



**AGENDA**

**REGULAR MEETING OF THE BOARD OF DIRECTORS**  
**Tuesday, February 6, 2024**  
**6:00 PM**

**Modular C Classroom**  
**600 N. Highland Springs Avenue, Banning, CA 92220**

**In compliance with the Americans with Disabilities Act**, if you need special assistance to participate in this meeting, please contact the Administration Office at (951) 769-2160. **Notification 48 hours prior to the meeting** will enable the Healthcare District to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II].

TAB

I. Call to Order

S. McDougall, Chair

II. Public Comment

A five-minute limitation shall apply to each member of the public who wishes to address the Healthcare District Board of Directors on any matter under the subject jurisdiction of the Board. A thirty-minute time limit is placed on this section. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. (Usually, any items received under this heading are referred to staff for future study, research, completion and/or future Board Action.) (PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.)

On behalf of the Healthcare District Board of Directors, we want you to know that the Board acknowledges the comments or concerns that you direct to this Board. While the Board may wish to occasionally respond immediately to questions or comments if appropriate, they often will instruct the Hospital CEO, or other Hospital Executive personnel, to do further research and report back to the Board prior to responding to any issues raised. If you have specific questions, you will receive a response either at the meeting or shortly thereafter. The Board wants to ensure that it is fully informed before responding, and so if your questions are not addressed during the meeting, this does not indicate a lack of interest on the Board’s part; a response will be forthcoming.

**NOTE: ALL MEMBERS OF THE SAN GORGONIO MEMORIAL HOSPITAL BOARD OF DIRECTORS ARE INVITED PARTICIPANTS AND MAY ADDRESS THE SAN GORGONIO MEMORIAL HEALTHCARE DISTRICT BOARD OF DIRECTORS AT ANY TIME DURING THIS MEETING.**

TAB

**OLD BUSINESS**

- III. \* **Proposed Action - Approve Minutes**
- January 2, 2024, regular meeting
  - January 17, 2024, special meeting

All

A

B

**NEW BUSINESS**

- |       |  |              |        |
|-------|--|--------------|--------|
| IV.   | District Board Chair Monthly Report  | S. McDougall | verbal |
| V.    | <b>*Proposed Action - Approve December 2023 Financial Report</b> <ul style="list-style-type: none"><li>▪ <b>ROLL CALL</b></li><li>• Informational: Measure A Funds Report – December 2023</li></ul>  | M. Kammer    | C<br>D |
| VI.   | Quarterly Common Area Maintenance (CAM) Fees Report  | M. Kammer    | E      |
| VII.  | <b>* Proposed Action – Approve that the CEO be authorized to approve SPC and NPC Construction documents and the Material Testing and Condition Assessment Program (MTCAP)</b> <ul style="list-style-type: none"><li>▪ <b>ROLL CALL</b></li></ul> | J. Peleuses  | F      |
| VIII. | Annual Completion of FPPC Statement of Economic Interest (Form 700) For 2023 (completed forms due back by March 11, 2024)  | S. McDougall | verbal |
| IX.   | General Information  |              |        |

**\*\*\* ITEMS FOR DISCUSSION/APPROVAL IN CLOSED SESSION**

- Proposed Action – Approve Medical Staff Credentialing (*Health & Safety Code §32155; and Evidence Code §1157*)

**X. ADJOURN TO CLOSED SESSION**

**RECONVENE TO OPEN SESSION**

**\*\*\* REPORT ON ACTIONS TAKEN DURING CLOSED SESSION**

**XI. Future Agenda Items**

**XII. Adjournment**

**\*Action Required**

In accordance with The Brown Act, *Section 54957.5*, all public records relating to an agenda item on this agenda are available for public inspection at the time the document is distributed to all, or a majority of all, members of the Board. Such records shall be available at the Healthcare District Administration office located at 600 N. Highland Springs Avenue, Banning, CA 92220 during regular business hours, Monday through Friday, 8:00 am - 4:30 pm.

San Gorgonio Memorial Healthcare District  
Board of Directors Regular Meeting  
February 6, 2024

**Certification of Posting**

I certify that on February 2, 2024, I posted a copy of the foregoing agenda near the regular meeting place of the Board of Directors of San Gorgonio Memorial Healthcare District, and on the San Gorgonio Memorial Hospital website, said time being at least 72 hours in advance of the regular meeting of the Board of Directors (*Government Code Section 54954.2*).

Executed at Banning, California on February 2, 2024



Ariel Whitley, Executive Assistant

**TAB A**

REGULAR MEETING OF THE  
SAN GORGONIO MEMORIAL HEALTHCARE DISTRICT  
BOARD OF DIRECTORS

January 2, 2024

The regular meeting of the San Gorgonio Memorial Hospital Board of Directors was held on Tuesday, January 2, 2024, in Modular C meeting room, 600 N. Highland Springs Avenue, Banning, California.

Members Present: Shannon McDougall (Chair), Ron Rader, Lanny Swerdlow, Dennis Tankersley

Members Absent: Randal Stevens

Required Hospital: Steve Barron (CEO), Angie Brady (CNO), Daniel Heckathorne (CFO), John Peleuses (VP of Ancillary & Support Services), Margaret Kammer (Controller), Ariel Whitley (Executive Assistant), Karan P. Singh, MD (CMO)

AGENDA ITEM	DISCUSSION	ACTION / FOLLOW-UP												
<b>Call To Order</b>	Chair McDougall, called the meeting to order at 6:02 pm.													
<b>Public Comment</b>	No public comment.													
<b>OLD BUSINESS</b>														
<b>Proposed Action - Approve Minutes December 5, 2023, Regular Meeting.</b>	Chair Shannon McDougall, asked for any changes or corrections to the minutes of the December 5, 2023, Regular Meeting.  There were none.	<b>The minutes of the December 5, 2023, Regular Meeting will stand correct as presented.</b>												
<b>NEW BUSINESS</b>														
<b>District Board Chair Report</b>	No report.													
<b>Proposed Action – Approve the November 2023 Financial Report</b>	Margaret Kammer reviewed the November 2023 Finance Report as included on the board tablets.  <b>BOARD MEMBER ROLL CALL:</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">McDougall</td> <td style="width: 16.5%;">Yes</td> <td style="width: 33%;">Rader</td> <td style="width: 16.5%;">Yes</td> </tr> <tr> <td>Stevens</td> <td>Absent</td> <td>Swerdlow</td> <td>Yes</td> </tr> <tr> <td>Tankersley</td> <td>Yes</td> <td colspan="2">Motion carried.</td> </tr> </table>	McDougall	Yes	Rader	Yes	Stevens	Absent	Swerdlow	Yes	Tankersley	Yes	Motion carried.		<b>M.S.C., (Rader/Tankersley), the SGMHD Board of Directors approved the November 2023 Financial report as presented.</b>
McDougall	Yes	Rader	Yes											
Stevens	Absent	Swerdlow	Yes											
Tankersley	Yes	Motion carried.												
<b>• Informational - Measure A expenditures – November 2023</b>	Chair McDougall, noted that a copy of the Measure A funds and expenditures – November 2023 was included on the board tablets.													

AGENDA ITEM	DISCUSSION	ACTION / FOLLOW-UP												
<b>Reminder – All Healthcare District Board Members Annual Execution of Confidentiality and Nondisclosure Agreement</b>	Chair McDougall noted that the Confidentiality and Nondisclosure Agreement is presented annually for each board member’s signature. These were given to each Board Member to return to Ariel Whitley.													
<b>Proposed Action – Annual Approval of District Bylaws</b>	Chair McDougall noted that the bylaws require that the Board review and approve their bylaws annually. She asked if there were any suggested changes to the current Healthcare District Board Bylaws. It was noted that staff had no recommended changes. No changes were recommended.  <b>BOARD MEMBER ROLL CALL:</b>  <table border="1" data-bbox="407 842 1214 951"> <tr> <td>McDougall</td> <td>Yes</td> <td>Rader</td> <td>Yes</td> </tr> <tr> <td>Stevens</td> <td>Absent</td> <td>Swerdlow</td> <td>Yes</td> </tr> <tr> <td>Tankersley</td> <td>Yes</td> <td colspan="2">Motion carried.</td> </tr> </table>	McDougall	Yes	Rader	Yes	Stevens	Absent	Swerdlow	Yes	Tankersley	Yes	Motion carried.		<b>M.S.C., (Tankersley/Rader) the SGMHD Board of Directors approved their bylaws as presented.</b>
McDougall	Yes	Rader	Yes											
Stevens	Absent	Swerdlow	Yes											
Tankersley	Yes	Motion carried.												
<b>Proposed Action – Approve Resolution No. 2024-01</b>	Resolution No. 2024-01 is a resolution approving the form and authorizing the execution and delivery of a second amendment to line of credit agreement with First Foundation Public Finance (formerly First Foundation Public Finance Trust), a Delaware Statutory Trust and a wholly owned subsidiary of First Foundation Bank and approving certain other actions.  <b>BOARD MEMBER ROLL CALL:</b>  <table border="1" data-bbox="407 1283 1214 1392"> <tr> <td>McDougall</td> <td>Yes</td> <td>Rader</td> <td>Yes</td> </tr> <tr> <td>Stevens</td> <td>Absent</td> <td>Swerdlow</td> <td>Yes</td> </tr> <tr> <td>Tankersley</td> <td>Yes</td> <td colspan="2">Motion carried.</td> </tr> </table>	McDougall	Yes	Rader	Yes	Stevens	Absent	Swerdlow	Yes	Tankersley	Yes	Motion carried.		<b>M.S.C., (Swerdlow/Tankersley), the SGMHD Board of Directors voted to approve Resolution No. 2024-01.</b>
McDougall	Yes	Rader	Yes											
Stevens	Absent	Swerdlow	Yes											
Tankersley	Yes	Motion carried.												
<b>Proposed Action – Approve the California Health Facilities Financing Authority Distressed Hospital Loan Program, Loan and Security Agreement.</b>	Tabled. No action was taken.													
<b>General Information</b>	The State of the District event will be held on Friday, March 8 <sup>th</sup> , at 5:00 pm at Morongo. This event will be hosted by Supervisor Gutierrez.													

AGENDA ITEM	DISCUSSION	ACTION / FOLLOW-UP
<b>Adjourn to Closed Session</b>	Chair McDougall, reported the items to be reviewed and discussed and/or acted upon during Closed Session will be: <ul style="list-style-type: none"> <li>➤ Proposed Action – Approve Medical Staff Credentialing.</li> </ul> The meeting adjourned to Closed Session at 6:18 pm.	
<b>Reconvene to Open Session</b>	The meeting was reconvened to Open Session at 6:23 pm.  At the request of Chair McDougall, Ariel Whitley reported on the actions taken/ information received during closed session as follows: <ul style="list-style-type: none"> <li>➤ Approved Medical Staff Credentialing.</li> </ul>	
<b>Future Agenda Items</b>	None.	
<b>Adjournment</b>	The meeting was adjourned at 6:24 pm.	

In accordance with The Brown Act, *Section 54957.5*, all reports and handouts discussed during this Open Session meeting are public records and are available for public inspection. These reports and/or handouts are available for review at the Healthcare District Administration office located at 600 N. Highland Springs Avenue, Banning, CA 92220 during regular business hours, Monday through Friday, 8:00 am - 4:30 pm.

**TAB B**



SPECIAL MEETING OF THE  
SAN GORGONIO MEMORIAL HEALTHCARE DISTRICT  
BOARD OF DIRECTORS

January 17, 2024

The special meeting of the San Gorgonio Memorial Hospital Board of Directors was held on Wednesday, January 17, 2024, in Classroom C meeting room, 600 N. Highland Springs Avenue, Banning, California.

Members Present: Shannon McDougall, Ron Rader, Randal Stevens

Members/Staff Lanny Swerdlow, Dennis Tankersley

Absent:

Required Hospital: Steve Barron (CEO), Angela Brady (CNE), John Peleuses (VP of Ancillary & Support Services), Karan P. Singh, MD (CMO), Ariel Whitley (Executive Assistant), Dan Heckathorne (CFO)

AGENDA ITEM	DISCUSSION	ACTION / FOLLOW-UP												
<b>Call To Order</b>	Board Chair, Shannon McDougall called the meeting to order at 9:07 am.													
<b>Public Comment</b>	No public comment.													
<b>NEW BUSINESS</b>														
<b>Proposed Action – Adopt Resolution No. 2024-02</b> (A resolution of San Gorgonio Memorial Healthcare District authorizing the execution and delivery of a Promissory Note, Loan and Security Agreement, and certain actions in connection therewith for a loan under the Distressed Hospital Loan Program)	<p>Resolution No. 2024-02 is a resolution of San Gorgonio Memorial Healthcare District authorizing the execution and delivery of a Promissory Note, Loan and Security Agreement, and certain actions in connection therewith for a loan under the Distressed Hospital Loan Program</p> <p><b>BOARD MEMBER ROLL CALL:</b></p> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td>McDougall</td> <td>Yes</td> <td>Rader</td> <td>Yes</td> </tr> <tr> <td>Stevens</td> <td>Yes</td> <td>Swerdlow</td> <td>Absent</td> </tr> <tr> <td>Tankersley</td> <td>Absent</td> <td colspan="2">Motion carried.</td> </tr> </table>	McDougall	Yes	Rader	Yes	Stevens	Yes	Swerdlow	Absent	Tankersley	Absent	Motion carried.		<b>M.S.C., (Rader/Stevens), the SGMHD Board of Directors voted to adopt Resolution No. 2024-02.</b>
McDougall	Yes	Rader	Yes											
Stevens	Yes	Swerdlow	Absent											
Tankersley	Absent	Motion carried.												
<b>Adjournment</b>	The meeting was adjourned at 9:21 am.													

