AGENDA

Regular Meeting

City Council

Tuesday, September 26, 2023

6:00 PM, City Hall

4000 Galleria Parkway

Bee Cave, Texas 78738-3104

THE CITY OF BEE CAVE COUNCIL MEETINGS ARE AVAILABLE TO ALL PERSONS REGARDLESS OF DISABILITY. IF YOU REQUIRE SPECIAL ASSISTANCE, PLEASE CONTACT KAYLYNN HOLLOWAY AT (512) 767-6641 AT LEAST 48 HOURS IN ADVANCE OF THE MEETING. THANK YOU.

A quorum of the Planning and Zoning Commission and/or Development Board may be in attendance at this meeting. No action will be taken by the Commission or Board.

1. Call meeting to order
2. Roll Call
3. Pledge of Allegiance
4. Recognition and Moment of Silence
5. Citizen Comments

This is an opportunity for citizens to address the City Council concerning an issue of community interest that is not on the agenda. Comments on the agenda items must be made when the agenda item comes before the Council. Any deliberation of the issue is limited to a proposal to place it on the agenda for a later meeting. Citizens will have up to 3 minutes to make comments.

6. Staff Comments

Each department of the city may present a monthly report to the City Council on informational items only which do not require action. Each department may provide a monthly report regarding department operations and any noteworthy events for council.

a. City secretary report
b. Communications report
c. Financial report
d. Human Resources report
e. Library report
f. Parks and Facilities report
g. Planning and Development report
h. Police Department report
i. City Manager's office report

7. Consent Agenda

All Consent Agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member requests in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda. Information concerning consent agenda items is available for public view.

A. Consider approval of the minutes of the Regular Session conducted on September 12, 2023.
B. Consider approval of Resolution No. 2023-16 approving the Financial Investment Policy.
C. Consider approval of Resolution No. 2023-17 approving the Fund Balance Policy.
D. Consider approval of Ordinance No. 518 amending the City's Budget for Fiscal Year 2022-23.
E. Consider approval of Ordinance No. 519 amending the Bee Cave Development Corporation Budget for Fiscal Year 2022-23.

8. Discussion and update from Lake Travis Independent School District Superintendent Paul Norton.

9. Public hearing, discussion, and possible action on Ordinance No. 516, an ordinance adding section 14.06 pertaining to Noise to Chapter 14 of the Bee Cave Code of Ordinances.

10. Public hearing, discussion, and possible action on Ordinance No. 517, an ordinance to update section 14.02.003 pertaining to Nuisance of the Bee Cave code of Ordinance.

11. Discuss and consider action on a contract with Lake Flato Architects for the design of the new Bee Cave Public Library Building and authorize the City Manager to execute.

12. Discuss and consider action on a contract with PGAL for the design of the new Bee Cave Public Safety Building and authorize the City Manager to execute.

13. Discuss and consider action on an addendum to the Interlocal Agreement for Dispatching Services between the City of Lakeway and the City of Bee Cave.

14. Discuss and consider action on an addendum to the Interlocal Agreement for Victim Services between the City of Bee Cave and the City of Lakeway

15. Discuss and consider action on future Council meeting dates.

16. Discussion and possible action on establishing an annual Volunteer Appreciation Event.

17. Close Regular Meeting

18. Open Executive Session

Open Executive Session. Executive session in accordance with the Texas Government Code, Section 551.074 – Personnel Matters-to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee. and Section 551.071 - Consultation with Attorney regarding pending or contemplated litigation or a settlement offer, or on any matters in which the Attorney has a duty to the City under the Texas Disciplinary Rules of Professional Conduct that clearly conflicts with the provisions of the Open Meetings Law. A quorum of the City Council will be present for the executive session.

A. Consultation with Attorney regarding pending litigation styled Citizens for Preservation of The Brown Property v. City of Bee Cave.

B. Personnel – City Manager

19. Close Executive Session

20. Open Regular Meeting

21. Consider action, if any, on Executive Session

22. Adjournment

The Council may go into closed session at any time when permitted by Chapters 418 or 551, Texas Government Code, or Section 321.3022 of the Texas Tax Code. Before going into closed session a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, and the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code, or Section 321.3022 of the Texas Tax Code authorizing the closed session.

I certify that the above notice of meeting was posted at Bee Cave City Hall,

4000 Galleria Parkway, Bee Cave, Texas, on the 22nd day of September, 2023 at 3:00 P.M. (Seal)

_____

Kaylynn Holloway, City Secretary

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**7.A.**
Agenda Title:	**Consider approval of the minutes of the Regular Session conducted on September 12, 2023.**
Council Action:	**Approve**
Department:	**City Secretary**
Staff Contact:	**Kaylynn Holloway, City Secretary**

1. INTRODUCTION/PURPOSE

2. DESCRIPTION/JUSTIFICATION

a) Background

b) Issues and Analysis

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

ATTACHMENTS:

Description	Type
Minutes of September 12, 2023	Backup Material

MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL
CITY OF BEE CAVE
September 12, 2023

STATE OF TEXAS §
COUNTY OF TRAVIS §

Present:

Kara King, Mayor
Kevin Hight, Council Member
Courtney Hohl, Council Member
Andrew Rebber, Council Member
Andrea Willott, Council Member

Absent:

Andrew Clark, Mayor Pro Tem

City Staff:

Clint Garza, City Manager
Rebecca Regueira, Deputy City Secretary
Ryan Henry, City Attorney
Brian Jones, Police Chief
Lindsey Oskoui, Assistant City Manager
Megan Will, Planning and Development Director
Kevin Sawtelle, City Engineer
Logan Maurer, Engineer
Lanie Marcotte, Parks and Facilities Director
Jenny Hoff, Communications Director
Dori Kelley, Communications Specialist
Anna Jensen, Sr. Administrative Assistant for Parks and Facilities

Call to Order and Announce a Quorum is Present

With a quorum present, the regular meeting of the Bee Cave City Council was called to order by Mayor King at 6:01 p.m. on Tuesday, September 12, 2023.

Recognition and moment of silence

Citizen Comments.

Kirk Harrison with Frontier Waste introduced himself to the staff and Council. He will be submitting a response to the RFP for solid waste collection.

Staff Comments.

There were no staff comments at this time.

Consent Agenda.

A. **Consider approval of the minutes of the Regular Session conducted on August 22, 2023.**
B. **Consider Proclamation for World's Teacher Day 2023.**

MOTION: A motion was made by Council Member Hight, seconded by Council Member Rebber, to approve Consent Agenda items A & B.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay: None
Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discuss and consider action on Resolution No. 2023-15 declaring the City's intent to annex a portion of State Highway 71 Right-Of-Way of an approximate total of 11.4 acres.

MOTION: A motion was made by Council Member Rebber, seconded by Council Member Hohl, to approve Resolution No. 2023-15 declaring the City's intent to annex a portion of State Highway 71 Right-Of-Way of an approximate total of 11.4 acres.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay: None
Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discuss and consider action to amend the Service Agreement with Turner & Townsend Heery formerly operating under CBRE Heery.

City Manager Clint Garza presented this item.

Chelsea Maldonado with Turner & Townsend Heery also spoke on this item.

MOTION: A motion was made by Council Member HIght, seconded by Council Member Rebber, to amend the Service Agreement with Turner & Townsend Heery formerly operating under CBRE Heery.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay: None
Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discuss and consider action on signature & execution of a Joint Facilities Design Interlocal Agreement with the Travis County Emergency Services District No. 6 for the real estate purchase related to the Joint Facilities Project (Bee Cave Public Safety Project).

Mr. Garza presented this item.

MOTION: A motion was made by Council Member Rebber, seconded by Council Member Hight, to authorize signature & execution of a Joint Facilities Design Interlocal Agreement with the Travis County Emergency Services District No. 6 for the real estate purchase related to the Joint Facilities Project (Bee Cave Public Safety Project).

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay: None
Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discuss and consider action on Supplemental Agreement No. 1 to the Interlocal Agreement with the State of Texas for the installation and reimbursement for the operation and maintenance of traffic control devices.

MOTION: A motion was made by Council Member Rebber, seconded by Council Member Hohl, to approve the Supplemental Agreement No. 1 to the Interlocal Agreement with the State of Texas for the installation and reimbursement for the operation and maintenance of traffic control devices.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay: None
Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discuss and consider action on the Central Park Master Plan.

Assistant City Manager Lindsey Oskoui presented this item.

MOTION: A motion was made by Council Member Hohl, seconded by Council Member Hight, to approve the Central Park Master Plan.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay: None
Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discuss and consider action to authorize staff to proceed with an RFQ for design services for Central Park.

Ms. Maldonado presented this item.

MOTION: A motion was made by Council Member Rebber, seconded by Council Member Hohl, to authorize staff to proceed with an RFQ for design services for Central Park.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay: None
Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discuss and consider action to adopt the new Bee Cave Logo.

Communications Director Jenny Hoff presented this item.

Victoria Winburne, 13600 Couri Pass, commented on the new logo.

MOTION: A motion was made by Council Member Rebber, seconded by Council Member Hohl, to adopt the new Bee Cave logo.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay: None

Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discuss and consider action on the appointment of members to the Bee Cave Development Board.

This item was moved to Executive Session.

Executive Session:

The City Council closed the Open Session at 6:41 p.m. to convene in Executive Session.

At this point in the meeting, Mayor King publicly announced that a closed, executive session would be held and identified the section of the Open Meeting Law under which the meeting would be held.

Executive session in accordance with the Texas Government Code, Section 551.074 – Personnel Matters-to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee; and Section 551.071 - Consultation with Attorney regarding pending or contemplated litigation or a settlement offer, or on any matters in which the Attorney has a duty to the City under the Texas Disciplinary Rules of Professional Conduct that clearly conflicts with the provisions of the Open Meetings Law. A quorum of the City Council will be present for the executive session.

A. Consultation with Attorney regarding pending litigation styled *Citizens for Preservation of The Brown Property v. City of Bee Cave*.
B. Personnel - City Manager.
C. Personnel - Board member appointments for: Bee Cave Development Corporation.

The City Council closed the Executive Session at 6:41 p.m. and reconvened in Regular Session.

In Open Session:

Discuss and consider action on the appointment of members to the Bee Cave Development Board.

MOTION: A motion was made by Council Member Rebber, seconded by Council Member Willott, to reappoint Christian Alvarado to Position 1, John Dashtara to Position 3 and Kevin Hight to Position 5 of the Bee Cave Development Board.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay: None
Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Adjournment:

MOTION: A motion was made by Council Member Hight, seconded by Council Member Rebber, to adjourn.

The vote was taken on the motion with the following result:

Voting Aye:	Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay:	None
Absent:	Mayor Pro Tem Clark

The motion carried 5-0.

The City Council meeting adjourned at 8:48 p.m.

PASSED AND APPROVED THIS _____ DAY OF _____, 2023.

_____
Kara King, Mayor

ATTEST:

_____
Kaylynn Holloway, City Secretary

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**7.B.**
Agenda Title:	**Consider approval of Resolution No. 2023-16 approving the Financial Investment Policy.**
Council Action:	**Approve as Submitted**
Department:	**Finance**
Staff Contact:	**Administration**

1. INTRODUCTION/PURPOSE

The purpose of this consent agenda item is to consider approval of Resolution No. 2023-16 approving the Financial Investment Policy.

2. DESCRIPTION/JUSTIFICATION

a) Background

The Financial Investment Policy requires annual review and approval by the City Council and is in effect for FY 2023-2024 beginning October 1st, 2023 and ending September 30th, 2024.

b) Issues and Analysis

There were only minor edits required to the current document, no substantive changes to the new policy. The Resolution and Policy are attached.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

The approved policy will take effect October 1st, 2023.

5. RECOMMENDATION

Approve as submitted.

ATTACHMENTS:

Description	Type
Resolution No. 2023-16	Cover Memo
Invesment Policy	Cover Memo

RESOLUTION NO. 2023-16

RESOLUTION ADOPTING A FINANCIAL INVESTMENT POLICY; ADOPTING INVESTMENT STRATEGIES; DESIGNATING QUALIFIED BROKERS; AND DESIGNATING INVESTMENT OFFICERS

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

WHEREAS, the City Council of the City of Bee Cave, Texas (the "City") has, as required by law, previously adopted a Financial Investment Policy (the "Policy");

WHEREAS, following its annual review of the Policy, the City Council of the City now desires to (i) adopt a Policy; (ii) adopt investment strategies, (iii) designate qualified brokers, (iv) designate Investment Officers to be responsible for the investment of City funds; and (v) confirm its annual review of the Policy;

NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS THAT:

Section 1: The Financial Investment Policy attached as Exhibit "A" is hereby adopted.

Section 2: The Investment Strategies attached as Exhibit "B" are hereby adopted.

Section 3: The brokers listed on Exhibit "C" are hereby authorized to engage in investment transactions with the City.

Section 4: The City Manager, the Finance Manager, and, if designated by a resolution of the City Council, the Mayor or a Council member, are hereby designated to serve as the City's Investment Officers. The Investment Officers are authorized to invest City funds in accordance with the direction of the City Council of the City and the Policy, but in no event may the Investment Officers invest City funds in contravention of Chapter 2256 of the Texas Government Code (the Public Funds Investment Act).

Section 5: The City Council confirms that, on this date, it has reviewed the City's investment policies and strategies and authorized the revisions set forth above.

ADOPTED this _____ day of _____, 2023.

_____
Kara King, Mayor

ATTEST:

_____
Kaylynn Holloway, City Secretary
[SEAL]

EXHIBIT "A"

ARTICLE I
INVESTMENT POLICY

1.01 Scope. This policy applies to all financial assets of the City of Bee Cave.

1.02 Policy. Funds will be invested in compliance with applicable legal requirements, the guidelines stated in this Policy, Investment Strategy, and the restrictions contained in the City's bond resolutions. Effective cash management is recognized as a foundation of this Policy. Notwithstanding the foregoing, investment of City funds is limited to the types of investments set forth on the attached Exhibit "B". All marketable securities will be held in a safekeeping account by the city depository or an independent third-party safekeeping institution.

1.03 Allowable Maturities. The maximum allowable stated maturity of any individual investment may not exceed three years. Settlement of all transactions, other than investments in investment pool funds and money market mutual funds, must be consummated on a delivery versus payment basis.

1.04 Investment Objectives. The City's investment portfolio will be planned and managed to take advantage of investment interest as a source of income from all operating and capital funds. In addition, the portfolio will be managed in accordance with the covenants of the City's bond resolutions, including covenants with respect to the arbitrage regulations under the U.S. Internal Revenue Code. Consideration will be given to the following objectives:

A. Safety of capital: The primary objective of the city is to ensure the preservation and safety of principal values.
B. Liquidity: The City will maintain sufficient liquidity to ensure the availability of the funds necessary to pay obligations as they become due.
C. Return on investment: The City will always seek to optimize return on investments within the constraints of safety and liquidity.
D. Standard of Care: The City will always seek to ensure that all persons involved in the investment process act responsibly in the preservation of City capital. City investments will be made with the exercise of judgment and care, discretion, and not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.
E. Reporting. Purchases and sales of City investments may only be initiated by a designated City Investment Officer, appointed by resolution of the City Council. The City's Investment Officer must attend at least one training session thru the Government Finance Officers Association or from another independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of

instruction within the first twelve months relating to the treasurer's or officer's responsibilities in compliance with the Public Funds Investment Act. Eight hours of training are required within the next two consecutive fiscal years after the initial training. The Council may authorize an Investment Officer to invest and reinvest funds of the City in accordance with this Policy. The Investment Officers must submit a written report to the City Council quarterly which sets forth investment transactions and complies with the Public Funds Investment Act.

1.05 Acknowledgment Required. Any business (broker, bank, or pool) that desires to sell investments to the City must be given a copy of this Policy, and a principal of the Business Entity must execute a written instrument stating that he or she:

1. Has received and thoroughly reviewed the Policy; and
2. Acknowledges that the organization has implemented reasonable procedures and controls to preclude investment transactions not authorized by this Policy arising between the organization and the City.

1.06 Collateralization. All time and demand deposits at a bank or trust company must be collateralized to 102% by collateral securities set forth in the Public Funds Collateral Act, to the extent not covered by the Federal Deposit Insurance Corporation (FDIC), the Federal Savings and Loan Insurance Corporation (FSLIC), or their successors. The bank is responsible for monitoring and always maintaining collateral levels. Substitution of collateral is allowed with prior City approval.

1.07 Review. The City's Public Funds Investment Policy shall be reviewed periodically by the City Manager and revised when necessary. In addition, the policy must be reviewed and approved annually by the City Council. This review will include adoption of a written resolution stating that the Council has reviewed the Public Funds Investment Policy and investment strategies and include any changes made to the policy or strategies.

ARTICLE II

FINANCIAL MANAGEMENT

2.01 Accounting Records. The City's financial report must be prepared quarterly, include investment transactions for all funds for the reporting period and be available for public inspection during regular business hours at City offices.

2.02 Audit Requirements. The City's fiscal accounts and records will be audited annually, at the expense of the city, by a certified public accountant. City audits will be performed according to generally accepted auditing standards adopted by the American Institute of Certified Public Accountants. The City will comply with uniform reporting requirements that use "Audits of State and Local Government Units" as a guide on audit working papers and "Governmental Accounting and Financial Reporting Standards". In addition, the

City's auditor will review management controls on City investments and the City's compliance with the Policy contained in Article I.

Any investment officer with a material personal or business relationship with businesses desiring to do business with City must disclose such relationship to the City Manager.

2.03 Finance and Investment Committee. The Council may establish a finance and investment committee comprised of council members and city employees with the required Public Funds Investment Act training. This committee may conduct a review of the City's financial status and the annual City audit and make any necessary and appropriate recommendations to the City Council.

2.04 Budget. The city must adopt an annual budget prior to September 30th of each year. The annual budget must include all revenues and debt obligations and expenditures. A comparison of budgeted to actual expenditures and revenues will be prepared for review on a quarterly basis and included in the quarterly financial report. The approved budget will be reviewed, and any necessary budget amendments must be approved by majority vote of the City Council.

ARTICLE III

EMPLOYEE BONDS

3.01 Bond. The City Council will require any Employee who handles City funds to be bonded, in an amount determined by the City.

3.02 Review. The performance of all Employees who handle City funds will be regularly monitored, reviewed, and evaluated at least annually by the City Council, or more frequently upon request of a councilmember.

ADOPTED this _____day of _____2023.

By: _____
Kara King, Mayor

ATTEST:

_____
KAYLYNN HOLLOWAY, City Secretary

EXHIBIT "B"

AUTHORIZED INVESTMENTS

1. The Following obligations of governmental entities and obligations guaranteed by governmental entities are allowed:

a. Obligations of the United States or its agencies and instruments.
b. Obligations of the state of Texas or its agencies and instrumentalities.
c. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities.

2. Certificates of deposit issued by a bank or saving and loan association doing business in the state of Texas guaranteed by the FDIC, or the obligations set forth in the Public Funds Collateral Act (PFCA).

3. Commercial paper with a stated maturity of 270 days or less and meeting certain other credit requirements established by the City Council.

4. Money market mutual funds that are no-load and:

(a) are registered and regulated by the Securities and Exchange Commission (SEC);
(b) Provide the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.);
(c) Comply with the SEC rule 2a7

5. Constant dollar public funds investment pools which meet the criteria as set forth in the Public Funds Investment Act, maintain a "AAA" rating, and comply with the SEC rule 2a7.

UNAUTHORIZED INVESTMENTS

1. The Following are not authorized investments:
    a) Interest only mortgage-backed collateral securities.
    b) Principal only mortgage-backed collateral securities.
    c) Collateralized Mortgage Obligation with a stated maturity greater than 10 years.
    d) Inverse floater (Indexed that adjust opposite to changes in a market index) Collateralized Mortgage Obligations.

EXHIBIT "C"

LIST OF BROKERS

First Southwest Asset Management
JP Morgan Chase Investment Asset Management
Local Government Investment Cooperative (LOGIC)
Texas Cooperative Liquid Assets Securities System (Texas Class)
TexStar Participant Services
Texas Local Government Investment Pool (TexPool)
PFM Asset Management LLC
SAMCO Capital Markets
Southwest Asset Management Securities Group, Inc.
Wells Fargo Securities, LLC
Wells Fargo Institutional Securities, LLC
Wells Fargo Bank, National Association
The Bank of New York Mellon Trust Company, National Association

The brokers meet City of Bee Cave investment policy requirements of:

(a) Providing a signed certification that the entity has received and reviewed the City of Bee Cave's investment policy; and
(b) Certifying the entity is licensed and in good standing with the Securities and Exchange Commission.

