraordinary overtime work, not due to delays or other breach of this Contract by ARCHITECT, requiring higher than regular rates, renderings, slides, photographs, or models for CITY's use shall be reimbursable.

5.4. Any fees charged to ARCHITECT by the Texas Department of Licensing and Regulation for review and approval of Design of Development documents shall be reimbursable.

5.5. If the employment of special consultants for specialized design services is authorized by CITY, (for example, special lighting and landscape consultants, special soil mechanics engineers, communications consultants, etc.), fees for other than normally required architectural, structural,

mechanical, electrical, and civil engineering services and the Basic Services defined above shall be reimbursable.

ARTICLE 6  
PAYMENTS TO THE ARCHITECT

6.1. Payments on account of ARCHITECT's Basic Services shall be made monthly in proportion to the degree of completion of each Phase, but shall not exceed the following percentages of the Basic Fee at the completion and approval of each Phase of the work:

Schematic Design Phase	20%
Design Development Phase	20%
Construction Documents	30%
Bidding Phase	05%
Construction Phase (periodic payments based upon percentage of construction completed)	25%
	100%

6.2. Payments for authorized Reimbursable Expenses and Additional Services for ARCHITECT, as referred to above, shall be made following presentation, review and approval of the ARCHITECT's detailed invoice in triplicate.

6.3. No **deduction** shall be made from ARCHITECT's compensation on account of penalty, liquidated damages, or other sums withheld from payments to contractors.

6.4. No **addition** shall be made to ARCHITECT's compensation based upon Project construction claims, whether paid by CITY or denied.

6.5. If any work designed or specified by ARCHITECT during any Phase is abandoned or suspended, in whole or in part, ARCHITECT is to be paid for the services performed on account of it prior to receipt of written notice from the CITY through its Director of such abandonment or suspension.

6.6. ARCHITECT's invoices to CITY shall provide complete information and documentation to substantiate ARCHITECT's charges, and shall be in a form to be specified by Owner's Representative. All payments to ARCHITECT shall be made on the basis of the invoices submitted by ARCHITECT and approved by Owner's Representative and Director. Such invoices shall conform to the schedule of services and costs in connection therewith set out hereinabove. All Reimbursable Expenses shall be clearly shown. Should additional backup material be requested by the Director or Owner's Representative, ARCHITECT shall comply promptly with the request.

6.7. CITY may review any and all of the services performed by ARCHITECT under this Contract. CITY is granted the right to audit, at CITY's election, all of ARCHITECT's records and billings relating to the performance of this Contract. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Contract shall be subject to CITY's rights as may be disclosed by an audit under this Section. ARCHITECT agrees to retain the records for a minimum of three (3) years following completion of this Contract.

6.8. CITY reserves the right to correct any error that may be discovered in any invoice that may have been paid to ARCHITECT and to adjust the same to meet the requirements of the Contract. Following approval of invoices, CITY will endeavor to pay ARCHITECT promptly, but not later

than the time period required under the Texas Prompt Payment Act; however, under no circumstances shall ARCHITECT be entitled to receive interest on payments which are late because of a good faith dispute between ARCHITECT and CITY or because of amounts which CITY has a right to withhold under this Contract or state law.

6.9. CITY may, at its option, offset any amounts due and payable under this Contract against any debt (including taxes) lawfully due to CITY from ARCHITECT, regardless of whether the amount due arises pursuant to the terms of this Contract or otherwise and regardless of whether or not the debt due to CITY has been reduced to judgment by a court.

ARTICLE 7  
ARCHITECT'S ACCOUNTING RECORDS

7.1. Records of ARCHITECT's Consultant and Reimbursable Expenses pertaining to the Project, and records of all other accounts between CITY and ARCHITECT shall be kept on the basis of generally accepted accounting principles and shall be available to CITY or its authorized representatives at mutually convenient times.