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Minutes respectfully submitted by Ariel Whitley, Executive Assistant

**TAB C**

## Income Statement DISTRICT - December 2023

DISTRICT - Monthly	Dec 22 Act	Dec 23 Flex	Dec 23 Act	Variance (Dec 23 Act - Dec 23 Flex )	Var%
NET INCOME	-83,211	854,852	210,732	-644,120	-75.35 %
EBIDA	252,850	383,669	426,268	42,599	11.10 %
NET SERVICE REVENUE	401,494	412,327	402,133	-10,194	-2.47 %
OTHER OPERATING REVENUE	401,494	412,327	402,133	-10,194	-2.47 %
OTHER REVENUE - OTHER	0	2,500	639	-1,861	-74.44 %
OPERATING TAX REVENUES	401,494	409,827	401,494	-8,333	-2.03 %
703232 - OPERATING REVENUE TAX REVENUE MH.	246,994	246,994	246,994	0	0.00 %
703533 - OTHER REVENUE PROP 13	154,500	154,500	154,500	0	0.00 %
703634 - OTHER REVENUE ABX 163	0	8,333	0	-8,333	-100.00 %
TOTAL OPERATING EXPENSE	148,644	28,658	-24,135	52,793	184.22 %
PROFESSIONAL FEES	144,718	25,459	-31,476	56,935	223.63 %
PROFESSIONAL FEES	144,718	25,459	-31,476	56,935	223.63 %
601923 - LEGAL FEES	56,410	4,894	-32,494	37,388	763.96 %
601962 - GROUND PURCHASED SERVICES	10,638	9,954	1,018	8,936	89.77 %
601966 - OTHER PURCHASED SERVICES	0	0	0	0	0.00 %
601969 - PURCHASED SERVICES	77,670	10,611	0	10,611	100.00 %
SUPPLIES & OTHER EXPENSES	3,926	3,199	7,341	-4,142	-129.48 %
SUPPLY EXPENSE	0	0	0	0	0.00 %
OTHER EXPENSES	3,926	3,199	7,341	-4,142	-129.48 %
602470 - FREIGHT SALES TAX	8	1,172	8,261	-7,089	-604.86 %
602472 - ELECTION FEES	0	0	0	0	0.00 %
602489 - ENTERTAINMENT	0	0	0	0	0.00 %
602490 - OTHER EXPENSES	3,918	2,027	-920	2,947	145.39 %
NON-OPERATING REVENUE & EXPENSE	641,014	1,351,515	640,979	-710,536	-52.57 %
OTHER NON-OPERATING REVENUE	13,661	724,162	13,626	-710,536	-98.12 %
701498N - Other Rev-(moved 9260)_NON PT REV-OTHER- RENT INCO	0	564	0	-564	-100.00 %
703098 - NON-OPERATING INTEREST INCOME	13,661	18,947	13,626	-5,321	-28.08 %
903031 - NON-OPERATING DONATIONS/GAIN ON SALE	0	704,651	0	-704,651	-100.00 %
NON-OPERATING TAX REVENUE	627,353	627,353	627,353	0	0.00 %
903430 - NON-OPERATING TAX REVENUE MA.	627,353	627,353	627,353	0	0.00 %
TOTAL INTEREST & DEPRECIATION	977,075	880,332	856,515	23,817	2.71 %
DEPRECIATION	406,450	492,721	492,721	0	0.00 %
INTEREST & AMORTIZATION	570,625	387,611	363,794	23,817	6.14 %

## Income Statement DISTRICT - YTD 6 months thru December 2023

DISTRICT - YTD	Jul - Dec 22 Act YTD	Jul - Dec 23 Flex YTD	Jul - Dec 23 Act YTD	Variance (Jul - Dec 23 Act YTD - Jul - Dec 23 Flex YTD )	Var%
NET INCOME	2,306,497	4,134,474	2,568,764	-1,565,710	-37.87 %
EBIDA	2,035,512	2,264,678	2,248,381	-16,297	-0.72 %
NET SERVICE REVENUE	2,408,964	2,473,962	2,584,993	111,031	4.49 %
OTHER OPERATING REVENUE	2,408,964	2,473,962	2,584,993	111,031	4.49 %
OTHER REVENUE - OTHER	0	15,000	7,248	-7,752	-51.68 %
OPERATING TAX REVENUES	2,408,964	2,458,962	2,576,222	117,260	4.77 %
703232 - OPERATING REVENUE TAX REVENUE MH.	1,481,964	1,481,964	1,481,964	0	0.00 %
703533 - OTHER REVENUE PROP 13	927,000	927,000	927,000	0	0.00 %
703634 - OTHER REVENUE ABX 163	0	49,998	167,258	117,260	234.53 %
TOTAL OPERATING EXPENSE	373,452	209,284	336,612	-127,328	-60.84 %
PROFESSIONAL FEES	200,293	190,090	292,772	-102,682	-54.02 %
PURCHASED SERVICES	200,293	190,090	292,772	-102,682	-54.02 %
601923 - LEGAL FEES	59,526	66,700	218,952	-152,252	-228.26 %
601962 - GROUND PURCHASED SERVICES	60,053	59,724	56,078	3,646	6.10 %
601966 - OTHER PURCHASED SERVICES	0	0	0	0	0.00 %
601969 - PURCHASED SERVICES	80,714	63,666	17,742	45,924	72.13 %
SUPPLIES & OTHER EXPENSES	173,159	19,194	43,840	-24,646	-128.40 %
SUPPLY EXPENSE	0	0	39,205	-39,205	0.00 %
OTHER EXPENSES	173,159	19,194	4,635	14,559	75.85 %
602470 - FREIGHT SALES TAX	9,371	7,032	-3,103	10,135	144.13 %
602472 - ELECTION FEES	150,000	0	0	0	0.00 %
602489 - ENTERTAINMENT	0	0	-2,500	2,500	0.00 %
602490 - OTHER EXPENSES	13,788	12,162	10,238	1,924	15.82 %
NON-OPERATING REVENUE & EXPENSE	5,272,874	7,151,788	5,459,473	-1,692,315	-23.66 %
OTHER NON-OPERATING REVENUE	1,508,756	3,387,670	1,695,355	-1,692,315	-49.96 %
701498N - Other Rev-(moved 9260)_NON PT REV-OTHER- RENT INCO	0	3,384	0	-3,384	-100.00 %
703098 - NON-OPERATING INTEREST INCOME	124,258	113,682	81,824	-31,858	-28.02 %
903031 - NON-OPERATING DONATIONS/GAIN ON SALE	1,384,498	3,270,604	1,613,531	-1,657,073	-50.67 %
NON-OPERATING TAX REVENUE	3,764,118	3,764,118	3,764,118	0	0.00 %
903430 - NON-OPERATING TAX REVENUE MA.	3,764,118	3,764,118	3,764,118	0	0.00 %
TOTAL INTEREST & DEPRECIATION	5,001,889	5,281,992	5,139,090	142,902	2.71 %
DEPRECIATION	2,582,294	2,956,326	2,956,326	0	0.00 %
INTEREST & AMORTIZATION	2,419,595	2,325,666	2,182,764	142,902	6.14 %
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**TAB D**

# San Gorgonio Memorial Healthcare District

## Measure A analysis of Project Funds Paid by General Category

12/31/2023

	Measure A		Current Month-Measure A	District Funds
	<u>Project-to-Date</u>		<u>12/31/2023</u>	<u>12/31/2023</u>
Computer Equipment	\$ 5,311,028	\$	-	
Radiology Equipment	\$ 1,526,641	\$	-	
Legal/Regulatory/Bonds	\$ 3,143,910	\$	-	
Architectural (HDR)-ALL PHASE 1 PROJE	\$ 11,756,851	\$	-	
Construction Management-ALL PHASE 1 P	\$ 12,875,601	\$	-	
Contractors 1-A (HELIPAD/COOLING TOWI	\$ 7,814,103	\$	-	
Other	\$ 3,021,460	\$	-	
Contractors 1-B (CENTRAL PLANT)	\$ 20,800,201	\$	-	
Contractors 1-C (ED/ICU)	\$ 28,157,355	\$	-	
Contractors 1-E Dietary Remodel	\$ 5,225,946	\$	-	
Contractors 1-Medley Project	\$ 4,796,620	\$	-	
Previous Expenditures for Measure A-Phase 1	\$ 104,429,717	\$	-	
Contractors, Architect, Mgmt - 2-A Patient Facility prior 1	\$ 7,015,575			
Expenditures prior to 9/01/14 all phases	\$ 111,445,293			
<b>Project expenditures using District Funds</b>				
TCU Coersion 0001	\$0.00	\$0.00	\$	108,612
Medical Records Conversion 0004	\$0.00	\$0.00	\$	13,618
Pharmacy Conversion 0005	\$0.00	\$0.00	\$	50,447
CIP Patient Care Facility-0008	\$0.00	\$0.00	\$	2,100
<b>Project Expenditures using Measure A funds</b>				
TCU Coersion 0001	\$ 539,852.53	\$0.00		
Medical Records Conversion 0004	\$0.00	\$0.00		
Pharmacy Conversion 0005	\$0.00	\$0.00		
CIP Patient Care Facility-0008	\$1,338,416.28	\$0.00		\$0.00
OR Electrical Conversion	\$0.00	\$0.00		\$39,751.00
Other Construction Costs	\$150,247.92	\$0.00		
Other Non-Construction Costs	\$470,258.06	\$270,691.67		\$5,955.22
<b>Total Expenditures</b>	\$ 113,944,067	\$	270,692	\$ 220,483

Measure A Project General Obligation Funds  
Statement of Funds Flows

PROCEEDS SUMMARY:	
Initial Project Fund transfer from sale of General Obligation Bonds 2006 A to FSA a	25,200,349
Initial Project Fund Transfer from sale of General Obligation Bonds 2006 B (08/08/2	24,876,964.91
Initial Project Fund from sale of General Obligation Bonds 2006 C (08/14/2009)	57,800,000
Planholder Checks project to date and refunds for overpayments	24,072
HDR Returned payments	139,979
Initial Proceeds	108,041,365
<b>Investment Income</b>	
FSA Inc. (Series 2006 A)	1,762,060
BB&T GIC (Series 2008 B)	1,461,176
Bank of Hemet Series A	1,001
City National Money Market	81
GE Capital (Series 2009 C)	2,638,823
Security Bank Money Market	39,653
Interest Income SUBTOTAL	5,902,795
Total Proceeds Available for Measure A:	<b>\$ 113,944,159</b>

Projected Interest by end of Project>	5,912,351
Total Projected Proceeds Available for Measure A:	<b>\$ 113,953,716</b>

FUND FLOWS:		
Total Measure A Funds Initial Proceeds (from above)		108,041,364.81
Add:	<u>Rate</u>	Interest Income
FSA Inc. (Series 2006 A), FY 07	5.27%	1,030,536.43
FSA Inc. (Series 2006 A), FY 08	5.27%	635,706.73
FSA Inc. (Series 2006 A), FY 09	5.27%	95,817.32
BB&T GIC (Series 2008 B) FY 09	4.94%	680,384
BB&T GIC (Series 2008 B) FY 10	4.94%	648,151
BB&T GIC (Series 2008 B) FY 11	4.94%	132,640
GE Capital (Series 2009 C) FY 10	1.75%	688,722
GE Capital (Series 2009 C) FY 11	1.75%	956,529
GE Capital (Series 2009 C) FY 12	1.75%	591,104.24
GE Capital (Series 2009 C) FY 13	1.75%	293,402.39
GE Capital (Series 2009 C) FY 14	1.75%	109,065.59
Bank of Hemet Series A		1,001
City National Money Market		81
Security Bank Construction funds		1,126
Security Bank Construction Money Market		38,527
Total Interest Income earned		<b>\$ 5,902,795</b>
Project Expenditures (from above)		<b>\$ 113,944,067</b>
Total Consolidated Funds available:		<b>\$ 92.00</b>
	spent to date	100%

MEASURE A BALANCES:		
	Balances as of 12/31/2023	
Bank of Hemet Series A	4310	-
Security Bank of California Construction Fu	1812	92
Security Bank of California Money Market	2509	-
Total Balances		<b>\$ 92</b>
	VARIANCE	<b>\$ (0.00)</b>

# TAB E



# Update on Medical Office Building Common Area Maintenance Fees Billings and Payments

Billings From

1/1/2011 Thru

12/31/2023

## SUMMARY

		<u>TOTAL BILLED</u>	<u>TOT COLLECTED</u>	<u>AMT DUE</u>	<u>Mos in arrears</u>
Building #1	San Gorgonio Investors	\$61,102.22	\$58,071.75	\$3,030.47	6
Building #2	Ahsan Qazi, MD & Jung Yoo, MD Highland Springs Medical Building Partners	\$76,469.97	\$69,901.95	\$6,568.02	13
Building #3	Ahsan Qazi, MD & Jose Limon, Memorial Hospital Professional Building	\$74,604.16	\$71,477.00	\$3,127.16	6
Building #4	Rancho Paseo Medical Group	\$78,468.18	\$70,859.06	\$7,609.12	14
Building #5	Rancho Paseo Medical Group Highland Springs LLC	\$76,607.61	\$65,396.07	11211.54	22
Lots 6 & 7	Wellness Properties-Dr. Borna	\$121,255.68	\$99,915.82	\$21,339.86	21
<b>TOTALS</b>		<b>\$488,507.82</b>	<b>\$435,621.65</b>	<b>\$52,886.17</b>	

Has been paying waste mgmt for unknow fees. Trying to resolve

**TAB F**

San Geronio Memorial Hospital and San Geronio Memorial Health Care District

To: Finance Committee, Board of Directors, and District Board

Agenda Item for January 30, 2024, Finance Committee and February 6, 2024, Board Meetings

**Subject:**

Approval for Phase 2 fees for Seismic Retrofit Project.