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**7.C.**
Agenda Title:	**Consider approval of Resolution No. 2023-17 approving the Fund Balance Policy.**
Council Action:	**Approve as Submitted**
Department:	**Finance**
Staff Contact:	**Administration**

1. INTRODUCTION/PURPOSE

The purpose of this consent agenda item is to consider approval of Resolution No. 2023-17 approving the Fund Balance Policy.

2. DESCRIPTION/JUSTIFICATION

a) Background

The Fund Balance Policy requires annual review and approval by Council and is in effect for FY 2023-2024 beginning October 1st, 2023 and ending September 30th, 2024.

b) Issues and Analysis

There are no revisions to the current policy. The Resolution required and the Fund Balance Policy documents are attached.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

The Fund Balance Policy takes effect October 1st, 2023.

5. RECOMMENDATION

Approve as submitted.

ATTACHMENTS:

Description	Type
Fund Balance Policy	Cover Memo
Resolution No. 2023-17	Cover Memo

City of Bee Cave
Comprehensive Fund Balance Policy

BACKGROUND

The Governmental Accounting Standards Board (GASB) issued Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions (GASB-54)* in February of 2009. The primary objective of GASB-54 is to improve its usefulness through clearer fund balance classifications allowing for more consistent application to existing governmental fund type definitions. This standard also clarifies the definitions of the different types of funds that a governmental entity may set up for financial reporting purposes. GASB-54 also establishes fund balance classifications that comprise a hierarch based primarily on the extent to which a government is bond to observe constraints imposed upon the use of resources reported in governmental funds.

GASB-54 requires the City of Bee Cave to classify the fund balance reported in our financial statements in accordance with the five detailed classifications shown below. These categories are as follows:

> **Nonspendable Fund Balance** - Fund balance reported as "*Nonspendable*" represents fund balance amounts that cannot be spent because they are either not in a spendable form or are legally or contractually required to maintain intact. "Not in spendable form" criterion includes items that are not expected to be converted to cash, for example, inventories and prepaid amounts. It also includes the long-term amount of loans and notes receivable. Thee corpus of an endowment fund is an example of a legally or contractually required amount required to be maintained intact.
>
> **Restricted Fund Balance** - Fund balance reported as "*Restricted*" represents amounts that are restricted when constraints are placed on the use of the resources. These restraints may be imposed by law through constitution provisions or enabling legislation or imposed by external creditors, grantors, contributors, or laws or regulations of other governments. Debt covenants are an example of externally imposed constraints. Enabling legislation authorizes the government to assess, levy, charge, or otherwise mandate payment of resources (from external resource providers) and includes a legally enforceable requirement that those resources be used for the specific purposes stipulated in the legislation.
>
> **Committed Fund Balance** - Fund balance reported as "*Committed*" includes amounts that can be used only for the specific purposes determined by a formal action of the City Council. Committed amounts cannot be used for any other purpose unless the government removes or changes the specified use by taking the same type of example it employed to previously commit those amount. Constraints imposed on the use of "committed" amounts are imposed by the government, separate from the authorization to raise the underlying revenue, there for are not considered to be legally enforceable.
> Formal action to commit fund balance to a specific purpose should occur prior to the end of the reporting period, but the amount, if any, which will be subject to the constraint, may be determined in the subsequent period.

Assigned Fund Balance - Fund balance reported as "*Assigned*" represents amounts that are constrained by the government's intent to be used for specific purposes, but are neither restricted nor committed. Intent should be expressed by the either the governing body itself or a body or official to which the governing body has delegated the authority to assign amounts to be used for specific purposes. An example of expressed intent may be found in a budget or provided by a finance committee. Authority for assignment is not required to be the government's highest level of decision-making authority.

Unassigned Fund Balance - Fund balance reported as "*Unassigned*" represents the residual classification of fund balance and includes all spendable amounts not contained within the other classifications within the general fund. The general fund is the only fund that should report a positive unassigned fund balance amount.

GASB-54 became effective for reporting periods beginning after June 15, 2010. The City of Bee Cave implemented GASB-54 standard in FY 2010-11.

GASB-54 also requires that written policies be formally adopted by the City of Bee Cave depicting the procedures that will be used for committing fund balance; assigning fund balance; how stabilization funds will be determined; order of spending the fund balance categories; minimum fund balance levels and use of governmental fund types.

COMPREHENSIVE FUND BALANCE POLICIES

1.0 Policy on Committing Funds

In accordance with GASB-54, it is the policy of the City of Bee Cave that fund balance amounts will be reported as "Committed Fund Balance" only after formal action and approval by the City Council. The action to constrain amounts in such a manner must occur prior to year end; however, the actual dollar amount may be determined in the subsequent period.

For example, the City Council may approve a motion to report within the year-end financial statements each year, if available, an amount equal to nine (9) month's worth of operating expenditures as Committed Fund Balance for Stabilization (*see 3.0 Policy on Stabilization Funds*). The dollar amount to be reported as stabilization funds might not be known at the time of approval. This amount can be determined at a later date when known and appropriately reported within the year-end financial statements due to the governing body approving this action before year-end.

It is the policy of this City that the governing body may commit fund balance for any reason that is consistent with the definition of Committed Fund Balance contained within GASB-54. Examples of reasons to commit fund balance would be (1) to display intentions to use portions of fund balance for future capital projects, stabilization funds, or (2) to earmark special General Fund revenue streams unspent at year-end that are intended to be used for specific purposes.

After approval by the City Council, the amount reported as Committed Fund Balance cannot be undone without utilizing the same process required to commit the funds. Therefore, it is the policy of the City of Bee Cave that funds can only be removed from the Committed Fund Balance category after motion and approval by the City Council. This action may take place in conjunction with adoption of the annual budget.

2.0 Policy on Assigning Funds

In accordance with GASB-54, funds that are intended to be used for a specific purpose but have not received the formal approval action at the governing body level may be recorded as Assigned Fund Balance. Likewise, redeploying assigned resources to an alternative use does not require formal action by the governing body.

GASB-54 states that resources can be assigned by the governing body or by another internal body or person whom the governing body gives the authority to do so, such as a finance committee or the City Manager or his or her designee, or budget document.

Therefore, having considered the requirements to assign fund balance, it is the policy of the City of Bee Cave that the City Manager will have the authority to assign fund balance of this organization based on intentions for use of fund balance communicated informally by the governing body.

3.0 Policy on Stabilization Funds

The City of Bee Cave desires that a specific amount of fund balance be maintained perpetually to provide for emergencies, contingencies, revenue shortfalls, or budgetary imbalances that occur from

time to time. This formal set-aside fund is commonly known as "Stabilization Funding". Therefore, it is the policy of the City of Bee Cave that, if available, an amount up to nine (9) months worth of regular General Fund operating expenditures be reported as Committed Fund Balance for Stabilization each year in the year-end external financial statements of the City of Bee Cave.

In the absence of a formal action by the governing body in any given year specifying the desire to report committed fund balance for stabilization funds of up to nine (9) months of regular General Fund operating expenditures, if available, the formal adoption of this Comprehensive Fund Balance Policy by the governing body will be deemed to serve as the formal action required to commit fund balance for stabilization funds. If at year-end, an amount less than nine (9) months of operating expenditures is available within fund balance that is not already reserved or committed for other purposes, then it is the policy of the City of Bee Cave to record all remaining fund balance amounts as Committed Fund Balance for Stabilization.

4.0 Policy on Order of Spending Resources

It is the policy of the City of Bee Cave that when expenditures are incurred that would qualify as expenditures of either Restricted Fund Balance or Unrestricted Fund Balance (Committed, Assigned, or Unassigned), those expenditures will first be applied to the Restricted Fund Balance Category.

Furthermore, it is the policy of the City of Bee Cave that when expenditures are incurred that would qualify as a use of any of the Unrestricted Fund Balance categories (Committed, Assigned, or Unassigned), those expenditures will be applied in the order of Unassigned first, then Assigned, and then Committed.

5.0 Policy on the Acceptable Minimum Level of Fund Balances

As stated in 3.0 Policy on Stabilization Funds, the City of Bee Cave desires to maintain, if available, stabilization funds of up to nine (9) months of regular General Fund operating expenditures at all times. Unforeseen events may occur however which require use of stabilization funds, such as emergencies, contingencies, revenue shortfalls, or budgetary imbalances. The City of Bee Cave has considered the possibility that stabilization funding may be required to be used at times and that the overall Unrestricted Fund Balance (Committed Fund Balance, Assigned Fund Balance, and Unassigned Fund Balance) level may be drawn down to a level posing a risk to City finances.

Therefore it is the policy of the City of Bee Cave to maintain at all times an overall Unrestricted Fund Balance (Committed Fund Balance, Assigned Fund Balance, and Unassigned Fund Balance) of not less than nine (9) months of regular General Fund operating expenditures. If it is determined that City is below this minimum established fund balance level, the governing body will be informed of this condition and take necessary budgetary steps to bring the fund balance level into compliance with this policy.

6.0 Review of Governmental Fund Classifications

The City of Bee Cave desires that the governmental fund types available for use in governmental financial reporting be appropriately selected based on the GASB-54 definitions of these fund types. Furthermore, the fund balance categories utilized within each these fund types are also to be appropriately selected from the new GASB-54 classifications.

Therefore, after consideration of the purpose of each governmental fund type, it is the policy of the City of Bee Cave to limit the fund balance categories that may be used with each governmental fund type as follows:

General Fund
Nonspendable Fund Balance
Restricted Fund Balance
Committed Fund Balance
Assigned Fund Balance
Unassigned Fund Balance

Debt Service Funds
Restricted Fund Balance
Committed Fund Balance
Assigned Fund Balance

Capital Projects Funds
Restricted Fund Balance
Committed Fund Balance
Assigned Fund Balance

Special Revenue Funds
Restricted Fund Balance
Committed Fund Balance
Assigned Fund Balance

RESOLUTION NO. 2023-17

RESOLUTION ADOPTING A COMPREHENSIVE FUND BALANCE POLICY IN ACCORDANCE WITH REQUIREMENTS SET FORTH IN THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENT NUMBER 54, FUND BALANCE REPORTING AND GOVERNMENTAL FUND TYPE DEFINITONS (GASB-54), FOR THE CITY OF BEE CAVE

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

WHEREAS, the City's Finance Analyst has reviewed the requirements of GASB-54 governing committed fund balance; and

WHEREAS, the City Manager's office recommends adoption of the GASB-54 requirements; and

WHEREAS, in order to classify any portion of fund balance as Committed Fund Balance, formal City Council action must be taken; and

WHEREAS, fund balance assignments may be made by City management based on City Council direction.

NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS THAT:

Section 1: That, in accordance with GASB-54, the City of Bee Cave hereby approves and adopts the Comprehensive Fund Balance Policy attached as Exhibit "A".

Section 2: The Comprehensive Fund Balance Policy for the City of Bee Cave, Texas, is subject to review and revision by the City Council from time to time.

ADOPTED this _____ day of _____, 2023.

_____
Kara King, Mayor

ATTEST:

_____
Kaylynn Holloway, City Secretary
[SEAL]

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**7.D.**
Agenda Title:	**Consider approval of Ordinance No. 518 amending the City's Budget for Fiscal Year 2022-23.**
Council Action:	**Approve as Submitted**
Department:	**Finance**
Staff Contact:	**Administration**

1. INTRODUCTION/PURPOSE

The purpose of this consent agenda item is to consider approval of Ordinance No. 518 amending the City's Budget for Fiscal Year 2022-23.

2. DESCRIPTION/JUSTIFICATION

a) Background

This is the final budget amendment for FY 2022-2023 and is required prior to the end of the FY September 30th, 2023.

b) Issues and Analysis

We prepare and process a final budget amendment each fiscal year to reconcile line-item detail of revenue and expense in each of the City's operating funds. This process is required in preparation for the City's comprehensive financial audit.

The most significant revision required to our approved operating budget, must reflect the expense associated with the acquisition of two (2) properties that were not anticipated when the budget was appropriated October 1st, 2022. On June 9th, we purchased 2.196 acres known as the "TOSK" property in the total amount of $1,950,785 for the Public Safety Building. On September 11th, we purchased ~7.6 acres known as the "Montessori School" property in the total amount of $4,003,399.75 for future municipal purposes.

Our General Fund Revenue line-item detail out-performed our budget forecasts - primarily in Development revenue and Interest Income earnings.

All other Funds including Debt Service, Cap Projects, Hotel Occupancy, Court Security and Technology, Road Maintenance, Police Confiscation and Public Improvement Districts are included.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

FY 2022-2023 ends on September 30th, 2023.

5. RECOMMENDATION

Approve as submitted.

ATTACHMENTS:

Description	Type
Ordinance No. 518	Cover Memo
Final Budget Amendment	Backup Material

CITY OF BEE CAVE, TEXAS

ORDINANCE NO. 518

AN ORDINANCE OF THE CITY OF BEE CAVE CHANGING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023; PROVIDING FOR AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, it is found and determined that changes in the current budget are necessary for municipal purposes, and such changes are permitted pursuant to Section 102.010 of the Texas Local Government Code.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:

Section 1. That the budget of the City of Bee Cave for the 12 month period beginning October 1, 2022, and ending September 30, 2023 as heretofore adopted be, and it is hereby, changed as shown in Exhibit "A", attached hereto and incorporated by reference for all purposes.

Section 2. This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

Section 3. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED THIS _____ DAY OF _____, 2023.

CITY OF BEE CAVE:

_____
Kara King, Mayor

ATTEST:

_____
Kaylynn Holloway, City Secretary

[SEAL]

APPROVED AS TO FORM:

_____
Ryan Henry, City Attorney

City of Bee Cave

FY 2022-2023

Final Budget Amendment

September 26th , 2023

Budget Report

Fund: 01 - GENERAL FUND REVENUE

		Budget 9/30/2023	FYTD 9/30/2023	Percent Used	Final Amended Budget 9/30/2023
01-4000-12100	SALES TAX/1%	$7,000,000	$7,089,683	101.28%	$7,089,683
01-4000-12200	SALES TAX/PROPERTY	$3,500,000	$3,544,841	101.28%	$3,544,841
01-4000-13100	MIXED BEVERAGE TAX	$110,000	$166,356	151.23%	$182,000
01-4000-23000	FRANCHISE FEES	$10,000	$4,948	49.48%	$5,000
01-4000-23100	FRANCHISE FEES - SW BELL TELEP	$10,000	$10,038	100.38%	$10,038
01-4000-23300	FRANCHISE FEES - GRANITE TELEC	$2,000	$1,383	69.15%	$1,383
01-4000-23700	FRANCHISE FEE-TEXAS GAS SVC	$5,000	$9,524	190.48%	$9,524
01-4000-23800	FRAN. FEES-CHARTER SPECTRUM	$72,000	$60,507	84.04%	$60,507
01-4000-23900	FRANCHISE FEES-CITY OF AUSTIN	$250,000	$356,741	142.70%	$475,000
01-4000-25000	CONTRACTOR REGISTRATION	$2,000	$2,400	120.00%	$3,000
01-4000-25100	PLATTING	$40,000	$422,975	0.00%	$425,000
01-4000-25200	ZONING,REZONING,CUP,VARIANCES	$15,000	$20,821	138.81%	$21,000
01-4000-25300	BLDG PLAN REVIEW & PERMITTING	$175,000	$103,671	59.24%	$105,000
01-4000-25400	SITE PLAN REVIEW & PERMITTING	$50,000	$138,676	277.35%	$140,000
01-4000-25500	REINSPECTION FEES	$20,000	$17,450	87.25%	$18,000
01-4000-25600	SIGNAGE	$3,000	$3,305	110.17%	$4,000
01-4000-25700	TECHNOLOGY FEES	$5,000	$3,413	68.26%	$3,500
01-4000-25800	DEVELOPER CONTRIBUTIONS	$0	$322,000	0.00%	$322,000
01-4000-25900	ROAD CONSTRUCTION INSPECTION FEES	$0	$105,803	0.00%	$105,803
01-4000-27000	LIBRARY REVENUE	$1,000	$1,659	165.90%	$1,700
01-4000-28100	POLICE PATROL & SECURITY	$0	$878	0.00%	$878
01-4000-28300	EDUCATION & TRAINING-POLICE	$2,000	$5,323	266.15%	$5,325
01-4000-29000	MISCELLANEOUS REVENUE	$500	$5,656	1131.20%	$5,750
01-4000-31000	ADMINISTRATIVE FEE - COURT	$2,500	$4,550	182.00%	$4,600
01-4000-31010	ARREST FEE	$12,000	$15,702	130.85%	$16,000
01-4000-31030	CHILD SAFETY FEES	$5,000	$6,528	130.56%	$7,000
01-4000-31060	DSC ADMIN FEE	$5,000	$9,485	189.70%	$9,750
01-4000-31070	COURT FINES	$150,000	$247,237	164.82%	$252,000
01-4000-31080	LOCAL OMNI BASE FEE	$500	$522	104.40%	$525
01-4000-31110	TRAFFIC FEE	$4,000	$6,218	155.45%	$6,300
01-4000-31130	WARRANT FEE	$7,500	$7,137	95.16%	$7,300
01-4000-31180	TIME PAYMENT PLAN	$600	$283	47.17%	$300
01-4000-31220	JUDICIAL FEE - MUNI COURT JFCI	$100	$56	56.00%	$100
01-4000-31250	GENERAL REVENUE - COURT	$15,000	$13,171	87.81%	$13,500
01-4000-31370	JURY FEE	$200	$382	191.00%	$400
01-4000-31380	TIME PAYMENT-LOCAL EFFICIENCY	$100	$35	35.00%	$50
01-4000-31390	LOCAL TRUANCY PREVENTION	$7,500	$15,131	201.75%	$14,500
01-4000-31450	COLLECTION AGENT REV	$15,000	$12,695	84.63%	$13,000
01-4000-40000	INTEREST INCOME, ROI	$400,000	$1,519,044	379.76%	$1,650,000
01-4000-45000	PROPERTY RENTAL INCOME	$0	$0	0.00%	$3,583
01-4000-52000	GRANT REVENUE - POLICE	$0	$14,832	0.00%	$14,832
01-4000-91000	SALE OF PROPERTY	$0	$973,438	0.00%	$973,438
01-4000-91100	SALE OF ACQUISITION	$0	$147,700	0.00%	$147,700
01-4000-92000	REFUND OF PRIOR YEAR EXPENDITU	$0	$600	0.00%	$600
01-4000-93000	PROCEEDS FROM INSURANCE	$0	$10,000	0.00%	$10,000
01-4990-67000	TRF FROM 4B ECONOMIC DEVELOPMENT	$0	$0	0.00%	$0
	Fund: 01 - GENERAL FUND Total:	**$11,897,500**	**$15,402,797**	**129.46%**	**$15,684,410**

Budget Report

Fund: 01 - GENERAL FUND

Beginning Fund Balance **$19,221,098**

		Budget 9/30/2023	FYTD 9/30/2023	Percent Used	Final Amended 9/30/2023
Fund: 01 - GENERAL FUND EXPENSE					
	5010 - ADMINISTRATION	$1,036,687	$1,266,025	122.12%	$1,368,428
	5020 - CITY COUNCIL	$49,200	$34,356	69.83%	$36,130
	5030 - LEGAL	$151,000	$239,771	158.79%	$295,000
	5040 - COMMUNICATIONS	$279,272	$203,205	72.76%	$235,604
	5120 - NON DEPARTMENTAL	$347,500	$156,567	45.06%	$261,681
	5140 - INFORMATION TECHNOLOGY	$360,000	$419,539	116.54%	$450,195
	5200 - LIBRARY	$1,016,928	$1,008,874	99.21%	$1,064,882
	5350 - PARKS	$631,580	$393,436	62.29%	$437,325
	5650 - FACILITIES	$0	$319,999	0.00%	$349,692
	5500 - MUNICIPAL COURT	$323,820	$308,264	95.20%	$353,380
	5520 - POLICE	$3,020,325	$2,778,596	92.00%	$3,079,140
	5620 - PLANNING & DEVELOPMENT	$1,158,434	$1,020,749	88.11%	$1,114,951
	5800 - CHAPTER 380	$159,540	$145,742	0.00%	$145,742
	5900- CIP NOC	$0	$6,067	0.00%	$6,067
	5990 - TRANSFERS TO	$968,559	$0	0.00%	$8,821,706
	Fund: 01 - GENERAL FUND EXPENSE Total:	**$9,502,845**	**$8,301,190**	**87.35%**	**$18,019,924**

