

EXHIBIT

"A"

City of Round Rock Agreement for Architectural Services for Round Rock Sports Center Expansion Project With Marmon Mok Architecture

AGREEMENT made as of the _____ (____) day of the month of February in the year Two Thousand Twenty-Three (2023).

BETWEEN the Architect's client identified as the City or the Owner:

City of Round Rock
221 East Main Street
Round Rock, Williamson and Travis Counties, Texas 78664

and the Architect:

Marmon Mok Architecture
1020 NE Loop 410
Suite 201
San Antonio, Texas 78209

For the following Project:

Professional architectural services and design services related to the design and construction of the Round Rock Sports Center Expansion located in Round Rock, Texas.

Professional services for this Project shall include, but not be limited to, Schematic Design, Design Development, Construction Documents, Bidding Phase and Construction Observation.

The Owner and the Architect agree as follows:

ARTICLE 1.1 INITIAL INFORMATION

1.1.1 This Agreement is based on the following information and assumptions.

The Architect shall furnish the delineated services, including but not limited to meeting with the Owner's representatives and others designated by the Owner to determine needs and requirements; rendering professional consultation and advice; furnishing all necessary design and contract administration services for the referenced Project; and providing other specialized services.

Architectural services shall include the submittal of plans for Texas Accessibility Standards (TAS) review, which is a requirement of federal law to comply with the ADA if the construction budget exceeds \$50,000. Owner shall pay the fees related to the submittal of plans for TAS review.

1.1.2 PROJECT PARAMETERS

1.1.2.1 The objective or use is: Expansion of the existing Round Rock Sports Center.

The referenced Project consists of professional planning, design, and construction services related to the following:

The expansion of the existing Round Rock Sports Center.

1.1.2.2 The physical parameters are:

The Project is to be located on City-owned property at 2400 Chisholm Trail Road, Round Rock, Texas 78681.

1.1.2.3 The Owner's Program is:

The program of development shall include but not be limited to the following elements: Confirm Project Program and Space Requirements, Schematic Design Phase, Design Development Phase, Construction Documents Phase, Bidding Phase and Construction Administration Phase. The tasks performed as a part of each element by Architect shall be as stated in Exhibit "A" and Exhibit "B," both documents attached hereto and incorporated herein by reference for all purposes. The parties agree that elements or portions thereof, may be omitted by the Owner for reasons including meeting the Project budget and Project requirements.

Schedule

Initial proposed schedule for the Project is incorporated in Exhibit "C," attached hereto and incorporated herein by reference for all purposes. The Architect will maintain a detailed project schedule in Microsoft Project or in an alternative format approved by the Owner throughout the duration of the Project.

1.1.2.4 The financial parameters are as follows:

The Fee Schedule relative to this Agreement is set forth in Exhibit "D," attached hereto and incorporated herein by reference for all purposes, and is as follows:

A. **Basic Services:**

1. The Owner agrees to pay the Architect a total sum not to exceed **One Million Three Hundred Ninety Thousand Nine Hundred Sixty and No/100 Dollars (1,390,960.00)** for Basic Services, including reimbursable expenses as set forth in the attached Exhibit "D." Said sum is a not-to-exceed amount, and shall be paid as delineated in the attached Exhibit "D." Such not-to-exceed sum includes amounts paid for all items designated as "Project Basic Services" in the attached Exhibit "D."
2. Payment for reimbursable expenses, including administrative charges and out-of pocket expenses, shall not exceed the maximum sum of **Sixteen Thousand Five Hundred and No/100 Dollars (\$16,500.00)** and shall be *included* in the not-to-exceed for Basic Services. Reimbursable expenses shall be paid as set forth herein.

Travel reimbursements may be made for meals, travel, lodging as follows:

- (1) all travel shall be in coach and not in business class;
- (2) toll road charges if provided with documentation of the date and time the toll charges were incurred;
- (3) lodging shall be in a standard room in a hotel located within Round Rock's City limits; and
- (4) meals shall be reimbursed at an amount not-to-exceed \$50.00 per day. This amount includes tips.

Travel reimbursements shall only apply to travel in excess of forty (40) miles. Architect is responsible for providing all receipts to Owner for the reimbursement of items set forth above. Receipts shall be provided to the Owner within sixty (60) days of the expenditure to qualify for reimbursement and shall provide enough detail for the Owner to determine the requested reimbursements meet the criteria set forth herein. It shall be in the sole



discretion of the Owner to determine if expenses submitted by Architect are reasonable and qualify for reimbursement pursuant to the terms of the Agreement.

Cost of personal entertainment, amusements, alcoholic beverages, traffic citations, personal items or illegal activities will not be reimbursed. Expenses due to vacations or personal trips in conjunction with travel are not reimbursable. Adequate travel time is allowed, but travel expenses are not paid for absences not required by Owner business.

B. Additional Services

Additional services are defined as any services *not* included as part of the Basic Services, including revisions to previously-approved plans that necessitate additional work for the Architect, substantive changes in Project scope, items set forth in Exhibit "D," or additional work necessitated by unknown or reasonably unforeseen circumstances. The City shall be authorized to pay an amount not-to-exceed **One Hundred Eight Thousand Five Hundred and No/100 Dollars (\$108,500.00)** for additional services solely requested by the City and agreed upon by the City and Architect. Any additional services exceeding \$108,500.00 shall be performed under a supplemental agreement negotiated at a time subsequent to this Agreement.

C. Total Liability for Payments:

The total liability for payment for Basic Services and Additional Services paid pursuant to paragraph A and paragraph B above, shall not exceed **One Million Four Hundred Ninety-Nine Thousand Four Hundred Sixty and No/100 Dollars (\$1,499,460.00).**

1.1.2.5 The time parameters are:

Services hereunder shall commence within ten (10) days upon receipt by the Architect of a Notice to Proceed from the Owner. Completion date shall be agreed upon by Owner and Architect. Other time parameters or adjustments to time parameters may be determined at a later date by mutual agreement of the parties.

1.1.2.6 The proposed procurement or delivery method for the Project is: Undetermined.

1.1.3 **PROJECT TEAM**

1.1.3.1 The Owner's Designated Representatives are:

Laurie Hadley, City Manager
City of Round Rock
221 East Main Street
Round Rock, Texas 78664

Richard Will, Building Construction Manager
City of Round Rock
General Services Department
212 Commerce Boulevard
Round Rock, Texas 78664

1.1.3.2 The Owner's consultants and contractors are:

Architect of Record / Prime Firm:

Marmon Mok Architecture
1020 NE Loop 410
Suite 201



San Antonio, Texas 78209

Consultants:

Any additional Consultants are to be submitted to Owner and approved by Owner.

1.1.3.3 The Architect's Designated Representative is:

Marmon Mok Architecture
Greg Houston, Partner, Lead Designer
Shawn Bacon, Project Manager, AE Team Primary Contact
1020 NE Loop 410
Suite 201
San Antonio, Texas 78209
Cedar Park, Texas 78613

1.1.3.4 The consultants retained at the Architect's expense shall be submitted to and approved by Owner.

1.1.4 Duties, responsibilities and limitations of authority of the Architect shall not be restricted, modified or extended without written agreement of the Owner and the Architect.

1.1.5 It is expressly understood and agreed by and between the parties hereto that any alteration in schedule, compensation and Change in Services shall be affected only by Supplemental Agreement hereto. Any such Supplemental Agreement to this Agreement must be duly authorized by appropriate City Council or City Manager action.

ARTICLE 1.2 RESPONSIBILITIES OF THE PARTIES

1.2.1 The Owner and the Architect shall fully cooperate with one another to fulfill all of their respective obligations required under this Agreement. Both parties shall endeavor during the full term hereof to maintain good working relationships among all members of the Project team.

1.2.2 OWNER

1.2.2.1 Unless otherwise provided under this Agreement, the Owner shall provide full information in a timely manner regarding requirements for and limitations on the Project.

1.2.2.2 The Owner shall establish and periodically update the budget for the Project, including that portion allocated for the Cost of the Work, the Owner's other costs, and reasonable contingencies related to all costs.

1.2.2.3 The Owner's Designated Representatives identified in Paragraph 1.1.3.1 shall be authorized to act on the Owner's behalf with respect to the Project. The Owner or Owner's Designated Representatives shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

1.2.2.4 The Owner may furnish the services of consultants other than those designated in Paragraph 1.1.3.2 or authorize the Architect to furnish them as a Change in Services when such services are requested by the Architect and are reasonably required by the scope of the Project or a change in the scope of the Project. Any service furnished by the Architect at the Owner's request must be approved by the Owner.

1.2.2.5 Unless otherwise provided in this Agreement, and if requested in writing, the Owner shall furnish or pay for 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.



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

1.2.2.7 Each party shall provide prompt written notice to the other if either becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's Instruments of Service.

1.2.2.8 The Owner will furnish building permits without charge. Electrical, plumbing and other trade permits will be the responsibility of the construction contractor. Any charges which may be assessed for tap fees will be paid by the Owner and are not to be included by the Architect in the specifications for the Project.

1.2.2.9 Owner agrees to pay the actual costs of review fees associated with Texas Building Accessibility reviews, reviews by other authorities having jurisdiction, and any other required filing fees.