**Background:**

We have engaged WP Moore Engineering and Healthcare Resource Management for assessment and recommendations to comply with the HCAI requirements as outlined in SB 1953. The initial phase was for assessment and recommendations to comply with the 2024 deadline requirements. This phase has been completed.

The next phase includes the two attached proposals for development of Construction documents for the SPC and NPC portions of the project. Additionally, we are requesting approval of Material Testing Fees from phase one that involves the actual testing, for which we are currently evaluating 3 proposals. The final amount is estimated be about \$250,000 for the testing. The testing will provide insight into the construction necessary.

After the completion of the testing WP Moore will create the construction documents necessary to seek proposals for the structural modifications needed. The construction will be phased to maintain the operations of the facility and could begin as early as July 2025 or as late as January 2026. The construction costs are yet to be determined due to obtaining MTCAP results.

Vendors reviewed:

- W P Moore
- CalTech Labs
- Terracon
- Independent Solutions

We are recommending the continuation of collaboration with WP Moore for this next phase for continuity with the project.

**Funding:**

The testing fees (approximately \$250,000) will be needed in the next six months. The development of the SPC and NPC construction documents will be spaced over the next year with about half to be spent in the current FY by June 2024 and the remainder in FY 25. WP Moore SPC fees \$198,000. WP Moore NPC fees \$144,000.

**Recommended Action:** That the CEO be authorized to approve SPC and NPC construction documents and the Material Testing and Condition Assessment Program (MTCAP). As follows:

MTCAP Testing	Estimated	\$250,000
SPC Construction Docs	WP Moore	\$198,000
NPC Construction Docs	WP Moore	\$144,000

**Exhibit:** WP Moore Quotes.



January 5, 2024

Mr. Steve Barron  
Chief Executive Officer  
San Geronio Memorial Hospital  
600 N. Highland Springs Avenue  
Banning, CA 92220

**Re: Proposal for Professional Services  
NPC-3 Upgrade Construction Documents (CDs) for Three (3) NPC-2 Buildings at  
San Geronio Memorial Hospital (HCAI Facility ID: 10559)  
600 N. Highland Springs Avenue, Banning, CA 92220  
Walter P Moore Proposal No. 23-3686**

Dear Steve:

Walter P Moore is pleased to submit this proposal to provide professional services for the referenced project. This project constitutes a critical and mandatory step towards obtaining seismic compliance beyond 2030 for these buildings. Walter P Moore has extensive experience with this type of project, and we are excited that SGMH is taking this step for 2030 seismic compliance for these buildings.

This proposal is presented to establish a basis for the commencement of our scope of services for the Project. Walter P Moore would be the prime design consultant for this Project, and we would bring in other consultants, if and as needed, and as articulated in more detail in the proposal. We anticipate that this Proposal and Agreement for Professional Services and attachments, when signed, will serve as our entire Agreement unless superseded by another document signed by both parties.

#### **Basis of Proposal**

This proposal is based on phone communication with John Peleuses.

#### **Agreement**

If this proposal is acceptable, please sign the attached Proposal and Agreement for Professional Services where indicated and return the signed copy to us. This proposal is valid for 60 days.

We very much appreciate the opportunity to provide these services and look forward to collaborating with you on this Project.

Sincerely,

**WALTER P. MOORE AND ASSOCIATES, INC.**

Balram Gupta, Ph.D., S.E. / Senior Principal  
Healthcare Market Leader – West Coast  
[bgupta@walterpmoore.com](mailto:bgupta@walterpmoore.com)  
(213) 694-4796 Direct; (818) 723-7085 Cell



**PROPOSAL AND AGREEMENT FOR PROFESSIONAL SERVICES – Terms Attached**

**Project:** NPC-3 Upgrade Construction Documents (CDs) for Three (3) NPC-2 Buildings at San Gorgonio Memorial Hospital (OSHPD Facility ID: 10559)  
**Client:** San Gorgonio Memorial Hospital  
**Client Contact:** Steve Barron  
**Proposal Date:** January 5<sup>th</sup>, 2024  
**Proposal Number:** 23-3686

Walter P. Moore and Associates, Inc. (Walter P Moore) shall provide services to Client for the Project as defined below and in accordance with the attachments listed below:

**Project Description**

Three (3) buildings at San Gorgonio Memorial Hospital (SGMH) are currently classified as NPC-2. Each NPC-2 building must first be upgraded and reclassified to NPC-3 followed by NPC-4D/4 and NPC-5 reclassification to allow its use as a hospital building beyond January 1, 2030. Relevant information for the three NPC-2 buildings included in this proposal is shown in the table below.

#	Building Name	SGMH / OSHPD Bldg. #s	Bldg. Code Year	Year Built	Overall Building Area± (SF)	Current NPC Rating	Current SPC Rating	Original OSHPD / OSA Project #
1	Original Bldg. – OB Addition – ‘64 Addition	01 / 01389	1949	1950	31,500	2	2	-
2	OR Addition	02 / 01390	1970	1973	900	2	2	-
3	Addition (1980)	03 / 01391	1976	1980	30,000	2	4	H-0803

If our understanding of the project scope is inaccurate or the project scope materially changes, we understand that our compensation will be equitably adjusted.

**Scope of Services**

In accordance with Schedule SR-01B: Scope of Structural Engineering Services for NPC-3 Upgrade Construction Documents (CDs).

**Compensation**

Walter P Moore proposes to provide the Scope of Structural Engineering Services defined in Schedule SR-01B for a fixed fee as indicated in the table below. Scope items in the table correspond to Schedule SR-01B.

Scope	Fee for Building			Total Fee
	01/01389	02/01390	03/01391	
NPC-3 Upgrade CDs	\$75,000	\$21,000	\$48,000	<b>\$144,000</b>

Compensation shall be equitably adjusted for changes in the scope of the project as described in the Project Description or changes in the scope of service as described in the Scope of Service.

Miscellaneous out-of-pocket project related expenses including, without limitation; printing, postage, courier costs, lodging, travel expenses, etc., shall be invoiced and paid at the incurred cost. Mileage shall be charged at IRS Standard Business Mileage Rate in effect at the time of travel. Sales tax, if applicable, will be paid by the Client. Reimbursable expenses are estimated to be **\$1,800**.

### **Additional Services**

Walter P Moore proposes to provide Additional Services not included in the Scope of Services as requested and approved by the Client in writing. Additional Services shall be provided without invalidating this Agreement. Additional Services shall be compensated at a mutually agreed upon fee.

### **Client's Responsibilities**

The Client shall provide overall management and coordination of the Project. Walter P Moore agrees to participate in the coordination effort, to be led by the Client, in order that our Portion of the Project is coordinated with the designs and deliverables of the other members of the Project team.

The Client shall provide to Walter P Moore, in a timely manner, full information of which the Client is aware regarding any special conditions, design criteria, reports, or special services needed, and to make available any existing data or drawings concerning the Project and Project Site. Walter P Moore shall be entitled to rely upon the accuracy and completeness of any such information provided.

### **Project Schedule**

Walter P Moore will endeavor to achieve the requirements of a reasonable schedule determined appropriate for the Project. Walter P Moore's fee for the defined Scope of Services is based, in part, upon the Project being executed in a timely manner without significant delays or interruptions.

In order for Walter P Moore to proceed with its services toward the accomplishment of the Project Schedule, the following information shall be provided by the Client in a timely manner:

- An executed copy of the Agreement for Professional Services.
- Complete set of existing architectural, structural, and MEP drawings for all three NPC-2 buildings.
- Detailed photographic survey and CAD files of above-ceiling utility distribution systems (pipes, ducts, conduits, equipment, etc.) to be performed by a third-party vendor at SGMH's cost.
- Cutsheets for medical and MEP equipment currently installed within NPC-3 areas.

### **Payment**

As defined in the attached Schedule T2.

### **Limitation of Liability**

**To the maximum extent permitted by law, Client agrees to limit Walter P Moore's liability for claims arising from or related to the Agreement or the Scope of Services to the Sum of \$50,000 or Walter P Moore's paid fee, whichever is lesser. This limitation shall apply regardless of the cause of action or legal theory pleaded or asserted, including any kind of indemnity.**

### **Terms of Agreement**


In accordance with the attached Schedule T2.

**Attachments**

The following attachments are incorporated by reference as if set forth at length. In the event of a direct conflict between this Agreement and the content of any of the Attachments, this Agreement shall govern.

- SR-01B: Scope of Structural Engineering Services for NPC-3 Upgrade Construction Documents (CDs)
- Site Plan
- Schedule T2: Terms of Agreement

Executed on this \_\_\_\_ day of \_\_\_\_\_, 2024 by:

<b>San Geronio Memorial Hospital</b> Accepted:	<b>Walter P. Moore and Associates, Inc.:</b> Balram Gupta, Ph.D., S.E. / Senior Principal Healthcare Market Leader – West Coast
Signature	



## **Schedule SR-01B: Scope of Structural Engineering Services for NPC-3 Upgrade Construction Documents (CDs)**

### **I. General Services**

- A. Walter P Moore shall be the Structural Engineer of Record (SEOR) for parts of the Project as described in the Agreement Letter.
- B. Walter P Moore will review the existing drawings as required to become generally familiar with the nonstructural systems of the building as described in the engagement letter. The availability of as-built MEP drawings, including those for fire-sprinkler systems, and previously approved OSHPD projects related to nonstructural items is an important assumption in this proposal.
- C. Hospital's ability to provide cut-sheets for medical, MEP, and architectural equipment is an important assumption in this proposal.
- D. Walter P Moore will visit the project site to become familiar with the present condition of the building. Walter P Moore's Basic Services do not include performing a detailed assessment of the structural conditions of the facilities nor a survey of field measurements.
- E. If Walter P Moore's evaluation indicates that the structure will not be able to readily accommodate the intended modifications, Walter P Moore will consult with the Hospital as appropriate and make recommendations to modify the location and/or character of the proposed modifications as needed.
- F. The Basic Services to be performed by Walter P Moore includes consultation, as outlined below in Table A: Scope of Services.
- G. The assumptions made in determining the fees and scope of work by Walter P Moore are outlined below in Table A: Scope of Services – under "Notes and Assumptions" column.
- H. The exclusions made in determining the fees and scope of work by Walter P Moore are outlined below in Table B: Exclusions. Walter P Moore's scope of Basic Services does not include structural analysis, design or detailing to upgrade the existing building's gravity or lateral load resisting system to meet the current building code or to meet any SPC requirements.
- I. For each phase of the Work, Walter P Moore will work with the Hospital (or their designated representative) to ascertain the requirements for that phase of the Work, will participate in necessary meetings, will be available for general consultation, will prepare necessary documentation, and will make appropriate recommendations.
- J. Walter P Moore will recommend to the Hospital the appropriate investigations, reports, surveys, tests, and services of other Consultants that should be retained for proper execution of Services. Walter P Moore will assist in the development of appropriate scopes of work for such services. Services that may be required include, but may not be limited to, 3D laser scanning, surveys, material tests, and site-specific seismic studies.



- K. Walter P Moore’s Scope of Services is limited to those items specifically described herein. If requested and authorized by the Client, other Additional Services may be provided for an additional fee.

**II. Scope of Services**

- A. Following written authorization from the Client to proceed with each subsequent phase of the Work, Walter P Moore shall provide the services for each phase as described in Table A: Scope of Services.

<b>Table A: SCOPE OF SERVICES</b>				
PHASE		Included	Not Included	NOTES AND ASSUMPTIONS
<b>A. NPC-3 Upgrade Construction Documents (CDs)</b>		<b>X</b>		Shall be evaluated/developed in accordance with CAC’2022 (California Administrative Code 2022 edition), Chapter 6, Table 11.1, and Sections 11.2.2.d and 11.2.2.e.
1	Review NPC-3 evaluation report submitted to OSHPD in December 2023.	<b>X</b>		
2	Compile as-built drawings and cutsheets for equipment within NPC-3 areas.	<b>X</b>		Hospital shall provide as-built drawings and equipment cutsheets.
3	Review documentation generated by the 3D laser scanning team for above-ceiling utilities within the NPC-3 areas.	<b>X</b>		
4	Evaluate existing anchorage details in accordance with the requirements of 2022 California Administrative Code.	<b>X</b>		
5	Develop criteria for in-situ testing of existing anchorages, if and as needed.	<b>X</b>		Develop criteria in accordance with §11.2.2.e of CAC’2022.
6	Develop seismic upgrade details for anchorages that are deficient.	<b>X</b>		
7	Develop typical details for support and attachment for Fixed, Interim, Mobile, Movable, Other, and Temporary equipment in accordance with OSHPD PIN-68.	<b>X</b>		
8	Prepare a consolidated NPC-3 Upgrade CDs package (structural calculations, drawings, TIO, etc.) and submit to OSHPD.	<b>X</b>		
9	Respond to OSHPD plan review comments on NPC-3 Upgrade CDs.		<b>X</b>	
<b>B. Field Implementation of NPC-3 Upgrade CDs</b>			<b>X</b>	Scope of work shall be provided as an Additional Service once NPC-3 Upgrade CDs have been approved by OSHPD and when a construction schedule has been established to complete the work.

<b>Table A: SCOPE OF SERVICES</b>			
PHASE	Included	Not Included	NOTES AND ASSUMPTIONS
			It is expected that this will be a phased process to allow continuity of operations in the hospital.
<b>C. Update NPC-3 Evaluation Report for submittal to OSHPD SCU.</b>		X	Scope of work shall be provided as an Additional Service once NPC-3 Upgrade CDs have been fully implemented in the field.
<b>D. Project Close-Out in accordance with OSHPD SCU Requirements.</b>		X	Scope of work shall be provided as an Additional Service once NPC-3 Upgrades have been completed.