ARTICLE 8  
TERMINATION, DEFAULT, TIME OF THE ESSENCE, AND FORCE MAJEURE

8.1. CITY, acting through the Director, may at its option and without prejudice to any other remedy CITY may be entitled to at law, in equity, or elsewhere under this Contract terminate further work under this Contract in whole or in part for cause or for the convenience of CITY by giving at least fifteen (15) days advance written notice of termination to ARCHITECT, with the understanding that all performance being terminated shall cease as of a date to be specified in the notice. CITY also has the right to request, at its option, that ARCHITECT assign and transfer to CITY all of ARCHITECT's rights and obligations under existing subconsultant contracts it has to perform Project work in the event of termination under this Section. CITY shall compensate ARCHITECT in accordance with the terms of this Contract for Project work properly performed prior to the date of termination specified in the notice, following review and acceptance of same by the Director. ARCHITECT shall not, however, be entitled to lost or anticipated profits should CITY choose to exercise its option to terminate this Contract. All plans, field surveys, maps, cross sections and other data, designs and work related to the Project shall become the property of CITY upon termination of this Contract and shall be promptly delivered to CITY in a reasonably organized form without restriction on future use. Should CITY subsequently contract with a new ARCHITECT for continuation of services on the Project, ARCHITECT shall cooperate in providing information.

8.2. Nothing contained in Section 8.1 above shall require CITY to pay for any work which is unsatisfactory as determined by the Director or which is not submitted in compliance with the terms of this Contract. CITY shall not be required to make any payments to ARCHITECT when ARCHITECT is in default under this Contract, nor shall this Article constitute a waiver of any right, at law and at equity, which CITY may have if ARCHITECT is in default, including the right to bring legal action for damages or to force specific performance of this Contract.

8.3. ARCHITECT understands and agrees that time is of the essence of this Contract. Any failure of ARCHITECT to complete the services for each phase of this Contract within the agreed Project Performance Schedule will constitute a material breach of this Contract. ARCHITECT

shall be fully responsible for its delays or for failures to use its best efforts in accordance with the terms of this Contract. Where damage is caused to CITY due to ARCHITECT's failure to perform in these circumstances, CITY may withhold, to the extent of such damage, ARCHITECT's payments owed under this Contract without waiver of any of CITY's additional legal rights or remedies.8.4. Neither CITY nor ARCHITECT shall be deemed in violation of this Contract if it is prevented from performing any of its obligations hereunder by reasons for which it is not responsible or circumstances beyond its control. However, notice of such impediment or delay in performance must be timely given in writing, and all reasonable efforts undertaken to mitigate its effects.

#### ARTICLE 9 OWNERSHIP OF DOCUMENTS

9.1. All Plans and drawings will be prepared and submitted by ARCHITECT to CITY for approval on a minimum 24-inch by 36-inch or maximum 32-inch by 42-inch drafting sheets, with all lettering processed in ink or pencil and clearly legible when the sheets are reproduced and reduced to half size.

9.2. All ARCHITECT's designs and work product under this Contract including, but not limited to, CAD files, Tracings, Drawings, Estimates, Specifications, Investigations, Studies and other documents, completed or partially completed, shall be the property of the CITY, to be used as CITY desires, without restriction on future use; by execution of this Contract and in consideration of the fee for services to be paid under the Contract, ARCHITECT hereby conveys, transfers and assigns to CITY all rights under the Federal Copyright Act of 1976 (or any successor copyright statute), as amended, all common law copyrights and all other intellectual property rights acknowledged by law in the Project designs and work product developed under this Contract. Copies may be retained by ARCHITECT. ARCHITECT shall be liable to CITY for any loss or damage to any such documents while they are in the possession of or while being worked upon by the ARCHITECT or anyone connected with ARCHITECT, including agents, employees, consultants or subconsultants. All documents so lost or damaged shall be replaced or restored by ARCHITECT without cost to CITY.

9.3. Upon completion of the construction of the Project, ARCHITECT shall, within thirty (30) calendar days following final inspection, deliver to CITY the reproducible Record Drawings and Record Specifications as previously described in Section 2.1.5.P. hereinabove. In addition, ARCHITECT shall submit originals of all documents listed under Section 9.2, modified to actual as-built conditions.

9.4. ARCHITECT shall have no liability for changes made to the drawings by other ARCHITECTs subsequent to the completion of the Project. Any such change shall be sealed by the ARCHITECT making that change and shall be appropriately marked to reflect what was changed or modified.

#### ARTICLE 10 RESPONSIBILITY FOR WORK; INDEMNIFICATION; INSURANCE

10.1. Approval by the CITY shall not constitute nor be deemed a release of the responsibility and liability of ARCHITECT, its employees, subconsultants, agents and consultants for the accuracy and competency of their Designs, Working Drawings, Specifications or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by the CITY for any defect, error or omission in the Designs, Working Drawings, and Specifications or other documents prepared by ARCHITECT, its employees, subconsultants, agents and consultants.

