

# **AGREEMENT FOR ARCHITECTURAL & DESIGN SERVICES**

**For**

## **Deer Park Fire Station 2**

This Agreement is made and entered into in Deer Park, Harris County, Texas on the \_\_\_\_ day of \_\_\_\_\_ 2021; by and between

**The City of Deer Park**, a Municipal Corporation in the State of Texas

And

**Martinez Architects**, **LLP** ARCHITECT(s) duly licensed, and practicing under the laws of the State of Texas.

Said Agreement being executed by the City pursuant to the City Charter, Ordinances, and Resolutions of the City Council, and by the ARCHITECT for ARCHITECTURAL services hereinafter set forth in connection with the above-designated Project for the City of Deer Park.

DEER PARK retains **Martinez Architects, LLP** to perform ARCHITECTURAL services related to the programming, design and construction of a New Fire Station in return for consideration to be paid by DEER PARK under terms and conditions set forth below.

### **ARTICLE 1. SCOPE OF WORK**

- 1.1 ARCHITECT will provide ARCHITECTURAL, design, consultation, project management, and other services as required to perform and complete the Scope of Work & Services specifically identified in Schedule A of this Agreement. The Services Scope of Work (the "Work") and the time schedules set forth in Schedule A are based on information provided by DEER PARK and ARCHITECT. The schedule of milestones and deliverables are essential terms of this Agreement.
- 1.2 If this information is incomplete or inaccurate, or if site conditions are encountered which materially vary from those indicated by DEER PARK, or if DEER PARK directs ARCHITECT to change the original Scope of Work shown in Schedule A, a written amendment equitably adjusting the costs, performance time and/or terms and conditions, shall be executed by DEER PARK and ARCHITECT.

### **ARTICLE 2. COMPENSATION**

- 2.1 ARCHITECT bills for its services on a time and materials basis using the Schedule of Rates and Terms entitled Estimated Level of Effort ("Schedule of Rates") attached as Schedule B of this Agreement. As requested, ARCHITECT has provided an estimate of the fees for

the Work amounting to \$ 425,000 ARCHITECT will not exceed that estimate without prior approval from DEER PARK. ARCHITECT will notify DEER PARK, for approval, of any proposed revisions to the Schedule of Rates and effective date thereof which shall not be less than thirty (30) days after such notice.

- 2.2 ARCHITECT will submit monthly invoices for Services rendered, and DEER PARK will make payment within thirty (30) days of receipt of ARCHITECT'S invoices. If DEER PARK objects to all or any portion of an invoice, it will notify ARCHITECT of the same within fifteen (15) days from the date of receipt of the invoice and will pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion of the invoice. Prices or rates quoted do not include state or local taxes.

### **ARTICLE 3. DEER PARK'S RESPONSIBILITIES**

- 3.1 DEER PARK will designate in writing the person or persons with authority to act on DEER PARK's behalf on all matters concerning the work to be performed.
- 3.2 DEER PARK will furnish to ARCHITECT all existing studies, reports, data and other information available to DEER PARK necessary for performance of the Work, authorize ARCHITECT to obtain additional data as required, and furnish the services of others where necessary for the performance of the Work. ARCHITECT will be entitled to use and rely upon all such information and services.
- 3.3 Where necessary to performance of the Work, DEER PARK shall arrange for ARCHITECT to have access to any site or property.

### **ARTICLE 4. PERFORMANCE OF SERVICE**

- 4.1 ARCHITECT's services will be performed within the schedule and time period set forth in Schedule A.
- 4.2 ARCHITECT shall perform the Work, and any additional services as may be required, for the development of the Project to completion.
- 4.3 If required, additional services will be performed and completed within the time period agreed to in writing by the parties at the time such services are authorized.
- 4.4 If any time period within or date by which any of ARCHITECT's services are to be performed is exceeded for reasons outside of ARCHITECT's reasonable control, all rates, measures and amounts of compensation and the time for completion of performance shall be subject to equitable adjustment.

### **ARTICLE 5. CONFIDENTIALITY**

- 5.1 ARCHITECT will hold confidential all information obtained from DEER PARK, not previously known by ARCHITECT or in the public domain.