### III. Exclusions

Exclusions from our Scope of Services are described in Table B: Exclusions

<b>Table B: EXCLUSIONS</b>		
EXCLUSIONS		NOTES
1	Field investigation and documentation of above-ceiling utilities.	This mandatory investigation and documentation shall be performed digitally by a third-party vendor by utilizing 3D laser scanning to minimize disruption to hospital functions and operations.
2	MEP engineering, architectural, medical equipment planning, and other consulting services.	
3	Communication with vendors/suppliers of medical and MEP equipment and/or web searches to obtain equipment cutsheets.	Hospital shall provide cutsheets for all equipment currently installed.
4	Response to OSHPD plan review comments for NPC-3 Upgrade CDs.	
5	Construction administration for NPC-3 upgrade.	
6	Preparation of as-built drawings.	
7	Review of structural anchorage of MEP equipment and/or systems outside of NPC-3 areas.	
8	Study of impact of potential NPC-3 upgrades on disruption to hospital functions.	

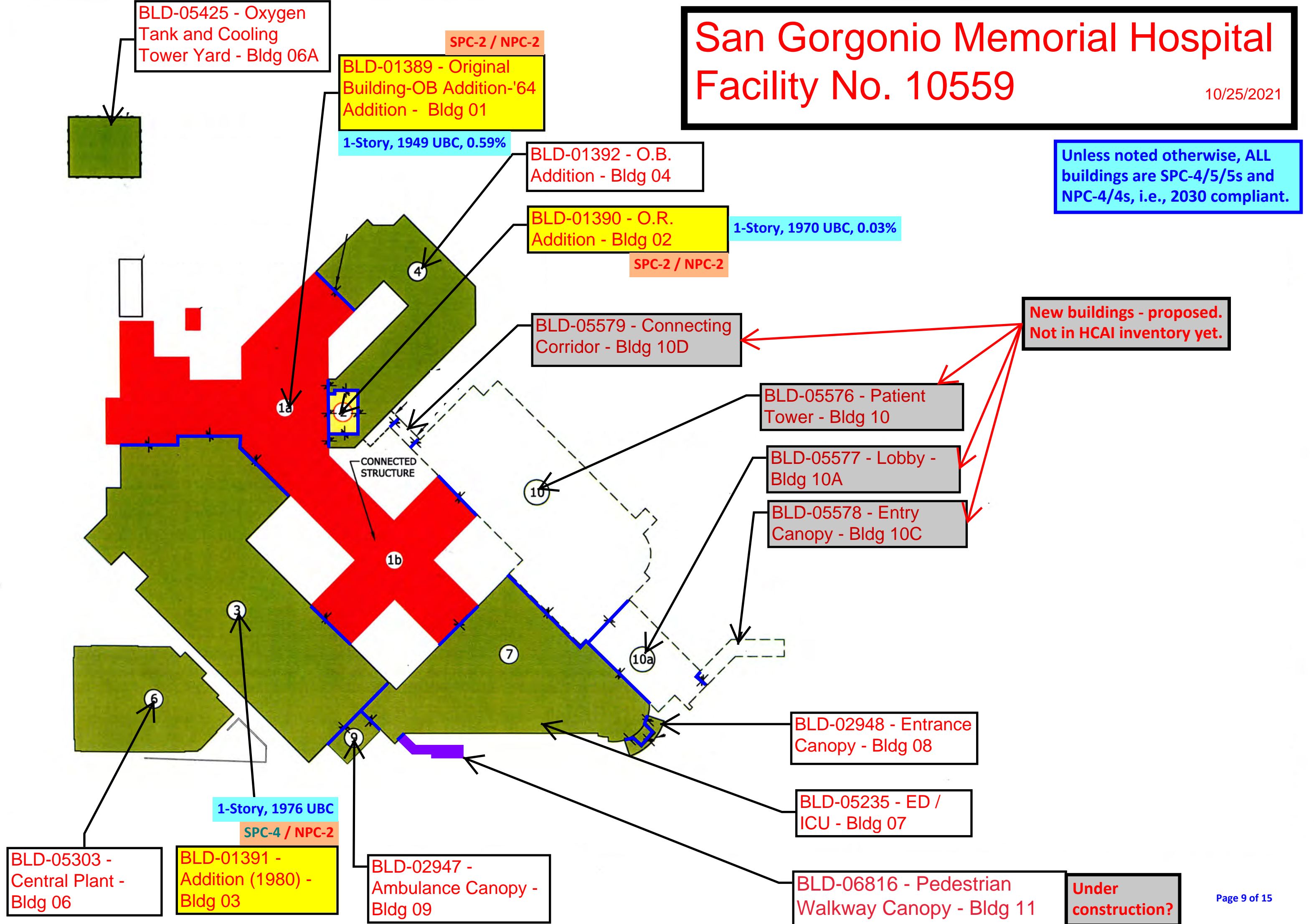
<b>Table B: EXCLUSIONS</b>		
EXCLUSIONS		NOTES
9	Review and evaluation of existing MEP equipment or systems to assess functional conditions.	
10	Air measurements, power measurements, and recording of fluid flows.	
11	Review of Article 10 Items in CAC'2022.	
12	Hazardous material monitoring and abatement.	
13	ADA related condition assessment.	
14	Move management, phasing, and evaluations related to ADA upgrades.	
15	Probing, patching, and testing of structural systems to document strength and physical geometry.	
16	Material testing and condition assessment for as-built material strengths and conditions.	
17	Additional efforts because of unforeseen conditions.	
18	Development of Operational Plan for NPC-4D reclassification.	
19	SPC related evaluations and/or upgrades.	
20	Preparation of cost estimates.	
21	Fee for OSHPD reviews.	
22	Anchorage designs for any new medical equipment and new food service equipment, if any are proposed as part of Tenant Improvements (TI).	
23	Vibration analysis for equipment.	
24	Phasing Drawings.	
26	NPC-5 Evaluation.	
27	Response to prior outstanding OSHPD comments, if any.	
28	Efforts to close prior OSHPD projects that might have been closed non-compliant.	

# San Geronio Memorial Hospital Facility No. 10559

10/25/2021

Unless noted otherwise, ALL buildings are SPC-4/5/5s and NPC-4/4s, i.e., 2030 compliant.

New buildings - proposed. Not in HCAI inventory yet.





## Schedule T2 TERMS OF AGREEMENT

### I. Compensation & Expenses

A. Walter P. Moore and Associates, Inc., "WALTER P MOORE", shall be paid as stated in the Agreement for Professional Services.

1. Lump Sum Fee - The total fee payable shall be the total sum stated herein, and payments shall be made periodically based upon WALTER P MOORE's percentage complete of the total fee as of the invoice date, or according to the schedule of payment by design phase if such schedule is expressly included herein.
2. Time and Expense Fee - The periodic fee payable shall be the cumulative sum of the mathematical products of the actual hours worked by individuals assigned to and providing services on the Project multiplied by the category billing rate for each respective individual as indicated in the Hourly Billing Rate Schedule attached to this Agreement for Professional Services.

B. WALTER P MOORE shall be compensated for all services provided regardless of whether the improvements designed are built, in whole or in part.

C. Additional Services: Additional Services shall be paid monthly in proportion to the percentage of the Additional Services completed for Fixed Fee compensation, or for the number of hours spent for Time and Expense Fee compensation, as of the invoice date.

D. Reimbursable Expenses: Miscellaneous out-of-pocket project related expenses including, without limitation; printing, postage, courier costs, lodging, travel expenses, etc., shall be charged at the incurred cost. Mileage shall be charged at IRS Standard Business Mileage Rate in effect at the time of travel.

E. Reimbursable Services: Third Party services retained by WALTER P MOORE on behalf of Owner shall be charged at the incurred cost plus 10%.

F. Sales taxes, if applicable, are not included and shall be paid by the Client.

### II. Invoices and Payments

A. WALTER P MOORE will prepare and present invoices in WALTER P MOORE's standard format

on a monthly basis, unless other arrangements are stated in the Agreement for Professional Services.

B. Client shall pay WALTER P MOORE for approved invoices within thirty (30) days after receipt of invoice from WALTER P MOORE.

C. If the Client fails to make any payment due WALTER P MOORE for services and expenses within thirty (30) days after receipt of invoice from WALTER P MOORE may charge interest on the amounts due but unpaid at the lesser of the highest legal rate or twelve percent (12%) per annum.

D. Final payment for all fees and expenses is due to WALTER P MOORE no later than completion of the construction of This Part of the Project.

E. Any costs incurred by WALTER P MOORE in collecting delinquent amounts including, without limitation, reasonable attorney's fees shall be reimbursed by the Client. If any portion of WALTER P MOORE's invoice is disputed, the undisputed portion shall be paid by the Client by the due date, and Client shall contemporaneously advise WALTER P MOORE in writing of the basis for any disputed portion of any invoice.

F. WALTER P MOORE reserves the right to declare a substantial breach of this Agreement upon the Client's failure to make payment for services performed or Reimbursable Expenses incurred within ninety (90) days after Client's receipt of invoice from WALTER P MOORE.

G. No deductions shall be made from WALTER P MOORE's compensation on account of penalty, liquidated damages, or on account of the cost of changes in the Work except to the extent such costs are found by a court of competent jurisdiction to be caused by WALTER P MOORE.

### III. Responsibilities of the Client

A. The Client shall, with reasonable promptness, perform normal administrative and management tasks to facilitate the design process, including, without limitation, the following:

1. Verify that the contemplated Project will be financed adequately, including provisions for contingencies, to accomplish stated goals and commitments.

2. Define the Project in writing and list the intended functions and needs and enumerate any special design criteria, for This Part of the Project.
3. Provide all available information regarding requirements for This Part of the Project. WALTER P MOORE shall have the right to rely on the accuracy and completeness of any information provided by Client.
4. When requested in writing by WALTER P MOORE, the Client shall furnish the services of other reasonably required consultants including, without limitation, 3D laser scanning, surveyor, MEP engineer, architect, medical equipment planner, geotechnical and testing laboratory. These services shall be furnished at no charge to WALTER P MOORE which shall be entitled to rely upon the accuracy and completeness of any such consultants' work.
5. Advise WALTER P MOORE of the identity and scope of services of other consultants participating in the Project.
6. Review WALTER P MOORE's work for compliance with Client's programmatic requirements and for overall coordination with the work of the Clients' other consultants.
7. Notify WALTER P MOORE promptly if Client becomes aware of any fault with This Part of the Project or WALTER P MOORE's Services.
8. The Client or other professional consultant retained by the Client shall prepare and assemble specifications for the General Conditions, Supplementary Conditions and all components of the Project, and coordinate assembly of WALTER P MOORE's specification sections into the proper format.
9. Furnish to WALTER P MOORE copies of preliminary or detailed estimates of Total Project Construction Cost, bidding documents, change orders, and construction change directives, to the extent that they pertain to This Part of the Project.
10. Furnish to WALTER P MOORE for review and recommendation all construction phase submittals that pertain, directly or indirectly, to This Part of the Project.

11. Confer with WALTER P MOORE before issuing any interpretations or clarifications of documents prepared by WALTER P MOORE.
12. Endeavor to protect the interests of WALTER P MOORE in any dealings with Owner during the course of the Project to same extent as Client protects its interests.

- B. If a signed certificate is to be provided as a deliverable of WALTER P MOORE, the Client shall provide WALTER P MOORE with the exact requested wording no later than five (5) days prior to the anticipated execution date of the Agreement for Professional Services. To the extent such wording is currently available; it shall be attached to the Agreement for Professional Services as an exhibit and made part of the Agreement for Professional Services. Under no circumstances shall WALTER P MOORE be required to execute a certificate that requires WALTER P MOORE to accept duties or have knowledge beyond that required by the Agreement.
- C. CLIENT shall pay all costs WALTER P MOORE incurs because of any professional licensing or other complaint filed against WALTER P MOORE, or anyone related to it, related to any certificate of merit, or its equivalent, that results from this Project.

#### **IV. Instruments of Service**

- A. Drawings, specifications, and other documents prepared by WALTER P MOORE pursuant to the Agreement are instruments of WALTER P MOORE's professional services ("Instruments of Service"). WALTER P MOORE shall be deemed the author of these documents and shall retain all common law, statutory, and other reserved rights, including the copyrights. Provided that Client is not in breach of the Agreement, Client is granted a limited, non-exclusive license to use WALTER P MOORE's Instruments of Service for the construction, use, replacement, and maintenance of the Project. The Client shall be permitted to retain copies, including reproducible copies, of the Instruments of Service for the purposes permitted by the non-exclusive license. The Instruments of Service shall not be used on any other project, or for completion of the Project by others, except as permitted by law in the event WALTER P MOORE has been adjudged in default under the Agreement or except by separate

written agreement of the parties with appropriate compensation to WALTER P MOORE. Third parties such as the Contractor shall be permitted to obtain a copy of the Instruments of Service in electronic format in connection with the construction of the Project by executing WALTER P MOORE's standard agreement for such use.

- B. The Client or WALTER P MOORE shall not make changes in each other's Drawings, Specifications, and other documents without written permission of the other party.