1.2.2.10 The Owner will provide the Architect with miscellaneous items such as the Project Facility Program, one digital copy of the City of Round Rock General and Supplementary Conditions for Building Construction, Wage Rates, Contract and Bond Forms, and such other information and materials as may be necessary and practicable for the orderly and expeditious progress of the work and the awarding of the construction contract. To the extent practicable, these documents shall be utilized in the preparation of the construction documents.

1.2.2.11 The Owner will provide timely review and response to inquiries in order to maintain an orderly progression.

1.2.2.12 Any information related to design standards and Owner-furnished equipment specifications not provided pursuant to Section 1.2.2.10 above and desired by the Architect from the Owner must be requested by the Architect in writing during the initial Phase of the Project.

1.2.3 ARCHITECT

1.2.3.1 The services performed by the Architect, the Architect's employees and the Architect's consultants shall be as enumerated in Article 1.4 and as enumerated elsewhere herein, in attached and accompanying documents, in supplemental documents, and in related documents.

1.2.3.2 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Architect shall submit for the Owner's approval a detailed schedule in Microsoft Project or an approved alternative format for the performance of the Architect's services which initially shall be consistent with the time periods established in Exhibit "B" and which may be adjusted, if necessary and approved by the Owner, as the Project proceeds. This 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. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the Architect or the Owner.

1.2.3.3 The Architect's Designated Representative identified in Paragraph 1.1.3.3 shall be authorized to act on the Architect's behalf with respect to the Project.

1.2.3.4 The Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants, similar agreements to maintain the confidentiality of information specifically designated as confidential by the Owner.

1.2.3.5 Except with the Owner's knowledge and written 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 or compromise the performance of the approved schedule for this Project.

1.2.3.6 The Architect shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project.

1.2.3.7 The Architect shall be entitled to reasonably rely on the accuracy and completeness of services and information furnished by the Owner. Each party shall provide prompt written notice to the other if either becomes aware of any errors, omissions or inconsistencies in such services or information.

ARTICLE 1.3 TERMS AND CONDITIONS

1.3.1 COST OF THE WORK

1.3.1.1 The Cost of the Work shall be the total cost or, to the extent the Project is not completed, the estimated cost to the Owner of all elements of the Project designed by the Architect.

1.3.1.2 The Cost of the Work shall include the cost at reasonable current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, for the Contractor's overhead and profit.

1.3.1.3 The Cost of the Work does not include the compensation of the Architect and the Architect's consultants, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the Owner.

1.3.2 INSTRUMENTS OF SERVICE

1.3.2.1 Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service for use by both the Owner and Architect. Both parties shall maintain co-ownership/rights to the design and documents. All of the Architect's designs and work product under this Agreement, including but not limited to Tracings, Drawings, Estimates, Specifications, Investigations, Studies and other documents, shall be used as the Owner desires; by execution of this Agreement and in confirmation of the fee for services to be paid under this Agreement, the Architect hereby conveys, transfers and assigns to the Owner 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 Agreement. Copies may be retained by the Architect. The Architect shall be liable to the Owner 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 the Architect, including agents, employees, consultants or subcontractors. All documents so lost or damaged shall be replaced or restored by the Architect without cost to the Owner.

1.3.2.2 Upon execution of this Agreement, the Architect grants to the Owner permission to reproduce the Architect's Instruments of Service for purposes of constructing, using and maintaining the Project, provided that the Owner shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar permission from the Architect's consultants consistent with this Agreement. Upon termination of the Agreement, the Owner is permitted to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service for the purposes of completing, using and maintaining the Project or additional projects.

1.3.2.3 The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any permission granted herein to another party without the prior written agreement of the Architect. However, the Owner shall be permitted to authorize the Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of the Work. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is permitted. 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.

1.3.2.4 Prior to the Architect providing to the Owner any Instruments of Service in electronic form or the Owner providing to the Architect any electronic data for incorporation into the Instruments of Service, the Owner and the Architect shall by separate written agreement set forth the specific conditions governing the format of such Instruments of Service or electronic data, including any special limitations not otherwise provided in this Agreement.

1.3.2.5 All plans and drawings will be prepared and submitted digitally by the Architect to the Owner for approval on a minimum 24-inch by 36-inch format, with all lettering clearly legible when the sheets are reproduced and reduced to half size.

1.3.2.6 Upon completion of the construction of the Project, the Architect shall, within thirty (30) calendar days from receipt of completed final-as-built mark-ups from the contractor, deliver to the Owner the reproducible Record Drawings and Record Specifications as described supplementally herein. In addition, the Architect shall submit originals of all documents listed under Section 1.3.2.1 modified to actual as-built conditions as provided by the General Contractor.

1.3.2.7 The Architect shall have no liability for changes made to the drawings. Any such change shall be sealed by the architect making that change and shall be appropriately marked to reflect what was changed or modified. To the extent permitted by law, the Owner agrees to indemnify, defend and hold harmless the Architect for any claims, damages, suits and loss of every kind and nature for the unauthorized re-use of the Architect's Instruments of Service.

1.3.3 CHANGE IN SERVICES

1.3.3.1 Change in Services of the Architect, including services required of the Architect's consultants, may be accomplished after execution of this Agreement, without invalidating the Agreement, if mutually agreed in writing. It is expressly understood and agreed by and between the parties hereto that any alteration in schedule, compensation and Change in Services shall be affected only by Supplemental Agreement hereto. Any such Supplemental Agreement to this contract must be duly authorized by appropriate City Council or City Manager action.

1.3.4 MEDIATION

1.3.4.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation. 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 lien notice or filing deadlines prior to resolution of the matter by mediation.

1.3.4.2 The Owner and the Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation. Request for mediation shall be filed in writing with the other party to this Agreement, and mediation shall proceed in advance of legal or equitable 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.

1.3.4.3 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.

1.3.5 ARBITRATION

1.3.5.1 The Owner and the Architect hereby expressly agree that no claims or disputes between the Owner and the Architect arising out of or relating to the contract documents or a breach thereof shall be decided by any arbitration proceeding, including, without limitation, any proceeding under the Federal Arbitration Act (9 U.S.C. Section 1-14) or any applicable state arbitration statute, except that in the event that the Owner is subject to an arbitration proceeding related to the Project, not initiated by the Owner or the Architect, the Architect consents to be joined in

the arbitration proceeding if the Architect's presence is required or requested by the Owner for complete relief to be accorded in the arbitration proceeding.

1.3.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

1.3.6.1 The Architect and the 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 in accordance with Section 1.3.8.

1.3.7 MISCELLANEOUS PROVISIONS

1.3.7.1 This Agreement shall be governed by the laws of the state of Texas, and venue shall lie in Williamson County, Texas.

1.3.7.2 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion. In no event shall such statutes of limitations commence to run any later than the date when the Architect's services are substantially completed.

1.3.7.3 To the extent damages are covered by property insurance during construction, the Owner and the Architect waive all rights against each other. The Owner, 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.

1.3.7.4 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 the Architect.

1.3.7.5 Unless otherwise provided in this Agreement, the Architect and the Architect's consultants 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.

1.3.7.6 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.

1.3.7.7 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 seven (7) days prior to the requested dates of execution. The Architect shall not be required to execute certificates that would require knowledge, services or responsibilities beyond the scope of this Agreement.

1.3.7.8 The Owner and the Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other.

1.3.7.9 All Exhibits to the Contract are incorporated herein as a part of the Contract. Any inconsistencies or conflicts in Contract and Exhibits shall be resolved by giving preference to pages one (1) through ten (10) of the Contract.

1.3.7.10. In accordance with Chapter 2271, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of this contract. The signatory executing this Agreement on behalf of Architect verifies Architect does not boycott Israel and will not boycott Israel

during the term of this Agreement.

1.3.7.11. In accordance with Chapter 2274, Texas Government Code, a governmental entity may not enter into a contract with a company with at least ten (10) full-time employees for a value of at least One Hundred Thousand and No/100 Dollars (\$100,000.00) unless the contract has a provision verifying that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The signatory executing this Agreement on behalf of Architect verifies Architect does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and it will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

1.3.7.12. In accordance with Chapter 2274, Texas Government Code, a governmental entity may not enter into a contract with a company with at least ten (10) full-time employees for a value of at least One Hundred Thousand and No/100 Dollars (\$100,000.00) unless the contract has a provision verifying that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract against a firearm entity or firearm trade association. The signatory executing this Agreement on behalf of Architect verifies Architect does not boycott energy companies, and it will not boycott energy companies during the term of this Agreement.

1.3.8 TERMINATION OR SUSPENSION

1.3.8.1 If the Owner fails to make payments to the Architect in substantial compliance with this Agreement, such failure may be considered substantial nonperformance and cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, prior to suspension of services, the Architect shall give fifteen (15) days' written notice to the Owner. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all non-disputed sums due prior to suspension. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

1.3.8.2 In connection with the work outlined in this Agreement, it is agreed and fully understood by the Architect that the Owner may cancel or indefinitely suspend further work hereunder or terminate this contract either for cause or for the convenience of the Owner, upon fifteen (15) days' written notice to the Architect, with the understanding that immediately upon receipt of said notice all work and labor being performed under this Agreement shall cease. The Architect shall invoice the Owner for all work satisfactorily completed and shall be compensated in accordance with the terms of this Agreement for all work accomplished prior to the receipt of said notice. No amount shall be due for lost or anticipated profits. All plans, field surveys, maps, cross sections and other data, designs and work related to the Project shall become the property of the Owner upon termination of this Agreement, and shall be promptly delivered to the Owner in a reasonably organized form without restriction on future use. Should the Owner subsequently contract with a new architect for continuation of services on the Project, the Architect shall cooperate in providing information.

