



AIA[®] Document B133[™] – 2014

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

AGREEMENT made as of the _____ day of _____ in the year _____
(In words, indicate day, month and year.)

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

City of Lawrence, Kansas
City Hall, 6 E. 6th Street
Lawrence, KS 66044
Telephone Number: 785-832-3000
and the Architect:

(Name, legal status, address and other information)

Hoefer Wysocki
11460 Tomahawk Creek Parkway, Suite 400
Leawood, Kansas 66211

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

Police Facility – Phase 1
Project #PD1803CIP
RFP # R1809

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

To Be Determined

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

This document is intended to be used in conjunction with AIA Documents A201[™]–2007, General Conditions of the Contract for Construction; A133[™]–2009 Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134[™]–2009 Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price. AIA Document A201[™]–2007 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution," or "to be determined later by mutual agreement.")

§ 1.1.1 The Owner's program for the Project:

(Identify documentation or state the manner in which the program will be developed.)

See Clarification Document attached hereto as Exhibit "A"

§ 1.1.2 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

See Exhibit "A"

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

(Provide total and, if known, a line item breakdown.)

Construction Budget of \$16,000,000 within a total Budget of \$18,500,000 for all professional services, construction costs, furnishings, equipment, site development and soft costs

§ 1.1.4 The Owner's anticipated design and construction schedule:

.1 Design phase milestone dates, if any:

TBD

.2 Commencement of construction:

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TBD

.3 Substantial Completion date or milestone dates:

TBD

.4 Other:

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

- AIA Document A133–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.
- AIA Document A134–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

§ 1.1.6 The Owner’s requirements for accelerated or fast-track scheduling or phased construction are set forth below:
(List number and type of bid/procurement packages.)

Architect understands that it may be required to provide one early design document package to comport with a phased construction schedule.

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere, such as the Owner’s sustainable objective, if any, or historic preservation requirements.)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5:
(List name, address and other information.)

Melinda K. Harger
Assistant Director of Utilities, Project Manager
Department of Utilities
City of Lawrence, KS
P.O. Box 708
Lawrence, KS
Office (785) 832-7880
Fax: (785) 832-7806

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

§ 1.1.10 The Owner will retain the following consultants:
(List name, legal status, address and other information.)

.1 Construction Manager:

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(The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1)

TBD

.2

(Paragraphs deleted)

Other consultants:

(List any other consultants retained by the Owner, such as a Project or Program Manager, or scheduling consultant.)

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

Ken Henton
Hofer Wysocki Architects
11460 Tomahawk Creek Parkway, Suite 400
Leawood, Kansas 66211

§ 1.1.12 The Architect will retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:
(List name, legal status, address and other information.)

§ 1.1.12.1 Consultants retained under Basic Services:

.1 Structural Engineer:

J&S Structural Engineers, P.A.
14221 Metcalf Ave, Suite 119
Overland Park, KS 66223

.2 Mechanical Engineer:

BranchPattern
7400 College Boulevard, Suite 150
Overland Park, 66210

.3 Electrical Engineer:

BranchPattern
7400 College Boulevard, Suite 150
Overland Park, KS 66210

.4 Cost Consultant:

Construction Management Resources
5201 Johnson Drive, Suite 330
Mission, KS 66205

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.5 Land Surveyor:
McClure Engineering Co.
11250 Corporate Avenue
Lenexa, KS 66219

.6 Geotechnical Engineer:
TBD

.7 Civil Engineer:
McClure Engineering, Co.
11250 Corporate Avenue
Lenexa, KS 66219

.8 Landscape Architect:
Landworks Studio
102 S. Cherry Street, 2nd Floor
Olathe, KS 66061

§ 1.1.12.2 Consultants retained under Additional Services:

§ 1.1.13 Other Initial Information on which the Agreement is based:

See Clarification Document, attached hereto as Exhibit "A"

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project and in a manner that will not delay the progress of construction activity for the Project.

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

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

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

§ 2.6 Insurance. The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost as set forth in Section 11.8.3.

§ 2.6.1 Commercial General Liability with policy limits of not less than Five Hundred Thousand Dollars (\$500,000) for each occurrence and Five Hundred Thousand Dollars (\$ 500,000) in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering vehicles owned by the Architect and non-owned vehicles used by the Architect with policy limits of not less than that required by law.

§ 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections 2.6.1 and 2.6.2.

§ 2.6.4 Workers' Compensation at statutory limits and Employers Liability with policy limits of not less than five hundred thousand dollars (\$500,000) for bodily injury by accident and disease, on a per accident and per employee basis.

§ 2.6.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than Two Million Dollars (\$2,000,000) per claim and Two Million Dollars (\$2,000,000) in the aggregate. Architect agrees to maintain professional liability coverage through course of the Project and for a period of Five (5) years following Substantial Completion.

§ 2.6.6 The Owner shall be an additional insured on the Architect's primary and excess insurance policies for Commercial General Liability and Automobile Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations.

§ 2.6.7 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.6. The certificates will show the Owner as additional insureds on the Commercial General Liability, Automobile Liability, and any excess policies.

§ 2.7 The Architect shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark. The Owner, however, will be responsible for providing an Ownership and Encumbrance Report for the Property.

§ 2.8 The Architect shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, and seismic evaluation, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner and the Construction Manager, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.1.1 The Architect shall attend progress meetings in person at the Owner's request as Basic Services, during the design, documentation, and bidding periods but not to exceed an average of one (1) progress meeting every two (2)

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weeks. The Architect's consultants shall also attend meetings at intervals appropriate to the phase or disciplines needed. Reference Construction Phase Services for meetings during Construction .

§ 3.1.1.2 In addition to the progress meeting referenced above, it is anticipated that Architects will attend and make presentations to the public, planning commission and city commission as detailed in Exhibit "A." The visits listed in Exhibit "A" are estimates only, and Architect acknowledges it will make up to six (6) presentations for the project. Additional presentations beyond six (6) shall be made for an additional fee.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Construction Manager a schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review, (2) for the Construction Manager's review, (3) for the performance of the Construction Manager's Preconstruction Phase services, (4) for the performance of the Owner's consultants, and (5) for approval of submissions by authorities having jurisdiction over the Project.

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

§ 3.1.5 Once the Owner, Construction Manager, and Architect agree to the time limits established by the Project schedule, the Owner and Architect shall not exceed them, except for reasonable cause.

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

§ 3.1.7 The Architect shall, at appropriate times, in coordination with the Construction Manager, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

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

§ 3.1.9 The Basic Services shall include: preparing drawings, specifications, supporting data, and other documentation; evaluating Construction Manager's proposals; and providing other services in connection with change orders, unless initiated by the Owner and/or caused by unforeseen construction conditions that are beyond the Architect's control.

§ 3.1.10 Basic Services will include the selection and specification for finishes of exposed surfaces (i.e., paint, vinyl, carpet, etc.).

§ 3.1.11 The Architect shall, when requested by the Owner, coordinate with activities of Owner's consultants, testing, surveying, and hazardous waste disposal firms employed by the Owner as part of its Basic Services. The Architect shall be entitled to rely upon the accuracy of information provided by such firms.

§ 3.1.12 Architect agrees to provide services in connection with the services provided by Construction Manager.