## **ARTICLE 6. STANDARD OF CARE & WARRANTY**

- 6.1 Standard of Care. In performing services, ARCHITECT agrees to exercise professional judgment, made on the basis of the information available to ARCHITECT, and to perform its ARCHITECTURAL services with the professional skill and care of competent design professionals practicing in the same or similar locale and under the same or similar circumstances and professional license. ARCHITECT also agrees to perform its ARCHITECTURAL services as expeditiously as is prudent considering this standard of care. This standard of care shall be judged as of the time and place the services are rendered, and not according to later standards.
- 6.2 Warranty. If any failure to meet the foregoing standard of care Warranty appears during one year from the date of final completion of the service and ARCHITECT is promptly notified thereof in writing, ARCHITECT will at its expense re-perform the nonconforming work.
- 6.3 The foregoing Warranty is the sole and express warranty obligation of ARCHITECT and is provided in lieu of all other warranties, whether written, oral, implied or statutory, including any warranty of merchantability. ARCHITECT does not warrant any products or services of others. ARCHITECT, however, expressly acknowledges that these warranty obligations do not eliminate the applicability of the standard of care to all of its work and that the OWNER may still retain remedies against ARCHITECT following the expiration of the warranty period in contract, tort, or otherwise as the law allows.

## **ARTICLE 7. INSURANCE**

- 7.1 ARCHITECT will procure and maintain insurance as required by law. At a minimum, ARCHITECT will have the following coverage:
- (1) Workers compensation and occupational disease insurance in statutory amounts.
  - (2) Employer's liability insurance in the amount of \$1,000,000.
  - (3) Automobile liability in the amount of \$1,000,000.
  - (4) Commercial General Liability insurance for bodily injury, death or loss of or damage to property of third persons in the amount of \$1,000,000 per occurrence, \$2,000,000 in the aggregate.
  - (5) Professional errors and omissions insurance in the amount of \$1,000,000.

7.2 ARCHITECT has provided a Statement of Insurance to DEER PARK demonstrating and reflecting that ARCHITECT has procured and maintains insurance coverage in accordance with the requirements stated above. That Statement of Insurance is Attachment C of this Agreement.

## **ARTICLE 8. INDEMNITY**

8.1 THE ARCHITECT SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, OFFICIALS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, CAUSES OF ACTION, LOSSES, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS, DAMAGES, OR LIABILITY OF ANY CHARACTER, TYPE OR DESCRIPTION INCLUDING WITHOUT LIMITATION, ALL EXPENSES OF LITIGATION, INCLUDING EXPERT OR CONSULTANT FEES, COURT COSTS, AND ATTORNEY'S FEES, RESULTING FROM PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM, BUT ONLY TO THE EXTENT THAT SUCH PERSONAL INJURY, PROPERTY DAMAGE OR HARM IS CAUSED BY OR RESULTS FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE ARCHITECT OR THE ARCHITECT'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL.

IF THE CITY DEFENDS AN ACTION, CLAIM, LAWSUIT OR OTHERWISE INCURS ATTORNEY'S FEES AS A RESULT OF AN INDENMIFIED CLAIM AS STATED ABOVE, ARCHITECT AGREES TO REIMBURSE THE CITY IN PROPORTION TO THE ARCHITECTS LAIBILITY.

8.2 ARCHITECT agrees to and shall contractually require its consultants and subcontractors of any tier to assume the same indemnification obligations to Indemnities as stated herein.

## **ARTICLE 9. OWNERSHIP OF DOCUMENTS**

9.1 As long as DEER PARK is current in the payment of all undisputed invoices, all work product prepared by the ARCHITECT pursuant to this Agreement, including, but not limited to, all Contract Documents, Plans and Specifications and any computer aided design, shall be the sole and exclusive property of DEER PARK, subject to the ARCHITECT's reserved rights.

9.2 ARCHITECT's technology, including without limitation customary techniques and details, skill, processes, knowledge, and computer software developed or acquired by ARCHITECT or its Consultants to prepare and manipulate the data which comprises the instruments of services shall all be and remain the property of the ARCHITECT.

## **ARTICLE 10. INDEPENDENT CONTRACTOR**

- 10.1 The ARCHITECT is an independent contractor and shall not be regarded as an employee or agent of the DEER PARK.

## **ARTICLE 11. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS**

- 11.1 The ARCHITECT shall observe all applicable provisions of the federal, state and local laws and regulations, including those relating to equal opportunity employment.