1.3.8.3 Nothing contained in Section 1.3.8.2 immediately above shall require the Owner to pay for any work which is unsatisfactory as determined by the Owner's representative or which is not submitted in compliance with the terms of this Agreement. The Owner shall not be required to make any payments to the Architect when the Architect is in default under this contract, nor shall this section constitute a waiver of any right, at law or at equity, which the Owner may have if the Architect is in default, including the right to bring legal action for damages or to force specific performance of this Agreement.

1.3.9 PAYMENTS TO ARCHITECT

1.3.9.1 Payments on account of services rendered shall be made monthly upon presentation of the Architect's statement of services.

1.3.9.2 Reimbursable Expenses, in an amount not to exceed **\$16,500.00**, are *included* in the not-to-exceed sum for total compensation to Architect (**\$1,499,460.00**) and include expenses incurred by the Architect and the Architect's employees and consultants directly related to the Project, as described in 1.1.2.4.B.

1.3.9.3 Records of Reimbursable Expenses, of expenses pertaining to a Change in Services, and of services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be promptly provided to the Owner or the Owner's authorized representatives.

1.3.9.4 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

ARTICLE 1.4 SCOPE OF SERVICES AND OTHER SPECIAL TERMS AND CONDITIONS

1.4.1 Enumeration of Parts of the Agreement. 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 the Architect. This Agreement comprises the documents listed below.

1.4.1.1 Architectural Services Agreement between Owner and Architect.

1.4.1.2 Other documents as follows:

Exhibit "A" Schedule of Services

Exhibit "B" Scope of Work

Exhibit "C" Project Schedule

Exhibit "D" Compensation for Services

Exhibit "E" Certificate of Insurance

"Supplemental Agreement No. 1" supplementing Architectural Services Agreement between Owner and Architect.

1.4.2 Special Terms and Conditions. Special terms and conditions that modify this Agreement are as follows:

Americans with Disabilities Act (ADA) and Texas Accessibility Standards (TAS) provide that it is a violation of ADA/TAS to design and construct a facility for first occupancy later than January 26, 1993 that does not meet the accessibility and usability requirements of the ADA/TAS except where an entity can demonstrate that it is structurally impractical to meet such requirements. The Architect will use its best professional efforts to interpret and meet applicable ADA/TAS requirements and other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the Project.

ARTICLE 1.5 COMPENSATION

1.5.1 Payments for services shall be made monthly, and where applicable, shall be in proportion to services performed on the basis set forth in this Agreement and in format requested by the Owner.

1.5.2 Payments are due and payable thirty (30) days from the date of the Architect's invoice, or not later than the time period required under the Texas Prompt Payment Act, whichever is later. Non-disputed amounts unpaid sixty (60) 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.

Payments hereunder shall be made in accordance with the Prompt Payment Act.

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

[Signatures on the following page.]



OWNER

CITY OF ROUND ROCK, TEXAS

By: _____
Craig Morgan, Mayor

Date: _____

ATTEST:

By: _____
Meagan Spinks, City Clerk

FOR CITY, APPROVED AS TO FORM:

By: _____
Stephanie L. Sandre, City Attorney

ARCHITECT

Marmon Mok, LP

By: Marmon Mok Management Group, LLC
its General Partner


By: Gregory Houston, Authorized Managing Member of
Marmon Mok Management Group, LLC

Date: 12/10/23

Exhibit A – Schedule of Services

This exhibit lists the schedule of services to be provided by the City of Round Rock (Owner) or by the Architect-Engineer (Architect) for the Round Rock Sports Complex Expansion. The Phase of the Work for each service is indicated.

Services	Responsibility (Architect, Owner, or Not Provided)	Location of Service Description
1. Programming	Architect	Architect Proposal Letter (Programming/Concept)
2. Land Survey Services	Owner	
3. Geotechnical Investigation & Report	Owner	Rock Engineering
4. Geologic Assessment	Not Provided	
5. Existing Facilities Investigation	Architect	Architect Proposal Letter (Programming/Planning)
6. Feasibility Study-Market Research & Pro Forma	Not Provided	
7. Master Plan	Architect	Architect Proposal Letter (Programming/Planning)
8. Utility Assessment	Civil Engineer	CORR contracted Civil Engineer
9. Stormwater Management Plan / Detention	Civil Engineer	CORR contracted Civil Engineer
10. Phase I Environmental Study (ESA) - Update	Not provided	
11. Environmental Studies and Reports	Not provided	
12. Asbestos Abatement	Not provided	
13. Owner-Supplied Data Coordination	TBD	
14. Detailed Cost Estimating	Architect	Project Basic Services
15. Government Fees for applications & permits	Owner	
16. Construction Materials Testing	Owner	
17. Design Phase Schedule Development & Monitoring	Architect	Architect Proposal Letter (Exhibit C)
18. Space Schematics/Flow Diagrams	Architect	Basic Services
19. Civil Engineering Design	Civil Engineer	CORR contracted Civil Engineer
20. Landscape / Irrigation Design	Architect	Basic Services
21. Architectural Design	Architect	Basic Services
22. Interior Design	Architect	Basic Services
23. Furniture Selection	Architect	Additional Service
24. Custom Furniture Design	Not Provided	
25. Structural Engineering Design	Architect	Basic Services
26. MEP Engineering Design	Architect	Basic Services
27. Fire Sprinkler Engineering Design	Architect	Basic Services (Basis of Design)
28. A/V-IT Design	Architect	Basic Services
29. Food Service Design	Not Provided	
30. Signage/Graphics Design	Architect	Additional Service
31. Lighting Design	Architect	Basic Services
32. Security Design	Owner	
33. Special Bidding or Negotiation	Not Provided	
34. Value Analysis	Not Provided	
35. On-Site Project Representation	Not Provided	
36. Construction Management	Not Provided	
37. Start-up Assistance	Not Provided	
38. Post-Contract Evaluation	Not Provided	
39. Tenant-Related Services	Not Provided	
40. Expert Witness/Litigation Services	Not Provided	
41. Archeological Survey (Tier I)	Not Provided	
42. Environmental Impact Analysis (Phase I)	Not Provided	
43. Traffic Impact Analysis (Level I) - if required	Civil Engineer	Basic Services - CORR contracted Civil Engineer
44. Platting	Not Provided	
45. Re-Zoning	Not Provided	
46. Easement Documents	Not Provided	
47. Utility Service Agreement	Not Provided	

Services	Responsibility (Architect, Owner, or Not Provided)	Location of Service Description
48. Water Quality Plan	Civil Engineer	Basic Services - CORR contracted Civil Engineer
49. Private Wastewater Lift Station – if required	Civil Engineer	Basic Services - CORR contracted Civil Engineer
50. Perspective Renderings or Models	Architect	Additional Services
51. Record Drawings - CADD	Architect	Additional Services
52. Economic Impact Study	Not Provided	
53. Coordination of Owner-Furnished Items or Consultants	Owner	
54. Facility Marketing Brochure Design	Not Provided	
55. Community Group Presentations	Not Provided	
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Exhibit B – Architect’s Detailed Scope of Work

Project Description:

The Owner’s Preliminary Scope of Work is described as follows.

The Architect’s fee proposal is a lump sum proposal based on the Owner’s Preliminary Scope of Work and based on a Total Construction Cost of \$14,900,000 to include all cost for general and supplemental conditions, overhead, profit, and contingencies.

- The project consists of an approximately 35,000 gross square feet expansion (“Current Expansion”) to the existing Round Rock Sports Center, located at 2400 Chisholm Trail Road in Round Rock, Texas.
- The Owner’s Preliminary Scope of Work for Current Expansion will include:
 - Two new basketball courts as a single multi-purpose gym court matching the existing court level. A Feature Basketball Court will be striped over the two courts.
 - Up to three rows of elevated seating on three sides of the Current Expansion with a finished floor level matching the existing Sports Center second floor. The number of seats will be determined by the available floor area.
 - Optional Gym Floor Level Seating utilizing retractable seating or movable bleachers will be considered.
 - New Second Entrance/Lobby as a separate entrance for Feature Court events.
 - Required new Toilet Rooms.
 - Required new Electrical, Audio-Visual and Maintenance/Custodial rooms.
 - Mechanical spaces will be like the existing mechanical spaces in the Sports Center with outdoor HVAC units.
 - Storage rooms to be located under the elevated seating.

Requested Phases of the Work to be provided by Marmon Mok will include the following:

- Programming/Master Planning
- Schematic Design.
- Design Development.
- Construction Documents.
- Construction Administration.
- Project Closeout.

Primary tasks performed in each Phase of the Work are listed along with each discipline responsible for those tasks.

1. Programming/Master Planning Phase:

General: Lead the Owner & Project Team through discussions to determine and document the detailed Program of Requirements (POR) for the Project spaces desired and impact on future expansions.