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

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

§ 3.2.2 During one of the design phases at the stage of 90% completion of construction documents phase, the Owner will receive a Guaranteed Maximum Price proposal or Control Estimate, as appropriate, from the Construction Manager. The Architect shall assist the Owner in reviewing the Construction Manager's proposal or estimate. The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

§ 3.2.3 Upon authorization by the Owner, and subject to Section 4.3.1.15, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 3.3 Schematic Design Phase Services

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

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

§ 3.3.3 The Architect shall present its preliminary evaluation to the Owner and Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project, including the feasibility of incorporating sustainable design approaches, and consideration of the implementation of the Owner's sustainable objective, if any. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

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

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

§ 3.3.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, implications of sustainable code requirements enacted in the relevant jurisdiction, if any, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other sustainable design services under Article 4.

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

§ 3.3.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.

§ 3.3.7 Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, identify agreed upon adjustments to the Project's size, quality, or budget, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

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

§ 3.4 Design Development Phase Services

§ 3.4.1 The Architect shall not proceed with Design Development Documents Phase until receipt of Owner's written approval of the Schematic Design Documents. Based on the Owner's written approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work pursuant to Section 5.4, the Architect shall prepare Design Development Documents for the Owner's approval and Construction Manager's review. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

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

§ 3.4.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.

§ 3.5 Construction Documents Phase Services

§ 3.5.1 The Architect shall not proceed with Construction Documents Phase until receipt of Owner's written approval of the Design Development Documents. Based on the Owner's written approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval and the Construction Manager's review. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Construction Manager will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

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

§ 3.5.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications and may include sample forms.

§ 3.5.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents.

§ 3.5.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7 and obtain the Owner's approval of the Construction Documents.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction, as amended. If the Owner and Construction Manager modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or the Owner's issuance of a Notice to Proceed to the Construction Manager. In addition, the Architect agrees to assist Owner and Construction Manager in a walk-through of the Project eleven (11) months following Substantial Completion as provided in Section 3.6.6.5.

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

§ 3.6.1.4 The Architect shall be a representative of and shall advise and consult with the Owner during the administration of the Contract for Construction. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement unless otherwise modified by written amendment. The Architect/Engineer shall approve no Change Order without prior authorization of the Owner. If modifications other than field changes are required in the plans and specifications under and pursuant to the Contract with the Contractor, the Owner shall be notified immediately of those modifications and the reasons therefor in writing. Field changes (for purposes of this Agreement) are defined as minor modifications required to accommodate actual conditions, which do not affect Contract completion time or total Contract costs.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule, and (2) defects and deficiencies observed in the Work.

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

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

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

§ 3.6.2.5 Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2007, the Architect shall render initial decisions on Claims between the Owner and Construction Manager as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Construction Manager

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

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

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Construction Manager's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Construction Manager's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Construction Manager's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Construction Manager that bear such professional's seal and signature when submitted to the Architect. The Architect

shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Construction Manager and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Construction Manager; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

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

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

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

§ 3.6.6.5 Approximately eleven (11) months after the date or dates of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance. The Architect, accompanied by any of his Consultants the Owner may deem necessary, but including at least representatives of the mechanical and electrical consultants, and the Owner's representative(s), shall conduct an inspection of the Work to determine if there are items of Work for which the Construction Manager is responsible under any warranty or warranties of the Work. During such inspection, the Architect shall prepare a list of any items of deficiency in a format suitable to the Owner. The list shall separate items for which the Construction Manager should be held responsible under warranty and items for which the Owner is responsible as maintenance. The Architect shall provide one copy each to the Owner and the Construction Manager.

§ 3.6.6.6 The Architect shall review the reproducible record drawings provided by the Construction Manager, which include changes in the Work made during construction. These drawings shall be based on marked-up Contract Documents, addenda, change orders, Architect's Supplemental Instructions, and any other Contract information developed during Project, drawings, and other data furnished by the Construction Manager and based on Architect's knowledge of the Project.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services, unless expressly indicated otherwise, but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Services	Responsibility <i>(Architect, Owner or Not Provided)</i>	Location of Service Description <i>(Section 4.2 below or in an exhibit attached to this document and identified below)</i>
§ 4.1.1 Assistance with selection of the Construction Manager	Arch (in basic)	
§ 4.1.2 Programming (B202™–2009)	Arch (in basic)	
§ 4.1.3 Multiple preliminary designs	Arch (in basic)	
§ 4.1.4 Measured drawings	Not Provided	
§ 4.1.5 Existing facilities survey	Arch (in basic)	
§ 4.1.6 Site evaluation and planning (B203™–2007)	Arch (in basic)	
§ 4.1.7 Building information modeling (Per Exhibit A)	Arch (in basic)	
§ 4.1.8 Civil engineering	Arch (in basic)	
§ 4.1.9 Landscape design	Arch (in basic)	
§ 4.1.10 Architectural interior design (B252™–2007)	Arch (in basic)	
§ 4.1.11 Value analysis (B204™–2007)	Arch (in basic)	
§ 4.1.12 Detailed cost estimating	Architect (additional)	
§ 4.1.13 On-site project representation (B207™–2008)	Not provided	
§ 4.1.14 Conformed construction documents	Architect (additional)	
<i>(Row deleted)</i>		
§ 4.1.16 As-constructed record drawings	Architect (additional)	
§ 4.1.17 Post occupancy evaluation	Architect (additional)	
§ 4.1.18 Facility support services (B210™–2007)	Not provided	
§ 4.1.19 Tenant-related services	Not provided	
§ 4.1.20 Coordination of Owner’s consultants	Arch (in basic)	
§ 4.1.21 Telecommunications/data design	Arch (additional)	
§ 4.1.22 Security evaluation and planning (B206™–2007)	Arch (additional)	
§ 4.1.23 Commissioning (B211™–2007)	TBD	
§ 4.1.24 Extensive environmentally responsible design	Arch (additional)	
§ 4.1.25 LEED® certification (B214™–2012)	Not provided	
§ 4.1.26 Historic preservation (B205™–2007)	Not provided	
§ 4.1.27 Furniture, furnishings, and equipment design (B253™–2007)	Architect (additional)	

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect’s responsibility, if not further described in an exhibit attached to this document.

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See Exhibit "A"

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or bid packages in addition to those listed in Section 1.1.6;
- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;
- .3 Services necessitated by the Owner's request for extensive sustainable design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .4 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations, or official interpretations;
- .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .6 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .7 [Intentionally Omitted]
- .8 [Intentionally Omitted]
- .9 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .10 Evaluation of the qualifications of bidders or persons providing proposals;
- .11 Consultation concerning replacement of Work resulting from fire or other cause during construction;
- .12 Assistance to the Initial Decision Maker, if other than the Architect;
- .13 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method;
- .14 Services necessitated by the Owner's delay in engaging the Construction Manager; and
- .15 Making revisions in Drawings, Specifications, and other documents resulting from substitutions included in the agreed to assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Construction Manager's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Construction Manager's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Construction Manager from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Construction Manager-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 [Intentionally Omitted]
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Construction Manager and making subsequent revisions to Instruments of Service resulting therefrom; or

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- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.