		Budget 9/30/2023	FYTD 9/30/2023	Percent Used	Final Amended 9/30/2023
Dept: 5010 - ADMINISTRATION					
01-5010-11100	SALARY	$726,557	$855,284	117.72%	$935,285
01-5010-11500	OVERTIME	$0	$71	0.00%	$71
01-5010-12200	MEDICARE @ 1.45%	$11,667	$12,601	108.01%	$13,550
01-5010-12400	RETIREMENT (TMRS)	$71,275	$84,784	118.95%	$90,750
01-5010-12500	VISION COVERAGE	$1,319	$1,318	99.92%	$1,425
01-5010-12600	HEALTH INSURANCE	$69,654	$82,633	118.63%	$86,650
01-5010-12700	DENTAL COVERAGE	$6,049	$5,778	95.52%	$6,000
01-5010-12900	LIFE INSURANCE	$155	$164	105.81%	$175
01-5010-13200	LONGEVITY PAY	$5,011	$5,774	115.23%	$5,774
01-5010-13300	OTHER ALLOWANCE	$6,600	$15,337	232.38%	$16,337
01-5010-21000	POSTAGE	$400	$646	161.50%	$750
01-5010-21100	SUPPLIES	$2,000	$3,371	168.55%	$3,675
01-5010-21200	PRINTING	$0	$61	0.00%	$75
01-5010-21400	SPECIAL DEPT SUPPLIES	$3,500	$3,577	102.20%	$3,605
01-5010-21900	MISCELLANEOUS	$0	$15	0.00%	$15
01-5010-22800	ADVERTISING & RECRUITMENT	$2,000	$3,783	189.15%	$3,785
01-5010-22900	LEGAL NOTICES	$11,500	$12,509	108.77%	$13,155
01-5010-23400	MILEAGE REIMBURSEMENT	$500	$248	49.60%	$295
01-5010-23600	CLOTHING/UNIFORMS	$0	$500	0.00%	$500
01-5010-24100	TRAVEL & MEETINGS	$5,000	$6,866	137.32%	$7,876
01-5010-24200	SEMINARS & TRAINING	$8,000	$9,434	117.93%	$10,431
01-5010-24300	MEMBERSHIP FEES	$5,000	$5,557	111.14%	$5,557
01-5010-25200	SPECIAL EVENTS	$0	$5,285	0.00%	$5,285
01-5010-26500	CREDIT CARD MERCHANT FEES	$2,000	$4,373	218.65%	$5,375
01-5010-51500	OTHER PROFESSIONAL FEES	$96,000	$146,056	152.14%	$152,032
01-5010-54600	SERVICE CONTRACTS	$2,500	$0	0.00%	$0
	Dept: 5010 - ADMINISTRATION Total:	**$1,036,687**	**$1,266,025**	**122.12%**	**$1,368,428**
Dept: 5020 - CITY COUNCIL					
01-5020-11100	SALARY	$5,000	$5,850	117.00%	$6,250
01-5020-12000	FICA @ 7.65%	$500	$363	72.60%	$465
01-5020-12200	MEDICARE @ 1.45%	$100	$85	85.00%	$115
01-5020-21100	SUPPLIES	$500	$45	9.00%	$75
01-5020-21200	PRINTING	$0	$15	0.00%	$15

01-5020-21400	SPECIAL DEPT SUPPLIES	$0	$91	0.00%	$100
01-5020-23100	ELECTIONS	$10,000	$0	0.00%	$0
01-5020-23400	MILEAGE REIMBURSEMENT	$100	$0	0.00%	$0
01-5020-24100	TRAVEL & MEETINGS	$500	$1,158	231.60%	$1,350
01-5020-24200	SEMINARS & TRAINING	$1,000	$0	0.00%	$0
01-5020-25200	SPECIAL EVENTS	$6,500	$9,249	142.29%	$10,260
01-5020-51300	AUDIT FEES	$25,000	$17,500	70.00%	$17,500
	Dept: 5020 - CITY COUNCIL Total:	**$49,200**	**$34,356**	**69.83%**	**$36,130**
Dept: 5030 - LEGAL					
01-5030-51100	LEGAL FEES	$150,000	$239,771	159.85%	$295,000
01-5030-51500	OTHER PROFESSIONAL FEES	$1,000	$0	0.00%	$0
	Dept: 5030 - LEGAL Total:	**$151,000**	**$239,771**	**158.79%**	**$295,000**
Dept: 5040 - COMMUNICATIONS					
01-5040-11100	SALARY	$178,027	$140,214	78.76%	$147,500
01-5040-12200	MEDICARE @ 1.45%	$2,884	$2,025	70.21%	$2,175
01-5040-12400	RETIREMENT (TMRS)	$17,464	$13,945	79.85%	$14,750
01-5040-12500	VISION COVERAGE	$434	$274	63.13%	$305
01-5040-12600	HEALTH INSURANCE	$30,622	$20,195	65.95%	$21,475
01-5040-12700	DENTAL COVERAGE	$1,997	$1,299	65.05%	$1,375
01-5040-12900	LIFE INSURANCE	$44	$28	63.64%	$30
01-5040-13300	OTHER ALLOWANCE	$0	$3,206	0.00%	$3,206
01-5040-21000	POSTAGE	$100	$0	0.00%	$0
01-5040-21100	SUPPLIES	$1,000	$442	44.20%	$545
01-5040-21200	PRINTING	$2,500	$250	10.01%	$250
01-5040-22800	ADVERTISING & RECRUITMENT	$3,000	$373	12.43%	$475
01-5040-23400	MILEAGE REIMBURSEMENT	$0	$118	0.00%	$118
01-5040-23600	CLOTHING/UNIFORMS	$0	$102	0.00%	$102
01-5040-24100	TRAVEL & MEETINGS	$2,000	$2,654	132.70%	$3,652
01-5040-24200	SEMINARS & TRAINING	$500	$3,660	732.00%	$4,620
01-5040-24300	MEMBERSHIP FEES	$0	$1,293	0.00%	$1,293
01-5040-25200	SPECIAL EVENTS	$8,000	$3,828	47.85%	$4,434
01-5040-51500	OTHER PROFESSIONAL FEES	$30,700	$8,919	29.05%	$28,919
01-5040-71700	FURNITURE & FIXTURES	$0	$380	0.00%	$380
	Dept: 5040 - COMMUNICATIONS Total:	**$279,272**	**$203,205**	**72.76%**	**$235,604**
Dept: 5120 - NON DEPARTMENTAL					
01-5120-21200	PRINTING	$5,000	$0	0.00%	$0
01-5120-24300	MEMBERSHIP FEES	$0	$818	0.00%	$818
01-5120-25200	SPECIAL EVENTS	$0	$30	0.00%	$30
01-5120-26000	EMERGENCY MGMNT PLAN	$0	$12,976	0.00%	$12,976
01-5120-27000	CONTINGENCY	$100,000	$0	0.00%	$100,000
01-5120-51500	OTHER PROFESSIONAL FEES	$100,000	$6,400	6.40%	$10,600
01-5120-54600	SERVICE CONTRACTS	$0	$2,981	0.00%	$3,665
01-5120-55000	RISK INSURANCE	$125,000	$116,092	92.87%	$116,092
01-5120-73000	LEASE PURCHASE	$17,500	$17,270	98.69%	$17,500
	Dept: 5120 - NON DEPARTMENTAL Total:	**$347,500**	**$156,567**	**45.06%**	**$261,681**
Dept: 5140 - INFORMATION TECHNOLOGY					
01-5140-21100	SUPPLIES	$0	$707	0.00%	$870
01-5140-21400	SPECIAL DEPT SUPPLIES	$30,000	$31,821	106.07%	$33,725
01-5140-22300	TELECOMMUNICATION SVC PLANS	$42,000	$52,290	124.50%	$57,275
01-5140-22400	CABLE	$30,000	$25,727	85.76%	$28,620
01-5140-24200	SEMINARS & TRAINING	$2,000	$0	0.00%	$0
01-5140-24300	MEMBERSHIP FEES	$1,000	$0	0.00%	$0
01-5140-51500	OTHER PROFESSIONAL FEES	$200,000	$287,171	143.59%	$305,125
01-5140-54600	SERVICE CONTRACTS (HHW)	$25,000	$12,993	51.97%	$15,750
01-5140-71000	CAPITAL OUTLAY	$0	$8,830	0.00%	$8,830
01-5140-72500	SOFTWARE	$30,000	$0	0.00%	$0
	Dept: 5140 - INFORMATION TECHNOLOGY Total:	**$360,000**	**$419,539**	**116.54%**	**$450,195**
Dept: 5200 - LIBRARY					
01-5200-11100	SALARY	$653,789	$637,985	97.58%	$667,975
01-5200-12000	FICA @ 7.65%	$4,638	$3,963	85.45%	$4,225
01-5200-12200	MEDICARE @ 1.45%	$9,480	$9,254	97.62%	$9,675
01-5200-12400	RETIREMENT (TMRS)	$56,799	$56,887	100.15%	$61,775
01-5200-12500	VISION COVERAGE	$1,542	$1,486	96.37%	$1,576
01-5200-12600	HEALTH INSURANCE	$97,050	$103,181	106.32%	$108,179
01-5200-12700	DENTAL COVERAGE	$6,537	$6,700	102.49%	$7,150

01-5200-12900	LIFE INSURANCE	$199	$199	100.00%	$210
01-5200-13200	LONGEVITY PAY	$8,894	$8,894	100.00%	$8,894
01-5200-13500	OTHER BENEFITS	$0	$1,154	0.00%	$1,154
01-5200-20500	BOOKS - LIBRARY	$40,000	$41,564	103.91%	$43,525
01-5200-20600	DVDS - LIBRARY	$4,000	$3,783	94.58%	$4,000
01-5200-20700	AUDIO BOOKS - LIBRARY	$8,500	$9,254	108.87%	$10,560
01-5200-20800	DIGITAL - LIBRARY	$66,000	$71,015	107.60%	$74,625
01-5200-21000	POSTAGE	$500	$627	125.40%	$697
01-5200-21100	SUPPLIES	$12,000	$11,200	93.33%	$12,000
01-5200-21200	PRINTING	$2,500	$4,818	192.72%	$5,000
01-5200-23400	MILEAGE REIMBURSEMENT	$0	$512	0.00%	$592
01-5200-24100	TRAVEL & MEETINGS	$5,000	$3,405	68.10%	$3,750
01-5200-24200	SEMINARS & TRAINING	$5,000	$3,638	72.76%	$4,200
01-5200-24300	MEMBERSHIP FEES	$4,000	$3,938	98.45%	$4,000
01-5200-25200	SPECIAL EVENTS	$15,000	$14,900	99.33%	$15,500
01-5200-51500	OTHER PROFESSIONAL FEES	$12,500	$8,622	68.98%	$12,620
01-5200-54600	SERVICE CONTRACTS	$3,000	$1,895	63.16%	$3,000
	Dept: 5200 - LIBRARY Total:	**$1,016,928**	**$1,008,874**	**99.21%**	**$1,064,882**
Dept: 5350 - PARKS					
01-5350-11100	SALARY	$152,011	$140,016	92.11%	$148,025
01-5350-11500	OVERTIME	$0	$590	0.00%	$590
01-5350-12000	FICA @ 7.65%	$0	$341	0.00%	$365
01-5350-12200	MEDICARE @ 1.45%	$2,204	$2,124	96.37%	$2,225
01-5350-12400	RETIREMENT (TMRS)	$14,912	$13,876	93.05%	$14,575
01-5350-12500	VISION COVERAGE	$1,012	$323	31.92%	$335
01-5350-12600	HEALTH INSURANCE	$74,678	$20,626	27.62%	$21,575
01-5350-12700	DENTAL COVERAGE	$4,564	$1,314	28.79%	$1,376
01-5350-12900	LIFE INSURANCE	$155	$47	30.32%	$49
01-5350-13200	LONGEVITY PAY	$1,004	$406	40.44%	$406
01-5350-13300	OTHER ALLOWANCE	$0	$7,205	0.00%	$7,205
01-5350-21000	POSTAGE	$100	$26	26.48%	$56
01-5350-21100	SUPPLIES	$5,000	$2,172	43.44%	$3,172
01-5350-21200	PRINTING	$0	$512	0.00%	$512
01-5350-21300	TOOLS	$3,000	$3,020	100.67%	$4,000
01-5350-21400	SPECIAL DEPT SUPPLIES	$27,000	$32,008	118.55%	$33,050
01-5350-21500	REPAIRS	$15,000	$13,669	91.13%	$15,000
01-5350-21600	PARKS IMPROV & MAINTENANCE	$30,000	$65,588	218.63%	$72,575
01-5350-22100	ELECTRIC UTILITIES	$65,000	$4,758	7.32%	$6,758
01-5350-22200	WATER UTILITIES	$25,000	$8,294	33.18%	$10,275
01-5350-22500	WASTE MANAGEMENT	$10,000	$0	0.00%	$0
01-5350-23500	FUEL, TIRES & MAINTENANCE	$20,000	$15,473	77.37%	$20,000
01-5350-23600	CLOTHING/UNIFORMS	$6,000	$4,988	83.13%	$5,800
01-5350-24100	TRAVEL & MEETINGS	$1,000	$83	8.25%	$83
01-5350-24200	SEMINARS & TRAINING	$5,000	$1,517	30.34%	$1,517
01-5350-24300	MEMBERSHIP FEES	$500	$385	77.00%	$385
01-5350-25100	FILING & RECORDING	$0	$750	0.00%	$750
01-5350-25200	SPECIAL EVENTS	$5,000	$3,651	73.02%	$5,000
01-5350-26500	CREDIT CARD MERCHANT FEES	$500	$504	100.80%	$575
01-5350-51500	OTHER PROFESSIONAL FEES	$0	$5,268	0.00%	$6,255
01-5350-54600	SERVICE CONTRACTS	$130,000	$22,815	17.55%	$30,750
01-5350-71000	CAPITAL OUTLAY	$15,000	$15,700	104.67%	$15,700
01-5350-72500	SOFTWARE	$0	$5,387	0.00%	$5,387
01-5350-73000	LEASE/PURCHASE PAYMENT	$17,940	$0	0.00%	$3,000
	Dept: 5350 - PARKS Total:	**$631,580**	**$393,436**	**62.29%**	**$437,325**
Dept: 5650 - FACILITIES					
01-5650-11100	SALARY	$0	$9,135	0.00%	$11,235
01-5650-11500	OVERTIME	$0	$0	0.00%	$0
01-5650-12000	FICA @ 7.65%	$0	$0	0.00%	$0
01-5650-12200	MEDICARE @ 1.45%	$0	$124	0.00%	$174
01-5650-12400	RETIREMENT (TMRS)	$0	$896	0.00%	$1,095
01-5650-12500	VISION COVERAGE	$0	$26	0.00%	$38
01-5650-12600	HEALTH INSURANCE	$0	$1,568	0.00%	$2,255
01-5650-12700	DENTAL COVERAGE	$0	$204	0.00%	$239
01-5650-12900	LIFE INSURANCE	$0	$4	0.00%	$6
01-5650-13200	LONGEVITY PAY	$0	$0	0.00%	$0
01-5650-13300	OTHER ALLOWANCE	$0	$0	0.00%	$0

01-5650-21100	SUPPLIES	$0	$12,437	0.00%	$13,430
01-5650-21400	SPECIAL DEPARTMENTAL SUPPLIES	$0	$18,584	0.00%	$20,160
01-5650-21500	REPAIRS	$0	$38,026	0.00%	$41,010
01-5650-22100	ELECTRIC UTILITIES	$0	$75,682	0.00%	$82,620
01-5650-22200	WATER UTILITIES	$0	$7,777	0.00%	$10,705
01-5650-22500	WASTE MANAGEMENT	$0	$11,033	0.00%	$13,030
01-5650-23500	FUEL, TIRES & MAINTENANCE	$0	$54	0.00%	$154
01-5650-24200	SEMINARS & TRAINING	$0	$224	0.00%	$224
01-5650-24300	MEMBERSHIP FEES	$0	$50	0.00%	$50
01-5650-25200	SPECIAL EVENTS	$0	$8,444	0.00%	$9,540
01-5650-51500	OTHER PROFESSIONAL FEES	$0	$3,457	0.00%	$5,452
01-5650-54600	SERVICE CONTRACTS	$0	$132,274	0.00%	$138,275
	Dept: 5650 - FACILITIES Total:	**$0**	**$319,999**	**0.00%**	**$349,692**
Dept: 5500 - MUNICIPAL COURT					
01-5500-11100	SALARY	$196,210	$178,825	91.14%	$198,825
01-5500-11500	OVERTIME	$0	$949	0.00%	$1,135
01-5500-12000	FICA @ 7.65%	$3,782	$3,257	86.12%	$3,445
01-5500-12200	MEDICARE @ 1.45%	$2,845	$2,574	90.47%	$3,077
01-5500-12400	TMRS RETIREMENT	$13,264	$12,568	94.75%	$13,125
01-5500-12500	VISION INSURANCE	$442	$409	92.53%	$431
01-5500-12600	HEALTH INSURANCE	$26,246	$30,952	117.93%	$32,150
01-5500-12700	DENTAL INSURANCE	$1,700	$1,575	92.65%	$1,655
01-5500-12900	LIFE INSURANCE	$55	$52	94.55%	$55
01-5500-13200	LONGEVITY PAY	$776	$776	100.00%	$776
01-5500-13500	OTHER BENEFITS	$0	$1,893	0.00%	$2,195
01-5500-21000	POSTAGE	$500	$627	125.40%	$672
01-5500-21100	SUPPLIES	$2,000	$1,345	67.25%	$2,000
01-5500-21400	SPECIAL DEPT SUPPLIES	$500	$0	0.00%	$0
01-5500-22000	REFUNDS	$0	$714	0.00%	$800
01-5500-23400	MILEAGE REIMBURSEMENT	$0	$298	0.00%	$325
01-5500-23600	CLOTHING/UNIFORMS	$0	$74	0.00%	$100
01-5500-24100	TRAVEL & MEETINGS	$0	$100	0.00%	$100
01-5500-24200	SEMINAR & TRAINING	$0	$600	0.00%	$600
01-5500-26500	CREDIT CARD MERCHANT FEES	$5,500	$10,160	184.73%	$12,425
01-5500-51100	LEGAL FEES	$40,000	$44,433	111.08%	$59,422
01-5500-51500	OTHER PROFESSIONAL SVCS	$30,000	$15,616	52.05%	$19,425
01-5500-54600	SERVICE CONTRACTS	$0	$467	0.00%	$642
	Dept: 5500 - MUNICIPAL COURT Total:	**$323,820**	**$308,264**	**95.20%**	**$353,380**
Dept: 5520 - POLICE					
01-5520-11100	SALARY	$1,775,808	$1,721,572	96.95%	$1,817,172
01-5520-11500	OVERTIME	$50,000	$66,130	132.26%	$72,250
01-5520-11800	EMERGENCY MGMNT	$8,537	$0	0.00%	$0
01-5520-12200	MEDICARE @ 1.45%	$25,749	$26,159	101.59%	$28,150
01-5520-12400	RETIREMENT (TMRS)	$174,207	$177,368	101.81%	$188,225
01-5520-12500	VISION COVERAGE	$3,045	$3,009	98.82%	$3,225
01-5520-12600	HEALTH INSURANCE	$198,132	$210,425	106.20%	$222,375
01-5520-12700	DENTAL COVERAGE	$12,408	$13,237	106.68%	$14,319
01-5520-12900	LIFE INSURANCE	$475	$431	90.74%	$460
01-5520-13200	LONGEVITY PAY	$11,987	$13,218	110.27%	$13,218
01-5520-13300	OTHER BENEFITS	$20,792	$25,276	121.57%	$27,276
01-5520-21000	POSTAGE	$500	$1,643	328.60%	$1,742
01-5520-21100	SUPPLIES	$10,000	$5,481	54.81%	$6,270
01-5520-21200	PRINTING	$2,000	$557	27.87%	$722
01-5520-21400	SPECIAL DEPT SUPPLIES	$53,000	$54,500	102.83%	$56,521
01-5520-21500	REPAIRS	$0	$56	0.00%	$156
01-5520-22800	ADVTG & RECRUITMENT	$500	$51	10.20%	$251
01-5520-23500	FUEL, TIRES & MAINTENANCE	$75,000	$63,563	84.75%	$67,567
01-5520-23600	CLOTHING/UNIFORMS	$30,000	$47,231	157.44%	$49,224
01-5520-24100	TRAVEL & MEETINGS	$3,000	$5,974	199.13%	$6,872
01-5520-24200	SEMINARS & TRAINING	$15,000	$32,416	216.11%	$36,460
01-5520-24300	MEMBERSHIP FEES	$2,500	$5,129	205.16%	$5,129
01-5520-24400	TUITION REIMBURSEMENT	$1,185	$0	0.00%	$1,185
01-5520-25200	SPECIAL EVENTS	$500	$523	104.60%	$523
01-5520-51500	OTHER PROFESSIONAL FEES	$30,000	$14,025	46.75%	$16,250
01-5520-51600	DISPATCH SERVICES	$350,000	$237,816	67.95%	$350,000
01-5520-51700	VICTIM COORDINATOR	$25,000	$0	0.00%	$25,000