Programming

- Discuss Facility Development goals and Operational goals for Current Expansion and Future Expansion. Input from program meetings will be used to develop a prioritized set of goals and objectives for the future of the Sports Complex. Number of meetings recommended is 3.
- Document the results of the Programming meetings including:
 - Round Rock Municipal Facility Design guidelines.
 - A List of space needs with required areas for each space
 - By Space or Room, a list of detailed requirements including:
 - Building engineered system requirements
 - Adjacencies of one area/space to another
 - Optional engineered systems to be considered in the design

Master Planning

- Prepare a Site Master Plan for this Current Expansion (two basketball courts) and the next phase of expansion (“Future Expansion”) to include six additional basketball courts

- Develop Concept Plan based on POR development
- Evaluation of options for structural, MEP and other major systems for consideration relative to design, life span, and costs
- Perform Code Analysis based on Concept Plan and POR
- Conduct Preliminary Plan Review with CoRR Fire Marshal

Following are the consultants recommended to be a part of this Phase:

a. Architectural Design:

- 1) Coordinate and conduct Programming meetings
- 2) Document & Compile information from Programming meetings
- 3) Correspond with the City
- 4) Prepare the Program of Requirements (POR) document
- 5) Prepare a Site Master Plan for this Current Expansion (two basketball courts) and the next phase of expansion ("Future Expansion") to include six additional basketball courts
- 6) Develop Concept Plan based on POR development
- 7) Perform Code Analysis based on Concept Plan and POR

b. Structural Engineering:

- 1) Prepare narrative discussing:
 - a) Design interface with existing building structure
 - b) Optional structural framing systems
 - c) Optional long span framing systems

c. Mechanical, Electrical and Plumbing Engineering:

- 1) Attend programming workshops to establish primary MEP needs
- 2) Compile information gathered during workshops
- 3) Prepare narrative discussing:
 - a) Existing Electrical Service Analysis
 - b) HVAC Systems
 - c) Hot/Cold Water Systems

d. Landscape Architect:

- 1) Prepare a narrative discussing:
 - a) Major site development feature options and their impact on site organization
 - b) Palette of planting materials existing at the site
 - c) Palette of new planting materials

e. AV-IT-Security:

- 1) Interview end users for desired systems to support expansion

f. Civil Engineering:

- 1) Prepare a narrative discussing:
 - a) Site utilities and drainage
- 2) Consultation with architect for development of conceptual site plan for review with CoRR Fire Marshal

2. Design & Construction Phase:

a. The following is description of each phase of work for Basic Design Services:

1) Schematic Design:

- a) Progress Conceptual Design developing and testing options for general idea of look, feel, and function
- b) Confirmation of structural, MEP and other major systems for consideration relative to design, life span, and costs

- c) Will include meetings to present ideas for to receive feedback from CoRR, thus allowing refinement of design, and then reach an approved design direction for further developing in the following phases
 - d) Deliverables typically include but not limited to:
 - 1. Design Narratives (All disciplines)
 - 2. Preliminary Utility/Drainage Site Plans
 - 3. Preliminary Landscape Plan
 - 4. Floor Plans
 - 5. Exterior Elevations
 - 6. Interior Elevations – Primary Public Spaces
 - 7. Primary Building Section
 - 8. Preliminary Interior Finishes Plan/Schedule
 - 9. Preliminary Structural Plans
 - 10. Preliminary HVAC Plans
 - e) CoRR end-of-phase review & review meeting
 - f) Duration: 8 Weeks
- 2) Design Development:
- a) Define and develop all major systems of the project
 - b) Develop set of drawings and outline specs for preliminary AE cost estimating, and adjust design and/or budget, if necessary
 - c) Final documentation in this phase will have all aspects of design developed in preparation of going into next phase – Construction Documents/Detailed Design
 - 1. Development of most if not all drawing sheets indicating design intent
 - 2. Outline Specifications
 - d) CoRR end-of-phase review & review meeting
 - e) Duration: 10 Weeks
- 3) Construction Documents (Detailed Design):
- a) Develop construction documents required to communicate the entire design intent to the contractor
 - b) CoRR 30% phase review & review meeting
 - c) At 75% CDs, prepare a cost estimate to confirm design is in budget, and adjust design and/or budget, if necessary
 - d) CoRR 75% phase review & review meeting
- 4) Bidding/Permitting:
- a) Assist in answering questions during the bidding process
 - b) Answer and/or address all comments during permitting process
 - c) Issue Addenda as a result of responses to Bidding and Permitting
- 5) Construction Administration:
- a) Review Submittals
 - b) Review RFIs
 - c) Issue PRs and/or ASIs
 - d) Attend regularly scheduled OAC Meetings
 - e) Perform Site Visits and develop reports
 - f) Review Pay Applications
 - g) Perform Substantial Completion Walk and develop Punch List
 - h) Perform Final Completion Walk
- 6) Project Close-out:
- a) Review contractor furnished Close-out Documentation.
- 7) Digital Record Drawings:
- a) Develop PDF set Record Drawings and BIM (LOD 300) based on contractor furnished As-Builts.
 - 1. LOD 300

1. The Model Element is graphically represented within the Model as a specific system, object, or assembly in terms of quantity, size, shape, location, and orientation. Non-graphic information may also be attached to the Model Element.
 2. BIMForum interpretation: The quantity, size, shape, location, and orientation of the element as designed can be measured directly from the model without referring to non-modeled information such as notes or dimension callouts. The project origin is defined, and the element is located accurately with respect to the project origin.
- b) Perform 11th month Warranty Walk
- b. The following are the consultants recommended to be a part of this Phase and their associated scopes:
- 1) Architectural Design:
 - a) Project Coordinator
 - b) Architect of Record
 - c) Design direction and coordination
 - d) Construction documents
 - e) Specifications
 - f) Construction administration
 1. Site Visits - Participate in on-line OAC meetings as needed upon commencement of construction, maximum of two (2)/minimum of one (1) on site OAC/Site Visit meetings per month during construction phase duration.
 - g) Project closeout
 - 2) Interior Design:
 - a) Interior design
 - b) Color selections
 - c) Construction documents
 - d) Specifications
 - e) Bidding
 - f) Construction administration
 1. See Architectural Design for Site Visits
 - g) Project closeout
 - 3) Structural Engineering:
 - a) Structural design
 - b) Construction documents
 - c) Specifications
 - d) Construction administration
 1. Up to six 6 site visits
 - e) Project closeout
 - 4) Mechanical, Electrical, Plumbing Engineering:
 - a) Mechanical, electrical, plumbing, and fire suppression design
 - b) Construction documents
 - c) Specifications
 - d) Bidding
 - e) Construction administration
 1. Site Visit – As required (minimum of 5)
 - f) Project closeout
 - g) Record documents
 - h) Warranty Walk – 11th month
 - 5) Landscape Architecture:
 - a) Landscape design
 - b) Construction documents
 - c) Specifications
 - d) Construction administration

1. Site Visits - Participate in on-line OAC meetings as needed upon commencement of the landscape/irrigation scope of work, maximum of two (2) on site OAC/Site Visit meetings per month during work scope duration.
 - e) Project closeout
- 6) AV-IT:
- a) AV-IT-Security Design
 - b) Construction documents
 - c) Specifications
 - d) Construction administration
 1. Site Visits - Participate in on-line OAC meetings as needed upon commencement of the AV-IT scope of work, minimum of four (4) on site OAC/Site Visit meetings during work scope duration.
 - e) Project closeout
- 7) Cost Estimating:
- a) Cost Estimating for following estimate submittals:
 1. Late SD or early DD
 2. 75% CD
- c. It is understood the following consultants will be contracted directly with City of Round Rock:
- 1) Civil Engineering:
- a) Following is expectation of services to be coordinated between CORR Consultant and AE:
 1. Civil design
 2. Construction documents
 3. Specifications
 4. Construction administration

3. AE Team:

- a. Following consultants are recommended for this project based on our previous work experience with them and their experience with this particular type of project/facility:

1) Architectural and Interior Design:

a) Marmon Mok Architecture

1020 NE Loop 410, Suite 201
San Antonio, TX 78209
(210) 223-9492

Greg Houston, Partner, Lead Designer
(210) 270-2274 Direct
(210) 410-4264 Cell

Shawn Bacon, Project Manager, AE Team Primary Contact
(210) 270-2280 Direct
(210) 392-4088 Cell

2) Structural Engineering:

a) Intelligent Engineering Services, LLP (IES)

Union Square II
10001 Reunion Place, Suite 200
San Antonio, TX 78216
(210) 349-9098

Justice Edge

3) Mechanical, Electrical, Plumbing Engineering:

a) Alderson & Associates, Inc.