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

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
- .2 Two (2) visits to the site each month by the Architect over the duration of the Project during construction
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within thirty-four (34) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as reasonably necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

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

§ 5.3 The Owner shall furnish the services of a Construction Manager that shall be responsible for creating the overall Project schedule. The Owner shall adjust the Project schedule, if necessary, as the Project proceeds.

§ 5.4 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall furnish the services of a Construction Manager that shall be responsible for preparing all estimates of the Cost of the Work. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

§ 5.4.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Construction Manager to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs to the extent such costs could not have been reasonably avoided.

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

§ 5.6 [Intentionally Omitted]

§ 5.7 [Intentionally omitted]

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in

this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided.

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

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

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

§ 5.12 The Owner shall contemporaneously provide the Architect with any communications provided to the Construction Manager about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.

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

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

ARTICLE 6 COST OF THE WORK

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

§ 6.2 The Owner's budget for the Cost of the Work is provided in the Initial Information, and may be adjusted throughout the Project as required under Sections 5.4 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 6.3.1 If the Architect is providing detailed cost estimating services as an Additional Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect shall work cooperatively with the Construction Manager to conform the cost estimates to one another.

§ 6.3.2 Subject to Section 4.3, if the Owner engages a Cost Consultant and a discrepancy exists between the Construction Manager's estimate and the Cost Consultant's estimate, the Architect shall assist the Cost Consultant and Construction Manager as necessary to conform the estimates to one another.

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

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

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

§ 6.6 If the Owner chooses to proceed under Section 6.5.2, the Architect, without additional compensation, shall incorporate the required modifications in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility as a Basic Service under this Article 6.

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

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

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

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Construction Manager, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted

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herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants, as it pertains to any subsequent design.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's duty to indemnify the Owner under this provision shall be limited to the available proceeds of insurance coverage.

§ 8.1.3.1 Under no circumstances shall the Architect be required to indemnify the Owner for claims caused or alleged to be caused in whole or in part by the acts or omissions of the Owner or other third parties for whom the Architect is not responsible.

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

§ 8.2 Mediation

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

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

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

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

(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: (Specify)

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

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

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

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

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

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

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due.

(Paragraph deleted)

§ 9.8 The Owner's rights to use the Architect's Instruments of Service shall continue and survive in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction, except as modified. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

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

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 7 calendar days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 7 calendar days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

§ 10.9 Kansas Act Against Discrimination: The Architect agrees to comply with and require its subcontractors to comply with Kansas Act Against Discrimination. See K.S.A. 44-1030. The Architect agrees that:

(1) The Architect shall observe the provisions of the Kansas act against discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin or ancestry;

(2) in all solicitations or advertisements for employees, the Architect shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the commission;

(3) if the Architect fails to comply with the manner in which the Architect reports to the commission in accordance with the provisions of **K.S.A. 44-1031** and amendments thereto, the Architect shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency;

(4) if the Architect is found guilty of a violation of the Kansas act against discrimination under a decision or order of the commission which has become final, the Architect shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency; and

(5) the Architect shall include the provisions of subsections (a)(1) through (4) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

(b) The Kansas human rights commission shall not be prevented hereby from requiring reports of contractors found to be not in compliance with the Kansas act against discrimination.

(c) The provisions of this section shall not apply to a contract entered into by a contractor:

- (1) Who employs fewer than four employees during the term of such contract; or
- (2) whose contracts with the governmental entity letting such contract cumulatively total \$5,000 or less during the fiscal year of such governmental entity.

§ 10.10 Compliance with Laws: In addition to the Kansas Act Against Discrimination set forth above, Architect agrees to: a) comply with Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.)(ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the Architect is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the Architect has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration. Parties to this contract understand that the provisions of this section (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.

ARTICLE 11 COMPENSATION

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

(Insert amount of, or basis for, compensation.)

As described in Exhibit "A"

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

See Schedule of Rates in Exhibit "A"

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Prior to entering into any Additional Services, the Architect must submit a proposal outlining the Additional Services to be provided, estimation of total hours and a maximum fee based upon the Schedule of Rates attached as Exhibit A. Payment to the Architect, as compensation for these Additional Services, shall be in accordance with the Schedule of Rates attached in Exhibit A. Records of reimbursable expenses and expenses pertaining to Additional Services and services performed on an hourly basis shall be made available to the Owner if so requested in writing.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus 0 percent (0 %), or as otherwise stated below:

§ 11.5 [Intentionally Omitted]

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11.5.1 Before any Partial Payment will be remitted to Architect, Architect must provide a properly executed Waiver and Release of Claims on the form attached as Exhibit "B" for itself and for anyone else who provided labor or materials during that payment period.

(Table deleted)

11.5.2 Before Final Payment will be remitted to Architect, Architect must provide a properly executed Waiver and Release of Claims on the form attached as Exhibit "C" for itself and for anyone else who provided labor or materials during that payment period.

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

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

See Schedule of Rates contained in Exhibit A
(Table deleted)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as

(Paragraphs deleted)

follows described in Exhibit A.

§ 11.8.2 For Reimbursable Expenses the compensation shall be as described in Exhibit A.

§ 11.8.3 [Intentionally Omitted]

§ 11.9 Compensation for Use of Architect's Instruments of Service

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

Provided that the Architect has been fully paid for a portion of the Instruments of Service, Owner shall be entitled to retain and use those portions of the Instruments of Service without paying any additional fees. For instance, if the Architect is terminated in the midst of the Construction Document Phase, Owner shall still be entitled to use any Instruments created in the Design Development Phase so long as Architect has been fully compensated for the Design Development Phase.

§ 11.10 Payments to the Architect

§ 11.10.1 An initial payment of zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. The payment invoice submitted shall itemize the services provided and/or reimbursable expenses for which payment is requested, notwithstanding any claim for interest of penalty claimed in Architect's payment invoice. The Owner agrees to pay the Architect within ten (10) days of approval by the governing body. If the Architect fails to submit an itemized bill of services and/or reimbursable expenses within sixty (60) days of completion of the services, the Owner

shall have no duty to pay Architect for those services. If Owner fails to issue payment to Architect after the approval by the governing body, interest shall accrue as provided for under the laws of the state where the project is located.

§ 11.10.2.1 The Architect shall submit with each payment invoice a written progress report indicating the specific tasks and their percentages which have been completed to date, as well as the tasks that will be performed in the following month. This report shall serve as support for the payment to the Consultant. If not accompanied by such a progress report, the Owner shall not be required to submit the invoice to the governing authority.

§ 11.10.2.2 Notwithstanding anything to the contract, in the event that the Owner becomes credibly informed that any representation the Architect provided in its invoice are wholly or partially inaccurate, the Owner may withhold payment of such disputed sums then, or in the future, otherwise due to the Architect until the inaccuracy and cause thereof is corrected to the Owner's reasonable satisfaction. In the event the Owner questions some element of Architect's invoice, the Architect shall promptly be notified of such a concern. The Architect shall effect a resolution including the issuance of a revised invoice, if appropriate. The Owner shall pay any undisputed sums.

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

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

11.10.5 This project is sales tax-exempt. If requested by the Architect, Owner shall provide a tax-exemption number. Should any sales tax be imposed despite this, Architect shall be entitled to seek reimbursement for same.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B133™-2014, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition
- .2 [Intentionally Omitted]
- .3 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.)