#### **V. Insurance**

- A. WALTER P MOORE shall endeavor to maintain professional liability insurance covering claims arising out of the performance of professional services under the Agreement or the Project or caused by negligent errors, omissions or acts for which each may be liable. This insurance, as reflected in the parties' certificates of insurance, shall be maintained in force for a period of One (1) year after the date of Substantial Completion of the Project, if reasonably available and commercially affordable, or as otherwise agreed to and documented by Client and WALTER P MOORE.
- B. If insurance is required, and an Architect or other professional consultants are part of the design team, the Architect and any other consultants shall be required by the Client to obtain and maintain insurance coverage of similar nature to cover errors, omissions, or negligent acts for which the Architect or consultant are legally liable.
- C. Unless otherwise agreed, WALTER P MOORE, Client, Architect, and other professional consultants shall each provide insurance to protect themselves from: 1) claims under workers' or workmen's compensation acts; 2) from general liability claims for damages because of bodily injury, including personal injury, sickness, disease, or death of any employees or of any other person and from claims for damages because of destruction of property including loss of valuable papers and records coverage and including loss of use resulting therefrom; and 3) employment practices liability.
- D. The insurance coverage required by the above paragraphs shall be in not less than the limits required by law and as otherwise agreed.

- E. If Client enters into a construction contract based in whole or in part upon design services performed or deliverables prepared by WALTER P MOORE under the Agreement, Client shall use its best efforts to require in the Contract Documents that the Contractor shall: 1) provide liability insurance appropriate and adequate for the size and complexity of the Project; 2) agree to hold harmless, defend and indemnify Client and WALTER P MOORE against claims and lawsuits by Contractor or its subcontractors or suppliers of any tier for economic loss; and 3a) name WALTER P MOORE as an additional insured party, and 3b) waive any right of subrogation against WALTER P MOORE, under any commercial general liability or builders' risk policy providing coverage with respect to the construction of the Project; provided, however, that Client shall use its best efforts to have Client name WALTER P MOORE as an additional insured on, and waive subrogation against WALTER P MOORE under, any such policies Client provides with respect to the Project.

#### **VI. Controlling Law and Disputes**

- A. The Agreement, and its interpretation and performance, shall be governed by the laws of the United States of America and State of Texas notwithstanding any choice of law principles. Exclusive venue for any dispute arising out of the interpretation or performance of the Agreement shall be a court of competent jurisdiction where the Project is located.

#### **VII. Standard of Care**

- A. WALTER P MOORE shall provide services under the Agreement in a manner consistent with that degree of care and skill customarily exercised by members of the same profession currently practicing under similar circumstances.

#### **VIII. Time for Performance**

- A. WALTER P MOORE shall perform its services as expeditiously as is consistent with the Standard of Care as defined herein and the orderly progress of the Project.

#### **IX. Indemnity, Limitations of Liabilities, Warranty and Remedies**

- A. WALTER P MOORE shall not be responsible or held liable for any acts or omissions of Client, Client's other consultants, Contractor or any of its subcontractors or suppliers of any tier or any

other persons or entity performing any of the Work.

- B. WALTER P MOORE agrees, to the fullest extent permitted by law, to hold harmless and indemnify Client from and against any and all claims, damages, fines, penalties, assessments, requirements or liabilities including, without limitation, claims for injury to persons or property, death, or economic loss, and costs including, without limitation, reasonable attorney's fees and defense and response costs that arise under the Agreement for Professional Services to the extent such damages are caused by the negligence of WALTER P MOORE.
- C. Client agrees, to the fullest extent permitted by law, to hold harmless and indemnify WALTER P MOORE from and against any and all claims, damages, fines, penalties, assessments, requirements or liabilities including, without limitation, claims for injury to persons or property, death, or economic loss, and costs including, without limitation, reasonable attorney's fees and defense and response costs that arise under the Agreement for Professional Services to the extent such damages are caused by the negligence of the Client.
- D. If WALTER P MOORE's construction contract administration services are limited or excluded from WALTER P MOORE's scope of services, it is agreed that WALTER P MOORE's professional services shall not extend to or include any review or site observation of Contractor's work or performance, and Client shall in such circumstances, to the fullest extent permitted by law, hold harmless and indemnify WALTER P MOORE from and against any and all claims, damages, liabilities including without limitation, claims for injury to persons or property, death, or economic loss, or costs including without limitation reasonable attorney's fees and defense costs arising out of, or alleged to arise out of, designs or deliverables of WALTER P MOORE regardless of whether any such claims, damages, liabilities, or costs were, or were alleged to be, caused in part by the negligence or negligent misrepresentation of WALTER P MOORE or someone for whom WALTER P MOORE is legally responsible.
- E. Because remodeling and/or rehabilitation of an existing structure and/or related infrastructure

requires that certain assumptions be made regarding existing conditions, and because these assumptions may not be verifiable without expending inordinate amounts of time and money, or damaging otherwise adequate and serviceable portions of the structure, Client agrees, to the fullest extent permitted by law to hold harmless and indemnify WALTER P MOORE from and against any and all claims, damages or liabilities including, without limitation, claims for injury to persons or property, death, or economic loss, and costs including, without limitation, reasonable attorney's fees and defense costs arising out of any designs or deliverables of WALTER P MOORE based in whole or in part upon any assumptions made by WALTER P MOORE regarding existing conditions, excepting only those claims, damages, liabilities or costs to extent caused by the negligence or willful misconduct by WALTER P MOORE.

- F. **To the maximum extent permitted by law, Client agrees to limit Walter P Moore's liability for claims arising from or related to the Agreement or the Scope of Services to the Sum of \$50,000 or Walter P Moore's paid fee, whichever is lesser. This limitation shall apply regardless of the cause of action or legal theory pleaded or asserted, including any kind of indemnity.**
- G. Other than as expressly stated herein, WALTER P MOORE makes no other express or implied warranties regarding the performance or result of these services.
- X. **Successors and Assigns**
  - A. Client and WALTER P MOORE, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the other party to the Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of the Agreement.
  - B. Neither party to the Agreement shall transfer, sublet, or assign any rights under or interest in the Agreement (including, without limitation, monies that are due or monies that may be due) without the prior written consent of the other party. Subcontracting by WALTER P MOORE shall not be considered an assignment for purposes of the Agreement, and nothing contained in this paragraph shall prevent WALTER P MOORE from employing such independent professional



associates and consultants as WALTER P MOORE may deem appropriate to assist in the performance of services hereunder.

- C. Nothing under the Agreement shall be construed to confer any rights or benefits in the Agreement to anyone other than Client and WALTER P MOORE, and all duties and responsibilities undertaken pursuant to the Agreement shall be for the sole and exclusive benefit of Client and WALTER P MOORE and not for the benefit of any other party.

#### **XI. Hazardous Material**

- A. WALTER P MOORE shall have no responsibility for the detection, presence, removal, encapsulation, treatment, abatement, storage, transportation, disposal, or any other form of identification or handling of any asbestos, asbestos containing products materials or substances, polychlorinated biphenyl (PCB), or any other materials, constituents or substances that are, or are deemed to be, hazardous under the Resource Conservation and Recovery Act of 1976 as amended or any other similar federal, state or local regulation or law ("Hazardous Material"). Client shall use its best efforts to have Client furnish any tests for Hazardous Materials and other laboratory and environmental tests, inspections, reports, mitigation, or removal as necessary or required by law since no such test shall be provided by or through WALTER P MOORE.
- B. Client agrees, to the fullest extent permitted by law, to hold harmless and indemnify WALTER P MOORE from and against any and all claims, damages, fines, penalties, assessments, requirements, or liabilities including, without limitation, claims for injury to persons or property, death, or economic loss, and costs including, without limitation, reasonable attorney's fees and defense and response costs arising out of any claims related to Hazardous Materials.

#### **XII. Termination and Suspension**

- A. The Agreement may be terminated by either party upon not less than Seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of the Agreement through no fault of the party initiating the termination, and such failure to perform is not cured within such Seven (7) days.

- B. After the Project or WALTER P MOORE's services are interrupted or suspended for any cause other than the fault of WALTER P MOORE for more than Forty-Five (45) calendar days in the aggregate over the term of the Agreement, WALTER P MOORE may, at its option at any time thereafter, without waiving any other right or remedy, and without incurring any liability to Client or any other party, terminate the Agreement upon seven days written notice without cure or suspend its services, and WALTER P MOORE shall be compensated for all its services performed and reimbursable expenses incurred prior to the termination or commencement of suspension of services by WALTER P MOORE. WALTER P MOORE shall have no liability to Client or otherwise for such suspension, and Client covenants not to make any claim for any delay or damage alleged to have resulted from such suspension. If WALTER P MOORE elects to suspend its services, Client shall, upon WALTER P MOORE's resumption of services, compensate WALTER P MOORE for expenses incurred as a result of the suspension and resumption of its services, and WALTER P MOORE's schedule and fees for the remainder of WALTER P MOORE's Project services shall be equitably adjusted.
- C. If Client is in breach of the Agreement, WALTER P MOORE may at any time thereafter, without waiving any other right or remedy, and without incurring any liability to Client or any other party, upon Seven (7) calendar days' written notice suspend its services to Client. WALTER P MOORE shall have no liability to Client or otherwise for such suspension, and Client covenants not to make any claim for any delay or damage alleged to have resulted from such suspension. If WALTER P MOORE elects to resume its services, provided that WALTER P MOORE has not previously terminated the Agreement, and upon receipt of payment in full to WALTER P MOORE of all outstanding sums due from Client, or curing of such other breach by Client which caused WALTER P MOORE to suspend services, Client shall as Additional Services compensate WALTER P MOORE for expenses incurred as a result of the suspension and resumption of its services, and WALTER P MOORE's schedule and fees for the remainder of WALTER P MOORE's Project services shall be equitably adjusted.

### **XIII. Force Majeure**

- A. In the event that WALTER P MOORE is obstructed, interrupted, or impeded, directly or indirectly, in performing any of its obligations under the Agreement by an Act of God, sickness, disease, infection, epidemic, government order, building closure, fire, flood, earthquake, terrorism or terrorism threat, adverse weather, war, attack, labor unrest or shortage, civil unrest or any other occurrence beyond the control of WALTER P MOORE, or by any complications, responses (e.g., COVID plans), or unreasonable risks arising from such occurrences, then WALTER P MOORE shall be excused from any further performance of its obligations under the Agreement and entitled to adjustment of the Project schedule and its compensation under this Agreement. Additionally, any obligation by WALTER P MOORE to attend an in-person meeting or site visit shall be: (a) excused if it would, in WALTER P MOORE's judgment, be unsafe or its purposes may be satisfied virtually, and (b) subject to any reasonable protocols that WALTER P MOORE has adopted for the health and safety of its employees.

### **XIV. Waiver**

- A. The failure on the part of either party, at any time, to require full performance by the other party of any portion of the Agreement, shall not be deemed a waiver of, or in any way affect, that party's rights to enforce such provisions or any other provision at a later time. Any waiver by any party of any provision or on any occasion shall not be taken or held to be a waiver of any other provision or on any other occasion.

### **XV. Severability and Survival of Terms**

- A. If any one or more provisions of the Agreement, any portion thereof, or the application thereof to any person or circumstance, shall for any reason be held invalid, illegal or unenforceable in any respect, any such invalidity, illegality or unenforceability shall be deemed stricken and shall not affect any other provision of the Agreement or the application of such provisions to other persons or circumstances, and the balance of the Agreement shall be enforced to the greatest extent permitted by law. Limitations of liability and remedies and all indemnity obligations shall survive termination of the Agreement for any cause.

### **XVI. Dispute Resolution**

- A. If a dispute arises out of or relates to this contract or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try to settle the dispute by mediation administered by the American Arbitration Association under its Construction Industry Mediation Procedures before resorting to arbitration or litigation.

### **XVII. Meaning of Terms**

- A. **Client** - The party, with which WALTER P MOORE has entered into the Agreement, responsible for managing the overall design including, without limitation, the design and deliverables of WALTER P MOORE as a consultant to the Client.
- B. **Construction Cost of This Portion of the Project** - The total cost incurred by, or if the project is not built, the estimated construction cost to, Client of all elements of the Project designed or specified by WALTER P MOORE. Such Cost shall include the cost (at current market rates if estimated) of all labor and materials furnished including the overhead, fee or profit contingency for This Part of the Project.
- C. **Contractor** - A third party, if any, engaged to provide construction services to Client based in part upon designs and deliverables of WALTER P MOORE.
- D. **WALTER P MOORE** - Walter P. Moore and Associates, Inc., and WALTER P MOORE's independent professional associate or consultant engineering firms.
- E. **Project** - As defined in the Agreement for Professional Services.
- F. **Services** - As defined in the Agreement for Professional Services.
- G. **This Part of the Project** - All elements of the Project design within WALTER P MOORE's engineering discipline designed or specified by WALTER P MOORE.
- H. **Total Project Construction Cost** - The total cost incurred by, or if the project is not built, the estimated construction cost to, Client of all elements of the Project designed or specified by Client and its Consultants. Such Cost shall include the cost at current market rates of all labor and materials furnished including the overhead, fee or profit contingency, plus the cost of equipment specifically specified by Client and its Consultants.

January 4, 2024

Mr. Steve Barron  
Chief Executive Officer  
San Gorgonio Memorial Hospital  
600 N. Highland Springs Avenue  
Banning, CA 92220

**Re: Proposal for Professional Services  
SPC-4D Upgrade Construction Documents (CDs) for Two (2) SPC-2 Buildings at  
San Gorgonio Memorial Hospital (HCAI Facility ID: 10559)  
600 N. Highland Springs Avenue, Banning, CA 92220  
Walter P Moore Proposal No. 23-3685**

Dear Steve:

Walter P Moore is pleased to submit this proposal to provide professional services for the referenced project. This project constitutes a critical and mandatory step towards obtaining seismic compliance beyond 2030 for this building from a structural perspective. Walter P Moore has extensive experience with this type of project, and we are excited that SGMH is taking this step for 2030 seismic compliance for these buildings.