01-5520-54600	SERVICE CONTRACTS	$30,000	$20,440	68.13%	$25,247
01-5520-71000	CAPITAL OUTLAY	$70,000	$0	0.00%	$0
01-5520-71700	FURNITURE & FIXTURES	$0	$461	0.00%	$461
01-5520-72400	COMPUTER HARDWARE	$0	$1,890	0.00%	$1,890
01-5520-73000	LEASE/PURCHASE PAYMENT	$41,000	$30,015	73.21%	$41,000
	Dept: 5520 - POLICE Total:	**$3,020,325**	**$2,778,596**	**92.00%**	**$3,079,140**
Dept: 5620 - PLANNING & DEVELOPMENT					
01-5620-11100	SALARY	$712,910	$730,414	102.46%	$762,375
01-5620-11500	OVERTIME	$0	$1,655	0.00%	$1,655
01-5620-12200	MEDICARE @ 1.45%	$10,337	$10,657	103.10%	$11,125
01-5620-12400	RETIREMENT (TMRS)	$69,936	$71,994	102.94%	$74,960
01-5620-12500	VISION COVERAGE	$1,128	$1,035	91.76%	$2,000
01-5620-12600	HEALTH INSURANCE	$82,272	$72,904	88.61%	$75,950
01-5620-12700	DENTAL COVERAGE	$5,016	$4,396	87.64%	$4,675
01-5620-12900	LIFE INSURANCE	$177	$168	94.92%	$177
01-5620-13200	LONGEVITY PAY	$5,718	$6,415	112.19%	$6,415
01-5620-13500	OTHER BENEFITS	$3,000	$2,885	96.17%	$3,000
01-5620-21000	POSTAGE	$500	$1,031	206.20%	$1,235
01-5620-21100	SUPPLIES	$3,500	$613	17.51%	$815
01-5620-21200	PRINTING	$1,500	$1,962	130.80%	$2,262
01-5620-21400	SPECIAL DEPARTMENTAL SUPPLIES	$4,000	$67	1.68%	$162
01-5620-22000	REFUNDS	$0	$3,968	0.00%	$4,500
01-5620-23500	FUEL, TIRES & MAINTENANCE	$2,000	$1,792	89.60%	$2,000
01-5620-23600	CLOTHING/UNIFORMS	$2,000	$1,992	99.60%	$2,000
01-5620-24100	TRAVEL & MEETINGS	$2,000	$2,052	102.60%	$2,052
01-5620-24200	SEMINARS & TRAINING	$2,000	$6,945	347.25%	$6,945
01-5620-24300	MEMBERSHIP FEES	$3,000	$2,521	84.03%	$2,521
01-5620-26500	CREDIT CARD MERCHANT FEES	$8,500	$4,393	51.68%	$5,392
01-5620-51400	ENGINEERING FEES	$25,000	$24,388	97.55%	$30,375
01-5620-51500	OTHER PROFESSIONAL FEES	$96,000	$53,142	55.36%	$96,000
01-5620-51800	ROAD CONSTRUCTION INSPECTION (Pass Thru)	$100,000	$13,360	13.36%	$13,360
01-5620-73000	LEASE/PURCHASE PAYMENT	$17,940	$0	0.00%	$3,000
	Dept: 5620 - PLANNING & DEVELOPMENT Total:	**$1,158,434**	**$1,020,749**	**88.11%**	**$1,114,951**
Dept: 5800 - CHAPTER 380					
01-5800-62100	HCG 380	$159,540	$145,742	0.00%	$145,742
01-5800-62101	KENT SPORTS TCHMALL (EDB REIMBURSE)	$0	$0	0.00%	$0
	Dept: 5800 - CHAPTER 380 Total:	**$159,540**	**$145,742**	**0.00%**	**$145,742**
Dept: 5900 - CIP NOC					
01-5900-21500	REPAIRS, DAMAGE REIMBURSEMENT	$0	$6,067	0.00%	$6,067
	Dept: 5900 - CIP NOC Total	**$0**	**$6,067**	**0.00%**	**$6,067**
Dept: 5990 - TRANSFERS					
01-5990-20000	TRANSFER TO DEBT SERVICE	$968,559	$0	0.00%	$959,408
01-5990-25000	TRANSFER TO CAP PROJECTS	$0	$0	0.00%	$7,862,298
	Dept: 5990 - TRANSFERS TO Total:	**$968,559**	**$0**	**0.00%**	**$8,821,706**

General Fund Revenue	**$11,897,500**	**$15,684,410**
Estimated Ending Fund Balance	**$21,615,753**	**$16,885,584**

Budget Report

Fund: 02 - DEBT SERVICE

	Beginning Fund Balance	**$37,886**			**$37,885**

		Budget 9/30/2023	FYTD 9/30/2023	Percent Used	Final Amended 9/30/2023
Revenue					
02-4000-11100	PROPERTY TAX REVENUE - I & S	$598,040	$575,588	96.25%	$575,588
02-4000-11200	PROP TAX-PENALTY & INTEREST	$2,000	$2,142	107.10%	$2,142
02-4990-61000	TRANSFER FROM GEN FUND	$968,559	$0	0.00%	$959,408
		$1,568,599	**$577,730**	**36.83%**	**$1,537,138**
Expense					
02-5010-51500	PROFESSIONAL FEES	$3,000	$5,973	0.00%	$5,973
02-5700-80100	PRINICIPAL - 2015 REFUND GO BOND	$355,000	$355,000	100.00%	$355,000
02-5700-80200	INTEREST - 2015 REFUND GO BOND	$3,451	$6,901	199.97%	$6,901
02-5700-81300	PRINCIPAL - 2017 TAX NOTE	$880,000	$880,000	100.00%	$880,000
02-5700-81400	INTEREST - 2017 TAX NOTE	$36,007	$36,007	100.00%	$36,007
02-5700-81500	PRINCIPAL - 2020 TAX NOTE	$280,000	$280,000	100.00%	$280,000
02-5700-81600	INTEREST - 2020 TAX NOTE	$11,142	$11,142	100.00%	$11,142
		$1,568,600	**$1,575,023**	**100.41%**	**$1,575,023**
	Fund: 02 - DEBT SERVICE Surplus (Deficit):	**($1)**			**($37,885)**
	Ending Fund Balance	**$37,885**			**$0**

2023 Net Taxable Value $3,221,806,782

2015 Refunded GO Bond $5 @ 1.38% - Scheduled end date is 09/2023

2017 Tax Note $6M @ 1.89% - Scheduled end date is 09/2024

2020 Tax Note $1.98M @ 1.01% - Scheduled end date is 09/2027

Budget Report

Fund: 03 - CAPITAL & SPECIAL PROJECT

Beginning Fund Balance **$35,499**

		Budget 9/30/2023	FYTD 9/30/2023	Percent Used	Final Amended 9/30/2023
Revenue					
03-4990-61000	TRANSFER FROM GENERAL FUND	$2,811,256	$0	0.00%	$7,862,298
03-4990-70000	USE OF RESERVES	$28,880	$0	0.00%	$0
	Revenue Total:	**$2,840,136**	**$0**	**0.00%**	**$7,862,298**
Expense					
03-5010-26000	EMERGENCY MGMNT OPERATIONS	$0	$660	0.00%	$660
03-5010-51500	OTHER PROFESSIONAL FEES	$3,170,000	$849,019	26.78%	$949,425
03-5900-90800	PARKS IMPROVEMENT (EDB Budget)	$0	$17,147	0.00%	$17,147
03-5900-91200	PROPERTY AQUISITION	$0	$2,058,277	0.00%	$6,058,277
03-5900-95000	FACILITIES IMPROVEMENT	$0	$15,201	0.00%	$15,201
03-5900-95200	CITY HALL RENOV PH2	$0	$125,678	0.00%	$125,678
03-5900-97500	SPECIAL PROJECTS (STORM DAMAGE TBR)	$40,000	$731,409	1828.52%	$731,409
	Expense Total:	**$3,210,000**	**$3,797,391**	**118.30%**	**$7,897,797**
	Fund: 03 - CAPITAL & SPECIAL PROJECT Surplus (Deficit):	**($369,864)**			**($35,499)**

Ending Fund Balance **($334,365)** **$0**

Budget Report

Fund: 04 - HOTEL OCCUPANCY TAX FUND

	Beginning Fund Balance	**$2,097,926**			
		Budget 9/30/2023	**FYTD 9/30/2023**	**Percent Used**	**Final Amended 9/30/2023**
Revenue					
04-4000-14100	HOTEL OCCUPANCY TAX REVENUE	$600,000	$471,570	78.60%	$600,000
04-4000-14500	HCG (ICE RINK)	$300,000	$340,920	113.64%	$340,920
04-4000-55000	DONATIONS	$0	$15,000	0.00%	$15,000
04-4990-70000	USE OF RESERVES	$0	$0	0.00%	$0
	Revenue Total:	**$900,000**	**$827,490**	**91.94%**	**$955,920**
Expense					
04-5010-11100	SALARY	$32,898	$49,072	149.16%	$51,532
04-5010-12200	MEDICARE @ 1.45%	$477	$701	146.96%	$735
04-5010-12400	RETIREMENT (TMRS)	$3,227	$4,733	146.67%	$5,018
04-5010-12500	VISION COVERAGE	$0	$80	0.00%	$85
04-5010-12600	HEALTH INSURANCE	$0	$4,994	0.00%	$5,330
04-5010-12700	DENTAL COVERAGE	$0	$337	0.00%	$364
04-5010-12900	LIFE INSURANCE	$0	$8	0.00%	$13
04-5010-21900	HCG ICE RINK	$300,000	$424,317	141.44%	$424,317
04-5010-62400	OTHER APPLICATION APPROVALS	$0	$260,000	0.00%	$260,000
04-5010-62500	ARTS PROMOTION	$50,000	$180,000	360.00%	$180,000
	Expense Total:	**$386,602**	**$924,242**	**239.07%**	**$927,394**
Fund: 04 - HOTEL OCCUPANCY TAX FUND Surplus (Deficit):		**$513,398**	**($96,752)**		**$28,526**
	Ending Fund Balance	**$2,611,324**	**$2,001,174**		**$2,126,452**

Please note the 15% Arts contribution threshold does NOT apply and is only required for cities with a population over 190,000. The City's internal policy is 15% of the current FY Revenue only or limited to $90K.

Budget Report

Fund: 06 - ROAD MAINTENANCE

Beginning Fund Balance **$4,805,494**

		Budget 9/30/2023	FYTD 9/30/2023	Percent Used	Final Amended 9/30/2023
Revenue					
06-4000-12100	ROAD MAINTENANCE, SALES TAX	$875,000	$886,210	101.28%	$886,210
06-4000-29000	MISC REVENUE	$0	$6,289	0.00%	$6,289
	Revenue Total:	**$875,000**	**$892,499**	**102.00%**	**$892,499**
Expense					
06-5010-11100	SALARY	$57,009	$38,007	66.67%	$53,688
06-5010-12000	FICA (BOA SOCIAL SECURITY)	$0	$101	0.00%	$390
06-5010-12200	MEDICARE @ 1.45%	$827	$540	65.30%	$728
06-5010-12400	RETIREMENT (TMRS)	$5,593	$3,537	63.24%	$4,472
06-5010-12500	VISION COVERAGE	$0	$96	0.00%	$130
06-5010-12600	HEALTH INSURANCE	$0	$6,559	0.00%	$8,242
06-5010-12700	DENTAL COVERAGE	$0	$418	0.00%	$520
06-5010-12900	LIFE INSURANCE	$0	$15	0.00%	$26
06-5010-21500	REPAIR & MAINT - STREET	$644,000	$57,848	8.98%	$70,579
06-5010-21600	SIGNS	$5,000	$1,909	38.18%	$1,909
06-5010-21700	GUARDRAILS	$3,500	$0	0.00%	$0
06-5010-21800	PAVEMENT MARKINGS	$7,500	$0	0.00%	$0
06-5010-22000	REPAIR & MAINT - SIDEWALK	$2,500	$0	0.00%	$0
06-5010-54600	SERVICE CONTRACTS	$25,000	$247,779	991.12%	$287,775
06-5010-71000	CAPITAL OUTLAY	$100,000	$0	0.00%	$0
	Expense Total:	**$850,929**	**$356,809**	**41.93%**	**$428,459**
	Fund: 06 - ROAD MAINTENANCE Surplus (Deficit):	**$24,071**	**$535,690**		**$464,040**

Ending Fund Balance **$4,829,565** **$5,269,534**

Budget Report

Fund: 05 - COURT SECURITY AND TECHNOLOGY FUND

Beginning Fund Balance **$94,326**

		Budget 9/30/2023	FYTD 9/30/2023	Percent Used	Final Amended 9/30/2023
Revenue					
05-4000-31040	COURT TECHNOLOGY FUND	$13,000	$12,431	95.62%	$13,000
05-4000-31090	COURT BUILDING SECURITY FUND	$10,000	$15,106	151.06%	$16,000
	Revenue Total:	**$23,000**	**$27,537**	**119.73%**	**$29,000**
Expense					
05-5010-72400	COURT TECHNOLOGY HARDWARE	$0	$1,715	0.00%	$1,715
	Expense Total:	**$0**	**$1,715**	**0.00%**	**$1,715**
Fund: 05 - COURT SECURITY AND TECHNOLOGY	**Surplus (Deficit):**	**$23,000**		**60.55%**	**$27,285**
	Ending Fund Balance	**$117,326**			**$121,611**

Fund: 08 - POLICE CONFISCATION FUND

Beginning Fund Balance **$9,133**

		Budget 9/30/2023	FYTD 9/30/2023	Percent Used	Final Amended 9/30/2023
Revenue					
08-4000-28000	POLICE CONFISCATION REVENUE	$0	$13,915	0.00%	$13,915
	Revenue Total:	**$0**	**$13,915**	**0.00%**	**$13,915**
Expense					
08-5010-22000	RTN OF PROPERTY	$0	$10,230	0.00%	$10,230
	Expense Total:	**$0**	**$10,230**	**0.00%**	**$10,230**
Fund: 08 - POLICE CONFISCATION FUND	**Surplus (Deficit):**	**$0**		**0.00%**	**$3,685**
	Ending Fund Balance	**$9,133**			**$19,363**

Fund: 09 - PUBLIC IMPROVEMENT DISTRICTS

Beginning Fund Balance **$5,565,824**

		Budget 9/30/2023	FYTD 9/30/2023	Percent Used	Final Amended 9/30/2023
09-4000-11100	PROPERTY TAX REVENUE	$0	$101,946	0.00%	$101,946
	Revenue Total:	**$0**	**$101,946**	**0.00%**	**$101,946**
09-5010-51500	OTHER PROFESSIONAL FEES	$0	$22	0.00%	$22
09-5800-62200	BACKYARD PID PROPERTY TAX DISBURSE	$0	$101,946	0.00%	$101,946
	Expense Total:	**$0**	**$101,968**	**0.00%**	**$101,968**
Fund: 09 - PUBLIC IMPROVEMENT DISTRICTS	**Surplus (Deficit):**	**$0**		**0.00%**	
	Ending Fund Balance (*Restricted*)	**$5,565,824**			**$5,667,770**

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**7.E.**
Agenda Title:	**Consider approval of Ordinance No. 519 amending the Bee Cave Development Corporation Budget for Fiscal Year 2022-23.**
Council Action:	**Approve as Submitted**
Department:	**Finance**
Staff Contact:	**Administration**

1. INTRODUCTION/PURPOSE

The purpose of this consent agenda item is to consider approval of Ordinance No. 519 amending the Bee Cave Development Corporation Budget for Fiscal Year 2022-23.

2. DESCRIPTION/JUSTIFICATION

a) Background

This is the final budget amendment for the Economic Development Corporation for FY 2022-23.

b) Issues and Analysis

This budget amendment was prepared for Council approval to reconcile line-item accounts and for audit preparation purposes. A copy of the amended budget including line-item detail and a draft of Ordinance No. 519 are attached. We recommend approval of the Ordinance as submitted.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

Fiscal Year 2022-23 ends on September 30th.

5. RECOMMENDATION

Approve as submitted.

ATTACHMENTS:

Description	Type
Ordinance No. 519	Cover Memo
Final EDB Budget Amendment	Backup Material

CITY OF BEE CAVE, TEXAS

ORDINANCE NO. 519

AN ORDINANCE OF THE CITY OF BEE CAVE AMENDING THE BUDGET FOR THE BEE CAVE DEVELOPMENT CORPORATION FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023; PROVIDING FOR AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, it is found and determined that changes in the current budget are necessary for economic development purposes of the Bee Cave Development Corporation and to add the costs associated with recently approved projects, and such changes are hereby considered by the City Council pursuant to Chapter 501 of the Texas Local Government Code.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:

Section 1. That the budget of the City of Bee Cave Development Corporation for the 12-month period beginning October 1, 2022, and ending September 30, 2023 as heretofore adopted be, and it is hereby, changed as shown in Exhibit "A", attached hereto and incorporated by reference for all purposes.

Section 2. This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

Section 3. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED THIS _____ DAY OF _____, 2023.

CITY OF BEE CAVE:

_____
Kara King, Mayor

ATTEST:

_____
Kaylynn Holloway, City Secretary

[SEAL]

APPROVED AS TO FORM:

_____
Ryan Henry, City Attorney

Budget

Fund: 07 - ECO DEVELOP - 4B SALES TX

	Beginning Fund Balance	**$6,485,196**			**Final Amended**
		Budget 9/30/2023	**FYTD 9/30/2023**	**Percent Used**	**Budget 9/30/2023**
Revenue	**Item Description**				
07-4000-12100	4B EDC_SALES TAX	$2,625,000	$2,678,631	102.04%	$2,678,631
07-4990-70000	USE OF RESERVES	$4,817,343	$0	0.00%	$0
	Revenue Total:	**$7,442,343**	**$2,678,631**	**35.99%**	**$2,678,631**
Expense					
07-5010-11100	SALARY	$265,004	$270,458	102.06%	$398,641
07-5010-12000	FICA	$0	$338	0.00%	$1,284
07-5010-12200	MEDICARE @ 1.45%	$3,843	$3,863	100.52%	$5,669
07-5010-12400	RETIREMENT (TMRS)	$25,997	$25,687	98.81%	$36,712
07-5010-12500	VISION COVERAGE	$0	$514	0.00%	$875
07-5010-12600	HEALTH INSURANCE	$0	$34,139	0.00%	$56,045
07-5010-12700	DENTAL COVERAGE	$0	$2,207	0.00%	$3,676
07-5010-12900	LIFE INSURANCE	$0	$73	0.00%	$111
07-5010-21200	PRINTING	$0	$30	0.00%	$100
07-5010-21500	PARKS - REPAIRS AND MAINTENANCE	$200,000	$16,017	8.01%	$20,000
07-5010-21900	MISCELLANEOUS	$0	$275	0.00%	$500
07-5010-22800	ADVERTISING	$130,000	$3,355	2.58%	$10,000
07-5010-22900	LEGAL NOTICES	$2,000	$0	0.00%	$0
07-5010-24300	MEMBERSHIP FEES	$125	$0	0.00%	$0
07-5010-25200	SPECIAL EVENTS	$5,000	$7,814	156.28%	$8,000
07-5010-51100	LEGAL FEE (*Shared Svcs*)	$10,000	$32,754	327.54%	$50,000
07-5010-51500	OTHER PROFESSIONAL FEES	$150,000	$126,911	84.61%	$150,000
07-5010-71000	CAPITAL IMPROVEMENT PROJECTS	$6,670,500	$0	0.00%	$0
07-5800-62000	KENT SPORTS TCHMALL 380 GRANT	$0	$0	0.00%	$0
07-5900-96500	RR 620 ROW TXDOT	$0	$0	0.00%	$0
	Expense Total:	**$7,462,469**	**$524,435**	**7.03%**	**$741,613**
Fund: 07 - ECO DEVELOP - 4B SALES TX Surplus (Deficit):		**($20,126)**	**$2,154,196**		**$1,937,018**
	Ending Fund Balance	**$6,465,070**			**$8,422,214**
	TXDot RR620 Commitment	**($2,500,000)**			**($2,500,000)**
	Ending Fund Balance	**$3,965,070**			**$5,922,214**

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**8.**
Agenda Title:	**Discussion and update from Lake Travis Independent School District Superintendent Paul Norton.**
Council Action:	
Department:	**City Manager**
Staff Contact:	**Clint Garza, City Manager**

1. INTRODUCTION/PURPOSE

Superintendent Paul Norton will provide an update on the 2023 LTISD bond election.