- Exhibit A Clarification Document
- Exhibit B Form of Partial Waiver and Release Claim
- Exhibit C Form of Final Waiver and Release of Claim
- Exhibit D Project Schedule

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

OWNER (Signature)

(Printed name and title)

ARCHITECT (Signature)

(Printed name and title)

[Handwritten signature]
Hoeder-Wysocki / Ken Haden
Principal

Init.

EXHIBIT A



City of Lawrence

Architectural & Engineering Services for Police Facility Phase 1
RFP #R1809
Project #PD1803CIP

PRE-AWARD CLARIFICATION DOCUMENT

Prepared By: Hoefer Wysocki Architects, LLC.

August 10, 2018

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SECTION 1 – MILESTONE SCHEDULE

- Reference attached *Lawrence Police HQ Schedule* dated August 03, 2018 for detailed breakdown.

No	Activity / Task*	Duration (Days)	Start Date	End Date
1	Pre-Design	55	08/27/2018	11/09/2018
2	Program Verification	40	08/27/2018	10/19/2018
3	Engineering Systems Evaluation	20	09/10/2018	10/05/2018
4	Parks Masterplan Design	16	09/26/2018	10/17/2018
5	Site Assessment	40	08/27/2018	10/19/2018
6	Survey	10	09/03/2018	09/21/2018
7	Geotechnical Analysis	15	09/03/2018	09/21/2018
8	Eco-Charrette	1	10/03/2018	10/03/2018
9	Parks Masterplan Design Progression	42	10/18/2018	12/14/2018
10	Schematic Design	45	11/12/2018	01/11/2019
11	Design Charrette	3	11/13/2018	11/15/2018
12	Parks Masterplan – Draft Submittal	0	12/14/2018	
13	Design Development	35	01/14/2019	03/01/2019
14	50% Construction Documents	35	03/04/2019	04/19/2019
15	Parks Masterplan – Final Submittal	0	04/19/2019	
16	90% Construction Documents	35	04/22/2019	06/07/2019
17	Construction Documents	15	06/10/2019	06/28/2019
18	City Process – Planning and Zoning	61	01/21/2019	04/16/2019
19	City Process – Permitting	25	07/02/2019	08/06/2019
20	Bid and Construction Phase	287	07/01/2019	08/04/2020

*Consultant tasks are in "black", Client tasks are in "blue", External Third Party tasks are in "red"

SECTION 2 – EXECUTION METHODOLOGY

Reference both the project schedule, *Lawrence Police HQ Schedule* dated August 03, 2018, and the owner meeting agenda topics *LPHQ – Meeting agenda outline* dated August 08, 2018. Both items were created and reviewed during the pre-award clarification phase.

The schedule provides timelines for all phases of the project. The parks masterplan design and documentation are outlined. The schedule also includes meeting dates with ownership, public meetings, and city meetings for the city process phases. Quality Assurance review time periods are established after each milestone submittal. Cost Analysis is identified to occur at the same time.

The owner meeting agenda outline provides key topics from predesign through construction documents. It identifies discussion points that are relevant to the current phase of the project. This will allow the design team the ability to gather decisions from the City of Lawrence and the police department in a timely manner and incorporate them into the design documents. It also allows us to mitigate future risk or rework by working in an appropriate sequence as necessary to complete the applicable phase of the project.

Paragraphs below are from the proposal and are still applicable:

As civic architecture specialists, we have proven processes that has produced exceptional results, but also makes good use of our client's time. We have developed a **strategic approach that has been specifically tailored to your project**, which can be broken down into three primary phases: **Pre-design, Design and Construction**

During the pre-design phase the design team will complete four primary, but very important tasks: 1) assist in Construction Manager Selection, 2) verification of Space Needs, 3) assessment of the Project Site and 4) analyze the Project Budget.

Construction Manager Selection should be completed as a top priority. We will assist the city with this selection process. Ideally, the Design Phase will not start until the Construction Manager is identified.

Space Needs Verification begins with effective communication. Through a series of meetings and tours of 3 to 4 of our local police facilities, we will help you analyze your existing space needs, while we establish quality and durability standards for your new building and learn to communicate as a group. Our primary goal will be to organize and consolidate your 100+ page space needs assessment into three 11x17 inch pages. We will use this design tool to offer a second opinion regarding spaces outlined in your existing assessment, to identify how to maximize your budget and illustrate how the project should be affectively phased over the next 30-50 years. Finally, we will establish sustainability goals, including cost-pay-back analysis of 4 mechanical systems that are appropriate for this building type.

Site Assessment begins with us walking the site together. We will show you our preliminary findings and discuss the basic goals for site layout, building orientation and park design. At the same time, our team will complete the detailed site survey and geotechnical analysis for the project. Information gathered will be utilized to develop graphic site presentations and to establish the probable range of site costs.

Project Budget: Finally, we will use information gathered and our historic data to analyze the project budget and develop a range cost estimate. This estimate establishes the high and low ends of the project budget range as well as the initial target budget for the project.

DESIGN PHASE

We could go on for pages outlining the **Design Process**, but for this proposal, we want to simplify the description and insure you that we will provide leadership, so your project is designed and managed in an efficient manner.

To design your new facility, we kick-off with a three to four-day interactive workshop called a Charette. Ideally, we will use your police training room as a work area and will bring our entire design team to you. The Charette is intended to be a series of brainstorming sessions that result in a preliminary design by building consensus around a common vision.

From there, we lead you through a process that requires one day of meetings every two to three weeks. The agendas for all these meetings will be distributed in the first few weeks of the project so that you can plan accordingly. In addition to meetings, we will provide third party quality assurance and budget reviews at the end of each phase to compare against project goals. Initially, we believe the design process will take between 25 and 30 weeks to complete.

CONSTRUCTION PHASE

We will carry over the teaming mindset, formed with the Construction Manager during design, to assist the CM during construction. With a 12-month construction schedule, we would recommend Owner-Architect-Contractor (OAC) meetings every two weeks. However, if conditions dictate, we want to insure you that our proximity to the site will allow us to be as responsive as the project conditions require.

While we expect the CM to run the construction side of the project, it is our responsibility to keep information flowing smoothly and efficiently so that we don't cause delays. We typically try to help the CM as they look ahead at upcoming weeks to that they see and understand the design requirements that affect their work. By working together, we will help the CM make the construction phase as successful as the design phase.

SECTION 3 – SCOPE CLARIFICATION

Reference both the project schedule, *Lawrence Police HQ Schedule* dated August 03, 2018, and the owner meeting agenda topics *LPHQ – Meeting agenda outline* dated August 08, 2018. Both items were created and reviewed during the pre-award clarification phase.

The schedule provides timelines for all phases of the project. The parks masterplan design and documentation are outlined. The schedule also includes meeting dates with ownership, public meetings, and city meetings for the city process phases. Quality Assurance review time periods are established after each milestone submittal. Cost Analysis is identified to occur at the same time.

The owner meeting agenda outline provides key topics from predesign through construction documents. It identifies discussion points that are relevant to the current phase of the project. This will allow the design team the ability to gather decisions from the City of Lawrence and the police department in a timely manner and incorporate them into the design documents. It also allows us to mitigate future risk or rework by working in an appropriate sequence as necessary to complete the applicable phase of the project.

PRE-DESIGN SERVICES

Program Verification – Meetings, tours, field verification, etc.