This proposal is presented to establish a basis for the commencement of our scope of services for the Project. Walter P Moore would be the prime design consultant for this Project, and we would bring in other consultants, if and as needed, and as articulated in more detail in the proposal. We anticipate that this Proposal and Agreement for Professional Services and attachments, when signed, will serve as our entire Agreement unless superseded by another document signed by both parties.

#### **Basis of Proposal**

This proposal is based on phone communication with John Peleuses.

#### **Agreement**

If this proposal is acceptable, please sign the attached Proposal and Agreement for Professional Services where indicated and return the signed copy to us. This proposal is valid for 60 days.

We very much appreciate the opportunity to provide these services and look forward to collaborating with you on this Project.

Sincerely,

**WALTER P. MOORE AND ASSOCIATES, INC.**



Balram Gupta, Ph.D., S.E. / Senior Principal  
Healthcare Market Leader – West Coast  
[bgupta@walterpmoore.com](mailto:bgupta@walterpmoore.com)  
(213) 694-4796 Direct; (818) 723-7085 Cell



**PROPOSAL AND AGREEMENT FOR PROFESSIONAL SERVICES – Terms Attached**

**Project:** SPC-4D Upgrade Construction Documents for Two (2) SPC-2 Buildings at San Gorgonio Memorial Hospital (OSHPD Facility ID: 10559)  
**Client:** San Gorgonio Memorial Hospital  
**Client Contact:** Steve Barron  
**Proposal Date:** January 4<sup>th</sup>, 2024  
**Proposal Number:** 23-3685

Walter P. Moore and Associates, Inc. (Walter P Moore) shall provide services to Client for the Project as defined below and in accordance with the attachments listed below:

**Project Description**

Two (2) buildings at San Gorgonio Memorial Hospital (SGMH) are currently classified as SPC-2. Each SPC-2 building must be upgraded and reclassified to SPC-4D to allow its use as a hospital building beyond January 1, 2030. Relevant information for the two SPC-2 buildings included in this proposal are shown in the table below.

#	Building Name	PMH / OSHPD Bldg. #s	Bldg. Code Year	# Of Stories	Current SPC Rating
1	Original Bldg. – OB Addition – ‘64 Addition	01 / 01389	1949	1	2
2	OR Addition	02 / 01390	1970	1	2

There are specific engineering requirements that must be complied with to reclassify a building to SPC-4D. These requirements are outlined in 2022 editions of the California Administrative Code (CAC’2022), California Building Code (CBC’2022), and California Existing Building Code (CEBC’2022). §304A.3.3 of CEBC’2022 provides three independent approaches to reclassify an existing non-conforming hospital building to SPC-4D. Out of these three approaches, ASCE 41-13<sup>1</sup> approach, per §304A.3.4.5, is the most efficient and, thus, shall be used for this building. This approach entails evaluation and retrofit of the building for dual-level performance criteria, which comprises of (a) Damage Control (DC) structural performance under BSE-1E<sup>2</sup> earthquake and Collapse Prevention (CP) structural performance under BSE-2E<sup>3</sup> earthquake. §304A.3.4.5 has an additional requirement re satisfying the “Position Retention” non-structural performance level under BSE-1E earthquake for building elements that are not part of the seismic-force-resisting-system (SFRS).

If our understanding of the project scope is inaccurate or the project scope materially changes, we understand that our compensation will be equitably adjusted.

**Scope of Services**

In accordance with Schedule SR-02B: Scope of Structural Engineering Services for SPC-4D Upgrade Construction Documents (CDs).

<sup>1</sup>ASCE 41-13: ASCE (American Society of Civil Engineers) Standard for Seismic Evaluation & Retrofit of Existing Buildings

<sup>2</sup>BSE-1E represents a frequently occurring but smaller (milder) earthquake. In engineering terms, BSE-1E represents an earthquake with 20% probability of exceedance in 50 years or an earthquake with a mean return period of ±225 years.

<sup>3</sup>BSE-2E represents a rare but stronger earthquake. In engineering terms, BSE-2E represents an earthquake with 5% probability of exceedance in 50 years or an earthquake with a mean return period of ±975 years.

## Compensation

Walter P Moore proposes to provide the Scope of Structural Engineering Services defined in Schedule SR-02B for a fixed fee as indicated in the table below. Scope items in the table correspond to Schedule SR-02B.

Scope Item	Scope	Fee for Building		Total Fee
		01/01389	02/01390	
A	Preparation of As-Built Drawings	\$0	\$18,000	\$18,000
B	Structural Basis of Design (BOD)	\$36,000	\$12,000	\$48,000
C	Geotech & Geo-Hazards Report	\$6,000	\$0	\$6,000
D	SPC-4D Construction Documents (CDs)	\$99,000	\$27,000	\$126,000
	<b>TOTAL</b>	<b>\$141,000</b>	<b>\$57,000</b>	<b>\$198,000</b>

Compensation shall be equitably adjusted for changes in the scope of the project as described in the Project Description or changes in the scope of service as described in the Scope of Service.

Miscellaneous out-of-pocket project related expenses including, without limitation; printing, postage, courier costs, lodging, travel expenses, etc., shall be invoiced and paid at the incurred cost. Mileage shall be charged at IRS Standard Business Mileage Rate in effect at the time of travel. Sales tax, if applicable, will be paid by the Client. Reimbursable expenses are estimated to be **\$3,900**.

## Additional Services

Walter P Moore proposes to provide Additional Services not included in the Scope of Services as requested and approved by the Client in writing. Additional Services shall be provided without invalidating this Agreement. Additional Services shall be compensated at a mutually agreed upon fee.

## Client's Responsibilities

The Client shall provide overall management and coordination of the Project. Walter P Moore agrees to participate in the coordination effort, to be led by the Client, in order that our Portion of the Project is coordinated with the designs and deliverables of the other members of the Project team.

The Client shall provide to Walter P Moore, in a timely manner, full information of which the Client is aware regarding any special conditions, design criteria, reports, or special services needed, and to make available any existing data or drawings concerning the Project and Project Site. Walter P Moore shall be entitled to rely upon the accuracy and completeness of any such information provided.

## Project Schedule

Walter P Moore will endeavor to achieve the requirements of a reasonable schedule determined appropriate for the Project. Walter P Moore's fee for the defined Scope of Services is based, in part, upon the Project being executed in a timely manner without significant delays or interruptions.

In order for Walter P Moore to proceed with its services toward the accomplishment of the Project Schedule, the following information shall be provided by the Client in a timely manner:

- An executed copy of the Agreement for Professional Services
- As-built structural drawings
- SGMH to bring on board a geotechnical and geo-hazard engineer to provide the info we need for checking foundations

**Payment**

As defined in the attached Schedule T2.

**Limitation of Liability**

To the maximum extent permitted by law, Client agrees to limit Walter P Moore’s liability for claims arising from or related to the Agreement or the Scope of Services to the Sum of \$50,000 or Walter P Moore’s paid fee, whichever is lesser. This limitation shall apply regardless of the cause of action or legal theory pleaded or asserted, including any kind of indemnity.

**Terms of Agreement**


In accordance with the attached Schedule T2.

**Attachments**

The following attachments are incorporated by reference as if set forth at length. In the event of a direct conflict between this Agreement and the content of any of the Attachments, this Agreement shall govern.

- SR-02B: Scope of Structural Engineering Services for SPC-4D Upgrade Construction Documents (CDs)
- Site Plan
- Schedule T2: Terms of Agreement

Executed on this \_\_\_\_ day of \_\_\_\_\_, 2024 by:

<b>San Geronio Memorial Hospital</b> Accepted:	<b>Walter P. Moore and Associates, Inc.:</b> Balram Gupta, Ph.D., S.E. / Senior Principal Healthcare Market Leader – West Coast
Signature	



## **Schedule SR-02B: Scope of Structural Engineering Services for SPC-4D Upgrade Construction Documents (CDs)**

### **I. General Services**

- A. Walter P Moore shall be the Structural Engineer of Record (SEOR) for parts of the Project as described in the Agreement Letter.
- B. Walter P Moore will review drawings of the existing building(s) as required to become generally familiar with the structural systems of the building as described in the engagement letter. Unless noted otherwise, the availability of appropriate as-built structural drawings and other required documentation (viz. SPC-2 upgrade projects, if any; HAZUS reports, geotechnical reports, etc.) is an important assumption in this proposal.
- C. Walter P Moore will visit the project site to become familiar with the present condition of the building. Walter P Moore's Basic Services do not include performing a detailed assessment of the structural conditions of the building(s) nor a survey of field measurements to create as-built drawings.
- D. Walter P Moore will provide structural analyses, designs, and documentation as required. Walter P Moore's design and documentation will not include vibration analysis of the existing building due to new or existing equipment or any needed modifications to other building systems such as exterior cladding or roofing.
- E. Walter P Moore's scope of Basic Services does not include structural analysis, design or detailing to upgrade the existing buildings' gravity and/or lateral load resisting systems to meet the current building code beyond the SPC-4D reclassification requirements.
- F. If Walter P Moore's evaluation indicates that the structure will not readily accommodate the intended modifications, Walter P Moore will consult with the Hospital, as appropriate and make recommendations to modify the location and/or character of the proposed modifications as needed.
- G. The Basic Services to be performed by Walter P Moore include consultation, as outlined below in Table A: Scope of Services.
- H. The assumptions made in determining the fees and scope of work by Walter P Moore are outlined below in Table A: Scope of Services – under Notes and Assumptions.
- I. The exclusions for determining the fees and scope of work by Walter P Moore are outlined below in Table B: Exclusions.
- J. For each phase of the Work, Walter P Moore will work with the Hospital (or their designated Representative) to ascertain the requirements for that phase of the Work, will participate in necessary meetings, will be available for general consultation, will prepare necessary documentation, and will make appropriate recommendations.
- K. Walter P Moore will recommend to the Hospital the appropriate investigations, reports, surveys, tests, and services of other Consultants that should be retained for

proper execution of Services. Walter P Moore will assist in the development of appropriate scopes of work for such services. Services that may be required include, but are not limited to, geotechnical investigations, surveys, material testing, and site-specific geotechnical studies, etc.

- L. Walter P Moore’s Scope of Services is limited to those items specifically described herein. If requested and authorized by the Client, other Additional Services may be provided for an additional fee.

**II. Scope of Services**

- A. Following written authorization from the Client to proceed with each subsequent phase of the Work, Walter P Moore shall provide services for each phase as described below:

Table A: Scope of Services  
 Table B: Exclusions

<b>Table A: Scope of Services</b>				
<b>PHASE</b>		<b>Included</b>	<b>Not Included</b>	<b>NOTES AND ASSUMPTIONS</b>
<b>A. Structural Basis of Design (BOD)</b>				
1	Prepare the structural Basis of Design (BOD) to initiate discussions with the Seismic Compliance Unit (SCU) at OSHPD Sacramento. BOD will be updated as we proceed with detailed analyses.	X		Hospital to provide all as-built drawings for any new additions to original building and adjacent buildings to verify seismic separations.
2	Prepare computer models to comply with the requirements of ASCE 41-13.	X		Hospital to provide reports, drawings, and computer models for prior work for SPC-2 reclassification, if applicable.
3	Quick run updated computer models and process results.	X		
4	Evaluate compliance, or lack thereof, of existing SFRS <sup>1</sup> elements with the provisions of ASCE 41-13.	X		
5	Discuss with SCU, as required, until compliance with the provision of ASCE 41-13 is achieved.	X		
6	Update the BOD.	X		
7	Prepare the required OSHPD applications.	X		
8	Prepare and submit a formal package that would include BOD and relevant backup information (i.e., computer models, calculations, etc.) to SCU for review.	X		
9	Respond to SCU’s plan review comments on the BOD and backup information.	X		
10	Obtain SCU’s approval of the BOD.	X		

<sup>1</sup>SFRS = Seismic Force Resisting System



<b>Table A: Scope of Services</b>				
<b>PHASE</b>		<b>Included</b>	<b>Not Included</b>	<b>NOTES AND ASSUMPTIONS</b>
<b>B. Geotech and Geo-Hazards Report</b>				
1	Hospital would need to bring a geotechnical and geo-hazard engineer on board since a dedicated geotechnical and geo-hazards report is a mandatory code requirement for SPC-4D reclassification.	X		Hospital to bring on board geotechnical and geo-hazard engineer promptly to provide the information required by us.
2	Coordinate with the geotechnical and geo-hazard engineer regarding specific OSHPD requirements for SPC-4D.	X		
3	Provide relevant structural information to the geo engineer to support him with providing us the information we need for SPC-4D evaluation and upgrade designs (i.e., seismic ground motion information (response spectra), soil bearing capacities, etc.).	X		
<b>C. SPC-4D Construction Documents (CDs)</b>				
1	Incorporate provisions from SCU approved BOD into analysis models.	X		
2	Evaluate all existing SFRS elements for SPC-4D criteria.	X		
3	If we conclude that new structural elements must be added to supplement the existing SFRS, then meet with the Hospital and facility representatives to present multiple options to identify a solution that would be least disruptive to ongoing hospital operations and functions.	X		
4	Incorporate the recommend option for new SFRS element(s) into our computer models and perform iterations to optimize (minimize) the scope of retrofit.	X		
5	Perform detailed designs of the following: <ul style="list-style-type: none"> <li>• New SFRS elements</li> <li>• Connection of new SFRS elements to the existing structure</li> <li>• Upgrade(s) as needed for the existing SFRS elements</li> </ul>	X		
6	Compile structural calculations and drawings for SPC-4D upgrade.	X		
7	Submit package of structural calculations and upgrade drawings to SCU.	X		
8	Obtain SCU's confirmation/approval that the proposed upgrade, once fully implemented in the	X		Architect and MEP engineers to be brought on board by the Hospital after OSHPD SCU has approved

<b>Table A: Scope of Services</b>				
<b>PHASE</b>		<b>Included</b>	<b>Not Included</b>	<b>NOTES AND ASSUMPTIONS</b>
	field, would allow the building to be reclassified to SPC-4D.			SPC-4D designs. Accordingly, we assume that the architect and MEP engineers would work around the SPC-4D upgrade approved by OSHPD.
9	Prepare the required OSHPD applications, TIO forms, specifications, etc.	X		
10	Compile and submit package to OSHPD local region.	X		SPC-4D upgrade package would be submitted to OSHPD as an incremental package in which the structural upgrade scope would be part of the first increment while accessibility, architectural, and MEP scopes would be part of subsequent increment(s) that would be developed after Increment 1 has been approved by OSHPD.  Hospital should acknowledge that OSHPD could enforce submittal of subsequent increments prior to granting approval for the first (i.e., structural) increment.
11	Respond to plan review comments from OSHPD local region.	X		We have considered maximum 80 hours for responding to OSHPD local region's plan review comments.
12	Obtain OSHPD local region's approval of SPC-4D upgrade construction documents.	X		

### III. Exclusions

Exclusions from our Scope of Services (outlined in Table A) are described in Table B.