2. DESCRIPTION/JUSTIFICATION

a) Background

b) Issues and Analysis

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**9.**
Agenda Title:	**Public hearing, discussion, and possible action on Ordinance No. 516, an ordinance adding section 14.06 pertaining to Noise to Chapter 14 of the Bee Cave Code of Ordinances.**
Council Action:	**Discuss and Consider Action**
Department:	**Planning and Development**
Staff Contact:	**Amanda Padilla, Senior Planner**

1. INTRODUCTION/PURPOSE

Consider an ordinance adding section 14.06 pertaining to Noise to Chapter 14 of the Bee Cave Code of Ordinances.

2. DESCRIPTION/JUSTIFICATION

a) Background

The city of Bee Cave passed its first nuisance ordinance in 1999 under Ordinance No. 99-07-27-A, which addressed concerns related to unreasonable noise. Subsequently, in 2000, the city repealed the 1994 Zoning Ordinance and replaced it with Ordinance No. 00-08-29A. The 2000 ordinance was the first introduction of noise performance standards within the city's ordinances. Ordinance No. 00-08-29A established guidelines, including decibel limits at property lines, for regulating unreasonable noise.

In 2022, the city adopted the Unified Development Code, concurrently repealing Chapter 32 Zoning. It is important to note that Chapter 32 of the code of ordinance contained noise regulations and prescribed standards for compliance and regulation. While the repeal of Chapter 32 may not have appeared to be a substantial concern at the time, given that noise-related matters were still addressed within Chapter 14 Nuisances, city staff believed Chapter 14 did not provide sufficient provisions for compliance and regulation for noise within the City and surrounding areas.

In response to these concerns, staff has proposed the adoption of Ordinance No. 516, an ordinance adding Section 14.06 pertaining to noise, and Ordinance No. 517, an Ordinance to update Section 14.02.003 pertaining to nuisance.

b) Issues and Analysis

After staff reviewed the recently repealed noise ordinance outlined in Chapter 32, it was determined that the ordinance had become outdated. In response to this, city staff reviewed surrounding cities noise ordinances to put together an ordinance that would be enforceable and easy to comprehend for all. Outlined in the attached Ordinance 516, staff has included the following elements: definitions, noise decibel requirements, time limitations for specific acts, and exceptions.

Noise decibel requirements:
The proposed ordinance establishes clear guidelines for assessing reasonable noise levels. It states that noise is presumed to be unreasonable if it produces a measurable sound that exceeds 75 decibels from 7am to 9pm or 60 decibels from 9pm to 7am. To help understand the reasoning for these levels we can compare some of the activities associated with these decibel limits.
At 75 decibels, these are activities like the operation of landscaping equipment (from inside a house) and the use of a dishwasher. Activities that generate 60 decibels could be a conversation in a restaurant or office, or certain background music. However, it is essential to acknowledge that every person is affected by noise differently and 60db can be perceived differently depending on your proximity to the noise source.
Hearing damage can be caused by exposure to a very loud sound for a brief period or exposure to loud sounds for a longer time. Furthermore, sustained exposure to noise levels exceeding 70 decibels can harm hearing over time and sounds exceeding 85 decibels are considered hazardous to human hearing, particularly when experienced for an extended time.

Time limitations for specific acts:
City staff has set certain time limitations for specific acts to protect citizens from unreasonable noise. These specific acts include loading and unloading, construction, and domestic power tools.

Exceptions:
Staff is aware that within the city and surrounding areas there are certain activities that will require an exception to these rules, such as school sporting activities, emergency alerts, emergency work, and permitted events. The ordinance includes a dedicated section that allows the City Manager to grant exceptions in certain cases.

The revised ordinance 516 is an improved noise ordinance that is enforceable and easy to comprehend.

With the adoption of Ordinance 516, which adds a noise ordinance, staff is asking for the adoption of Ordinance 517, which would update Section 14.02.003 pertaining to nuisance. This update would remove certain wording outlined in section 14.02.003(7)(U) that is contradictory to ordinance 516.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Staff is recommending approval of Ordinance No. 516

ATTACHMENTS:

Description	Type
Ordinance No. 516	Ordinance

ORDINANCE NO. 516

AN ORDINANCE ADDING SECTION 14.06 PERTAINING TO NOISE TO CHAPTER 14 OF THE BEE CAVE CODE OF ORDINANCES.

WHEREAS, the City of Bee Cave is a home rule municipality, which has codified its regulations and enforcement; and

WHEREAS, the City of Bee Cave recognizes that unreasonable noise is a hazard to the public health and welfare, safety, and quality of life; and

WHEREAS, the City of Bee Cave recognizes that unreasonable noise may be substantially abated; and

WHEREAS, the City of Bee Cave believes citizens have a right to be free from unreasonable noise that may jeopardize their health, welfare, safety, or quality of life; and

WHEREAS, the City of Bee Cave wishes to prevent unreasonable sound that may jeopardize the health, welfare, safety, or quality of life of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS that section 14.06 be added to the Bee Cave Code of Ordinances:

Article 14.06 Noise

§ 14.06.001 Purpose

The purpose of this article is to prevent unreasonable noise which may jeopardize the health, welfare, and safety, or degrade the quality of life for citizens.

§ 14.06.002 Definitions

All definitions in this Article are in addition to those contained within chapter 14 of this Code.

dB(A). The intensity of a sound expresses in decibels read from calibrated sound level meter utilizing the A-level weighting scale and the slow meter response, as specified by the applicable publications of the American National Standards Institute or its successor body.

Decibel (dB). The unit of measurement for sound pressure level at a specified location.

Demolition. Any dismantling, intentional destruction or removal of structures, utilities, public or private right of way surfaces, or similar property.

Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency work. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Private right-of-way. A street built to the specifications of the City, but privately owned and maintained by either a single property owner or a property or homeowners' association.

Public right-of-way. Any designated public street, sidewalk, or alley.

Public space. Any real property or structures thereon which are owned or controlled by a governmental entity.

Real property boundary. A natural or artificial separation that delineates the confines of real property, but not including intra-building real property divisions.

Special event. An activity, program, presentation, meeting, or similar gathering of persons that is approved with permits from the city as applicable. Examples of which include, but are not limited to a show, rally, class, banquet, festival, fair, assembly, race, parade, concert, bazaar, and sporting activity.

Unreasonable noise. Any unreasonably loud, raucous, or jarring sound which is not constitutionally protected speech in form and scope of audibility and which, under the circumstances of time, place, and manner in which it is produced and audible or perceptible, annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of a reasonable person of normal sensitivities within the area of audibility or perceptibility of the noise without consent of such person.

§ 14.06.003 Prohibition and Violations

(a) A person commits an offense if that person allows, causes, maintains, or permits unreasonable noise to occur within the city limits and/or within 5,000 feet of the city limits.
(b) An offense under this article is a misdemeanor punishable by a fine in accordance with the general penalty provision found in section 1.01.009 of this code.
(c) Any person violating this article is subject to a suit for injunction, as well as prosecution for criminal violations.
(d) The municipal court may order abatement of unreasonable noise, in addition to any criminal penalty allowed herein.
(e) The municipal court shall order abatement of unreasonable noise upon conviction.
(f) The City may also seek civil penalties and such other relief as authorized by law in a court of competent jurisdiction.
(g) An unreasonable noise under this article constitutes a nuisance and is prohibited, unless legally excused under this article. Any person or property which generates, allows, causes, maintains, or permits unreasonable noise to occur within the city limits and/or within 5,000 feet of the city limits may be subject to administrative penalties or civil suit by the City in order to enforce this article.

§14.06.005 Abatement Orders

Any enforcement officer may issue an order requiring abatement of any source of sound alleged to be in violation of this article within a reasonable time period given the circumstances then existing.

§ 14.06.006 Presumption of Unreasonable Noise

(a) Noise is presumed to be unreasonable if it produces a measurable sound that exceeds 75 decibels from 7 a.m. to 9 p.m. or 60 decibels from 9 p.m. to 7 a.m.
(1) An enforcement officer taking a noise measurement may take the measurement from either the closest public or private right-of-way to the offending location, or with the consent of a complainant, from the real property boundary of the complainant.
(b) Noise measured at decibel levels below those listed in subsection (a) may still constitute an unreasonable noise prohibited by this article. However, no presumption under subsection (a) that the noise is unreasonable applies and a person or property may only be found to be in violation of this article if the person or property generates, allows, causes, maintains, or permits a noise to occur which otherwise annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of a reasonable person of normal sensitivities within the area of audibility or perceptibility of the noise without consent of such person.

§ 14.06.007 Time Limitations for Specific Acts

Noise generated from the following activities is presumed to be unreasonable during the following hours:
(a) Loading and Unloading. Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 10 p.m. and 7 a.m. Sunday through Thursday and 10 p.m. and 9 a.m. Friday and Saturday in such a manner as to cause a noise violation across a real property boundary.
(b) Construction. Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work:
(1) Before 7 a.m. or after 7 p.m. daily, such that the sound therefrom creates a noise violation across a real property boundary, except for emergency work of public service utilities or by special exception issued by the City Manager.
(2) Commercial construction requiring an early morning concrete pour shall notify and receive prior approval from the Building Official.
(c) Domestic power tools. Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, leaf blower, or similar device used outdoors before 7 a.m. or after 7 p.m. daily so as to cause a noise violation across a real property boundary.

§ 14.06.008 Exceptions

(a) Emergency Exception. The provisions of this article shall not apply to:
(1) The emission of sound for the purpose of alerting persons to the existence of an emergency; or

(2) The emission of sound in the performance of emergency work.
(3) The emission of sound created by an authorized officer or employee of the City in the performance of their official duties with the City and which is intended to provide necessary or important information, warning, or alerts to citizens.
(b) Event Exceptions. The provisions of this subsection shall not apply to sound generated by:
(1) A parade and spectators and participants on the parade route during a permitted parade;
(2) Spectators or participants at, or hosts of, a lawfully scheduled outdoor performance so long as the noise level does not exceed 85 decibels at the property boundary of the premises where the performance is occurring.
(3) Spectators or participants at, or hosts of, any special event, as defined in § 14.06.002. For purposes of this exception from prosecution, the use of this special event as an affirmative defense shall be limited to any event which occurs three times or less per year at the same location regardless of the identity of the event sponsor. This provision does not limit the number of lawfully allowed special events that may be held at a location; or
(4) Any governmental entity, as defined by Local Government Code § 271.021, specifically including, but not limited to, the City of Bee Cave and public schools.
(c) City Manager Granted Exceptions.
(1) The City Manager or designated representative is authorized to grant exceptions for relief of any provision of this subsection because of undue hardship in cases where:
(A) The sound source will be of short duration and the activity cannot be conducted in a manner as to comply with this subsection.
(B) Additional time is necessary for the applicant to alter or modify their activity or operation to comply with this subsection.
(C) No reasonable alternative is available to the applicant.
(2) Such exceptions must be in writing, signed by the City Manager or designee, and dated on the date of signature.
(3) The City Manager or designated representative may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects when granting an exception.
(4) Appeals of an adverse decision of the City Manager or designated representative shall be made to the City Council. All appeals must be in writing and filed with the City Secretary within fifteen business days of the adverse decision.

II.
CUMULATIVE CLAUSE

That this Ordinance shall be cumulative of all provisions of the City of Bee Cave, except where the provisions of this Ordinance are in direct conflict with the provisions of such other ordinance, in which event the conflicting provisions of such other ordinance are hereby repealed, while leaving the remainder of such other ordinance intact. To the extent of any conflict, this Ordinance is controlling.

III.
SEVERABILITY

That it is hereby declared to be the intention of the City Council of the City of Bee Cave that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional or invalid by final judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional or invalid phrases, sentences, paragraphs, or sections.

IV.
PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government

DULY PASSED AND APPROVED, on the _____ day of _____, 2023 at a regular meeting of the City Council of the City of Bee Cave, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF BEE CAVE, TEXAS

_____
Kara King, Mayor

ATTEST:

_____
City Secretary, Kaylynn Holloway

APPROVED:

_____
City Attorney, Ryan Henry

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**10.**
Agenda Title:	**Public hearing, discussion, and possible action on Ordinance No. 517, an ordinance to update section 14.02.003 pertaining to Nuisance of the Bee Cave code of Ordinance.**
Council Action:	**Discussion and possible action**
Department:	**Planning and Development**
Staff Contact:	**Amanda Padilla, Senior Planner**

1. INTRODUCTION/PURPOSE

Consider an ordinance to update section 14.02.003 pertaining to Nuisance of the Bee Cave code of Ordinance.

2. DESCRIPTION/JUSTIFICATION

a) Background

See TL for Ordinance 516.

b) Issues and Analysis

See TL for Ordinance 516.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Staff recommends approval of Ordinance No. 517.

ATTACHMENTS:

Description	Type
Ordinance No. 517	Ordinance

ORDINANCE NO. 517

AN ORDINANCE TO UPDATE SECTION 14.02.003 PERTAINING TO NUISANCE OF THE BEE CAVE CODE OF ORDINANCES.

WHEREAS, the City of Bee Cave is a home rule municipality, which has codified its regulations and enforcement; and

WHEREAS, the City of Bee Cave has repealed and replaced referenced sections in their nuisance ordinance and wants the ordinance to reflect the changes made; and

WHEREAS, the City of Bee Cave is adding a section on noise to chapter 14 and wants to remove noise from the nuisance section.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS that chapter 14.02.003 of the Bee Cave Code of Ordinances be amended and updated to account for changes to referenced sections and chapters:

§ 14.02.003 Prohibited acts and conditions.

The following is a nonexclusive enumeration of public nuisances subject to the provisions of this article:
(1) Keeping, storing, or accumulating refuse on premises within the territorial limits of the city unless the refuse is entirely contained in a closed receptacle.

(2) Keeping, storing, or accumulating rubbish or any unused, discarded, or abandoned object, including newspapers, vehicles, refrigerators, stoves, furniture, tires, and cans, on premises within the territorial limits of the city unless the rubbish or object is completely enclosed within a building or is not visible from a public street or public area, or private property under other ownership.

(3) Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests or organisms.

(4) Allowing high grass and/or weeds to grow on any premises, with the exception of:

(A) Vegetation cultivated for the purpose of animal grazing or crops within a fenced parcel; or
(B) Lots or parcels zoned as RR, AG, or DR according to the zoning regulations of the city;
but in no event shall any high grass or weeds be allowed within fifteen (15) feet of any public right-of-way.

(5) Maintaining any premises in a manner that is unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, fire hazard, disaster, or abandonment.

(6) Any object, item, situation, or condition specifically identified as a public nuisance in any other statute or ordinance which the city is responsible for enforcing.

(7) Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, to wit: the erecting, maintaining, using, placing, depositing, causing, allowing, leaving or permitting to be or remain in or upon any street, avenue, alley, park, parkway, parcel, lot, premises or other public or private place in the city of any one or more of the following conditions or acts to the prejudice, danger or annoyance or others:

(A) Accumulations of refuse, rubbish, or manure, except a compost or brush pile covered or concealed so as not to affect the health, safety, or depreciation of adjoining property.

(B) Any outdoor burning of any material of any kind or nature, including but not limited to garbage, junk, refuse, rubbish, weeds, or building material, inconsistent with the Texas Clean Air Act, Texas Health and Safety Code, chapter 382, and the rules, regulations, or orders of the state commission on environmental quality pursuant to said act, including but not limited to title 30 Texas Administrative Code, sections 111.201 through 111.221. The city hereby designates Travis County Emergency Services District No. 6, Hudson Bend Fire Department, as the local governmental agency for notification before any outdoor burning may be conducted within the territorial limits of the city.

(C) Disposal, use, or storage of dirt, soil, mud, or loam in such a manner as to permit such material being deposited on any public street or alley of the city so as to create a condition annoying or injurious to the health, comfort, safety, or repose of the general public.

(D) Allowing limbs of trees, shrubs, or other natural or ornamental vegetation to overhang a sidewalk, public street or alley, which are less than 16 feet above the surface of the natural elevation.

(E) The existence of any vines or climbing plants growing into or over any street, hydrant, pole, street sign, or public safety or information sign, or the existence of any shrub, vine, or plant growing on, around, or in front of any hydrant, standpipe, sprinkler system connection or any other appliance or facility provided for fire protection purposes, in such a way as to obscure the view of thereof or impair access thereto or obstruct or interfere with the proper diffusion of the light of any street lamp or light.

(F) Any use of property abutting a public street or sidewalk which causes any obstruction of traffic and the free use of the streets or sidewalks, provided that this subsection shall not apply to events, programs, or parades authorized by the city council.

(G) Leaving any provisions [poisonous] or harmful substance accessible to persons or animals, provided that normal residential or nonresidential use of pesticides for the cultivation of grass or other ornamental vegetation shall be excepted.

(H) Leaving any unused, abandoned, or discarded refrigerators, iceboxes, or freezer-like containers which are left in any place exposed or accessible to children.

(I) Allowing the existence of any dead, diseased, infested, or dying tree, or part thereof, so as to cause a danger to other existing plants, vegetation, persons, or property.

(J) Allowing the accumulation of any dead shrubs, bushes, trees, grass, or other vegetation that may constitute a fire hazard.

(K) Allowing the storage, disposal, or keeping on any premises for more than 60 days of any new or used building materials, without a permit from the city; providing that nothing herein shall:

(i) Prohibit such storage without a permit when held in conjunction with a construction, refurbishment, or remodeling project for which a permit has been issued and that is being diligently prosecuted by the responsible person to completion;
(ii) Prohibit such storage without a permit on the premises of a bona fide lumberyard, dealer in building materials, or other commercial enterprise when the same is permitted under any other ordinance;
(iii) Make lawful any such storage, disposal, or keeping when it is prohibited by any other ordinances or laws.

(L) The existence of any fence or other structure or other like thing on private property abutting or fronting upon any public street, sidewalk, or place that is in a sagging, leaning, fallen, decayed, or other dilapidated or unsafe condition, or otherwise prohibited by ordinance or statute.

(M) The existence of any drainage or runoff onto or over any public street, alley, or other adjacent property that causes the collection of sedimentation or standing water and may constitute a danger to life, health, or safety.

(N) Any accumulation of cans, bottles, glass, ashes, scrap metal, wire, cordage, metal articles, bric-a-brac, odds and ends, broken stone or concrete, broken crockery, garbage, refuse, rubbish, glass, or plaster, unless the same is entirely contained in a closed receptacle.

(O) Any garbage, refuse, junk, rubbish, weeds, litter, rags, barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing hay, straw, or other packing material, or lumber, metal, wood, or other material not neatly piled or entirely contained in a closed receptacle, as appropriate.

(P) Allowing a dangerous building, billboard, or other structure, either partially destroyed or unfinished, to remain on any premises.

(Q) Allowing, without proper fencing or screening, junkyards, dumping grounds, waste, refuse, rubbish, or garbage collection facilities, or facilities for the wrecking, disassembling, storage, repair, or rebuilding of automobiles, trucks, tractors, boats, or other machinery of any kind, or parts thereof, whether such machinery is used by contractors, builders, or other persons, so as to annoy or create a nuisance to the life, safety, or property of others.