Survey – Entire Police and Park site

Geotechnical Allowance – Entire Police and Park site

Development Plan Submittal

Rezoning

Platting

Traffic Study

BASIC SERVICES

Schematic Design – 15% Design Completion

Design Development - 35% Design Completion

Construction Documents – Final Design Documents for Bid, Permit and Construction

ADDITIONAL SERVICES

Park Master Planning

Telecom and Security Design

Third-party Cost Estimating at DD Phase

Construction Manager Selection Assistance

Sanitary Sewer Relocation Allowance (8% of anticipated Construction Value)

FF&E Basic Layouts

FF&E Vendor Specific (coordination of one vendor – 3% of \$1M)

FF&E Bid Package (additional 7% of \$1M)

Security System Commissioning

CONSTRUCTION PHASE SERVICES

Construction Services – Bidding and Construction, including shop drawing review, weekly site meetings with review of construction, issue Request for Information, issue Proposal Request, response to questions and clarifications, review of monthly construction pay applications

SECTION 4 – RISK MANAGEMENT PLAN

SECTION 1 – ASSESSMENT OF CONTROLLABLE RISKS

Risk 1:	Not Managing Expectations Can Adversely Affect the Budget
Why is it a Risk?	Ineffective Management of Expectations can cause schedule delays and budget overruns.
Solution:	What we do: In addition to face-to-face meetings, we will initially conduct tours of three to four of our local police projects that are of similar size and scope. In fact, one facility is going into Phase IV of its 20-year expansion program, and all these projects are in the Kansas City Metro. Benefits to you, us and the team: Experiencing these facilities together starts collaboration and gives an immediate jump-start to effective communication between all team members. Tours allow us to discuss physical properties of the projects that include durability of materials, light levels, safety issues, security measures and functional size and adjacencies of departmental spaces. Why? Getting everyone on the same page is paramount. These experiences shape the standards for your new station, mitigate changes later in the process and allow for early budget analysis before we begin designing your facility.
Pre-Award Discussion	Even after the pre-design phase, the team needs to manage the budget along the way. Having a construction manager on board early and providing estimates will be critical to the project. Also, having a third-party estimator as part of the design team will be a good resource. Line-items could be added to the contract to plan for unknown scope options. The final construction documents could also include bid alternates which would allow the City to make final decisions after receiving official pricing. Priority: High
Risk 2:	Mechanical System Selection and Energy Efficiency Analysis Made Late in the Design Phase
Why is it a Risk?	MEP systems represent 30-40% of building costs for a police station. Deciding on the systems too late in the project process could cause project delays, could negatively affect the budget and could potentially cause the building's energy efficiency to be below your expectations.
Solution:	What we do: Prior to design we will perform a cost-payback-analysis of four to five mechanical systems that are most appropriate for your building. Because these facilities are completely backed up by a generator, we will identify savings associated with reductions in electrical service and generator sizing that naturally come with energy efficient buildings. These savings will be used to offset some of the costs of the mechanical system upgrades. Benefits to you: Our analysis of the MEP system budget will be clear and complete, which allows you to take an active role on a technical issue that is a big part of your budget. Why? Cost saving, potential system payback, budget and schedule management are all affected by this decision.
Pre-Award Discussion	During the predesign phase, an engineering systems evaluation has been outlined in the schedule. It is key to understand these systems early enough in the project to understand costs and associated impacts to the overall budget. Solar energy may also be discussed. Priority: High

Risk 3: Why is it a Risk?	The Space Needs Study: Would you like a second opinion?
	<p>Since everything being planned is based upon the existing 2012 Needs Assessment. Any flaws in the assessment will limit the long-term success of the project.</p>
Solution:	<p>What we do: Through working sessions and building tours, we will help you take a critical look at your space needs. First, we need to consolidate the 100+ page study into a concise, 3 to 4-page summary so that we can all see the requirements for the entire campus in one location. Once complete, we will use this design tool to make comparisons to other facilities, to illustrate potential overlaps and omissions, and to show you how to get more for your money.</p> <p>Benefits to you: We all know this project will be phased over the next 20+ years. If we can show ideas that can save money by consolidating functions, we can stretch your dollar without adding to the budget.</p> <p>Why? Your current study is six years old with key information intermixed throughout the 100+ page document. Adding organization and clarity will greatly improve the project's outcome and allow you to better visualize the building before it is designed.</p>
Pre-Award Discussion	<p>Hoefer Wysocki will review the existing needs assessment and rewrite the program in a simple easy to understand 3 to 4-page document. This document typically also includes MEP requirements for each space and goes beyond just space needs. Touring various facilities with City and police staff will aid in the discussion. Meeting with police staff from all departments will also allow the design team to gather information and create a more accurate program. The schedule outlines the dates during the pre-design phase for these tours.</p> <p>Priority: Medium</p>
Risk 4: Why is it a Risk?	Fast-Track Approach to Design and Construction
	<p>Fast-tracking a project can accelerate the schedule but can lead to problems that cost you money.</p>
Solution:	<p>What we do: During the Design Development phase, we will have led you through a process that has identified and finalized ALL the big decisions for the project. We will provide details needed so the CMR can quantify the budget in an effective manner that minimizes surprises.</p> <p>Benefits to you: The faster we start construction, the bigger the impact on your budget. In Lawrence's case, the fast-track approach can also allow construction to better align with the natural weather conditions. If executed affectively, the project could save up to 5% during construction.</p> <p>Why? This process can reduce the timeline allowing the police to move in early and can have a positive impact on the project budget.</p>
Pre-Award Discussion	<p>The City does plan to hire a construction manager at risk. The date for their selection is outlined on the schedule. With a CM on board, the City and design team will need to establish a date for a Guarantee Maximum Price (GMP) to be provided to the City from the construction manager. This GMP will need to include any cost projections as necessary based on the schedule. The calendar year and associated weather may also have an impact on pricing. The CM will be able to provide recommendations on potential impacts. Fast-track delivery was discussed, but no decision made at this point. Based on the schedule, and project occupancy dates, it may not be necessary. Priority: Medium.</p>

Risk 5:	Construction Manager (CM) Selection
Why is it a Risk?	Hiring the wrong CM can have negative impact on the project's outcome.
Solution:	<p>What we do: We have completed over 50 projects utilizing the CMR delivery method. We will draw from lessons learned to insure you evaluate the right criteria for the selection.</p> <p>Benefits to you: A cohesive, collaborative team pulling in the same direction, following specific schedules, meeting milestones, and challenging teammates to exceed expectations will help the CMR process reach its maximum value.</p> <p>Why? Affective collaboration will allow the team to evaluate creative ideas that improve quality and save money.</p>
Pre-Award Discussion	The selection of a CM is a very important part of the overall process. The City has determined that a CM will be selected and part of the project prior to the start of schematic design. Hoefer Wysocki will assist in creating selection criteria and can also participate in meetings as needed. Priority: Medium.