<b>TABLE B: EXCLUSIONS</b>		
<b>EXCLUSIONS</b>		<b>NOTES</b>
1	Fees for architect and/or MEP engineers.	
2	Coordination of SPC-4D upgrade scope (Increment 1) with other disciplines (subsequent Architectural and MEP Increments).	
3	Structural efforts associated with redesign because of Architectural and/or MEP increments.	

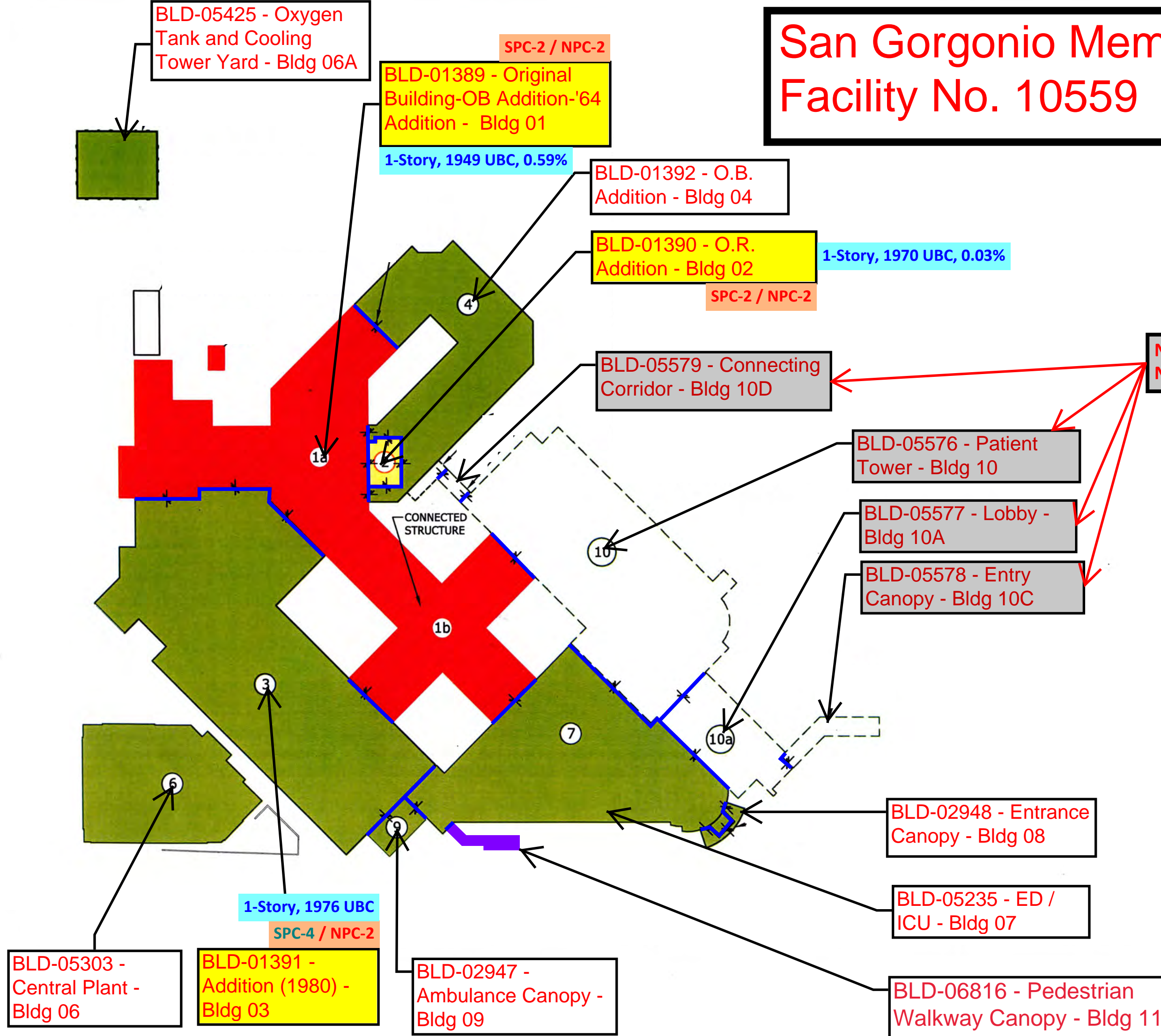
<b>TABLE B: EXCLUSIONS</b>		
4	Structural efforts associated with satisfaction of Position-Retention performance level for elements that are not a part of the SFRS, if such elements are determined to be deficient. While we would identify the deficient non-structural elements as part of the MTCAP, the fixes or upgrades for deficient non-structural elements would need to be a part of the Architectural and/or MEP Increment with separate fee.	
5	Fees for geotechnical and/or geo-hazard engineer, testing lab, OSHPD/city permits, etc.	
6	Plan and/or peer reviews beyond the normal OSHPD plan review.	
7	Nonlinear analyses, if enforced by OSHPD for any reason.	
8	Hazardous material assessment and related impact design.	
9	Travel outside of Los Angeles area.	
10	NPC related evaluations and/or upgrades.	
11	Bidding and construction administration for SPC-4D upgrade.	
12	Redesign of SPC-4D upgrades should the contractor prefer to do things differently.	
13	Preparation of multiple packages.	
14	Shoring design and calculations, if required.	
15	Preparation of cost estimates.	We will review cost estimates prepared by others.
16	Anchorage design for new medical equipment, new interior designs, and new food service equipment, if any are proposed as part of Tenant Improvements (TI) within the building.	
17	Design of anchorage of architectural and MEP equipment and/or distribution systems impacted by SPC-4D upgrade. This would need to be part of the Architectural and/or MEP increment with separate fee.	
18	Design of temporary conditions that might exist during move management.	
19	SPC-4D project close out and reclassification. This would need to happen after completion of SPC-4D upgrade construction with separate fee.	

# San Geronio Memorial Hospital Facility No. 10559

10/25/2021

Unless noted otherwise, ALL buildings are SPC-4/5/5s and NPC-4/4s, i.e., 2030 compliant.

New buildings - proposed. Not in HCAI inventory yet.



**Under construction?**



## Schedule T2 TERMS OF AGREEMENT

### I. Compensation & Expenses

A. Walter P. Moore and Associates, Inc., "WALTER P MOORE", shall be paid as stated in the Agreement for Professional Services.

1. Lump Sum Fee - The total fee payable shall be the total sum stated herein, and payments shall be made periodically based upon WALTER P MOORE's percentage complete of the total fee as of the invoice date, or according to the schedule of payment by design phase if such schedule is expressly included herein.
2. Time and Expense Fee - The periodic fee payable shall be the cumulative sum of the mathematical products of the actual hours worked by individuals assigned to and providing services on the Project multiplied by the category billing rate for each respective individual as indicated in the Hourly Billing Rate Schedule attached to this Agreement for Professional Services.

B. WALTER P MOORE shall be compensated for all services provided regardless of whether the improvements designed are built, in whole or in part.

C. Additional Services: Additional Services shall be paid monthly in proportion to the percentage of the Additional Services completed for Fixed Fee compensation, or for the number of hours spent for Time and Expense Fee compensation, as of the invoice date.

D. Reimbursable Expenses: Miscellaneous out-of-pocket project related expenses including, without limitation; printing, postage, courier costs, lodging, travel expenses, etc., shall be charged at the incurred cost. Mileage shall be charged at IRS Standard Business Mileage Rate in effect at the time of travel.

E. Reimbursable Services: Third Party services retained by WALTER P MOORE on behalf of Owner shall be charged at the incurred cost plus 10%.

F. Sales taxes, if applicable, are not included and shall be paid by the Client.

### II. Invoices and Payments

A. WALTER P MOORE will prepare and present invoices in WALTER P MOORE's standard format

on a monthly basis, unless other arrangements are stated in the Agreement for Professional Services.

B. Client shall pay WALTER P MOORE for approved invoices within thirty (30) days after receipt of invoice from WALTER P MOORE.

C. If the Client fails to make any payment due WALTER P MOORE for services and expenses within thirty (30) days after receipt of invoice from WALTER P MOORE may charge interest on the amounts due but unpaid at the lesser of the highest legal rate or twelve percent (12%) per annum.

D. Final payment for all fees and expenses is due to WALTER P MOORE no later than completion of the construction of This Part of the Project.

E. Any costs incurred by WALTER P MOORE in collecting delinquent amounts including, without limitation, reasonable attorney's fees shall be reimbursed by the Client. If any portion of WALTER P MOORE's invoice is disputed, the undisputed portion shall be paid by the Client by the due date, and Client shall contemporaneously advise WALTER P MOORE in writing of the basis for any disputed portion of any invoice.

F. WALTER P MOORE reserves the right to declare a substantial breach of this Agreement upon the Client's failure to make payment for services performed or Reimbursable Expenses incurred within ninety (90) days after Client's receipt of invoice from WALTER P MOORE.

G. No deductions shall be made from WALTER P MOORE's compensation on account of penalty, liquidated damages, or on account of the cost of changes in the Work except to the extent such costs are found by a court of competent jurisdiction to be caused by WALTER P MOORE.

### III. Responsibilities of the Client

A. The Client shall, with reasonable promptness, perform normal administrative and management tasks to facilitate the design process, including, without limitation, the following:

1. Verify that the contemplated Project will be financed adequately, including provisions for contingencies, to accomplish stated goals and commitments.

2. Define the Project in writing and list the intended functions and needs and enumerate any special design criteria, for This Part of the Project.
3. Provide all available information regarding requirements for This Part of the Project. WALTER P MOORE shall have the right to rely on the accuracy and completeness of any information provided by Client.
4. When requested in writing by WALTER P MOORE, the Client shall furnish the services of other reasonably required consultants including, without limitation, 3D laser scanning, surveyor, MEP engineer, architect, medical equipment planner, geotechnical and testing laboratory. These services shall be furnished at no charge to WALTER P MOORE which shall be entitled to rely upon the accuracy and completeness of any such consultants' work.
5. Advise WALTER P MOORE of the identity and scope of services of other consultants participating in the Project.
6. Review WALTER P MOORE's work for compliance with Client's programmatic requirements and for overall coordination with the work of the Clients' other consultants.
7. Notify WALTER P MOORE promptly if Client becomes aware of any fault with This Part of the Project or WALTER P MOORE's Services.
8. The Client or other professional consultant retained by the Client shall prepare and assemble specifications for the General Conditions, Supplementary Conditions and all components of the Project, and coordinate assembly of WALTER P MOORE's specification sections into the proper format.
9. Furnish to WALTER P MOORE copies of preliminary or detailed estimates of Total Project Construction Cost, bidding documents, change orders, and construction change directives, to the extent that they pertain to This Part of the Project.
10. Furnish to WALTER P MOORE for review and recommendation all construction phase submittals that pertain, directly or indirectly, to This Part of the Project.

11. Confer with WALTER P MOORE before issuing any interpretations or clarifications of documents prepared by WALTER P MOORE.
12. Endeavor to protect the interests of WALTER P MOORE in any dealings with Owner during the course of the Project to same extent as Client protects its interests.

- B. If a signed certificate is to be provided as a deliverable of WALTER P MOORE, the Client shall provide WALTER P MOORE with the exact requested wording no later than five (5) days prior to the anticipated execution date of the Agreement for Professional Services. To the extent such wording is currently available; it shall be attached to the Agreement for Professional Services as an exhibit and made part of the Agreement for Professional Services. Under no circumstances shall WALTER P MOORE be required to execute a certificate that requires WALTER P MOORE to accept duties or have knowledge beyond that required by the Agreement.
- C. CLIENT shall pay all costs WALTER P MOORE incurs because of any professional licensing or other complaint filed against WALTER P MOORE, or anyone related to it, related to any certificate of merit, or its equivalent, that results from this Project.

#### **IV. Instruments of Service**

- A. Drawings, specifications, and other documents prepared by WALTER P MOORE pursuant to the Agreement are instruments of WALTER P MOORE's professional services ("Instruments of Service"). WALTER P MOORE shall be deemed the author of these documents and shall retain all common law, statutory, and other reserved rights, including the copyrights. Provided that Client is not in breach of the Agreement, Client is granted a limited, non-exclusive license to use WALTER P MOORE's Instruments of Service for the construction, use, replacement, and maintenance of the Project. The Client shall be permitted to retain copies, including reproducible copies, of the Instruments of Service for the purposes permitted by the non-exclusive license. The Instruments of Service shall not be used on any other project, or for completion of the Project by others, except as permitted by law in the event WALTER P MOORE has been adjudged in default under the Agreement or except by separate

written agreement of the parties with appropriate compensation to WALTER P MOORE. Third parties such as the Contractor shall be permitted to obtain a copy of the Instruments of Service in electronic format in connection with the construction of the Project by executing WALTER P MOORE's standard agreement for such use.