7700 Torino, Suite 101
San Antonio, TX 78229
(210) 614-1110

Dean Alderson
Philip Preston

4) AV-IT-Security:

a) Datacom

9111 Jollyville Rd, Suite 290
Austin, TX 78759
(512) 478-6001

John Rob Hicks

5) Landscape Architecture:

a) Coleman & Associates

9890 Silver Mountain Dr
Austin, TX 78737
(512) 476-2090

Aan Coleman
Marissa McKenney

6) Cost Estimating:

a) Aguirre Project Resources

4425 W Airport Freeway, Suite 110
Irving, TX 75062

(214) 552-5172

Charles Aguirre

7) ADA Consultant:

a) *Accessibility Unlimited*

218 Maverick
San Antonio, TX 78212
(210) 271-1014

Peter Grojean
Jessica Hamm

b. Following are consultants to be contracted directly with City of Round Rock:

1) Civil Engineering:

a) *2P Consulting*

4. Proposed Design Schedule and Assumed Construction Duration:

- a. See attached Exhibit C



5. Document Management:

- a. Marmon Mok proposes to use Excel spread sheet logs to manage all submittal, RFI, ASI, PR Change Order processes. Marmon Mok has performed many projects using different management systems such as ProCore, E-builder, and Autodesk Construction Cloud. If the awarded CSP general contractor uses a web-based system and prefers the team to use that system, we take no exception and will gladly participate.
- b. Marmon Mok will use ShareFile, a secure web-based storage site, for storage and transfer of large files during the life of the project (design and construction).

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2023

 Programming
 SD

 DD
 CD

 Bid/Permit

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Exhibit D – Compensation for Services - Proposal

GENERAL

For the purposes of defining the component scopes of work under the Marmon Mok services, the following areas of the scope are listed as follows.

1. PROJECT BASIC SERVICES:
 - a. PROGRAMMING / PLANNING PHASE - (PRE-DESIGN SERVICES)
 - b. AIA BASIC SERVICES
 - c. DETAILED COST ESTIMATING
 - d. REIMBURSABLE EXPENSES
2. ADDITIONAL SERVICES

All of the above component services will be compiled together to form the "Contracted Basic Services" under the City of Round Rock Owner Architect Agreement.

Other Services necessary for the project execution which are provided by the Owner, provided by Others or Not Provided are enumerated under Exhibit A – Schedule of Services attached to this letter and proposed as part of the Owner Architect Agreement.

FEE

PROJECT BASIC SERVICES

- **PROGRAMMING / PLANNING PHASE - (PRE-DESIGN SERVICES)**
 - Programming\$ 18,000
 - Planning\$ 36,000
 - **SUBTOTAL PROGRAMMING / PLANNING**\$ 54,000
- **AIA BASIC SERVICES**
 - Schematic Design\$ 194,160
 - Design Development.....\$ 323,599
 - Construction Documents.....\$ 453,039
 - Construction Administration\$ 258,879
 - Project Close-Out.....\$ 65,283
 - **SUBTOTAL AIA BASIC SERVICES**.....\$ 1,294,960
- **DETAILED COST ESTIMATING**\$ 16,500
- **DIGITAL RECORD DOCUMENTS**\$ 9,000
- **REIMBURSABLE EXPENSES**\$ 16,500

SUBTOTAL PROJECT BASIC SERVICES\$ 1,390,960

ADDITIONAL SERVICES (To be authorized in writing by the Owner at a future date)

- Furniture Selection\$ 25,000
- Signage & Graphics.....\$ 35,000
- Registered Accessibility Specialist Review.....\$ 6,000
- Building Permit Application\$ 7,500
- HVAC Commissioning.....\$ 35,000

SUBTOTAL ADDITIONAL SERVICES\$108,500

TOTAL AMOUNT AVAILABLE FOR AE CONTRACT\$1,499,460

Initials _____

Exhibit "E"



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/17/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh Wortham, a division of Marsh USA, Inc. 131 Interpark Blvd. San Antonio, TX 78216 www.worthaminsurance.com	CONTACT NAME: Ashley Patkowski	
	PHONE (A/C, No, Ext): 210 249-2399	FAX (A/C, No):
	E-MAIL ADDRESS: Ashley.Patkowski@marsh.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Travelers Property Casualty Co of Amer	25674
	INSURER B : Travelers Indemnity Co of Connecticut	25682
	INSURER C : Phoenix Insurance Company	25623
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 72539415 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			6800P8561622347	1/1/2023	1/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 \$
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BA5R1865152347	1/1/2023	1/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUP0P8564512347	1/1/2023	1/1/2024	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	UB0P8563832347	1/1/2023	1/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: City of Round Rock - RRSC Expansion

CERTIFICATE HOLDER

CANCELLATION

City of Round Rock City Manager 221 East Main Street Round Rock TX 78664	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Marsh Wortham, a division of Marsh USA, Inc.

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ACORD 25 (2016/03)

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Exhibit "E"



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/23/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh Wortham, a division of Marsh USA, Inc. 131 Interpark Blvd. San Antonio, TX 78216 www.worthaminsurance.com	CONTACT NAME: Catherine Martinez	
	PHONE (A/C, No, Ext): 210-249-2324	FAX (A/C, No): 210-491-2924
E-MAIL ADDRESS: catherine.martinez@marsh.com		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Endurance American Specialty Ins Co		41718
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES **CERTIFICATE NUMBER:** 72622935 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPOP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Architects & Engineers Prof/Pollution RetroActive Date: 05/01/2010			DPL30001807402	6/30/2022	6/30/2023	\$1,000,000 Ea Claim/\$2,000,000 Aggregate Retention - \$50K

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: City of Round Rock - RRSC Expansion

CERTIFICATE HOLDER

CANCELLATION

City of Round Rock 221 East Main Street Round Rock TX 78664	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Marsh Wortham, a division of Marsh USA, Inc.
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ACORD 25 (2016/03)

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SUPPLEMENTAL AGREEMENT NO. 1

CITY OF ROUND ROCK

STATE OF TEXAS

COUNTY OF WILLIAMSON

COUNTY OF TRAVIS

§
§
§
§
§
§

KNOW ALL BY THESE PRESENTS:

This document is entitled Supplemental Agreement No. 1, and it supplements "City of Round Rock Agreement for Architectural Services for Round Rock Sports Center Expansion Project with Marmon Mok Architecture," for the following Project:

Professional architectural services and design services for Round Rock Sports Center Expansion Project to be located on City-owned property at 2400 Chisholm Trail Road, Round Rock, Texas 78681.

Professional services for this Project shall include, but not be limited to, Schematic Design, Design Development, Construction Documents, Bidding, and Construction Observation. Architect shall be the Architect of Record, and shall be in charge of coordination of consultants.

This Supplemental Agreement No. 1 is made and entered into as of the same date of the Agreement it supplements, that being the _____ day of February, 2023, and likewise is by and between the same parties, those being the CITY OF ROUND ROCK, a home-rule municipal corporation of Williamson and Travis Counties, Texas, located at 221 East Main Street, Round Rock, Texas 78664 (hereinafter referred to as "City" and/or "Owner") and MARMON MOK ARCHITECTURE, with offices located at 1020 NE Loop 410, Suite 201, San Antonio, Texas 78209 (hereinafter referred to as "Architect").

WITNESSETH:

WHEREAS, as is recited in the Agreement this document supplements, City intends to provide services for the design and construction of the described project (hereinafter called the "Project"). Architect's services are desired for purposes including but not limited to being architect of record, coordinating consultants, planning, civil, architectural, design, structural, mechanical/electrical/plumbing engineering services, document production, bidding-related services, and construction observation services related to the Project. Total compensation for Architect's services under this Agreement shall not exceed the following: \$1,499,460.00, *including* reimbursable expenses in an amount not to exceed \$16,500.00 and additional services in an amount not to exceed \$108,500.00.

WHEREAS, as is recited in the Agreement this document supplements, City desires to contract with Architect for the delineated professional services, and for the administration of the Construction Contract during construction of the Project, all as previously and hereinafter stipulated and within the limits the City has budgeted or will budget therefor; and

WHEREAS, as is stipulated in the Agreement this document supplements, Architect has agreed to provide such professional services for the compensation delineated previously and herein;

NOW, THEREFORE, City and Architect, in consideration of the terms, covenants and conditions contained in the Agreement this document supplements and herein, hereby agree as follows:

ARTICLE I
SCOPE OF SERVICES AND COMPENSATION

1.01 Scope. Architect, as an independent contractor and professional consultant in its relationship with the City, shall perform all professional services for the Project as set forth in the Agreement this document supplements and herein.

1.02 Compensation. City shall compensate Architect in accordance with the terms and conditions as recited in the Agreement this document supplements and herein.

Unless subsequently changed by additional Supplemental Agreement to this Agreement, duly authorized by City Council Resolution or City Manager action, Architect's total compensation hereunder shall not exceed One Million Four Hundred Ninety-Nine Thousand Four Hundred Sixty and No/100 Dollars (\$1,499,460.00), including a not-to-exceed amount of Sixteen Thousand Five Hundred and No/100 Dollars (\$16,500.00) for approved Reimbursable Expenses and One Hundred Eight Thousand Five Hundred and No/100 Dollars (\$108,500.00) in optional Additional Services. These amounts represent the absolute limit of City's liability to Architect under this Agreement, unless same shall be changed by additional Supplemental Agreement hereto.

The times and further conditions of payment shall be as described in Article VI hereof.

ARTICLE II
ARCHITECT'S SERVICES

2.01 Basic Services. Architect's Basic Services consist generally of the phases described below, and include complete planning, civil, architectural, design, structural, mechanical/electrical/plumbing engineering services, document production, bidding-related services, and construction observation services, and such other services as may be necessary to assist the City in the design and construction of the Project, within the limits the City has budgeted or will budget therefor, and in compliance with the Project Facility Program, which is hereby made a part of this Agreement for all purposes. Architect agrees that upon execution of this Agreement, 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, delineating their respective tasks. All of Architect's consultants shall be subject to the approval of the City through its City Manager, and City reserves the right to reject any consultant. Architect shall perform all work hereunder in a manner satisfactory and acceptable to the City, represented by its City Manager or his designee, hereinafter referred to as "Director." A Performance Schedule shall be agreed to by Architect and Director, and Architect agrees to use its best efforts to complete all services hereunder in accordance with such Performance Schedule. All services shall be performed to the highest professional standard.