SECTION 2 – ASSESSMENT OF NON-CONTROLLABLE RISKS

Risk 1:	Site and Soil Conditions
Why is it a Risk?	The Site contains the biggest set of unknowns. In your case, a sewer line and two creeks run through the property. The site is also likely to have subsurface rock (shale, limestone, etc.). These items could all have a negative impact on you budget, but could also affect the long-term development of the site.
Solution:	<p>What we do: We will schedule geotechnical and survey work to be done immediately. This information will be combined with our site analysis to minimize the impact of any site related adversities. These tools will help set the basis for design decisions in the short-term and throughout the life of the campus.</p> <p>Benefits to you: This approach will allow us to manage adverse conditions in a way that have little or no impact on your project. The bottom line is that your budget can be used for your building and not for hidden site costs.</p> <p>Why? The building orientation on the site for Phase I will affect the ability to have success in Phases II & III as well as the design of the Park. By learning about unforeseen conditions, we can tailor the design for both function and for cost efficiency.</p>
Pre-Award Discussion	The project team is set to meet on September 6 th to walk the site together. The geotechnical analysis and survey are also to be completed during the pre-design phase. During the pre-award phase, public improvements were discussed, and a potential design fee outlined accordingly. Priority: High

Risk 2: Why is it a Risk?	Bid Climates/Unpredictable Cost of Supplies
Solution:	<p>No one can predict bid climates, the cost of supplies or the impact of potential trade embargos six months from now. Any of these could lead to project delays and/or to an increase if prices spike.</p> <hr/> <p>What we do: With your established budget, we will typically design five to six bid alternates for your project. We target 95% of the budget as the base bid and then draw enough additional scope to reflect 105% of the budget.</p> <p>Benefits to you: We turn this uncontrollable risk into one that is more controllable. This approach will allow you to spend 100% of your money but alleviates the risk of cost overrun.</p> <p>Why? There is no room for error in the public eye and cost overruns can be viewed critically toward all team members. Since your goal is to spend 100% of the money allocated toward the project, our proven system has been designed to protect you from adverse bid climates while allowing you the freedom to spend the entire budget.</p>
Pre-Award Discussion	<p>With CM selection occurring early in the process, the risk of unknown bid climates is somewhat mitigated. But also having bid alternates allows for the City to make final decisions after receiving official bids. Priority: Medium.</p>
Risk 3: Why is it a Risk?	Community Perception, Opinion, and Engagement
Solution:	<p>20 years ago, this site was designated solely for park and open space. Longtime, nearby residents may not share the same expectations as city staff and may view the new police headquarters as an unwelcome neighbor.</p> <hr/> <p>What we do: Our processes are perfect to engage affected/concerned residents early by providing an educational, public forum where we can solicit input and dismiss misconceptions about the project.</p> <p>Benefits to you: Building consensus with the public and perhaps public officials can relieve a great deal of the controversy that is often associated with public projects. This can even have positive impact on pricing by establishing public pride for the facility.</p> <p>Why? In this specific case, our collaborative process will help assure the public that locating the police headquarters near the high school is a good thing that potentially improves the relationship with the students, staff, and certainly the school's resource officer(s).</p>
Pre-Award Discussion	<p>For both the parks masterplan and the police headquarters, the public will be engaged. The project schedule includes four community meetings to gather feedback and present concepts. The placement of the meetings relative to the overall schedule aligns with the proposed deliverables. Priority: Medium.</p>

Risk 4: Why is it a Risk?	Not Managing Sustainability Goals
Solution:	<p>A metric for accountability has not yet been established and shortcuts or omissions could be taken that could result in not meeting City or community expectations for sustainability.</p> <hr/> <p>What we do: The design team will run an eco-charrette early the project to identify targets, strategies, and opportunities that are measurable and achievable for the project. The design team will document in narrative form aspects of the project that contribute to the established metrics for sustainability. These sustainable items will all have a corresponding value, but many times sustainability goals can be met for little or no additional money. We will provide you the tools to make informed decisions when deciding what is best for the project.</p> <p>Benefits to you: We provide you information so that you can take an active role in the financial and sustainable decision making for your building.</p> <p>Why? While sustainable design is second nature to our design team, we know that not everyone has the background to identify sustainable items and their cost impact on their project. We do the legwork for you so that the final decisions reflect your values and priorities. In the end, client satisfaction is much higher because there are no surprises.</p>
Pre-Award Discussion	<p>Utilizing the eco-charrette in the predesign phase, the design team will be able to understand City and police department goals for sustainability. The City is not necessarily interested in pursuing LEED certification. Identifying the sustainable initiatives and associated implantation early will aid in the integration into the overall building and site design. Priority: Medium.</p>
Risk 5: Why is it a Risk?	Weather and Climatic Condition
Solution:	<p>Adverse weather and climatic conditions may cause construction delays, damage to equipment and materials, and possibly create dangerous jobsite conditions.</p> <hr/> <p>What we do: By collaborating with the Construction Manager we can work together to maximize the amount of “good weather days” for construction. This is specific to fast-tracked project.</p> <p>Benefits to you: Time is money and delays cost. If we assist in this area, we can overcome over 80% of the weather-related cost and schedule impacts.</p> <p>Why? Although the Construction Manager is responsible for construction activities, early collaboration can set the stage to save time and money, which affects the entire team.</p>
Pre-Award Discussion	<p>This uncontrollable risk is standard on every construction project. However, hiring a construction manager early in the process, and integrating them into the project team creates opportunity to work together and react to adverse weather or climate concerns. The design team, City, and PD can help the CM create a construction schedule that creates contingency for potential delays. Priority: Medium.</p>

SECTION 5 – VALUE ASSESSMENT OPTIONS

The Client is interested to explore the Value Assessment items in more detail.

Option 1:	Sanitary Sewer Relocation		
Description:	The possibility exists that at some point, the existing sanitary sewer line may need to move to allow for the best use of the land for your campus. Moving the sewer line may also improve storm water quality leaving the site and flowing downstream to adjacent land owners and into the overall stream system within the City of Lawrence.		
	Benefits to you: Parking lots can be placed over sewer lines, but not buildings of this size. By moving the line, the options for development of the land could be greatly increased.		
Cost Impact:	8% design fee/cost of sewer relocation	Schedule Impact:	No schedule impact
Option 2:	Facility Tours		
Description:	Before the design kicks off, we take our clients on tours of our completed projects so that they can see our work first-hand while we share these experiences together. These tours allow us to immediately improve team communication, allow us to better manage client expectations, and allow us to discuss operational, safety, durability and maintenance issues before we start design, including their impact on the overall budget.		
	Benefits to you: Allows you to see potential options you can get with your budget by viewing full-scale models and receiving client testimonials. Overall, we have found that our clients have a better understanding of the project in its preliminary stages, which leads to both savings of time and money. We will also identify missed and potential mistakes in your current program and explain why our expertise has allowed us to gain better insight and knowledge to why they could be designed differently to have a positive impact on the occupants of your building.		
Cost Impact:	No cost impact	Schedule Impact:	No schedule impact
Option 3:	In-House Initial Outfitting. (I.O.)		
Description:	We have an in-house initial outfitting group to help you procure both furniture and specialty equipment. This group is currently working on four police projects throughout the region, including two in the KC metro.		
	Benefits to you: You are carrying a FF&E budget as part of the overall project budget. We will help you assess this budget to ensure that we can maximize the construction dollars while providing you the furniture and equipment you need to make the project operate affectively.		
	You have access to government pricing for many FF&E items. However, competitive bids of these items often offer additional savings that can be applied to other parts of the projects. In addition, the following items apply:		

- Managing everything in-house allows us to accurately manage the budget
- Allows for a fast track delivery method
- Don't have to get another firm "up to speed" on the drawings

Cost Impact: Planning & layout – no cost impact
 Furniture services between 3 and 10% of the furniture cost depending on the level of service requested.