- B. The Client or WALTER P MOORE shall not make changes in each other's Drawings, Specifications, and other documents without written permission of the other party.

#### **V. Insurance**

- A. WALTER P MOORE shall endeavor to maintain professional liability insurance covering claims arising out of the performance of professional services under the Agreement or the Project or caused by negligent errors, omissions or acts for which each may be liable. This insurance, as reflected in the parties' certificates of insurance, shall be maintained in force for a period of One (1) year after the date of Substantial Completion of the Project, if reasonably available and commercially affordable, or as otherwise agreed to and documented by Client and WALTER P MOORE.
- B. If insurance is required, and an Architect or other professional consultants are part of the design team, the Architect and any other consultants shall be required by the Client to obtain and maintain insurance coverage of similar nature to cover errors, omissions, or negligent acts for which the Architect or consultant are legally liable.
- C. Unless otherwise agreed, WALTER P MOORE, Client, Architect, and other professional consultants shall each provide insurance to protect themselves from: 1) claims under workers' or workmen's compensation acts; 2) from general liability claims for damages because of bodily injury, including personal injury, sickness, disease, or death of any employees or of any other person and from claims for damages because of destruction of property including loss of valuable papers and records coverage and including loss of use resulting therefrom; and 3) employment practices liability.
- D. The insurance coverage required by the above paragraphs shall be in not less than the limits required by law and as otherwise agreed.

- E. If Client enters into a construction contract based in whole or in part upon design services performed or deliverables prepared by WALTER P MOORE under the Agreement, Client shall use its best efforts to require in the Contract Documents that the Contractor shall: 1) provide liability insurance appropriate and adequate for the size and complexity of the Project; 2) agree to hold harmless, defend and indemnify Client and WALTER P MOORE against claims and lawsuits by Contractor or its subcontractors or suppliers of any tier for economic loss; and 3a) name WALTER P MOORE as an additional insured party, and 3b) waive any right of subrogation against WALTER P MOORE, under any commercial general liability or builders' risk policy providing coverage with respect to the construction of the Project; provided, however, that Client shall use its best efforts to have Client name WALTER P MOORE as an additional insured on, and waive subrogation against WALTER P MOORE under, any such policies Client provides with respect to the Project.

#### **VI. Controlling Law and Disputes**

- A. The Agreement, and its interpretation and performance, shall be governed by the laws of the United States of America and State of Texas notwithstanding any choice of law principles. Exclusive venue for any dispute arising out of the interpretation or performance of the Agreement shall be a court of competent jurisdiction where the Project is located.

#### **VII. Standard of Care**

- A. WALTER P MOORE shall provide services under the Agreement in a manner consistent with that degree of care and skill customarily exercised by members of the same profession currently practicing under similar circumstances.

#### **VIII. Time for Performance**

- A. WALTER P MOORE shall perform its services as expeditiously as is consistent with the Standard of Care as defined herein and the orderly progress of the Project.

#### **IX. Indemnity, Limitations of Liabilities, Warranty and Remedies**

- A. WALTER P MOORE shall not be responsible or held liable for any acts or omissions of Client, Client's other consultants, Contractor or any of its subcontractors or suppliers of any tier or any

other persons or entity performing any of the Work.

- B. WALTER P MOORE agrees, to the fullest extent permitted by law, to hold harmless and indemnify Client from and against any and all claims, damages, fines, penalties, assessments, requirements or liabilities including, without limitation, claims for injury to persons or property, death, or economic loss, and costs including, without limitation, reasonable attorney's fees and defense and response costs that arise under the Agreement for Professional Services to the extent such damages are caused by the negligence of WALTER P MOORE.
- C. Client agrees, to the fullest extent permitted by law, to hold harmless and indemnify WALTER P MOORE from and against any and all claims, damages, fines, penalties, assessments, requirements or liabilities including, without limitation, claims for injury to persons or property, death, or economic loss, and costs including, without limitation, reasonable attorney's fees and defense and response costs that arise under the Agreement for Professional Services to the extent such damages are caused by the negligence of the Client.
- D. If WALTER P MOORE's construction contract administration services are limited or excluded from WALTER P MOORE's scope of services, it is agreed that WALTER P MOORE's professional services shall not extend to or include any review or site observation of Contractor's work or performance, and Client shall in such circumstances, to the fullest extent permitted by law, hold harmless and indemnify WALTER P MOORE from and against any and all claims, damages, liabilities including without limitation, claims for injury to persons or property, death, or economic loss, or costs including without limitation reasonable attorney's fees and defense costs arising out of, or alleged to arise out of, designs or deliverables of WALTER P MOORE regardless of whether any such claims, damages, liabilities, or costs were, or were alleged to be, caused in part by the negligence or negligent misrepresentation of WALTER P MOORE or someone for whom WALTER P MOORE is legally responsible.
- E. Because remodeling and/or rehabilitation of an existing structure and/or related infrastructure

requires that certain assumptions be made regarding existing conditions, and because these assumptions may not be verifiable without expending inordinate amounts of time and money, or damaging otherwise adequate and serviceable portions of the structure, Client agrees, to the fullest extent permitted by law to hold harmless and indemnify WALTER P MOORE from and against any and all claims, damages or liabilities including, without limitation, claims for injury to persons or property, death, or economic loss, and costs including, without limitation, reasonable attorney's fees and defense costs arising out of any designs or deliverables of WALTER P MOORE based in whole or in part upon any assumptions made by WALTER P MOORE regarding existing conditions, excepting only those claims, damages, liabilities or costs to extent caused by the negligence or willful misconduct by WALTER P MOORE.

- F. **To the maximum extent permitted by law, Client agrees to limit Walter P Moore's liability for claims arising from or related to the Agreement or the Scope of Services to the Sum of \$50,000 or Walter P Moore's paid fee, whichever is lesser. This limitation shall apply regardless of the cause of action or legal theory pleaded or asserted, including any kind of indemnity.**
- G. Other than as expressly stated herein, WALTER P MOORE makes no other express or implied warranties regarding the performance or result of these services.
- X. **Successors and Assigns**
  - A. Client and WALTER P MOORE, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the other party to the Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of the Agreement.
  - B. Neither party to the Agreement shall transfer, sublet, or assign any rights under or interest in the Agreement (including, without limitation, monies that are due or monies that may be due) without the prior written consent of the other party. Subcontracting by WALTER P MOORE shall not be considered an assignment for purposes of the Agreement, and nothing contained in this paragraph shall prevent WALTER P MOORE from employing such independent professional



associates and consultants as WALTER P MOORE may deem appropriate to assist in the performance of services hereunder.

- C. Nothing under the Agreement shall be construed to confer any rights or benefits in the Agreement to anyone other than Client and WALTER P MOORE, and all duties and responsibilities undertaken pursuant to the Agreement shall be for the sole and exclusive benefit of Client and WALTER P MOORE and not for the benefit of any other party.

#### **XI. Hazardous Material**

- A. WALTER P MOORE shall have no responsibility for the detection, presence, removal, encapsulation, treatment, abatement, storage, transportation, disposal, or any other form of identification or handling of any asbestos, asbestos containing products materials or substances, polychlorinated biphenyl (PCB), or any other materials, constituents or substances that are, or are deemed to be, hazardous under the Resource Conservation and Recovery Act of 1976 as amended or any other similar federal, state or local regulation or law ("Hazardous Material"). Client shall use its best efforts to have Client furnish any tests for Hazardous Materials and other laboratory and environmental tests, inspections, reports, mitigation, or removal as necessary or required by law since no such test shall be provided by or through WALTER P MOORE.
- B. Client agrees, to the fullest extent permitted by law, to hold harmless and indemnify WALTER P MOORE from and against any and all claims, damages, fines, penalties, assessments, requirements, or liabilities including, without limitation, claims for injury to persons or property, death, or economic loss, and costs including, without limitation, reasonable attorney's fees and defense and response costs arising out of any claims related to Hazardous Materials.

#### **XII. Termination and Suspension**

- A. The Agreement may be terminated by either party upon not less than Seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of the Agreement through no fault of the party initiating the termination, and such failure to perform is not cured within such Seven (7) days.

- B. After the Project or WALTER P MOORE's services are interrupted or suspended for any cause other than the fault of WALTER P MOORE for more than Forty-Five (45) calendar days in the aggregate over the term of the Agreement, WALTER P MOORE may, at its option at any time thereafter, without waiving any other right or remedy, and without incurring any liability to Client or any other party, terminate the Agreement upon seven days written notice without cure or suspend its services, and WALTER P MOORE shall be compensated for all its services performed and reimbursable expenses incurred prior to the termination or commencement of suspension of services by WALTER P MOORE. WALTER P MOORE shall have no liability to Client or otherwise for such suspension, and Client covenants not to make any claim for any delay or damage alleged to have resulted from such suspension. If WALTER P MOORE elects to suspend its services, Client shall, upon WALTER P MOORE's resumption of services, compensate WALTER P MOORE for expenses incurred as a result of the suspension and resumption of its services, and WALTER P MOORE's schedule and fees for the remainder of WALTER P MOORE's Project services shall be equitably adjusted.
- C. If Client is in breach of the Agreement, WALTER P MOORE may at any time thereafter, without waiving any other right or remedy, and without incurring any liability to Client or any other party, upon Seven (7) calendar days' written notice suspend its services to Client. WALTER P MOORE shall have no liability to Client or otherwise for such suspension, and Client covenants not to make any claim for any delay or damage alleged to have resulted from such suspension. If WALTER P MOORE elects to resume its services, provided that WALTER P MOORE has not previously terminated the Agreement, and upon receipt of payment in full to WALTER P MOORE of all outstanding sums due from Client, or curing of such other breach by Client which caused WALTER P MOORE to suspend services, Client shall as Additional Services compensate WALTER P MOORE for expenses incurred as a result of the suspension and resumption of its services, and WALTER P MOORE's schedule and fees for the remainder of WALTER P MOORE's Project services shall be equitably adjusted.

### **XIII. Force Majeure**

- A. In the event that WALTER P MOORE is obstructed, interrupted, or impeded, directly or indirectly, in performing any of its obligations under the Agreement by an Act of God, sickness, disease, infection, epidemic, government order, building closure, fire, flood, earthquake, terrorism or terrorism threat, adverse weather, war, attack, labor unrest or shortage, civil unrest or any other occurrence beyond the control of WALTER P MOORE, or by any complications, responses (e.g., COVID plans), or unreasonable risks arising from such occurrences, then WALTER P MOORE shall be excused from any further performance of its obligations under the Agreement and entitled to adjustment of the Project schedule and its compensation under this Agreement. Additionally, any obligation by WALTER P MOORE to attend an in-person meeting or site visit shall be: (a) excused if it would, in WALTER P MOORE's judgment, be unsafe or its purposes may be satisfied virtually, and (b) subject to any reasonable protocols that WALTER P MOORE has adopted for the health and safety of its employees.

### **XIV. Waiver**

- A. The failure on the part of either party, at any time, to require full performance by the other party of any portion of the Agreement, shall not be deemed a waiver of, or in any way affect, that party's rights to enforce such provisions or any other provision at a later time. Any waiver by any party of any provision or on any occasion shall not be taken or held to be a waiver of any other provision or on any other occasion.

### **XV. Severability and Survival of Terms**

- A. If any one or more provisions of the Agreement, any portion thereof, or the application thereof to any person or circumstance, shall for any reason be held invalid, illegal or unenforceable in any respect, any such invalidity, illegality or unenforceability shall be deemed stricken and shall not affect any other provision of the Agreement or the application of such provisions to other persons or circumstances, and the balance of the Agreement shall be enforced to the greatest extent permitted by law. Limitations of liability and remedies and all indemnity obligations shall survive termination of the Agreement for any cause.

### **XVI. Dispute Resolution**

- A. If a dispute arises out of or relates to this contract or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try to settle the dispute by mediation administered by the American Arbitration Association under its Construction Industry Mediation Procedures before resorting to arbitration or litigation.

### **XVII. Meaning of Terms**

- A. **Client** - The party, with which WALTER P MOORE has entered into the Agreement, responsible for managing the overall design including, without limitation, the design and deliverables of WALTER P MOORE as a consultant to the Client.
- B. **Construction Cost of This Portion of the Project** - The total cost incurred by, or if the project is not built, the estimated construction cost to, Client of all elements of the Project designed or specified by WALTER P MOORE. Such Cost shall include the cost (at current market rates if estimated) of all labor and materials furnished including the overhead, fee or profit contingency for This Part of the Project.
- C. **Contractor** - A third party, if any, engaged to provide construction services to Client based in part upon designs and deliverables of WALTER P MOORE.
- D. **WALTER P MOORE** - Walter P. Moore and Associates, Inc., and WALTER P MOORE's independent professional associate or consultant engineering firms.
- E. **Project** - As defined in the Agreement for Professional Services.
- F. **Services** - As defined in the Agreement for Professional Services.
- G. **This Part of the Project** - All elements of the Project design within WALTER P MOORE's engineering discipline designed or specified by WALTER P MOORE.
- H. **Total Project Construction Cost** - The total cost incurred by, or if the project is not built, the estimated construction cost to, Client of all elements of the Project designed or specified by Client and its Consultants. Such Cost shall include the cost at current market rates of all labor and materials furnished including the overhead, fee or profit contingency, plus the cost of equipment specifically specified by Client and its Consultants.