**10.2. TO THE FULLEST EXTENT PERMITTED BY LAW, ARCHITECT DOES HEREBY COVENANT AND AGREE TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, AND ALL OF ITS OFFICERS, AGENTS, AND EMPLOYEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY AND ALL LIABILITY FOR DAMAGE (INCLUDING EXPERT/CONSULTANT FEES, REASONABLE ATTORNEYS' FEES, AND EXPENSES OF ALTERNATIVE DISPUTE RESOLUTION) TO THE EXTENT THAT THE DAMAGE IS CAUSED BY OR RESULTS FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY ARCHITECT OR THE ARCHITECT'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL. THIS OBLIGATION SHALL NOT BE DEFEATED BY THE CONTRIBUTORY, JOINT, OR CONCURRENT NEGLIGENCE OR FAULT OF THE CITY, BUT SHALL BE LIMITED PROPORTIONATELY TO THE EXTENT OF THAT NEGLIGENCE OR FAULT, AS ULTIMATELY ADJUDGED BY THE FINDER OF FACT. ARCHITECT SHALL BE RESPONSIBLE FOR ALL ACTS OF NEGLIGENCE, AND/OR INTENTIONAL TORTS OF ARCHITECT'S SUBCONTRACTORS AND ANY AND ALL SUB-SUBCONTRACTORS AND ARCHITECT'S SUBCONSULTANTS AND ANY AND ALL SUB-SUBCONSULTANTS THAT IMPACT THE PROJECT OR CAUSE THE CITY TO SUFFER DAMAGES. IT IS UNDERSTOOD AND AGREED THAT ANY FAILURE TO COMPLY WITH THE APPLICABLE STANDARD OF CARE BY THE ARCHITECT'S SUBCONTRACTORS, SUBCONSULTANTS, SUB-SUBCONTRACTORS, OR SUB-SUBCONSULTANTS SHALL BE DEEMED TO BE A FAILURE BY ARCHITECT TO DISCHARGE THE STANDARD OF CARE OWED BY ARCHITECT TO THE CITY UNDER THIS CONTRACT.**

**10.3. INDEMNIFIED ITEMS SHALL INCLUDE REASONABLE ATTORNEY'S FEES AND COSTS, EXPERT AND CONSULTANT FEES, COURT COSTS AND SETTLEMENT COSTS IN PROPORTION TO THE ARCHITECTS'S LIABILITY.**

**10.4. ARCHITECT AGREES THAT ARCHITECT IS SOLELY RESPONSIBLE FOR THE SAFETY OF ARCHITECT AND ITS OFFICERS, AGENTS AND EMPLOYEES IN THE PERFORMANCE OF THIS CONTRACT AND AGREES TO HOLD HARMLESS CITY, ITS OFFICERS AND AGENTS, FROM AND AGAINST ANY LIABILITY ARISING FROM THE PERSONAL INJURY OR DEATH OF THE ARCHITECT OR THE OFFICERS, AGENTS OR EMPLOYEES OF THE ARCHITECT ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT.**

**10.5. INDEMNITY FOR PATENT AND COPYRIGHT VIOLATIONS.**

**10.5.1. ARCHITECT FURTHER AGREES TO COMPLETELY DEFEND AND INDEMNIFY CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, AGAINST A CLAIM THAT ANY OF THE DESIGNS, PLANS OR SPECIFICATIONS PREPARED BY ARCHITECT, ITS EMPLOYEES, ASSOCIATES, OR SUBCONSULTANTS, PURSUANT TO THIS CONTRACT INFRINGE A U.S. PATENT OR COPYRIGHT DIRECTLY, INDIRECTLY OR CONTRIBUTORILY, REGARDLESS OF WHETHER OR NOT CITY IS PROVEN TO HAVE ACTIVELY INDUCED OR CONTRIBUTED TO THE INFRINGEMENT. ARCHITECT WILL PAY ANY AND ALL RESULTING COSTS, DAMAGES (INCLUDING EXPERT FEES AND COSTS) AND ATTORNEY'S FEES**