2.02 Schematic Design Phase. Architect shall provide the following Schematic Design Phase Services: as delineated in the Agreement this document supplements.

2.03 Design Documents Phase. Architect shall provide the following Design Documents Phase Services: as delineated in the Agreement this document supplements and herein, and as follows:

- (1) Architect shall prepare Design Documents based on the approved Schematic Design Documents and updated budget for the Cost of the Work, said Design Documents to include adequate specifications for elements of the Project for consideration and approval by Director. Five (5) copies each of said documents will be submitted to City, each 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. Said documents shall illustrate and describe the refinement of the design of the Project, establishing the scope, relationships, forms, size and appearance of the Project by means of plans, sections and elevations, typical construction details, and equipment layouts. Said documents shall include outline specifications that identify major materials and systems and establish in general their quality levels. The Design Document Phase shall be completed within the agreed Performance Schedule.

2.04 Construction Documents Phase. Architect shall provide the following Construction Documents Phase Services: as delineated in the Agreement this document supplements and herein, and as follows:

- (1) Architect shall prepare from the approved Design Development Documents and updated budget for the Cost of the Work, for consideration of and approval by Director, Construction Documents, which documents shall set forth in detail the requirements of the entire Project, including the necessary bidding information prepared in such a way to allow City, if it so desires, to advertise for the award of one or more contracts for the construction and completion of the entire Project, or any phase thereof, and Architect shall assist City in preparation of the Bidding Forms, shall utilize without modification City's standard General and Supplementary General Conditions, and shall draft all Special Conditions of the Contract. City's standard form of Contract between City and the Contractor shall also be utilized, along with City's form of Bid Bond, Performance Bond and Payment Bond. Architect shall also compile the Project Manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms. City shall provide all standard documents for Architect to include in the Project Manual.
- (2) Architect shall file five (5) complete sets of proposed Construction Documents with Director for review and official approval prior to the advertisement of bids for the construction of the Project, and within the agreed Performance Schedule following approval of the Design Documents. Following approval, Architect shall prepare and have on hand additional sets as needed for bidding purposes. Should additional sets be required, Architect will be reimbursed for same as an eligible reimbursable expense, upon approval in advance by City. Architect shall also file with Director at said time, the following items:
 - (a) Tracing of the Project Title Sheet, signed by Architect, with seal affixed. (This tracing shall be returned to Architect to print contract documents when the signatures of City officials have been properly affixed).
 - (b) Four (4) unbound copies of the approved Project Construction Manual for subsequent binding with signed construction contracts. The Project Construction Manual shall include General and Supplementary General Conditions;

Specifications and Special Provisions; Advertisement, Instructions to Bidders and Bid Proposal Form; City's Bid Bond, Contract, Performance and Payment Bond Forms; approved Wage Rates; Federal regulations if applicable to the Project; and other required documents for construction of the Project.

- (3) Architect shall be solely responsible for obtaining the prior 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 as a reimbursable expense.

2.05 Bidding and/or Negotiation Phase. Architect shall provide the following Bidding/Negotiation Services: as delineated in the Agreement this document supplements and herein, and as follows:

Following City's approval of the Construction Documents and of the latest Statement of Probable Construction Cost, Architect shall assist City in awarding a construction contract following legal public bid requirements. Architect shall arrange for procuring the reproduction of Bidding Documents, distributing same to prospective bidders, and maintaining records. Owner shall be responsible for payment for the costs of reproduction of such documents, either directly or through reimbursement to Architect. During the bid process, Architect shall assist City as follows:

- (1) Jointly conducting pre-bid conferences, including on-site visits as required, to endeavor to assure that bidders understand the Construction Documents, the various on-site conditions, and the coordination and scheduling requirements.
- (2) Preparing responses to questions from prospective bidders, and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the required form of addenda to Contract Documents.
- (3) Assisting in the opening of bids, tabulation and evaluation of bids received, and advising on award of the contract.
- (4) Jointly conducting pre-award conferences where necessary.

Architect's assistance to City shall include submitting written reviews and recommendations for awards based upon the acceptability of bids; and, if required by City, more detailed analyses of specific bids. Reviews shall also consider the responsiveness of bids and their conformity with Bid Documents.

2.06 Construction Observation Phase. Architect shall provide the following Construction Observation Phase Services: as delineated in the Agreement this document supplements and herein, and as follows:

The Construction Phase will commence with the award of the first Construction Contract and will terminate following the final one-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. During the Construction Phase, Architect shall provide the following services:

- (1) Architect shall provide administration of the Construction Contract as set forth in the Construction Documents, specifically the General and Supplementary General Conditions. Architect's assigned authority thereunder will not be substantially modified

without Architect's written consent.

- (2) Architect shall review properly prepared, timely requests by the Contractor for additional information about the Contract Documents. A properly prepared request for additional information about the Contract Documents will be in a form prepared or approved by Architect and will include a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested.
- (3) If deemed appropriate by Architect, Architect will on Owner's behalf prepare, reproduce and distribute supplemental Drawings and Specifications in response to requests for information by the Contractor.
- (4) Interpretations and decisions of Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and initial decisions, Architect will endeavor to secure faithful performance by both Owner and the Contractor, will not show partiality to either, and will not be liable for the results of interpretations or decisions so rendered in good faith.
- (5) Architect shall render initial decisions on claims, disputes or other matters in question between Owner and the Contractor as provided in the Contract Documents. However, Architect's decisions on matters relating to aesthetic effect will be final only if consistent with the intent expressed in the Contract Documents.
- (6) Architect shall report to Owner all known and substantial deviations from the Contract Documents and most recent construction schedule submitted by the Contractor. However, Architect will not be responsible for the Contractor's failure to perform work in accordance with requirements of the Contract Documents. Architect will be responsible for Architect's acts or omissions, but will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the work.
- (7) Architect will at all times have access to the work wherever it is in preparation or in progress.
- (8) Owner will endeavor to communicate with the Contractor through Architect about matters arising out of or relating to the Contract Documents. Communications by and with Architect's subconsultants will be through Architect.
- (9) Architect, as a representative of City, shall advise and consult with Director and will keep City informed in writing through him of the progress of the Project, including percent complete on a monthly basis, during the Construction Phase; and after issuance of the "work order" to proceed with the work, all of City's instructions to its Contractors will be issued through Architect. Architect will have authority to act on behalf of Owner only to the extent provided in this Agreement unless otherwise properly modified by written amendment.

- (10) Architect shall provide, during construction, adequate and competent on-site construction observation, periodically visiting the site to the extent necessary to personally familiarize itself with the progress and quality of the work, and to determine if the work is proceeding in substantial accordance with the Contract Documents. Architect's site observations may be conducted with Owner's designated representative 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. Field Reports of each visit shall be prepared by Architect and submitted to City. Architect shall employ reasonable measures to safeguard City against defects and deficiencies in the work of the Contractor. Architect shall not be responsible for the construction means, methods, techniques, sequences of procedures, nor for the safety precautions and programs employed in connection with the work. However, Architect will immediately inform Director whenever defects and deficiencies in the work are observed, or when any observed actions or omissions are undertaken by the Contractor which are not in the best interests of City and the Project.
- (11) Based on such observations at the site and on the Contractor's Application and Certificate for Payment, Architect shall determine, monthly, the amount owing to the Contractor and shall certify and forward the Contractor's Application and Certificate for Payment to Director for approval and payment. These certifications shall constitute a representation by Architect to City, based on observations at the site and other data comprising the application for payment, that the work has progressed to the point indicated; that to the best of Architect's knowledge, information and belief, the quality of the work is in accordance with the Contract Documents (subject to an evaluation of the work as a functioning whole upon substantial completion, to the results of any subsequent tests required by the Contract Documents, to minor deviations from the Contract Documents correctable prior to Project completion, and to any specific qualifications stated in the Certificate); and that the Contractor is entitled to payment in the amount certified.
- (12) Architect shall have authority to reject work which does not conform to the Contract Documents. Whenever Architect considers it necessary or advisable, Architect will have authority to require inspection or testing of the work in accordance with the provisions of the Contract Documents, whether or not such work is fabricated, installed or completed. However, neither this authority of Architect nor a decision made in good faith either to exercise or not exercise such authority shall give rise to a duty or responsibility of Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the work.
- (13) Architect shall make recommendations on all claims and disputes of City or the Contractor 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 the City, such assistance will include the availability of knowledgeable witnesses in the employ of Architect for expert testimony.
- (14) Architect shall use its best efforts to promptly review and approve or reject shop drawings, product data and samples and other submissions of the Contractor 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 City's Director, 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 constraints of the Project.