(R) The repair of an automobile, truck, boat, tractor, or other machinery or motor vehicle of any kind upon the public streets, alleys, or other public property of the city, except in the event of an emergency, or to deposit, keep, or leave, or permit to be deposited, kept, or left, in any place accessible to the public, or in any place viewable from a public street, alley, right-of-way, or other public place, any abandoned, unused, non-running, discarded, or junked vehicle or any part thereof in violation of article 26.04 of the Code of Ordinances of the city.

(S) The accumulation of any human or animal waste, garbage, refuse, rubbish, renderings, trimmings, bones, meats, hides, skins, or carcasses of any dead animal, fish, or fowl, except as entirely contained within a closed receptacle appropriate for such temporary storage.

(T) Maintaining any premises in an unguarded, unfenced, overgrown, or abandoned condition, including any excavation, pit, well, drainage basin, or pond, or hole that may be a danger to life, safety, or any other property.

(U) Allowing any violation of chapter 4, chapter 6, chapter 8, article 16.03, chapter 20, chapter 24, ~~article 20.04,~~ chapter 26, ~~chapter 28, chapter 30,~~ or chapter ~~32~~UDC – Unified Development Code of the Code of Ordinances of the city.

~~(V) Causing or making any unreasonable noise, including:~~
~~(i) Loud or raucous and frequent, repetitive, or continuous sounds made by an animal;~~

~~(ii) Loud and raucous and frequent, repetitive, or continuous sounds made by any horn or siren attached to a motor vehicle, residence, business, or commercial activity, or on any premises, except such sounds made to warn of danger or that are specifically permitted by ordinance or other law;~~
~~(iii) Loud and raucous and frequent, repetitive, or continuous sounds made in connection with starting, repair, rebuilding, or testing of any motor vehicle, boat, truck, tractor, or other machinery;~~
~~(iv) Loud and raucous and frequent, repetitive, or continuous sounds created by use of a musical instrument or other device capable of producing a sound when struck by an object, a whistle, or a sound amplifier or other device capable of producing, amplifying, or reproducing sound;~~
~~(v) Loud and raucous and frequent, repetitive, or continuous sounds made by an amplified or unamplified human voice;~~
~~(vi) Noise from live outdoor entertainment, performed for paid admission, that exceeds 85 decibels when measured 200 feet or more from the property line of the premises where the entertainment is occurring. The provisions of subsections (i), (ii), (iii), (iv), and (v) of this subsection shall not apply to live outdoor entertainment performed for paid admission.~~
~~(vii) The use or operation of an unmuffled auxiliary or compression engine brake in a posted area on a street or highway on which such use is prohibited that produces any noise in addition to the normal operating engine noise within the city. This provision shall not be construed to prohibit the use of braking mechanisms by emergency vehicles while in the performance of their official or normal duties. This provision is not intended to prohibit the passage of vehicles equipped with engine or jake brakes in posted areas but rather to prohibit the use of unmuffled engine or jake brakes in posted areas.~~

(~~W~~V) Allowing the manufacturing, storing, igniting, or using of gunpowder, black powder, nitroglycerin, fireworks, or other explosive substances, or the discharge of firearms or weapons which utilize a projectile of any type.

II.
CUMULATIVE CLAUSE

That this Ordinance shall be cumulative of all provisions of the City of Bee Cave, except where the provisions of this Ordinance are in direct conflict with the provisions of such other ordinance, in which event the conflicting provisions of such other ordinance are hereby repealed, while leaving the remainder of such other ordinance intact. To the extent of any conflict, this Ordinance is controlling.

III.
SEVERABILITY

That it is hereby declared to be the intention of the City Council of the City of Bee Cave that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional or invalid by final judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional or invalid phrases, sentences, paragraphs, or sections.

IV.
PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government

DULY PASSED AND APPROVED, on the _____ day of _____, 2023 at a regular meeting of the City Council of the City of Bee Cave, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF BEE CAVE, TEXAS

_____
Kara King, Mayor

ATTEST:

_____
City Secretary, Kaylynn Holloway

APPROVED:

_____
City Attorney, Ryan Henry

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**11.**
Agenda Title:	**Discuss and consider action on a contract with Lake Flato Architects for the design of the new Bee Cave Public Library Building and authorize the City Manager to execute.**
Council Action:	**Consideration & Approval**
Department:	**Administration**
Staff Contact:	**Clint Garza/Chelsea Maldonado T&T Heery**

1. INTRODUCTION/PURPOSE

Discuss and consider action on a contract with Lake Flato Architects for the design of the new Bee Cave Public Library Building and authorize the City Manager to execute.

2. DESCRIPTION/JUSTIFICATION

a) Background

City of Bee Cave in collaboration with T&T Heery have negotiated the contract with Lake Flato Architects for the design of the Bee Cave Public Library building. The previous fee agreement dated April 25th, 2023, which included programming, discovery, and an Integrated Design Workshop shall formally complete this month (Sept. 2023). Execution of this agreement shall commence the remainder of design, beginning with the concept and schematic design and development.

b) Issues and Analysis

Lake Architects was selected through an open RFQ process and has since engaged with The City of Bee Cave library staff in a successful programming and discovery process. City of Bee Cave Staff and Turner & Townsend Heery have lead the contract and fee negotiation with Lake Flato for the remainder of design of Bee Cave Public Library. Lake Flato will be contracted with the City of Bee Cave utilizing and AIA contract format, B133 (attached). The contract details expectations such as: scope, budget, schedule, fee, and legal provisions such as insurance, claims, and obligations of quality design.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.

Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Approval for signature by City Manager

ATTACHMENTS:

Description	Type
Lake Flato draft contract	Backup Material

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**12.**
Agenda Title:	**Discuss and consider action on a contract with PGAL for the design of the new Bee Cave Public Safety Building and authorize the City Manager to execute.**
Council Action:	**Consideration & Approval**
Department:	**Administration**
Staff Contact:	**Clint Garza/Chelsea Maldonado T&T Heery**

1. INTRODUCTION/PURPOSE

Discuss and consider action on a contract with PGAL for the design of the new Bee Cave Public Safety Building and authorize the City Manager to execute.

2. DESCRIPTION/JUSTIFICATION

a) Background

City of Bee Cave in collaboration with T&T Heery have negotiated the contract with PGAL Architects for the design of the new public safety building. A separate ILA/ILC agreement has been formalized by the parties, City of Bee Cave and Lake Travis Fire Rescue, reviewed and approved by City Council 9/12. Execution of these two documents shall allow commencement of design on the new Bee Cave Public Safety Building.

b) Issues and Analysis

PGAL Architects was selected through an open RFQ process and has since engaged in a successful contract negotiation and review. PGAL will be contracted with the City of Bee Cave utilizing and AIA contract format, B133 (attached). The contract details expectations such as: scope, budget, schedule, fee, and legal provisions such as insurance, claims, and obligations of quality design.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Approval for signature by City Manager

ATTACHMENTS:

Description	Type
0921 2023 B133 AGREEMENT_CITY OF BEE CAVE_PGAL_CMc	Backup Material

DRAFT

AIA® Document B133™ – 2019

Standard Form of Agreement Between Owner and Architect,
Construction Manager as Constructor Edition

AGREEMENT made as of the 26th day of September in the year 2023
(In words, indicate day, month and year.)

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

City of Bee Cave
4000 Galleria Parkway
Bee Cave, TX 78738
Phone: 512-767-6600

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

PGAL
3601 South Congress Avenue, Suite D100
Austin, Texas 78704
Phone: 512-236-5100

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

New public safety building is expected to be an approximately 20,000-24,000 SF two-story building that will include (but not limited to) offices for administrative use, evidence processing and storage, records retention area, holding for short-term temporary detention of arrestee's, investigations area, interview and interrogation rooms, training classroom that may be shared with other City staff or users, briefing room, men's and women's locker rooms, fitness room, living quarters and lounge, drive through fire-truck bays, full kitchen(s), conference and meeting rooms to accommodate various sized groups, a municipal court payment window, and one court office, as well as sufficient on site secure parking, associated site work including but not limited to a detention/retention pond, roads, landscape improvements, and other areas as necessary.

Existing location of record: 13333-A Hwy 71 West, Bee Cave, TX 78738

The Construction Manager (if known):
(Name, legal status, address, and other information)

Rogers-O'Brien Construction Company, Ltd.
3901 S Lamar Blvd Suite 200, Austin, TX 78704
Phone: (512) 486-3800

The Owner and Architect agree as follows.

DRAFT

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

This document is intended to be used in conjunction with AIA Documents A201–2017™, General Conditions of the Contract for Construction; A133–2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134–2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price. AIA Document A201™–2017 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

TABLE OF ARTICLES

1 INITIAL INFORMATION

2 ARCHITECT'S RESPONSIBILITIES

3 SCOPE OF ARCHITECT'S BASIC SERVICES

4 SUPPLEMENTAL AND ADDITIONAL SERVICES

5 OWNER'S RESPONSIBILITIES

6 COST OF THE WORK

7 COPYRIGHTS AND LICENSES

8 CLAIMS AND DISPUTES

9 TERMINATION OR SUSPENSION

10 MISCELLANEOUS PROVISIONS

11 COMPENSATION

12 SPECIAL TERMS AND CONDITIONS

13 SCOPE OF THE AGREEMENT

DRAFT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

The City of Bee Cave Preliminary Program document is attached as (Exhibit A) and will be verified under the Basic Services portion of the project.

§ 1.1.2 The Project's physical characteristics:

New public safety building is expected to be an approximately 20,000-24,000 SF two-story building that will include offices for administrative use, evidence processing and storage, records retention area, holding for short-term temporary detention of arrestee's, investigations area, interview and interrogation rooms, training classroom that may be shared with other City staff or users, briefing room, men's and women's locker rooms, fitness room, living quarters and lounge, drive through fire-truck bays, full kitchen(s), conference and meeting rooms to accommodate various sized groups, a municipal court payment window, and one court office, as well as sufficient on site secure parking, associated site work including but not limited to a detention/retention pond, roads, landscape improvements, and other areas as necessary.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

The Owner's Total Construction Budget (Cost of Work) for the work associated with the proposed 20,000-24,000 GSF of the new (2) story Public Safety Building is $17,500,000 . This includes contributions by both parties: City of Bee Cave and Lake Travis Fire Rescue. Total Construction Budget is an estimate and subject to change based on scope additions, revisions, and/or market changes. Total Construction Budget shall include owner costs, including but not limited to: FFE, signage, art.

§ 1.1.4 Promptly after the execution of this Agreement, the Architect shall prepare and submit to the PM for the Owner to approve in writing, a detailed schedule for the performance of the Architect's services to meet the Owner's project

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

milestone dates which are included in this Agreement in Article 1.1.4. The Architect's schedule shall include allowances for periods of time required for Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

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

.1 Design phase milestone dates, if any:

Discovery & Program Verification – September-October 2023
Concept Design – October 2023 – November 2023
Schematic Design – November 2023 – January 2024
Design Development – January 2024 – May 2024
Construction Documents, 60% Complete – July 2024
Construction Documents, 100% Complete – July 2024
Permit / Bid Review – August 2024

DRAFT

.2 Construction commencement date:

August 2024

.3 Substantial Completion date or dates:

September 2025

.4 Other milestone dates:

Final Completion – endeavor to issue Final Completion within 60 days of Substantial Completion
Staff Occupancy Date, September 2025

§ 1.1.6 The Owner intends to retain a Construction Manager pursuant to the following agreement:
(Indicate agreement type.)

[**X**] AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

[« »] AIA Document A134–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

§ 1.1.7 The Owner's requirements for accelerated or fast-track design and construction, or phased construction are set forth below:

Separate bid packages for:
Civil, Utilities and Easements
Electrical Switchgear

« »

§ 1.1.8 The Owner's anticipated Sustainable Objective for the Project:

Austin Energy Green Building

§ 1.1.9 INTENTIONALLY DELETED

§ 1.1.10 The Owner identifies the following representative in accordance with Section 5.4:
(List name, address, and other contact information.)

Mr. Clint Garza – City Manager

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

City of Bee Cave
4000 Galleria Parkway
Bee Cave, Texas 78738

§ 1.1.11 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

DRAFT

Chelsea Maldonado
Owners Designated Representative
Turner & Townsend Heery, Inc.
500 West 2nd Street, Suite 1700
Austin, Texas 78701

§ 1.1.12 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Construction Manager:
(The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1.1)

Rogers-O'Brien Construction Company, Ltd.
3901 S Lamar Blvd Suite 200, Austin, TX 78704
Phone: (512) 486-3800

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

.1 Consultant

Owners Designated Representative
Turner & Townsend Heery, Inc.
500 West 2nd Street, Suite 1700
Austin, Texas 78701

.2 Survey/Platting Services
To be procured by owner

.3 Geotechnical Services
To be procured by owner

.4 Construction Materials Testing
To be procured by owner

.5 Traffic Engineering
To be procured by owner

.6 Hazardous Materials Testing
To be procured by owner

.7 Air Quality Testing and Monitoring
To be procured by owner

.8 Roof Inspection Consultant
To be procured by owner

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

.9 HVAC Testing and Balancing
To be procured by owner

.10 Commissioning
To be procured by owner

.11 Building Enclosure Commissioning Services
To be procured by owner

DRAFT

§ 1.1.13 The Architect identifies the following representative in accordance with Section 2.4:
(List name, address, and other contact information.)

Cris Ruebush, PGAL
3601 South Congress Avenue, Suite D100
Austin, Texas 78704
Phone: 512-236-5100

§ 1.1.14 The Architect shall retain the consultants identified in Sections 1.1.14.1 and 1.1.14.2:To
(List name, legal status, address, and other contact information.)

§ 1.1.14.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Walter P Moore
401 South 1st Street, Suite 600, Austin, Texas 78704, Phone: 512-330-1277

.2 Mechanical Engineer:

DBR Engineering Consultants, Inc
2500 S Highway 183, Suite 500, Austin, Texas 78744; Phone: 512-637-4393

.3 Electrical Engineer:

DBR Engineering Consultants, Inc
2500 S Highway 183, Suite 500, Austin, Texas 78744; Phone: 512-637-4393

.4 Plumbing Engineer:

DBR Engineering Consultants, Inc
2500 S Highway 183, Suite 500, Austin, Texas 78744; Phone: 512-637-4393

.5 Civil Engineer:

Malone Wheeler
5113 Southwest Parkway, Suite 260, Austin, Texas 78735,

.6 Landscape Architect:

Coleman and Associates
9890 Silver Mountain Drive, Austin, Texas 78737, Phone: 512-476-2090

.7 Telecommunications/Data/Security Design:

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

DBR Engineering Consultants, Inc
2500 S Highway 183, Suite 500, Austin, Texas 78744; Phone: 512-637-4393

§ **1.1.14.2** Consultants retained under Supplemental Services:

.1 Traffic Engineer:

To be selected as needed.

DRAFT

2. Sustainability Consultant:

To be selected.

3. FF&E:

To be selected as needed

4. Commissioning:

DBR Engineering Consultants, Inc
2500 S Highway 183, Suite 500, Austin, Texas 78744; Phone: 512-637-4393

.

5. Acoustic Consultant:

To be selected as needed.

§ **1.1.15** Other Initial Information on which the Agreement is based:

The following non-exclusive list of services shall be provided as Basic Services:

- Program Verification
- Architectural Design
- Structural Engineering
- Civil Engineering
- Mechanical Engineering
- Electrical Engineering
- Plumbing Engineering
- Fire Protection & Fire Alarm Design
- Low Voltage, Communications, & Information Technology Design
- Security Systems Design
- Audio/Visual Systems Design
- Architectural Interior Design
- Landscape Architecture
- Coordination of Furniture, Fixtures & Equipment (FF&E)
- Signage, Graphics, and Wayfinding Design (Basic)
- Accessibility Design and compliance with Texas Accessibility Standards (TAS)
- Application to the City of Bee Cave for Water, Sewer, and Storm Drainage availability letters
- Compliance with applicable codes in affect at the time of design
- Preparation and submission of design documentation for required Agency Reviews and Permitting
- Record and distribute meeting minutes of meetings held during the Design & Bid phases
- Participation in and contribute to Value Engineering sessions with Owners Designated Representative and CMAR
- Availability for consultation during the 1-year Warranty Period
- Coordination with Owner's Consultants

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

- Coordination with applicable Local and State Regulatory Agencies
- Coordination with Owner's Utility Service Providers
- Incorporate key elements of Austin Energy Green Building (AEGB)
- Building Information Modeling (BIM) Level of Design (LOD)

The following list of services shall be provided as Additional/Supplemental Services:

- FF&E – Design, Specification, and Installation Coordination (Procurement by Owner)
- Commissioning (Basic)
- Traffic Impact Analysis (if required)

The following list of services will be procured by the Owner and shall be coordinated by the Architect. The anticipated budget for each service is also provided in the list below. The Architect shall assist the Owner with (1) identifying the necessary scopes and required services to be provided by each consultant to complete the overall design requirements of this Project; (2) requesting proposals from qualified consultants; (3) reviewing proposals and making recommendations regarding the selection of each consultant; and (4) scheduling, coordinating, and integrating the services of the Owner's consultants.

- Geotechnical Engineering & Report -
- Land Surveying (Boundary, Topo, Platting)
- Environmental Site Assessment (ESA) – Phase 1 (if required)
- Asbestos & HazMat – Survey & Work Plan (if required)
- Asbestos & HazMat – Air Monitoring & PM (if required)

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

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

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

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances (the "Standard of Care"); no higher or lower standard is intended, and notwithstanding any other provision herein, this Standard of Care shall be used to determine Architect's compliance with any and all obligations, statements, standards, or requirements under this Agreement.. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for actions taken by the Construction Manager.

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

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

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

§ 2.6 Insurance. The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

DRAFT

§ 2.6.1 Commercial General Liability with policy limits of not less than One Million Dollars ($ 1,000,000.00) for each occurrence and Two Million Dollars ($ 2,000,000.00) in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars ($ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.6.1 and 2.6.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.6.4 Workers' Compensation at statutory limits.

§ 2.6.5 Employers' Liability with policy limits not less than One Million Dollars ($ 1,000,000.00) each accident, One Million Dollars ($ 1,000,000.00) each employee, and One Million Dollars ($ 1,000,000.00) policy limit.

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than Five Million Dollars ($ 5,000,000.00) per claim and Five Million Dollars ($ 5,000,000.00) in the aggregate.

§ 2.6.7 Cyber Security Liability Insurance: Professional shall carry and maintain during the term of this Agreement, cyber security liability insurance on a per occurrence basis with limits of liability of not less than $1,000,000 for each occurrence, covering any such unauthorized disclosure of Protected Information caused by a defect or failure of the Software or any electronic communication system maintained or controlled by Professional.

§ 2.6.8 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner and Third Party Beneficiary (Travis County Emergency Services District No.6 "LTFR") as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.6.9 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.6.

§ 2.6.10 Audit - Architect's records, which shall include but not be limited to accounting records (hard copy, as well as computer readable data if it can be made available), written policies and procedures; subcontract files (including bid recaps, original estimates; estimating work sheets; correspondence; back-charge logs and supporting documentation and any other supporting evidence deemed necessary by Owner to substantiate charges related to any matters related to the Agreement shall be open to inspection and subject to audit and/or reproduction by Owner's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of (i) Architect's compliance with Agreement requirements; (ii) compliance with Owner's business ethics policies; and (iii) compliance with provisions for pricing or claims submitted by the Architect or any of its payees. Owner or its designee shall be afforded access to all of the Architect's records pursuant to the provisions of this Article throughout the term of this Agreement and for a

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

period of five years after final payment, or longer if required by law, or until pending litigation has been completely and fully resolved, whichever occurs last.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, electrical, technology, audio-visual, low-voltage, and plumbing engineering services as well as all other consulting and design services listed in Section 1.1.1.4. Services not set forth in this Article 3 are Supplemental or Additional Services

DRAFT

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner. The Architect shall attend construction progress meetings (as appropriate to the scope of the Project and phase of the work) conducted by the PM and attended by the Owner at its option, as well as other parties. These meetings shall serve as a forum for the exchange of information and resolution of construction decisions and will be a point where construction progress is reviewed and noted. Define this to be architect lead meetings for minutes/notes obligation

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall be entitled to rely, on, and shall not be responsible for, the accuracy, completeness, and timeliness of the work product prepared and the services and information furnished by the Owner, the Construction Manager, and the Owner's consultants; further, the Architect shall be released from liability or damage resulting from the provision or accuracy of such work product, services, or information. Notwithstanding the above, the Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

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

§ 3.1.4 The Architect shall submit information to the Owners Designated Representative and Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect's services.