**FINALLY AWARDED, PROVIDED THAT (1) CITY PROMPTLY NOTIFIES ARCHITECT IN WRITING OF THE CLAIM, AND (2) ARCHITECT HAS SOLE CONTROL OF THE DEFENSE AND ALL RELATED SETTLEMENT NEGOTIATIONS.**

**10.5.2. IF ARCHITECT DEFENDS CITY AGAINST SUCH CLAIMS, THE CITY ATTORNEY OF CITY SHALL BE KEPT INFORMED OF SETTLEMENT NEGOTIATIONS, AND SHALL EXECUTE ANY SETTLEMENT AGREEMENT REACHED BY ARCHITECT ON CITY'S BEHALF.**

**10.5.3. ARCHITECT'S DEFENSE AND INDEMNIFICATION UNDER THIS SUBSECTION IS CONDITIONED ON CITY'S AGREEMENT THAT IF ANY OF THE DESIGNS, PLANS, OR SPECIFICATIONS, BECOME, OR IN ARCHITECT'S OPINION ARE LIKELY TO BECOME, THE SUBJECT OF SUCH A CLAIM, CITY WILL PERMIT ARCHITECT, AT ARCHITECT'S OPTION AND EXPENSE, EITHER TO PROCURE THE RIGHT FOR CITY TO CONTINUE USING THE DESIGNS, PLANS OR SPECIFICATIONS OR TO REPLACE OR MODIFY THE SAME SO THAT THEY BECOME NON-INFRINGEMENT; AND IF NEITHER OF THE FOREGOING ALTERNATIVES IS AVAILABLE ON TERMS WHICH ARE REASONABLE IN ARCHITECT'S JUDGMENT, CITY, TO THE EXTENT CITY IS LEGALLY ABLE TO DO SO, WILL CEASE USING THE DESIGNS, PLANS, OR SPECIFICATIONS ON THE WRITTEN REQUEST OF ARCHITECT, IN WHICH INSTANCE CITY HAS THE SOLE OPTION TO EITHER REQUIRE ARCHITECT TO PERFORM NEW DESIGN WORK AT ARCHITECT'S SOLE EXPENSE, OR TO TERMINATE THIS CONTRACT.**

**10.5.4. ARCHITECT HAS NO LIABILITY UNDER THIS SECTION FOR ANY CLAIM OF INFRINGEMENT BASED UPON THE MODIFICATION OR ALTERATION OF THE DESIGNS, PLANS, OR SPECIFICATIONS PREPARED UNDER THIS CONTRACT SUBSEQUENT TO THE PROJECT BY CITY, OR BY ANY ARCHITECTURAL CONSULTANT SUBSEQUENTLY EMPLOYED BY CITY.**

**10.5.5. THE FOREGOING STATES THE ENTIRE OBLIGATION OF ARCHITECT WITH RESPECT TO INFRINGEMENT OF PATENTS AND COPYRIGHTS.**

10.6. ARCHITECT shall procure, pay for, and maintain and shall require its subcontractors and subconsultants and their sub-subcontractors and sub-subconsultants to procure, pay for, and maintain during the term of this Contract, with a company authorized to do business in the State of Texas and otherwise acceptable to CITY, the minimum insurance coverage contained in Certificate of Insurance, attached hereto as **EXHIBIT 2** and made a part of this Contract.

10.7. Approval, disapproval or failure to act by CITY regarding any insurance supplied by ARCHITECT or its subcontractors or subconsultants shall not relieve ARCHITECT of full responsibility or liability for damages, errors, omissions, or accidents as set forth in this Contract. The bankruptcy or insolvency of ARCHITECT's insurer or any denial of liability by ARCHITECT's insurer shall not exonerate ARCHITECT from the liability or responsibility of ARCHITECT set forth in this Contract.

10.8 ARCHITECT shall contractually obligate its subcontractors and subconsultants and those subcontractors and subconsultants shall contractually obligate their sub-subcontractors and sub-subconsultants to list the CITY as an additional insured on all insurance policies required herein.

ARTICLE 11  
ASSIGNMENT

11.1. This Contract provides for unique professional services. ARCHITECT, therefore, shall not assign, transfer, or convey its rights, obligations, or interest in this Contract, in whole or in part, without the prior written consent of the Director, which may be withheld by the Director for any reason or no reason at all.