- (15) Architect shall prepare Change Orders and/or Construction Change Directives to the construction contract, in six (6) copies, after review and approval by City. Each Change Order shall be specific and final as to prices and extensions of time, with no reservations or other provisions allowing for future additional money or time as a result of the particular changes identified and fully compensated in the Change Order. Architect's compensation for preparation of Change Orders, if any, shall be determined by Section 2.09(l) below.
- (16) Architect shall conduct inspections to determine the dates of substantial completion and final completion, shall receive written guarantees and related documents assembled by Contractor for submittal with the final Certificate of Payment, and shall prepare and present final Certificate for Payment to Director for City's approval and payment. In addition, Architect shall make inspection of the Project at least thirty (30) days before the expiration of the one (1) year warranty contained in the Contractor's Performance Bond.
- (17) Architect shall conduct regularly scheduled progress meetings with City, the Contractor and major Subcontractors. Minutes of same shall be prepared by Architect with copies submitted to City's Director.
- (18) Architect shall have authority to order minor changes in the construction work, consistent with the Contract Documents, and not involving an adjustment in the Contractor's bid price or an extension of the Project Schedule. Such changes shall be accomplished by Field Order. In addition, Architect may issue written Field Orders which interpret the Plans and Specifications, with copies submitted to City's Director.
- (19) 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 Contractor 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.
- (20) Architect shall obtain from the Contractor and forward to Owner the following: (1) consent of surety or sureties, if any, of reduction in or partial release of retainage or the making of final payment; and (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying Owner against liens.

2.07 Warranty Phase. Architect shall assist Owner in scheduling corrections to be made by the Contractor during the warranty period. During the eleventh month following completion of the prime general contract, Architect will arrange for a warranty inspection tour of the entire Project by authorized representatives of City, the Subconsultants and of each prime contractor engaged on the Project. Architect shall then prepare a list of work which needs to be done by each prime contractor to satisfy that prime contractor's warranty obligations to City. For any non-warranty involvement of Architect, payments shall be made based upon the Hourly Rate Schedule contained in this Agreement.



2.08 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 such representation shall be furnished and the Project Representatives selected, employed and directed shall be governed by an additional written Supplemental Agreement between City and Architect.

2.09 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 City Council or City Manager authorization is required, Architect shall not proceed until the appropriate Resolution or directive for such Additional Services has been delivered. The following services are not covered under Article II, which defines and outlines Architect's Basic Services. If any of these 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.

- (1) Preparing Change Orders and supporting data and/or revising previously approved plans when the changes in approved Plans and Specifications are required by the City. If changes are required to be made because of error, oversight, clarification, discrepancy, or budget overruns in the work of Architect, City shall not be liable to compensate Architect for Additional Services or expenses in such connection.
- (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.
- (3) 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 the City decides to "fast-track" the Project.
- (4) Providing construction phase services more than twelve (12) months after the start of construction of the Contractor's Notice to Proceed, whichever occurs first.
- (5) Performing more than two (2) reviews of each shop drawing, product data item, sample or similar submittal from the Contractor.
- (6) Providing more than twenty-four (24) site visits/construction meetings over the duration of the Project.
- (7) Providing more than two (2) 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.
- (8) Providing more than one (1) inspection for any portion of the Work to determine Final Completion.

ARTICLE III **CITY'S RESPONSIBILITIES**

3.01 Full information. City shall provide full information regarding requirements for the Project.

3.02 Designate representatives. City shall designate, when necessary, representatives authorized to act in its behalf. City shall examine documents submitted by Architect and render decisions pertaining thereto promptly to avoid unreasonable delay in the orderly progress of Architect's work.

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

3.04 Permits. City will furnish the building permit without charge. Electrical, plumbing and other trade permits will be the responsibility of the construction contractor. Any charges which may be assessed for tap fees will be paid by City and are not to be included by Architect in the Specifications for the Project.

3.05 Miscellaneous items. City will also provide Architect with such items as two (2) copies of the City of Round Rock General and Supplementary General Conditions for Building Construction, Instructions to Bidders, Proposal Forms, Wage Rates, Contract and Bond Forms, Bid Advertisement Form, and such other information and materials as may be necessary and practicable for the orderly and expeditious process of the work and the awarding of the Construction Contract. To the extent practicable, these documents shall be utilized in the preparation of the Construction Documents.

ARTICLE IV

FIXED LIMIT OF TOTAL BUDGETED CONSTRUCTION COST

4.01 Budgeted Construction Costs. The fixed limit of total Budgeted Construction Cost for this Project has not been fully ascertained as of the date of making of these Contract Documents. Architect, in consultation with City, shall determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, and will make reasonable adjustments in the scope of the Project to bring it within the limits when fixed. With City approval, Architect may also include in the Contract Documents alternate bids to adjust the construction cost to the fixed limit. If the lowest responsible bid is within the fixed limit of total Budgeted Construction Cost for the Project is still less than the fixed limit of total Budgeted Construction Cost for the Project, City shall pay Architect fees for Basic Services in accordance with this Agreement.

4.02 Procedures if Bid(s) Exceed Budgeted Construction Costs. If the lowest responsible bid exceeds its portion of the fixed limit of total Budgeted Construction Cost for the Project, City at its option may either (1) give written approval of an increase in such fixed limit, with no obligation to increase Architect's fee, or (2) authorize rebidding within a reasonable time, or (3) cooperate in revising the Project scope and quality as required to reduce the Probable Construction Cost. In the case of (3), if the lowest responsible bid exceeds the Budgeted Construction Cost by more than ten (10%), Architect, without additional charge, shall immediately modify the Drawings and Specifications as necessary to bring the Project cost within the budgeted fixed limit, or within any higher fixed limit subsequently authorized by City. Providing this service shall be the limit of Architect's responsibility in this regard, and having done so, Architect shall be entitled to his fees in accordance with this Agreement. If the lowest responsible bid is within ten percent (10%) of the Budgeted Construction Cost, the Architect shall, upon the City's request and as an Additional Service, make revisions to Drawings and Specifications to reduce the Probable Construction Cost. However, when the excess is due to changes initiated by Architect in scope, basic systems or the kinds and quality of materials, finishes or equipment, Architect shall make revisions at no additional cost to City.

ARTICLE V
REIMBURSABLE EXPENSES

5.01 Reimbursable Expenses. Reimbursable Expenses are *included* in the total not-to-exceed fee delineated in the Agreement this document supplements and herein, and include actual expenditures at actual costs made by Architects, their employees, or their consultants in the interest of the Project.

5.02 Travel, phone, postage, reproduction, etc. The following shall be reimbursable and included in the total not-to exceed fee: reasonable transportation and living expenses of principals and employees when traveling in connection with the Project outside of Round Rock, Texas, 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.

5.03 Overtime. If authorized in advance by City, the expense of extraordinary overtime work, not due to Architect delays, requiring higher than regular rates, and renderings, slides, photographs or models for the City's use shall be reimbursable.

5.04 Texas Department of Licensing and Regulation fees. Any fees charged to Architect by the Texas Department of Licensing and Regulation for review and approval of design or development documents shall be reimbursable.

5.05 Texas Natural Resource Conservation Commission fees. Any related fees charged to Architect by the Texas Commission on Environmental Quality shall be reimbursable.

5.06 Special Consultants. 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 hereinbefore defined, shall be reimbursable.

ARTICLE VI
PAYMENTS TO THE ARCHITECT

6.01 Basic Services. Payments on account of Architect's Basic Services shall be made monthly in proportion to the degree of completion of each phase, as delineated in the Agreement this document supplements and herein.

As to the Construction Observation Phase fee apportionment, Architect shall invoice for equal monthly payments based upon the contractually-stipulated Construction Period.

6.02 Reimbursable Expenses. Payments for authorized Reimbursable Expenses for Architect, as hereinbefore referred to and in an amount not to exceed \$2,750.00, shall be made following presentation, review and approval of Architect's detailed invoice in triplicate.

6.03 Deductions. No deductions shall be made from Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to Contractors.

6.04 Additions. No additions shall be made to Architect's compensation based upon Project construction claims, whether paid by City or denied.

6.05 Abandonment. If any work designed or specified by Architect during any phase or subphase 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 City through its Director of such abandonment or suspension.

6.06 Invoices. 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 Director. All payments to Architect shall be made on the basis of the invoices submitted by Architect and approved by 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 Director, Architect shall comply promptly with such request. In this regard, should Director determine it necessary, Architect shall make all records and books relating to this Agreement available to City for inspection and auditing purposes.

6.07 Payment of Invoices. 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 Agreement. 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 Agreement or state law.

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

ARTICLE VII **ARCHITECT'S ACCOUNTING RECORDS**

7.01 Accounting Records. Records of Architect's Consultant and Reimbursable Expenses pertaining to the Project, and records of accounts between City and Architect shall be kept on a generally recognized accounting basis and shall be available to City or its authorized representatives at mutually convenient times.

ARTICLE VIII **TERMINATION AND DEFAULT**

8.01 Termination. In connection with the work outlined in this Agreement, it is agreed and fully understood by Architect that Director may cancel or indefinitely suspend further work hereunder or terminate this Agreement either for cause or for the convenience of City, upon fifteen (15) days' written notice to Architect, with the understanding that immediately upon receipt of said notice all work and labor being performed under this Agreement shall cease. Architect shall invoice City for all work satisfactorily completed and shall be compensated in accordance with the terms of this Agreement for all work accomplished prior to the receipt of said notice. No amount shall be due for lost or anticipated profits. 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 Agreement, 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.