Schedule Impact: No schedule impact

Option 4: Designing with Bid Alternates

Description: With your established budget, we will design five to six alternates that correspond to approximately 10% of the project budget. The base scope of construction will be targeted at 95% of the project budget with the upper end of the range at about 105%.

Benefits to you: You can effectively spend the entire budget without the risk of going over. These strategies have allowed our clients to make the final value decisions on how the last 10% of their dollars are spent. However, we have strategies that have allowed many of our clients to get all the alternates with their existing budget.

Cost Impact: No impact to cost

Schedule Impact: No impact to schedule

Option 5: Analyzing Mechanical Systems at the Beginning of Design

Description: Unlike other firms, we begin analyzing the mechanical system during the programming phase. For a police station, the MEP systems account for 30-40% of the overall budget. We can get an accurate read early in the design on how much of budget will be allocated towards MEP design.

Benefits to you: This approach allows you to maximize your budget while evaluating cost-payback analysis associated with enhanced energy efficiency.

Cost Impact: No impact to cost

Schedule Impact: No impact to schedule

Option 6: Fast Track Schedule

Description: We have completed more than 80 projects using a fast-track delivery method. While there is some risk associated with fast-tracking, our team has developed proven processes to minimize that risk. Involving our I.O. group with FF&E procurement can improve our effectiveness during fast-tracking.

Benefits to you: Reduced project duration means you get to move in early. By tailoring the process to maximize good weather, you can also save money.

Cost Impact: No impact to cost

Schedule Impact: 3-4 months EARLY

SECTION 6 – REQUESTED CLIENT ACTIONS DURING PRE AWARD CLARIFICATION

Requested Client Actions *DURING PRE-AWARD CLARIFICATION*

No	Activity / Task / Decision	Responsible Party	Contact Information	Agreed Upon Date
1	City Roster Contact List	City of Lawrence	Melinda Harger	8/22/18
2	Site Survey Information – Existing easements, site information.	City of Lawrence	Melinda Harger	8/14/18
3	Prior programming, research, or staff feedback	Police Department	Captain Brixius	8/22/18
4	AIA – Contract – Draft Form	City of Lawrence	Melinda Harger	8/14/18
5	Department Wish List	Police Department	Captain Brixius	8/22/18
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SECTION 7 – REQUESTED CLIENT ACTION ITEMS DURING THE PROJECT

- Reference attached *LPHQ – Meeting agenda outline* dated August 08, 2018 for detailed breakdown on owner meeting schedule and associated topics.

Client Action Item Checklist

No	Action Item	Responsible Party	Contact Information	Agreed Upon Date
1	Tour existing facilities	City, PD, Design Team		09/05/18-09/06/18
2	Tour Hoefer Wysocki design facilities	City, PD, Design Team		09/12/18
3	Eco-Charrette	City, PD, Design Team		10/03/18
4	Design Charrette	City, PD, Design Team		11/13/18-11/15/18
5	SD Meeting #1	City, PD, Design Team		11/28/18
6	SD Meeting #2	City, PD, Design Team		12/19/18
7	DD Meeting #1	City, PD, Design Team		01/16/18
8	DD Meeting #2	City, PD, Design Team		02/06/19
9	DD Meeting #3	City, PD, Design Team		02/20/19
10	CD Meeting #1	City, PD, Design Team		03/13/19
11	CD Meeting #2	City, PD, Design Team		03/27/19
12	CD Meeting #3	City, PD, Design Team		04/10/19
13	CD Meeting #4	City, PD, Design Team		05/01/19
14	CD Meeting #5	City, PD, Design Team		05/15/19
15	CD Meeting #6	City, PD, Design Team		05/29/19
16	CD Meeting #7	City, PD, Design Team		06/12/19

SECTION 8 – FINANCIAL SUMMARY

Maximum Total Fee and Expense: The City agrees to pay the Consultant a fee based on the actual hours expended on the Project at the rates indicated in the attached Schedule of Rates and the actual reimbursable expenses permitted under this Agreement and incurred on this Project, but not to exceed a maximum fee of \$1,348,800 for Design Services outlined below.

PRE-DESIGN SERVICES

Construction Manager Selection Assistance	4,500
Program Verification	32,000
Survey	23,800
Geotechnical Allowance	15,000
Development Plan Submittal	23,000
Rezoning	4,000
Platting	14,000
Traffic Study	10,500
TOTAL PRE-DESIGN SERVICES	126,800

BASIC SERVICES

Schematic Design	194,400
Design Development	259,200
Construction Documents	518,400
TOTAL BASIC SERVICES	972,000

ADDITIONAL DESIGN SERVICES

Reimbursables Allowance (printing and mileage)	38,000
Park Master Planning	42,000
Telecom and Security Design	32,000
Third-party Cost Estimating at DD Phase	18,000
Sanitary Sewer Relocation Allowance (8% of anticipated Construction Value)	20,000
FF&E Basic Layouts	no cost
FF&E Vendor Specific (coordination of one vendor – 3% of \$1M)	30,000
FF&E Bid Package (additional 7% of \$1M)	70,000
TOTAL ADDITIONAL DESIGN SERVICES	250,000

TOTAL DESIGN SERVICES **\$1,348,800**

ESTIMATED CONSTRUCTION PHASE SERVICES - Future Supplemental Agreement

Basic Construction Phase Services (2% of \$16 million construction budget)	320,000
Security System Commissioning	8,000
Building Commissioning	TBD
Additional Inspection (periodic site visits included in basic services)	TBD
Reimbursables Allowance (printing and mileage)	TBD

SCHEDULE OF RATES

Hourly rates are as follows:

Architect Personnel	Hourly Rate
Principal	\$220
Sr. Project Manager / Interior Design Director	\$180
Project Manager / Sr. Arch. Designer	\$160
Sr. Project Architect / Sr. Interior Designer	\$140
Project Architect / Arch. Designer	\$120
Architect / Interior Designer	\$100
Architect Intern / Interiors Intern	\$90
Administrative	\$70

Reimbursable Expenses: Reimbursable expenses are included in the total maximum fee. Reimbursable expenses include expenses of transportation in connection with the Project; expenses in connection with authorized out-of-town travel; long-distance communications; expenses of printing and reproductions, postage and facsimile transmissions; expenses of renderings and models requested by the City and other costs as authorized by the City. Reimbursable expenses will not include overhead costs or additional insurance premiums.

Compensation for reimbursable expense items and other charges incurred in connection with the performance of the work shall be in accordance with the following schedule:

Expense Item	Unit Cost
Travel, subsistence, mileage, and incidental expenses	Net Cost
Reproductions, plots, copies	*
Postage/deliveries of job-related materials	*
Computer services	*
Telephone costs	*
Photograph and video reproductions	Net Cost
Major reproductions for bidding	Net Cost
Subconsultant fees	Net Cost

*Applied to expense rate of \$8 per hour of salary billings.

Exhibit B

Conditional Partial Release and Waiver of Claims

To: _____, the Owner of the real estate (the "Property") identified below, and other parties, if any, having any interest in (hereinafter collectively the "Beneficiaries").