ARTICLE 12  
COMPLIANCE WITH LAWS AND REGULATIONS

12.1. This Contract is entered into subject to and controlled by the Charter and ordinances of the CITY, as amended, and all applicable laws, rules, and regulations of the State of Texas and the Government of the United States of America. ARCHITECT shall, during the course of performance of this Contract, comply with all applicable CITY codes and ordinances, as amended, all applicable State and Federal laws, as amended, and with all applicable rules and regulations promulgated by all local, State, and national boards, bureaus, and agencies.

12.2. ARCHITECT will pay all taxes, if any, required by law arising by virtue of the services performed under this Contract. CITY is qualified for exemption from sales and use taxation pursuant to the provisions of Section 151.309 of the Texas Limited Sales, Excise, and Use Tax Act.

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ARTICLE 13  
INDEPENDENT ARCHITECT

13.1. ARCHITECT's status shall be that of an independent ARCHITECT. Except in the course and for the sole purpose of Project construction contract administration, ARCHITECT shall not be considered an agent or representative of CITY in the performance of services under this Contract. ARCHITECT shall exercise independent judgment in performing services under this Contract and is solely responsible for setting working hours, scheduling or prioritizing the work flow and determining how the work is to be performed. Notwithstanding the above, no term or provision of this Contract or act of ARCHITECT in the performance of this Contract shall be construed as making ARCHITECT an employee of CITY, or making ARCHITECT or any of its employees eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which CITY provides its employees.

ARTICLE 14  
VENUE AND GOVERNING LAW

14.1. The obligations of the parties to this Contract shall be performable in Guadalupe County, Texas, and if legal action is necessary in connection with or to enforce rights under this Contract, exclusive venue shall lie in Guadalupe County, Texas.

14.2. This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.

ARTICLE 15  
NOTICES

15.1. Any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be affected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

To CITY:  
City of Seguin  
LP  
Attn: Fire Chief Dale Skinner  
660 TX-46  
Seguin, TX 78155

To ARCHITECT:  
Martinez Architects,  
900 Rockmead, Suite 250  
Kingwood, Texas 77345

With CC to:  
Fitzpatrick Design Construction Services  
8951 Collin McKinney Pkwy  
Suite 1101  
McKinney, TX 75070

ARTICLE 16

TERM

16.1. Unless sooner terminated in accordance with the applicable provisions of this Contract, or extended by supplemental agreement approved in writing by both parties, the term of this Contract shall be from the date of its execution until final completion of the Project and all architectural/engineering and construction administration services in connection therewith, including the final one (1) year warranty inspection and resolution of any outstanding Project-related claims or disputes.

16.2. ARCHITECT understands that the Project Performance Schedule is of critical importance, and agrees to undertake all necessary efforts to expedite the performance of services required under this Contract, so that construction of the Project will be commenced as scheduled. In this regard, ARCHITECT shall proceed with sufficient qualified personnel and consultants necessary to fully and timely accomplish all services required under this Contract in the highest professional manner.

ARTICLE 17

FINANCIAL INTEREST PROHIBITED

17.1. ARCHITECT covenants and represents that ARCHITECT, its officers, employees, agents, consultants and subconsultants will have no financial interest, direct or indirect, in the purchase or sale of any product, materials or equipment that will be recommended or required for the construction of the Project.

17.2. ARCHITECT shall at all times observe and comply with all Federal, State and local laws, ordinances and regulations relating to conflicts of interest. In particular, ARCHITECT is put on notice that City will require compliance with Chapter 176 of the Texas Local Government Code (hereinafter referred to as "Chapter 176") requiring any person who contracts or seeks to contract with the City to disclose potential conflicts of interest as defined in Chapter 176 by completing the Conflict of Interest Questionnaire and returning to the City in accordance with provisions thereof. Failure to comply with any applicable laws, including provisions of Chapter 176, may result in: (1) the forfeiture by ARCHITECT of all benefits of this CONTRACT; (2) the retainage by City of all services performed by ARCHITECT; and (3) the recovery by City of all consideration, or the value of all consideration, paid to ARCHITECT pursuant to this CONTRACT.

ARTICLE 18

SEVERABILITY

18.1. In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Contract, and this Contract shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Contract.

ARTICLE 19  
COUNTERPARTS

19.1. This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. If this Contract is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms of this Contract to be executed.