## **ARTICLE 12. SAFETY**

- 12.1 DEER PARK shall inform the ARCHITECT and its employees of any applicable site safety procedures and regulations known to DEER PARK as well as any special safety concerns or dangerous conditions at the site. The ARCHITECT and its employees will be obligated to adhere to such procedures and regulations once notice has been given.
- 12.2 ARCHITECT shall not have any responsibility for overall job safety at the site. If in ARCHITECT's opinion, its field personnel are unable to access required locations or perform required services in conformance with applicable safety standards, ARCHITECT may immediately suspend performance until such safety standards can be attained. If within a reasonable time site operations or conditions are not brought into compliance with such safety standards, ARCHITECT may in its discretion terminate its performance, in which event, DEER PARK shall pay for services and termination expenses as provided in Article 18.

## **ARTICLE 13. LITIGATION**

- 13.1 At the request of DEER PARK, ARCHITECT agrees to provide testimony and other evidence in any litigation, hearings or proceedings to which DEER PARK is or becomes a party in connection with the work performed under this Agreement, unless DEER PARK and the ARCHITECT are adverse to one-another in any such litigation.
- 13.2 Any litigation arising out of this Agreement between DEER PARK and ARCHITECT shall be heard by the state district courts of Harris County.

## **ARTICLE 14. NOTICE**

- 14.1 All notices to either party by the other shall be deemed to have been sufficiently given when made in writing and delivered in person, by electronic mail, facsimile, certified mail or courier to the address of the respective party or to such other address as such party may designate.

## **ARTICLE 15. TERMINATION**

- 15.1 The performance of work may be terminated or suspended by DEER PARK, for any reason. Such suspension or termination shall be subject to notice of DEER PARK's election to either suspend or terminate the Agreement fifteen (15) days' prior to the effective suspension or termination date. The Notice shall specify the extent to which performance of work is suspended or terminated and the date upon which such action shall become effective. In the event work is terminated or suspended by DEER PARK prior to the completion of services contemplated hereunder, ARCHITECT shall be paid for (i) the services rendered to the date of termination or suspension and reasonable services provided to effectuate a professional and timely project termination or suspension.

#### **ARTICLE 16. SEVERABILITY**

- 16.1 If any term, covenant, condition or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this Agreement shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.

#### **ARTICLE 17. WAIVER**

- 17.1 Any waiver by either party or any provision or condition of this Agreement shall not be construed or deemed to be a waiver of a subsequent breach of the same provision or condition, unless such waiver is so expressed in writing and signed by the party to be bound.

#### **ARTICLE 18. GOVERNING LAW**

- 18.1 This Agreement will be governed by and construed and interpreted in accordance with the laws of the State of Texas.

#### **ARTICLE 19. CAPTIONS**

- 19.1 The captions contained herein are intended solely for the convenience of reference and shall not define, limit or affect in any way the provisions, terms and conditions hereof or their interpretation.

#### **ARTICLE 20. ENTIRE AGREEMENT**

- 20.1 This Agreement, its articles, provision, terms, and attached Schedules represent the entire understanding and agreement between DEER PARK and ARCHITECT and supersede any and all prior agreements, whether written or oral, and may be amended or modified only by a written amendment signed by both parties.

This Agreement is effective on the last day signed.

**Martinez Architects, LP**

By

Martinez Architects

Name

Ricardo Martinez

Title

Principal

Date

\_\_\_\_\_

**The City of Deer Park**

By\_\_\_\_\_

Name\_\_\_\_\_

Title\_\_\_\_\_

Date\_\_\_\_\_

## **SCHEDULE A SCOPE OF WORK**

The proposed project consists of providing construction drawings and specifications for a proposed Fire Station No. 2 Facility. The drawings and specifications will include construction details for the following major components:

All site development and building plans and specifications to construct a new fire station near the intersection of E. Pasadena Blvd. and Luella Ave. are to be included in the scope of work. Revisions or additional work requested beyond the scope of this agreement shall be conducted under separate contract or as amended for additional services.

Excluded Services:

- Hazardous Material Testing or Abatement
- Platting
- Construction Material Testing
- LEED and or WELL Certification Services
- Solar Energy Systems
- Wind Generation Systems
- Parking Structures or Pavement beyond the immediate building area
- Threat Assessment Services
- Fuel Storage or Containment Systems



## **ARCHITECTURAL Services & Schedule:**

Martinez Architects, LP presents this proposal to complete design ARCHITECTURAL and construction services. Martinez Architects, LP will complete the following tasks:

### **Programming:**

- Architect to prepare preliminary Schematic Designs for Owner's review and approval. Initial programming meeting and discussions shall include the following:
  - Site evaluation including preliminary layout of building program and onsite drainage
  - Conceptually evaluate and program and spatial relationships to create conceptual floor plan layouts, assessment of space requirements to accommodate Owner operations
  - Provide massing schemes
  - Preliminary cost benefit analysis
- Programming meeting shall be coordinated with Owner; (3) meetings to be included in Basic Services

### **Schematic Design**

- Upon agreement of Programming and Estimated Budget, Architect shall proceed with Schematic Designs. Plans shall include the following deliverables:
  - Site Plan
    - building layout
    - identify drainage requirements
  - Floor Plan
  - Three-Dimensional Model
  - Preliminary cost estimate
  - Preliminary Schedule
  - Coordination meeting shall be held with Owner; (2) meeting to be included within Basic Services

### **Design Development**

- Upon agreement of Schematic Design and Preliminary Cost Estimate, Architect shall proceed with Design Development. Plans are to be coordinated with engineering professionals licensed in the State of Texas to provide the following services for each project site:
  - Architectural Plans
    - Illustrated plans and written outline specifications to communicate and coordinate with consultants
  - Surveying
    - Complete surveying for parcel development
  - Geotechnical Study
    - Coordinated with engineering professional licensed in the State of Texas to provide geotechnical study and recommendations
  - Civil Plans

- Site plan including site grading design
- Structural Plans
  - Structural plans including foundation design, modification of structural superstructure
- MEP Plans
  - Mechanical, Electrical, Plumbing, designs
- Coordination meeting shall be held with Owner; (1) meeting to be included within Basic Services
- Cost Estimate

### **Construction Documents**

- Upon agreement of Design Documents and Cost Estimate, Architect shall proceed with Construction Documents. Illustrated drawings and written specifications shall be developed and coordinated with engineering professionals to provide the following for each project site:
  - Architectural Plans
    - Illustrated plans and written specifications detailing construction procedures, construction standards, and material requirements for the bidding and construction of the project
  - Civil Plans
    - Site plans and details including design of site grading, site paving, verification of finish floor elevation
  - Landscaping and Irrigation
    - Landscape and Irrigation plans and details based on City of Deer Park and best practices
  - Structural Plans
    - Structural plans and details for foundation design and structural steel superstructure
  - MEP Plans
    - Mechanical, Electrical, Plumbing plans and specifications detailing the MEP Systems
  - Cost Estimates shall be provided at 50%, and 95% intervals of completion of Construction Documents
  - Coordination meeting shall be held with Owner; (3) meeting to be included within Basic Services

### **Bidding and Contract Negotiations**

- Architect shall assist in bidding construction documents
- Assist Owner in evaluating proposals and qualifications of proposers
  - Coordination meeting shall be held with Owner; (1) meeting to be included within Basic Services

### **Construction Phase Administration**

- Architect shall assist in administration of the contract for construction per the

City of Deer Park Standard Agreement Between Owner and General Contractor

- Site observations shall be coordinated with the Owner and General Contractor and performed weekly
  - (1) visit per week during Construction Phase Administration included within Basic Services
- Observation reports shall be generated and provided to the City of Deer Park at regular intervals
  - Observations shall not release the General Contractor from conforming to the construction means methods techniques, sequence, procedures, and onsite safety requirements

**Design Completion:**

Based on requirements provided by the City, ARCHITECT will complete necessary ARCHITECTURAL analyses and calculations to design the Fire Station No. 2 facility. ARCHITECT will hold a design review meeting with (Construction Manager if applicable) and the City to refine all associated documents (i.e., drawings, specifications and all other necessary documents) to ensure that construction is completed in a proper and efficient manner after each submittal.

**Formatting Services:**

ARCHITECT will work with the City to obtain the proper permits as required by TCEQ, Railroad Commission, Authorities Having Jurisdiction and local entities. ARCHITECT will facilitate face-to-face meetings with regulators to fast track permit approvals. ARCHITECT will provide updates of SPCC and SWPPP plans for the City for the improvements of this project only.

**SCHEDULE B  
COMPENSATION AND RATES**

<b>Position</b>	<b>Rate</b>
Principal	\$ 250/hr.
Project Manager	\$ 200/hr.
Senior ARCHITECT	\$185/hr.
Project ARCHITECT	\$ 175/hr.
ARCHITECT in Training	\$ 150/hr.
CAD Technician	\$100/hr.
Administration	\$85/hr.

**ATTACHMENT C**  
**STATEMENT OF INSURNACE**

**Reference attached**