8.02 Default. Nothing contained in Section 8.01 above shall require City to pay for any work which is unsatisfactory as determined by Director or which is not submitted in compliance with the terms of this Agreement. City shall not be required to make any payments to Architect when Architect is in default under this Agreement, 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 Agreement.

ARTICLE IX
GENERAL, SUPPLEMENTARY AND SPECIAL CONDITIONS;
CONTRACT ADMINISTRATION

9.01 General, Supplementary and Special Conditions. City of Round Rock - Supplementary General Conditions to AIA Document A201, "General Conditions of the Contract for Construction", are to be used by Architect without modification; however, City may, upon prior consultation, approve of any changes that may be necessary for specific cases or instances. Any special conditions pertaining to the Project that are approved by City will be included under the Special Conditions portion of the Construction Documents.

9.02 Contract Administration. This Agreement shall be administered on behalf of City by its City Manager, and Architect shall fully comply with any and all instructions from Director. Any dispute arising hereunder shall be submitted to Director, whose decision in the matter shall be final and binding.

ARTICLE X
RESPONSIBILITY FOR WORK, INDEMNIFICATION AND INSURANCE

10.01 Architect's Responsibility for Work. Approval by City shall not constitute nor be deemed a release of the responsibility and liability of Architect, its employees, subcontractors, 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 City for any defect, error or omission in the Designs, Working Drawings, and Specifications or other documents prepared by Architect, his employees, subcontractors, agents and consultants.

10.02 Indemnification (Damage Claims). Architect agrees to indemnify and hold City, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by Architect's breach of any of the terms or provisions of this Agreement, or by any negligent act or omission of Architect, his officers, agents, associates, employees or subconsultants, in the performance of this Agreement; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of City, its officers, agents, employees or separate contractors, and in the event of joint and concurrent negligence of both Architect and City, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to City under Texas law and without waiving any defenses of the parties under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

10.03 Indemnification (Patent and Copyright Claims). Architect agrees to completely indemnify and hold harmless 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 Agreement 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 and attorney's fees finally awarded, provided that:

- (1) City promptly notifies Architect in writing of the claim; and
- (2) Architect has control of settlement negotiations.
 - (a) 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.
 - (b) Architect's indemnification under this section 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-infringing; 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 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 Agreement.
 - (c) 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 Agreement subsequent to the Project by City, or by any engineering consultant subsequently employed by City.
 - (d) The foregoing states the entire obligation of Architect with respect to infringement of patents and copyrights.

10.04 Insurance. Architect, at Architect's sole cost, shall purchase and maintain during the term of this Agreement the minimum professional liability insurance coverage in the amount of One Million Dollars (\$1,000,000.00) from a company authorized to do insurance business in Texas and otherwise acceptable to City. Failure to maintain the minimum insurance coverage during the term of this Agreement shall be considered a material breach of this Agreement.

10.05 Subconsultant Insurance. Without limiting any of the other obligations or liabilities of Architect, Architect shall require each subconsultant performing work under this Agreement to maintain during the term of the Contract, at the subconsultant's own expense, the same stipulated minimum insurance required in Section 10.04 above, including the required provisions and additional policy conditions as shown below in Section 10.06, unless specifically waived by the City Manager. As an alternative, Architect may include its subconsultants as additional insureds on its own coverages as prescribed under these requirements. Architect's certificate of insurance shall note in such event that the subconsultants are included as additional insureds and that the Architect agrees to provide Workers' Compensation coverage for the subconsultants and their employees.

Architect shall obtain and monitor the certificates of insurance from each subconsultant in order to assure compliance with the insurance requirements. Architect must retain the certificates of insurance for the duration of this Agreement, and shall have the responsibility of enforcing these insurance requirements among its subconsultants. City shall be entitled, upon request and without expense, to receive copies of these certificates of insurance.

10.06 Insurance Policy Endorsements. Each insurance policy under paragraph 10.04 shall include the following conditions by endorsement to the policy:

- (1) Each policy shall require that thirty (30) days prior to the expiration, cancellation, or non-renewal, a notice thereof shall be given to City by certified mail to:

City Manager, City of Round Rock
221 East Main Street
Round Rock, Texas 78664

Architect shall also notify City, within 24 hours of receipt, of any notices of expiration, cancellation, or non-renewal it receives from its insurer.

- (2) Companies issuing the insurance policies shall have no recourse against City for payment of any premiums or assessments for any deductibles which all are at the sole responsibility and risk of Architect.
- (3) The Term "City" or "City of Round Rock" shall include all authorities, Boards, Commissions, Departments, and officers of City and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of the City of Round Rock.
- (4) The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by City, to any such future coverage, or to City's Self-Insured Retentions of whatever nature.

10.07 Cost of Insurance. The cost of all insurance required herein to be secured and maintained by Architect shall be borne solely by Architect, with certificates of insurance evidencing such minimum coverage in force to be filed with the City.

ARTICLE XI

COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES, ETC.

11.01 Compliance with Laws. Architect, its consultants, agents, employees and subcontractors shall comply with all applicable Federal and State Laws, the Charter and Ordinances of the City of Round Rock, as amended, and with all applicable rules and regulations promulgated by all local, State and National boards, bureaus and agencies. Architect shall further obtain all permits and licenses required in the performance of the professional services contracted for herein.

11.02 Taxes. Architect will pay all taxes, if any, required by law arising by virtue of the services performed hereunder. City is qualified for exemption pursuant to the provisions of Section 151.309 of the Texas Limited Sales, Excise, and Use Tax Act.

ARTICLE XII **TERM**

12.01 Term. Unless sooner terminated in accordance with the applicable provisions hereof, or extended by mutual agreement approved by City's Director, the term of this Agreement shall be from the date hereof 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.

12.02 Project Performance Schedule. 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 herein, 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 Agreement in the highest professional manner.

ARTICLE XIII **FINANCIAL INTEREST PROHIBITED, CONFIDENTIALITY**

13.01 Financial Interest Prohibited. Architect covenants and represents that Architect, its officers, employees, agents, consultants and subcontractors 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.

13.02 Confidentiality. Architect's reports, evaluations, designs, drawings, data, and all other documentation and work developed by Architect hereunder shall be kept confidential, and shall not be disclosed to any third parties without the prior written consent and approval of City's Director.

ARTICLE XIV **GENERAL PROVISIONS**

14.01 Time is of the Essence. Architect understands and agrees that time is of the essence and that any failure of Architect to complete the services for each phase of this Agreement within the agreed Project Performance Schedule will constitute a material breach of this Agreement. Architect shall be fully responsible for its delays or for failures to use his 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 hereunder without waiver of any of City's additional legal rights or remedies.

14.02 Force Majeure. Neither City nor Architect shall be deemed in violation of this Agreement 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, and all reasonable efforts undertaken to mitigate its effects.

14.03 Assignment. The parties each hereby bind themselves, their successors, assigns and legal representatives to each other with respect to the terms of this Agreement. Architect shall not assign, sublet or transfer any interest in this Agreement without prior written authorization of City's Director.

14.04 Amendments. This Agreement, representing the entire agreement between the parties, may only be amended or supplemented by mutual agreement of the parties hereto in writing.

14.05 Enforcement and Venue. This Agreement shall be enforceable in Round Rock, Williamson County, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas. This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

14.06 Notices. All notices and correspondence to City by Architect shall be mailed or delivered as follows:

City Manager, City of Round Rock
221 East Main Street
Round Rock, Texas 78664

and to:

Stephanie L. Sandre, City Attorney
309 East Main Street
Round Rock, Texas 78664

All notices and correspondence from City to Architect shall be mailed or delivered to the Architect as follows:

Marmon Mok Architecture
1020 NE Loop 410
Suite 201
San Antonio, Texas 78209

[Signatures appear on the following page.]

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to be a combination of letters, possibly 'SM' or 'JM'.

IN WITNESS WHEREOF, the City of Round Rock has caused this Contract to be signed in its corporate name by its Mayor, duly authorized to execute the same in its behalf by Resolution No. _____ approved by the City Council on _____, 2023, and Marmon Mok Architecture, signing by and through its duly authorized representative, thereby binding the parties hereto, their successors, assigns and representatives for the faithful and full performance of the terms and provisions of this Contract.

CITY OF ROUND ROCK, TEXAS

By: _____
Craig Morgan, Mayor

Date: _____

ATTEST:

By: _____
Meagan Spinks, City Clerk

FOR CITY, APPROVED AS TO FORM:

By: _____
Stephanie L. Sandre, City Attorney

ARCHITECT

Marmon Mok, LP

By: Marmon Mok Management Group, LLC
its General Partner

By:  _____
By: Gregory Houston, Authorized Managing
Member of Marmon Mok Management Group, LLC

Date: 2/10/23

THE TEXAS BOARD OF ARCHITECTURAL EXAMINERS, P.O. BOX 12337, AUSTIN, TEXAS 78711-2337 OR 333 GUADALUPE, SUITE 2-350, AUSTIN, TEXAS 78701-3942, TELEPHONE (512) 305-9000, HAS JURISDICTION OVER INDIVIDUALS LICENSED UNDER THE ARCHITECTS' REGISTRATION LAW, TEXAS CIVIL STATUTES, ARTICLE 249a.