ARTICLE 20  
ENTIRE AGREEMENT; NO ORAL MODIFICATION

20.1. This Contract (with all referenced Exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Contract. Except as otherwise provided elsewhere in this Contract, this Contract cannot be modified without written supplemental agreement executed by both parties.

ARTICLE 21  
FLOW DOWN TO SUBCONTRACTORS

21.1 ARCHITECT shall include in its contracts with subcontractors and subconsultants a “flow-down” provision that incorporates by reference the terms of this Contract into the subcontract. The “flow down” provision shall state: “Subcontractor assumes all obligations and responsibilities that the ARCHITECT assumes toward CITY for the ARCHITECT’s services as outlined in the Contract between ARCHITECT and CITY.” Further, ARCHITECT shall require that its subcontractors and subconsultants include the same “flow down” provision in contracts with its sub-subcontractors and sub-subconsultants.

ARTICLE 22  
CITY AS INTENDED THIRD-PARTY BENEFICIARY

22.1 ARCHITECT shall include in its contracts with subcontractors and subconsultants a provision stating that CITY is a third-party, intended beneficiary of the ARCHITECT’s contracts with its subcontractors and subconsultants and with those subcontractors’ and subconsultants’ contracts with any sub-subcontractors and sub-subconsultants. The third-party beneficiary provision shall state: “The City of SEGUIN is an intended beneficiary of the services and scope of work to be provided for in this Agreement and this Agreement is expressly made in and for the City of SEGUIN’S benefit and use. The City of SEGUIN, as an intended third-party beneficiary, may enforce the terms of this Agreement.”

Article 23  
PROFESSIONAL QUALITY

23.1 ARCHITECT shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all plans, designs, drawings, documents, estimates, specifications, reports, studies and other material (collectively, the “Project Documents”) and Services furnished by the ARCHITECT, ARCHITECT’s subcontractors and subconsultants, and any sub-subcontractors and sub-subconsultants under this Contract. ARCHITECT represents and warrants that all of the services and contemplated Project Documents are within the

ARCHITECT's scope of expertise. As such, ARCHITECT shall be liable for any deficient or sub-standard work of any subcontractors or sub-subcontractors utilized in the performance of this Contract.

23.2 ARCHITECT shall perform the services required hereunder in accordance with the prevailing standard of care by exercising the skill and ability normally required of professionals performing the same or similar services, under the same or similar circumstances, in the State of Texas. Approval by the CITY of the Project Documents, services, and incidental architectural/engineering services shall not in any way relieve the ARCHITECT of responsibility for the technical accuracy of the services performed. The CITY's review, approval or acceptance of, or payment for any of the services described herein shall not be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract.

IN WITNESS WHEREOF, the CITY OF SEGUIN has caused this Contract to be signed in its name by its City Manager, duly authorized to execute the same by the City Council, and has been signed by ARCHITECT, signing by and through its duly authorized representatives, thereby binding both parties, their successors, assigns and representatives for the faithful and full performance of the terms and provisions of this Contract.

CITY OF SEGUIN, TEXAS

ARCHITECT

BY \_\_\_\_\_  
City Manager

BY \_\_\_\_\_

ATTEST: \_\_\_\_\_

ATTEST: \_\_\_\_\_

BY \_\_\_\_\_  
City Secretary

BY \_\_\_\_\_  
Corporate Secretary of Architect

APPROVED AS TO FORM:

BY \_\_\_\_\_  
City Attorney

THE TEXAS BOARD OF ARCHITECTURAL EXAMINERS, P.O. BOX 12337, AUSTIN, TEXAS 78711-2337, OR 333 GUADALUPE, SUITE 2-350, AUSTIN, TEXAS 78701-3942, (512) 305-9000, HAS JURISDICTION OVER COMPLAINTS REGARDING THE PROFESSIONAL PRACTICES OF PERSONS REGISTERED AS ARCHITECTS IN TEXAS.

**EXHIBIT 1**  
**TO**  
ARCHITECT'S CONTRACT FOR FIRE STATION NO. 4  
**CONSTRUCTION MANAGER-AT-RISK PROJECT**

**PROPOSAL LETTER**

**EXHIBIT 2**  
**TO**  
**ARCHITECT'S CONTRACT FOR FIRE STATION NO. 4**  
**CONSTRUCTION MANAGER-AT-RISK PROJECT**

**CITY MINIMUM INSURANCE COVERAGE**