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

§ 3.1.6 The Architect shall, in coordination with the Construction Manager, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.7 The Architect shall assist the Owner, Owners Designated Representative and Construction Manager in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Prior to the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, or the Owner's approval of the Construction Manager's Control Estimate, as applicable, the Architect shall consider the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owners Designated Representative and Owner in communications related to substitution requests, clarifications, and interpretations.

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

§ 3.2 Review of the Construction Manager's Guaranteed Maximum Price Proposal or Control Estimate

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for review by the Owners Designated Representative, Owner and Architect, and for the Owner's acceptance or approval, a Guaranteed Maximum Price proposal or Control Estimate. The Architect shall assist the Owner in reviewing the Construction Manager's proposal or estimate. The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

DRAFT

§ 3.2.2 Upon authorization by the Owner, and subject to Section 4.2.1.14, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 3.3 Schematic Design Phase Services

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

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

§ 3.3.3 The Architect shall present its preliminary evaluation to the Owners Designated Representative, Owner and Construction Manager and shall discuss with the Owners Designated Representative, Owner and Construction Manager alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.3.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, to the Owner, Owners Designated Representative and Construction Manager, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

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

§ 3.3.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.

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

§ 3.3.6 The Architect shall submit the Schematic Design Documents to the Owners Designated Representative, Owner and the Construction Manager. The Architect shall meet with the Owners Designated Representative and Construction Manager to review the Schematic Design Documents. Based on the mutually agreed-upon Project Scope, Schedule, and Construction Budget requirements between the Architect and Owner, the Architect shall prepare, for approval by Owner, Schematic Design Documents consisting of drawings and narrative descriptions necessary to describe the concept of the Project.

§ 3.3.7 Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

§ 3.3.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.

§ 3.3.9 INTENTIONALLY DELETED

DRAFT

§ 3.3.10 INTENTIONALLY DELETED

§ 3.4 Design Development Phase Services

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

§ 3.4.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owners Designated Representative, Owner and the Construction Manager. The Architect shall meet with the Owners Designated Representative and Construction Manager to review the Design Development Documents.

§ 3.4.3 Upon receipt of written authorization to proceed and based on the approved Schematic Design Documents and comments from the Owner and the PM and any adjustments authorized by the Owner in the Project Scope, Schedule, or Construction Budget, the Architect shall prepare, for approval by the Owner and the PM, Design Development Documents consisting of drawings, outline specifications, and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical, electrical, and plumbing systems, materials and such other elements as may be appropriate. Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.4 and request the Owner's approval of the Design Development Documents.

§ 3.5 Construction Documents Phase Services

§ 3.5.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owners Designated Representative and Construction Manager's review and the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Construction Manager will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

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

§ 3.5.3 INTENTIONALLY DELETED

§ 3.5.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owners Designated Representative, Owner, and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents. The Construction Documents shall be provided to the PM, Construction Manager and Owner for review.

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

§ 3.5.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.4, and request the Owner's approval of the Construction Documents.

§ 3.5.6 INTENTIONALLY DELETED

§ 3.5.7 Agency Review and Approval - The Architect shall affix professional architecture and engineering seals and signatures on all Construction Documents, including addenda, as required by Texas and local laws. The Architect shall file documents required for the approval of governmental authorities having jurisdiction over the Project.

DRAFT

§ 3.5.8 INTENTIONALLY DELETED

§ 3.5.9 Construction Document Design Calculations - The Architect shall submit to the Owner and the PM copies of design calculations for all elements, components, and systems of the design as appropriate.

§ 3.6 Construction Phase Services
§ 3.6.1 General
§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction, except to the extent that the General Conditions would result in services or responsibilities that are in addition to, or inconsistent with, those provided under this Agreement.. If the Owner and Construction Manager modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 3.6.1.1.2 Pre-Construction Conference - The Architect shall assist the PM in conducting a Pre-Construction Conference, to be attended by the Construction Manager, and the Owner at its option, during which the Construction Documents, Project schedule, Project procedures and other pertinent issues shall be reviewed. The Architect shall record, transcribe, and distribute minutes of meetings to all attendees and other appropriate parties within 2 working days of the meeting

§ 3.6.1.2 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or by a written agreement between the Owner and Construction Manager which sets forth a description of the Work to be performed by the Construction Manager prior to such acceptance or approval. Subject to Section 4.2, and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

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

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

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

§ 3.6.2.1.1 The Architect shall promptly submit to the Owners Designated Representative a detailed, written report subsequent to each site visit, noting the progress and quality of the Work, and any observed defects or deficiencies in the Work. Progress photography of the Project on a basis during construction; before and after site photographs for verification of construction requirements. The Architect shall require the consulting engineers and its other consultants to make on-site observations of the Work and provide written reports as construction progresses. The observations of consulting engineers shall be made as frequently as necessary to verify that construction is proceeding according to Construction Documents, but not less than one site visit per month. The consultants shall also make inspections at the time of Substantial Completion as appropriate.

DRAFT

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

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

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

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

§ 3.6.2.6 Schedule Reviews - The Architect shall assist the Owners Designated Representative in evaluating and approving schedules provided by the Construction Manager.

§ 3.6.3 Certificates for Payment to Construction Manager

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

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

§ 3.6.3.3 The Architect shall maintain a record of the Applications, Change Orders, Construction Change Directives and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Construction Manager's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review ,take no exception or take other appropriate action upon, the Construction Manager's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Construction Manager's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

DRAFT

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

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

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

§ 3.6.5 Changes in the Work

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

§ 3.6.5.1.1 Requests for Change - The Architect shall prepare requests for changes in the Work, including information necessary for evaluation of the request and the cause of the request. The Architect and consultants shall review and make recommendations to the Owners Designated Representative on all proposed changes in the Work, including changes in the Construction Cost priced by the Construction Manager, and requests for changes in the Project Schedule.

§ 3.6.5.1.2 The Architect shall review properly prepared timely requests by Owner or Construction Manager for changes in the Work, including adjustments to the Construction Contract Sum or Construction Contract Time. If the Architect determines that the requested changes in the Work are not materially different from the requirements of the Contract Documents, the Architect may issue an order for a minor change in the Work or recommend to Construction Manager that the requested change be denied.

§ 3.6.5.1.3 If the Architect determines that implementation of the requested changes would result in a material change to the Construction Contract that may cause an adjustment to the Construction Contract Time or Construction Contract Sum, the Architect shall make a recommendation to Owner, who may authorize further investigation of such change.. With Owner's approval, the Architect shall prepare a Change Order or other appropriate documentation for Owner's execution or negotiation with the Construction Manager. The Architect shall maintain records relative to changes in the Work.

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

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- **.1** conduct inspections to determine the date or dates of Substantial Completion and the date of Final Completion;
- **.2** issue Certificates of Substantial Completion;
- **.3** forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Construction Manager; and
- **.4** issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.
- **.5** issue statement of Final Completion indicating that:
  - Punch list has been completed
  - Certificate of Occupancy has been issued by entity with jurisdiction
  - Architect has approved final Certificate of Payment

DRAFT

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to (1) check conformance of the Work with the requirements of the Contract Documents and (2) verify the accuracy and completeness of the list submitted by the Construction Manager of Work to be completed or corrected.

§ 3.6.6.2.1 INTENTIONALLY DELETED

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

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

§ 3.6.6.4.1 INTENTIONALLY DELETED

§ 3.6.6.4.2 Warranties and Operation and Maintenance Materials - The Architect shall review Warranties and Operations and Maintenance Materials provided to the Architect by the Construction Manager. The Architect shall notify the Construction Manager and Owners Designated Representative of any amendments or corrections to these materials that the Architect observes are not in compliance with the requirements of the Contract Documents.

§ 3.6.6.4.3 INTENTIONALLY DELETED

§ 3.6.6.5 Prior to the expiration of eleven (11) months from the date of Substantial Completion, the Architect shall, without additional compensation, inspect the Work and conduct a meeting with the Owners Designated Representative, Construction Manager and Owner to review the facility operations and performance for the purpose of identifying defects, warranty issues, and proposed corrections and advising the Owner in writing regarding the need for correction of the Work

§ 3.6.6.5.1 Warranty Period Services - The Architect and its consultants shall be available for consultation during the Construction Manager's Warranty Period.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

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

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	**Responsibility** *(Architect, Owner, or not provided)*
§ 4.1.1.17 As-constructed record drawings	Construction Manager (Reviewed by Architect)
§ 4.1.1.21 Architect's coordination of the Owner's consultants	Architect
§ 4.1.1.24 Commissioning (Basic)	Architect
§ 4.1.1.25 Sustainable AEGB Project Services pursuant to Section 4.1.3	Architect
§ 4.1.1.27 Furniture, furnishings, and equipment design (FF&E)	Architect
§ 4.1.1.29 Traffic Impact Analysis	Architect
§ 4.1.1.30 Acoustic Consulting	Architect

DRAFT

§ 4.1.2 Description of Supplemental Services

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

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

.1 Commissioning Basic: If the City does not directly hire a commissioning agent, the architect's MEP engineer will provide Basic Commissioning services.

.2 Sustainable Project Services – AEGB certification: Architect will hire a sustainability consultant to assist with achieving AEGB certification.

.3 Furniture, Furnishings, and Equipment (FF&E) Design – Architect will provide an add service to do full FF&E design if the City does not involve FF&E vendors.

.4 Traffic Impact Analysis – Retain a Traffic Engineer to provide Traffic Impact Analysis if it is deemed required for the project.

.5 Acoustic Consulting – Retain an acoustic consultant if deemed necessary to ensure desired acoustic privacy between Police and Fire.

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

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

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to (1) compensation pursuant to Section 11.3 or as agreed upon by the parties for the specific Additional Service and (2) an appropriate adjustment in the Architect's schedule.

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

.1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or bid packages in addition to those listed in Section 1.1.6;

.2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

.3 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;

.4 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

.5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;

.6 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner- authorized recipients;

.7 Preparation of design and documentation for alternate proposal requests proposed by the Owner or Construction Manager;

.8 Preparation for, and attendance at, a public presentation, meeting or hearing;

.9 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;

.10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or

.11 Assistance to the Initial Decision Maker, if other than the Architect;

.12 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method;

.13 Services necessitated by the Owner's delay in engaging the Construction Manager;

.14 Making revisions to the Drawings, Specifications, and other documents resulting from agreed-upon assumptions and clarifications included in the Guaranteed Maximum Price Amendment or Control Estimate; and

.15 Making revisions to the Drawings, Specifications, and other documents resulting from substitutions included in the Guaranteed Maximum Price Amendment or Control Estimate.

.16 Revisions shall be made without adjustment to the compensations provided for hereunder, unless revisions are made to Drawings previously approved by Owner under previous phases, and such revisions are not attributable to any error or omission of the Architect, in which case such revision services shall be paid as Additional Services. Should there be substantial revisions to the Program after the approval of schematic drawings, which changes substantially increase the scope of design services to be furnished hereunder, Architect shall so notify the Owner, before proceeding with revisions necessitated by such changes. No payments, of any nature whatsoever, will be made to Architect for such additional work or services, without prior written approval by Owner. Absent such written approval, all such additional work claims are hereby Waived and Released.

§ 4.2.2 INTENTIONALLY DELETED

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

.1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager

.2 Thirty Two (32) visits to the site by the Architect during construction

.3 One (1) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

.4 One (1) inspections for any portion of the Work to determine final completion

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

§ 4.2.5 If the services covered by this Agreement have not been completed within thirty (30) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

ARTICLE 5 OWNER'S RESPONSIBILITIES

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

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties, and responsibilities as described in the agreement selected in Section 1.1.5.

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

§ 5.3.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, for the Owners Designated Representative to duplicate management efforts once coordinated, and costs for the Construction Manager to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

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

§ 5.5 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark. The Architect shall provide coordination of these services in accordance with Sections 1.1.13, 4.1, and 4,2.

§ 5.6 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. The Architect shall provide coordination of these services in accordance with Sections 1.1.13, 4.1, and 4,2.

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

§ 5.8 INTENTIONALLY DELETED

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

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

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

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

§ 5.11.1 INTENTIONALLY DELETED

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

DRAFT

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

§ 5.14 The Owner shall coordinate the Architect's duties and responsibilities set forth in the Agreement between the Owners Designated Representative, Owner and the Construction Manager with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Construction Manager, including the General Conditions of the Contract for Construction.

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

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

ARTICLE 6 COST OF THE WORK

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

§ 6.2 The Owner's budget for the Cost of the Work is provided in the Initial Information, and shall be adjusted throughout the Project as required under Sections 5.3 and 6.4. Evaluations of the Owner's budget for the Cost of the Work, if any are given by the Architect, represent only the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the Construction Manager to include appropriate contingencies for design, bidding, permitting or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates, code revisions, directive of the Authority Having Jurisdiction (AHJ) or due to market conditions the Architect could not reasonably anticipate. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 6.3.1 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates, the Owners Designated Representative's cost estimates, and the Architect's cost estimates, the Architect, Owners Designated Representative and the Construction Manager shall work together to reconcile the cost estimates.

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Owners Designated Representative and Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

making such adjustments. Should there be substantial revisions to the Project Scope or Owner's Program after approval of any level of Schematic, or Design Development, phase drawings, where changes substantially increase the scope of design services to be furnished hereunder, Architect shall notify the Owner, before proceeding with revisions necessitated by such changes. No payments, of any nature, will be made to the Architect for such additional work or services, without prior written approval by the Owner.

§ 6.5 If the Construction Manager's estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

DRAFT

- **.1** give written approval of an increase in the budget for the Cost of the Work;
- **.2** terminate in accordance with Section 9.5;
- **.3** in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- **.4** implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.3, the Architect shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. If the Owner requires the Architect to incorporate the revisions to the Construction Documents because the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise, the Architect's services for incorporating the revisions to the Construction Documents shall be without additional compensation. The Architect's revisions in the Construction Documents Phase shall be the limit of the Architect's responsibility under this Article 6.

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by the Construction Manager's subsequent cost estimates, the Guaranteed Maximum Price proposal, or Control Estimate that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

ARTICLE 7 COPYRIGHTS AND LICENSES

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

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

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due, pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Construction Manager, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for the Project; however, in all instances, any such authorization shall be at the Owner's exclusive risk. If the Owner fails to substantially perform its obligations, including making prompt payment of all sums when due, or the Architect rightfully suspends or terminates this Agreement for cause as provided in Sections 9.1 or 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 IN THE EVENT THE OWNER USES THE INSTRUMENTS OF SERVICE WITHOUT THE ACTIVE PARTICIPATION OF THE AUTHOR OF THE INSTRUMENTS OF SERVICE AT THE TIME OF USE , THE OWNER RELEASES THE ARCHITECT AND ARCHITECT'S CONSULTANT(S) FROM ALL CLAIMS AND CAUSES OF ACTION ARISING FROM SUCH USES. THE OWNER, TO THE EXTENT PERMITTED BY LAW, FURTHER AGREES TO INDEMNIFY AND HOLD HARMLESS THE ARCHITECT AND ITS CONSULTANTS

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

FROM ALL COSTS AND EXPENSES, INCLUDING THE COST OF DEFENSE, RELATED TO CLAIMS AND CAUSES OF ACTION ASSERTED BY ANY THIRD PERSON OR ENTITY TO THE EXTENT SUCH COSTS AND EXPENSES ARISE FROM THE OWNER'S USE of (including any conclusions or information derived) or changes made to the Instruments of Service by the Owner or anyone authorized by the Owner to use the Instruments of Service. The indemnity and hold harmless obligations OF THIS SECTION 7.3.1 SHALL NOT APPLY IF THE OWNER RIGHTFULLY TERMINATES THIS AGREEMENT FOR CAUSE UNDER SECTION 9.4.

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

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

§ 7.6 With respect to the transmission of Instruments of Service or any other information or documentation in digital form, the Owner agrees that any such provision of Instruments of Service is solely as a convenience and shall not be deemed a sale. Architect has made no representations or warranties regarding the accuracy, usability, durability, or readability of digital documents, and Owner expressly acknowledges that digital documents may deteriorate or be modified, either inadvertently or otherwise, without being detected or without authorization.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

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

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

§ 8.1.3 The Architect shall indemnify and hold the Owner, Owners Designated Representative, and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused, under a comparative basis of fault, by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's obligation to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend. The Architect's duty to indemnify the Owner under this Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement.

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

§ 8.2 Mediation

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

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

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

DRAFT

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

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box.)

[X] Arbitration pursuant to Section 8.3 of this Agreement

[« »] Litigation in a court of competent jurisdiction

[« »] Other: *(Specify)*

« »

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

§ 8.3 Arbitration
INTENTIONALLY DELETED

§ 8.3.4 Consolidation or Joinder
INTENTIONALLY DELETED

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

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

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

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

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

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

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

DRAFT

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:
(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Expenses:

Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated value of the services not performed by the Architect.

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

Not applicable.

§ 9.8 INTENTIONALLY DELETED

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

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of Texas. Moreover, for purposes of determining venue, this Agreement shall be deemed performable in all respects in Bee Cave, Travis County, Texas, and all legal action(s) regarding interpretation, enforcement and/or any other aspect of the Agreement shall be brought in the state courts of Bee Cave, Travis County, Texas.. ~~excluding that jurisdiction's choice of law rules.~~

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction, except (1) as modified in this Agreement and (2) to the extent that the definitions and meanings found within the General Conditions would result in services or responsibilities that are in addition to, or inconsistent with, those provided under this Agreement. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

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

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

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

would require knowledge, services, or responsibilities beyond the scope of this Agreement or that otherwise increase, in the Architect's reasonable judgment, the Architect's potential legal liability.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect or give rise to any fiduciary duties between the Owner and the Architect. Notwithstanding anything in this paragraph to the contrary, Travis County Emergency Services District No. 6 ("LTFR") shall be a third-party beneficiary of this Agreement with the right to enforce any obligation in accordance with LTFR's interest or intended interest in the Project.

DRAFT

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site, specifically including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB), or other potentially toxic substances. Additionally, in the event Architect or any party encounters hazardous or toxic materials at the Project site, or should it become known in any way that such materials may be present, Architect may, at its option and without liability for consequential or any other damages, suspend performance of services until Owner retains appropriate specialist consultants or contractors to identify, abate and/or remove the materials.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials, including submissions for awards programs. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information ~~strictly confidential~~ confidential using methods similar to those used to maintain the confidentiality of its own confidential information and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

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

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

§ 10.10 The Owner understands that for qualifying projects, construction documents will be submitted for review pursuant to the Architectural Barriers Act or appropriate state equivalent prior to construction commencement. The Owner agrees to comply with applicable requirements and to cooperate with Architect in performing its obligations by providing the required signatures and review fees immediately upon request. The Owner agrees to release Architect from any liability that results from non-compliance with the Act to the extent not caused by the Architect's negligence.

§ 10.11 The design and documentation of this Project are based upon the Architect's professional judgment concerning regulations currently available for implementation of the Americans with Disabilities Act of 1990. Those regulations are in a continual process of refinement and interpretation, and the specific application to a specific project cannot fully be forecast. As a result, the Architect shall not be responsible for variations from information reasonably available at the time of the design of this Project. Services necessary to bring the Project into compliance with subsequent regulations or their interpretation or application shall be performed as Additional Services and compensation shall be provided as detailed in this Agreement.

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

§ 10.12 In the event the Owner chooses to accept and directs the Architect to make revisions to the Contract Documents to include reductions in scope (e.g., "value engineering" or "cost reduction") or material substitution proposals made by the Construction Manager, Owner's consultants or others, and the Architect does not recommend acceptance of such proposed revisions, Owner shall indemnify and hold Architect and its consultants harmless from and against any claims, costs (including attorney's fees), losses, and damages Architect and its consultants may incur related to such revisions to the documents to the extent caused by Owner's acceptance and direction of same.

DRAFT

§ 10.13 The parties intend that Architect's services shall not subject Architect's individual employees, officers, or directors to any personal legal exposure. Therefore, notwithstanding anything to the contrary, Owner agrees that as its sole and exclusive remedy, any claim, demand, or suit shall be directed and/or asserted only against Architect, a Texas corporation, and not against any of its employees, officers, or directors.

§ 10.14 Where the Architect agrees to provide square footage calculations using Building Owners and Managers Association ("BOMA") standards, the parties agree that the calculations provided by the Architect are based upon the Architect's professional judgment in interpreting and applying the BOMA standards. The parties further agree that there may be conditions in any building that are not clearly addressed in the BOMA standards, but which are dealt with through the exercise of such reasonable professional judgment, while the BOMA standards are subject to differing interpretation in their specific application to any given space. The square footage calculations may also be based upon certain documentation provided by the Owner, and no additional or specific site investigation or inquiry are expected to be made in connection with the preparation of any square footage calculation.

§ 10.15 Where this Agreement is entered into subsequent to the Architect beginning performance of services, the parties acknowledge and agree that this Agreement is intended to and shall govern all services provided by Architect for the Project, whether initiated or performed prior or subsequent to the execution of this Agreement, that the effective date of this Agreement shall be deemed to be the first date when any such services were so provided by Architect and that this Agreement is intended to and shall supersede and replace any and all prior agreements whether written or oral.

ARTICLE 11 COMPENSATION

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

.1 Stipulated Sum in the amount
(Insert amount)

«$1,577,000 »

.2 Percentage Basis
(Insert percentage value)

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

.3 Other
(Describe the method of compensation)

« »

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

1.) Basic Commissioning	$30,000.00	(fixed fee, paid monthly as % complete)
2.) Sustainability Consultant	$40,000.00	(fixed fee, paid monthly as % complete)
3.) Traffic Impact Analysis	$TBD	(fixed fee, paid monthly as % complete)
4.) Acoustic	$TBD	(fixed fee, paid monthly as % complete)

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Compensation for other Additional Services shall by negotiated on a lump sum basis or provided on an hourly basis in accordance with the hourly rates set forth in Section 11.7

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus fifteen percent (15%~~)~~ or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

«times a multiple of one and fifteen hundredths (1.15) »

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

Discovery & Program Verification		percent (	«1 »	%)
Concept Design Phase		percent (	«3 »	%)
Schematic Design Phase		percent (	«15 »	%)
Design Development Phase		percent (	«20 »	%)
60% Construction Documents		percent (	«15 »	%)
100% Construction Documents		percent (	«20 »	%)
Permitting / Bidding Phase		percent (	«3 »	%)
Construction Administration		percent (	«23 »	%)
Total Basic Compensation	one hundred	percent (	100	%)

The Owner acknowledges that with an accelerated Project delivery, multiple bid package process, or Construction Manager as constructor project delivery method, the Architect may be providing its services in multiple Phases simultaneously. Therefore, the Architect shall be permitted to invoice monthly in proportion to services performed in each Phase of Services, as appropriate.

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the Owner-accepted Guaranteed Maximum Price Amendment or Control Estimate, as applicable, or (2) if the Guaranteed Maximum Price proposal or Control Estimate has not been accepted by the Owner, the most recent estimate of the Cost of the Work prepared by the Construction Manager for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

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

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

DISCIPLINE	RATE
DIRECTOR	$325.00
PRINCIPAL	$300.00
PROJECT MANAGER VI	$285.00

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

PROJECT MANAGER V	$250.00
PROJECT MANAGER IV	$225.00
PROJECT MANAGER III	$205.00
PROJECT MANAGER II	$190.00
PROJECT MANAGER I	$185.00
SENIOR ARCHITECT VI/ DESIGNER VI/ INTERIOR DESIGNER VI/ ENGINEER VI	$285.00
SENIOR ARCHITECT V/ DESIGNER V/ INTERIOR DESIGNER V/ ENGINEER V	$250.00
SENIOR ARCHITECT IV/ DESIGNER IV/ INTERIOR DESIGNER IV/ ENGINEER IV	$225.00
SENIOR ARCHITECT III/ DESIGNER III/ INTERIOR DESIGNER III/ ENGINEER III	$200.00
SENIOR ARCHITECT II/ DESIGNER II/ INTERIOR DESIGNER II/ ENGINEER II	$175.00
SENIOR ARCHITECT I/ DESIGNER I/ INTERIOR DESIGNER I/ ENGINEER I	$165.00
ARCHITECT IV/ DESIGNER IV/ INTERIOR DESIGNER IV/ ENGINEER IV	$150.00
ARCHITECT III/ DESIGNER III/ INTERIOR DESIGNER III/ ENGINEER III	$135.00
ARCHITECT II/ DESIGNER II/ INTERIOR DESIGNER II/ ENGINEER II	$110.00
ARCHITECT I/ DESIGNER I/ INTERIOR DESIGNER I/ ENGINEER I	$90.00
BIM MANAGER V	$230.00
BIM MANAGER IV	$200.00
BIM MANAGER III	$160.00
BIM MANAGER II	$130.00
BIM MANAGER I	$110.00
ENGINEER IN TRAINING IV	$150.00
ENGINEER IN TRAINING III	$135.00
ENGINEER IN TRAINING II	$115.00
ENGINEER IN TRAINING I	$105.00
CONSTRUCTION ADMINISTRATOR V	$270.00
CONSTRUCTION ADMINISTRATOR IV	$240.00
CONSTRUCTION ADMINISTRATOR III	$225.00
CONSTRUCTION ADMINISTRATOR II	$200.00
CONSTRUCTION ADMINISTRATOR I	$190.00
CONSTRUCTION INSPECTOR	$170.00
PROJECT ADMINISTRATOR IV	$140.00
PROJECT ADMINISTRATOR III	$130.00
PROJECT ADMINISTRATOR II	$110.00
PROJECT ADMINISTRATOR I	$90.00
ADMINISTRATOR III	$80.00
ADMINISTRATOR II	$70.00
ADMINISTRATOR I	$60.00

DRAFT

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses shall be tracked by the Architect but shall be included in the overall Fee as follows:

- **.1** Transportation, including private automobile expense at IRS allowable rates per mile, and authorized out-of-town travel and subsistence
- **.4** Printing, reproductions, plots, and standard form documents;
- **.5** Postage, handling, and delivery, including courier services;

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;

.9 All taxes levied on professional services and on reimbursable expenses;

.11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective

.12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses, not identified in 11.8.1, the compensation shall be the expenses incurred by the Architect and the Architect's consultants times 10 percent (10%) of the expenses incurred.

DRAFT

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.6 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:
(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.6, and for which the Owner shall reimburse the Architect.)

Not applicable.

§ 11.10 Payments to the Architect
§ 11.10.1 Initial Payments
§ 11.10.1.1 No initial payment is required for this Project.

§ 11.10.2 Progress Payments
§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

1.5% per month (18% per annum).

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

§ 12.1 LIMITATION OF LIABILITY

TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT TO THE CONTRARY, THE TOTAL LIABILITY, IN THE AGGREGATE, OF THE ARCHITECT AND THE ARCHITECT'S OFFICERS, DIRECTORS, PARTNERS, REPRESENTATIVES, CONSULTANTS AND EMPLOYEES, AND ANY OF THEM, TO THE OWNER AND ANYONE CLAIMING BY, THROUGH OR UNDER THE OWNER AND/OR THE OWNER'S SUCCESSORS OR ASSIGNS, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEYS' FEES, EXPERT WITNESS FEES, AND ANY OTHER CLAIMS OR EXPENSES RESULTING FROM OR IN ANY WAY RELATED TO THE PROJECT OR THIS AGREEMENT FROM ANY CAUSE OR CAUSES, SHALL NOT EXCEED THE TOTAL COMPENSATION ACTUALLY RECEIVED BY THE ARCHITECT FROM THE OWNER UNDER THIS AGREEMENT. IT IS INTENDED THAT THIS LIMITATION APPLY TO ANY AND ALL LIABILITY OR CAUSES OF ACTION HOWEVER ALLEGED OR ARISING, UNLESS OTHERWISE PROHIBITED BY LAW. THE OWNER AND ARCHITECT AGREE THAT THIS PROVISION SETS AN UPPER LIMIT TO THE AMOUNT OF DAMAGES, IF ANY, THAT THE OWNER MAY RECOVER BY WAY OF ANY AND ALL CLAIMS AND CAUSES OF ACTION.

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

§ 12.2 DISCLAIMER OF WARRANTIES
TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOT WITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT TO THE CONTRARY, THE ARCHITECT MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, TO THE OWNER OR TO ANY OTHER PERSON REGARDING ANY SERVICES OR OTHER ITEMS PROVIDED TO THE OWNER OR ITS CONSULTANTS UNDER THIS AGREEMENT OR THE RESULTS TO BE DERIVED FROM THE USE THEREOF. THE OWNER AGREES AND STIPULATES THAT THE ARCHITECT EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING ANY WARRANTIES ARISING FROM THE IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR PARTICULAR PURPOSE.

DRAFT

§ 12.3 DEFEND, INDEMNIFY AND HOLD HARMLESS
TO THE FULLEST EXTENT PERMITTED BY LAW, THE OWNER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE ARCHITECT, AND ITS OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES AND CONSULTANTS, FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, JUDGMENTS, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES AND EXPERT WITNESS FEES, THAT ARISE OUT OF, RELATE TO, OR RESULT FROM THE WILLFUL MISCONDUCT, BREACH OF CONTRACT, NEGLIGENCE, INTENTIONAL ACTS, ERRORS OR OMISSIONS OF THE OWNER OR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES AND/OR CONSULTANTS.

§ 12.4 SOLE RECOURSE BY OWNER AGAINST ARCHITECT'S FIRM
In the event of any dispute between the Architect and Owner, Owner agrees that its sole recourse shall be against the architectural firm (including any insurance applicable to that entity), and not the individual architects or other individuals working for that firm. This clause shall apply to any claims sounding in breach of contract, negligence, negligent misrepresentation, or any other claims arising in any way out of the Project or the professional services described herein.

§ 12.5 In the event of a dispute arising out of the Project, the responsibility of the Architect and Owner will be determined on the basis of comparative responsibility, regardless of the theory of liability (e.g. breach of contract, negligence, warranty, fraud, breach of fiduciary duty, negligent misrepresentation, or any other cause of action).

§ 12.6 If the Owner authorizes deviations, recorded or unrecorded, from the Instruments of Service prepared by the Architect or its consultants, the Owner shall indemnify and hold harmless the Architect, the Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting in whole or in part from such deviations.

§ 12.7 The Texas Board of Architectural Examiners (P.O. Box 12337, Austin, Texas 78711) has jurisdiction over complaints regarding the professional practice of persons registered as Architects in Texas.

ARTICLE 13 SCOPE OF THE AGREEMENT
§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

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

.1 AIA Document B133™–2019, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition, as modified herein

.2 AIA Document E203™–2013, Building Information Modeling dated as indicated below, if completed, or the following:
(Insert the date of the AIA Document E203™–2013, Building Information Modeling *incorporated into this agreement.)*

Not applicable.

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

[« »] AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition dated as indicated below.

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

(Insert the date of the E234-2019 incorporated into this agreement.)

Not applicable.

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

Not applicable.

DRAFT

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

Preliminary Program – Exhibit A

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

City of Bee Cave	PGAL
OWNER *(Signature)*	**ARCHITECT** *(Signature)*
By: Clint Garza, City Manager	Cris Ruebush, Principal, Tx 20946
(Printed name and title)	*(Printed name, title, and license number, if required)*

AIA Document B133™ – 2019. Copyright © 2014, and 2019 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This draft was produced by AIA software at 16:21:06 ET on 09/02/2022 under Order No.0974685073 which expires on 09/30/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1412124009)

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**13.**
Agenda Title:	**Discuss and consider action on an addendum to the Interlocal Agreement for Dispatching Services between the City of Lakeway and the City of Bee Cave.**
Council Action:	**Approve**
Department:	**Police**
Staff Contact:	**Chief Brian Jones**

1. INTRODUCTION/PURPOSE

The City of Lakeway Police Department has provided dispatch and emergency 911 services to the City of Bee Cave Police Department for several years. This Interlocal Agreement would ensure these services continue for FY 2023-2024.

2. DESCRIPTION/JUSTIFICATION

a) Background

b) Issues and Analysis

Lakeway provides dispatch services based on a percentage of calls for service and activity by the Bee Cave Police Department. For FY 2023-2024, the City of Bee Cave shall pay their actual percentage of use not to exceed 50% of the total Costs of Service. Bee Cave's portion is estimated not to exceed $533,209. The previous year's estimated maximum cost was $461,603.

Over the last year, Bee Cave has accounted for 39.8% of dispatching services, whereas 36.6% was used during the previous year.

Bee Cave will be invoiced for its actual percentage of use not to exceed 50% per quarter.

3. FINANCIAL/BUDGET

$533,209 annually, or

Amount Requested	$133,302 quarterly	Fund/Account No.
Cert. Obligation		GO Funds
Other source		Grant title
Addtl tracking info		

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Approve agreement.

ATTACHMENTS:

	Description	Type
🗋	Interlocal Agreement for Dispatch	Backup Material

INTERLOCAL AGREEMENT FOR DISPATCHING SERVICES
BETWEEN THE
CITY OF LAKEWAY AND THE CITY OF BEE CAVE
ADDENDUM

In accordance with **ARTICLE V MISCELLANEOUS PROVISIONS; Terms of Agreement Termination and Renewal:** of the original "Agreement", this addendum will extend the agreement and become effective beginning October 1, 2023, by and between the City of Lakeway, a Home Rule Municipality in Travis County, organized and existing under the laws of the State of Texas ("Lakeway"), and the City of Bee Cave, a Home Rule Municipality in Travis County, organized and existing under the laws of the State of Texas, ("Bee Cave"), (to be collectively referred to herein as the "Parties," and individually as "Party"), and will continue in effect until September 30, 2024.

As compensation for the Dispatching Services provided by Lakeway to Bee Cave, pursuant to the terms of this "Agreement", the Parties agree to the following:

ARTICLE IV COMPENSATION is modified as follows:

A. The parties agree that Bee Cave will reimburse Lakeway quarterly within 30 days of receipt of an invoice for a portion of the costs associated with operating the Lakeway Dispatch Center as follows:

1. For FY 2023- 2024, Bee Cave shall pay their actual percentage of use not to exceed 50% of the Costs of Service which is budgeted at approximately *$1,066418*; Bee Cave's portion is estimated not to exceed *$533,209*. Based on the ceiling of 50%, the maximum quarterly payments from Bee Cave for FY 2023-2024 could be estimated at *$133,302*. This may fluctuate if the quarterly use is less than 50%.

All other terms and conditions of the "Agreement" remain unchanged.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiple copies, each of which shall be deemed to be an original and of equal force and effect, and have agreed that the Agreement shall be effective when signed by a duly authorized representative of each Party, and on the latest date shown under the signature lines below.

REVIEWED BY: City of Lakeway

By Finance Director Aaron Daigle	9/20/23 Date
By City Manager Joseph Molis	09/20/2023 Date

CITY OF LAKEWAY
SEAL
STATE OF TEXAS

ATTEST: City of Lakeway

By Mayor Thomas Kilgore	9/19/2023 Date
By Police Chief Glen Koen	Date

ATTEST: City of Bee Cave

By Mayor Kara King	Date
By Police Chief Brian Jones	Date

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**14.**
Agenda Title:	**Discuss and consider action on an addendum to the Interlocal Agreement for Victim Services between the City of Bee Cave and the City of Lakeway**
Council Action:	**Approve**
Department:	**Police**
Staff Contact:	**Brian Jones, Police Chief**

1. INTRODUCTION/PURPOSE

To discuss and consider action on an addendum to the interlocal agreement for Victim Services between the City of Bee Cave and the City of Lakeway.

2. DESCRIPTION/JUSTIFICATION

a) Background

The cities of Bee Cave and Lakeway have an interlocal agreement in place to share Victim Services.

b) Issues and Analysis

For FY 2023-2024, Bee Cave shall pay their actual percentage for the costs of service as calculated from the prior year's case history. The budgeted cost of service for FY 2023-2024 is approximately $101,588. Based on last year's numbers, Bee Cave's portion is estimated to be 30%, or $30,476. This figure is subject to change based on the data from the final quarter.

There is a projected, shared city expense of $101,588. This is based on salary, benefits, overtime and on-call pay.

3. FINANCIAL/BUDGET

Amount Requested	$30,476	Fund/Account No.
Cert. Obligation		GO Funds
Other source		Grant title
Addtl tracking info		

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

ATTACHMENTS:

	Description	Type
🗋	Interlocal Agreement for Victim Services	Backup Material

INTERLOCAL AGREEMENT FOR VICTIM SERVICES
BETWEEN THE
CITY OF LAKEWAY AND THE CITY OF BEE CAVE
ADDENDUM

In accordance with **ARTICLE VI Terms and Termination** of the original "Agreement," this addendum will extend the agreement and become effective beginning October 1, 2023, by and between the City of Lakeway, a Home Rule Municipality in Travis County, organized and existing under the laws of the State of Texas ("Lakeway"), and the City of Bee Cave, a Home Rule Municipality in Travis County, organized and existing under the laws of the State of Texas, ("Bee Cave"), (to be collectively referred to herein as the "Parties," and individually as "Party"), and will continue in effect until September 30, 2024.

As compensation for Victim Services provided by Lakeway to Bee Cave, pursuant to the terms of this "Agreement," the Parties agree to the following:

ARTICLE IV COMPENSATION is modified as follows:

A. The parties agree that Bee Cave will reimburse Lakeway annually within 30 days of receipt of an invoice for a portion of the costs associated with operating the Victim Assistance Program as follows:

1. For FY 2023 - 2024, Bee Cave shall pay their actual percentage for the costs of service as calculated from the prior year's case history. The budgeted cost of service for FY 23-24 is approximately $101,588. Based on last year's numbers, Bee Cave's portion is estimated to be 30%, or $30,476.

All other terms and conditions of the "Agreement" remain unchanged.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiple copies, each of which shall be deemed to be an original and of equal force and effect, and have agreed that the Agreement shall be effective when signed by a duly authorized representative of each Party, and on the latest date shown under the signature lines below.

REVIEWED BY: City of Lakeway

By City Manager Joseph Molis Date 09/20/2023

ATTEST: City of Lakeway

By Mayor Thomas Kilgore	9/19/2023 Date
By Police Chief Glen Koen	Date

ATTEST: City of Bee Cave

By Mayor Kara King	Date
By Police Chief Brian Jones	Date

CITY OF LAKEWAY
SEAL
STATE OF TEXAS

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**15.**
Agenda Title:	**Discuss and consider action on future Council meeting dates.**
Council Action:	
Department:	**City Secretary**
Staff Contact:	**Kaylynn Holloway, City Secretary**

1. INTRODUCTION/PURPOSE

To discuss and consider action on future Council Meeting dates.

2. DESCRIPTION/JUSTIFICATION

a) Background

Each year the City Council and Staff discuss and reaffirm the final meetings dates to insure we have quorums around the holidays.

City Council currently has Regular meetings scheduled for October 10th and 24th, November 14th and 28th, and December 12th.
December 26th is a city holiday.

b) Issues and Analysis

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**16.**
Agenda Title:	**Discussion and possible action on establishing an annual Volunteer Appreciation Event.**
Council Action:	
Department:	**City Manager**
Staff Contact:	**Kara King, Mayor**

1. INTRODUCTION/PURPOSE

The purpose of this item is to provide council an opportunity to discuss establishing an annual volunteer appreciation event.

2. DESCRIPTION/JUSTIFICATION

a) Background

Bee Cave is a wonderful community for a number of reasons, some of which are easily quantifiable while others are often understated and qualitative. Staff feels it goes without saying that the impact of volunteerism in our community is additive to the quality of life for all residents and guests, is part of the "glue" that connects and holds the community together, and contributes to what sets Bee Cave apart from other places.

The City is blessed with volunteers who step in to assist in emergencies, introduce our community to the arts, help neighbors in need, and so much more. Staff would like to proceed with planning an event to gather these important folks and show appreciation for the previous year's service.

b) Issues and Analysis

An event of this scale should be discussed and approved by a vote of City Council as it will require annual resource allocation including budget appropriation, staff time, etc.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

City Council Meeting
9/26/2023
Agenda Item Transmittal

Agenda Item:	**17.A.**
Agenda Title:	**Consultation with Attorney regarding pending litigation styled Citizens for Preservation of The Brown Property v. City of Bee Cave.**
Council Action:	
Department:	**City Manager**
Staff Contact:	**Clint Garza, City Manager**

1. INTRODUCTION/PURPOSE

2. DESCRIPTION/JUSTIFICATION

a) Background

b) Issues and Analysis

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

City Council Meeting
9/26/2023
Agenda Item Transmittal

City Council Meeting
9/26/2023
Agenda Item Transmittal