The "Property": _____

Description of the "Project": _____

The undersigned hereby applies for payment, certifies and waives lien rights, bond rights and all other claims.

Payment Request Amount: \$ _____

Date of last work covered by payment request: _____

Certificate

The undersigned, contingent upon the issuance, final clearance and payment of a valuable consideration of the sum stated above, and being familiar with the penalties for false certification, does hereby certify to the Beneficiaries that:

1. The amount requested for labor performed and equipment and material supplied on this Project or in connection with the Property reference above, represent the actual value of work accomplished under the terms of the undersigned's agreement and all authorized changes thereto concerning work to be performed on the Property (hereinafter the "Contract").

2. No labor, equipment or materials have been supplied by the undersigned to the Project which have not been included in the applications for payment submitted to date, under any agreement, verbal or written, or any arrangements of any type whatsoever, except as specifically noted here:

3. Payment in full, less retainage and other claims documented as required by the Contract (if any), has been made by the undersigned through the period covered by all prior payments (a) to all of the undersigned's subcontractors, equipment providers, materialmen and laborers, and (b) for all materials and labor used or furnished by the undersigned in connection with the performance of the Contract. The undersigned represents and warrants that it owes no monies or other things of value to any subcontractor, materialman, person or entity for work performed or material supplied through the date of the most recent payment by Owner, except as identified below:

4. The undersigned has complied with Federal, State and Local tax laws, including, without limitation, Income Tax Withholding, Sales Tax, Fringe Benefits owed pursuant to collective bargaining agreements, Social Security, Unemployment Compensation and Worker's Compensation laws, insofar as applicable to the performance of the contract. Specifically, the undersigned has paid, or out of the proceeds of this payment will promptly pay, all sales or use tax due and owing.

5. The undersigned acknowledges and agrees that it is receiving the funds paid in consideration of this Application as a trustee, and said funds will be held in trust for the benefit of all subcontractors, materialmen, suppliers and laborers who supplied work for which the Beneficiaries or their property might be liable, and that the undersigned shall have no interest in such funds until all these obligations have been satisfied in full.

Partial Waiver and Release of Claims

NOW, THEREFORE, contingent upon the issuance, final clearance and payment of \$_____, the undersigned irrevocably and unconditionally releases and waives any and all claims of any kind whatsoever against the Owner or in connection with the Contract and with the Property. The undersigned shall indemnify and hold the Beneficiaries and their respective successors and assigns harmless against any lien, bond, claims or suits in connection with the materials, labor, and everything else in connection with the Contract for which payment has been made.

Dated _____, 20__.

CONTRACTOR: _____

By: _____

Name: _____

Title: _____

State of _____)

County of _____)

On this _____ day of _____, 20____, before me, the undersigned, personally appeared _____, _____ of _____, known to me to be the person who executed this document and acknowledged to me that he/she executed the same for the purposes therein stated.

Notary Public in and for said County and State

Commission Expires

Exhibit C

Conditional Final Release and Waiver of Claims

To: _____, the Owner of the real estate (the "Property") identified below, and other parties, if any, having any interest in (hereinafter collectively the "Beneficiaries").

The "Property": _____

Description of the "Project": _____

The undersigned hereby applies for payment, certifies and waives lien rights, bond rights and all other claims.

Payment Request Amount: \$ _____

Certificate

The undersigned, contingent upon the issuance, final clearance and payment of a valuable consideration of the amount stated above, and being familiar with the penalties for false certification, does hereby certify to the Beneficiaries that:

1. The amount requested for labor performed and equipment and material supplied on this Project or in connection with the Property reference above, represent the actual value of work accomplished under the terms of the undersigned's agreement and all authorized changes thereto concerning work to be performed on the Property (hereinafter the "Contract").

2. No labor, equipment or materials have been supplied by the undersigned to the Project which have not been included in the applications for payment submitted to date, under any agreement, verbal or written, or any arrangements of any type whatsoever, except as specifically noted here:

3. Payment in full has been made, or with the funds requested hereby will be made, by the undersigned (a) to all of the undersigned's subcontractors, equipment providers, materialmen and laborers, and (b) for all materials and labor used or furnished by the undersigned in connection with the performance of the Contract. The undersigned represents and warrants that it owes no monies or other things of value to any subcontractor, materialman, person or entity for work performed or material supplied through the date of the most recent payment by Owner, and that the payments that have been or will be made out of this final payment to such persons or firms will fully and completely compensate them for all work in connection with the Project.

4. The undersigned has complied with Federal, State and Local tax laws,

including, without limitation, Income Tax Withholding, Sales Tax, Fringe Benefits owed pursuant to collective bargaining agreements, Social Security, Unemployment Compensation and Worker's Compensation laws, insofar as applicable to the performance of the contract.

5. The undersigned acknowledges and agrees that it is receiving the funds paid in consideration of this Application as a trustee, and said funds will be held in trust for the benefit of all subcontractors, materialmen, suppliers and laborers who supplied work for which the Beneficiaries or their property might be liable, and that the undersigned shall have no interest in such funds until all these obligations have been satisfied in full.

Final Waiver and Release of Claims

NOW, THEREFORE, the undersigned, contingent upon the issuance, final clearance and payment of \$_____, which the undersigned irrevocably and unconditionally releases and waives any and all claims of any kind whatsoever against the Owner or in connection with the Contract and with the Property. The undersigned shall indemnify and hold the Beneficiaries and their respective successors and assigns harmless against any lien, bond, claims or suits in connection with the materials, labor, and everything else in connection with the Contract.

Dated _____, 20__.

CONTRACTOR: _____

By: _____

Name: _____

Title: _____

State of _____)

County of _____)

On this _____ day of _____, 20____, before me, the undersigned, personally appeared _____, _____ of _____, known to me to be the person who executed this document and acknowledged to me that he/she executed the same for the purposes therein stated.

Notary Public in and for said County and State

Commission Expires

LAWRENCE POLICE HQ SCHEDULE

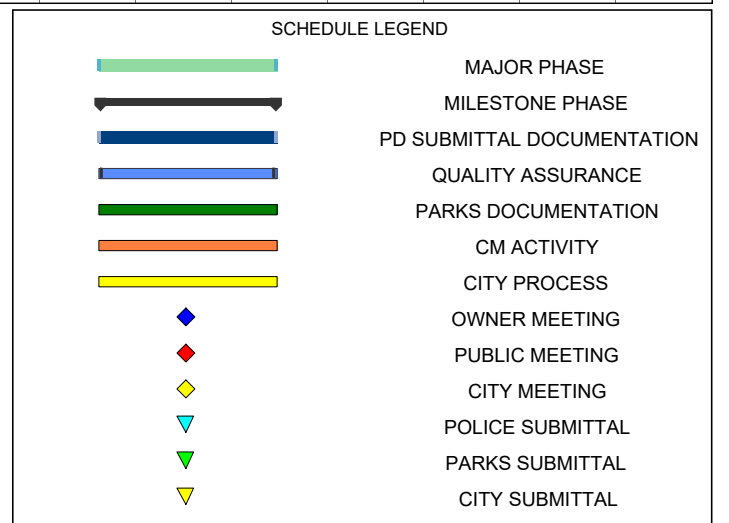
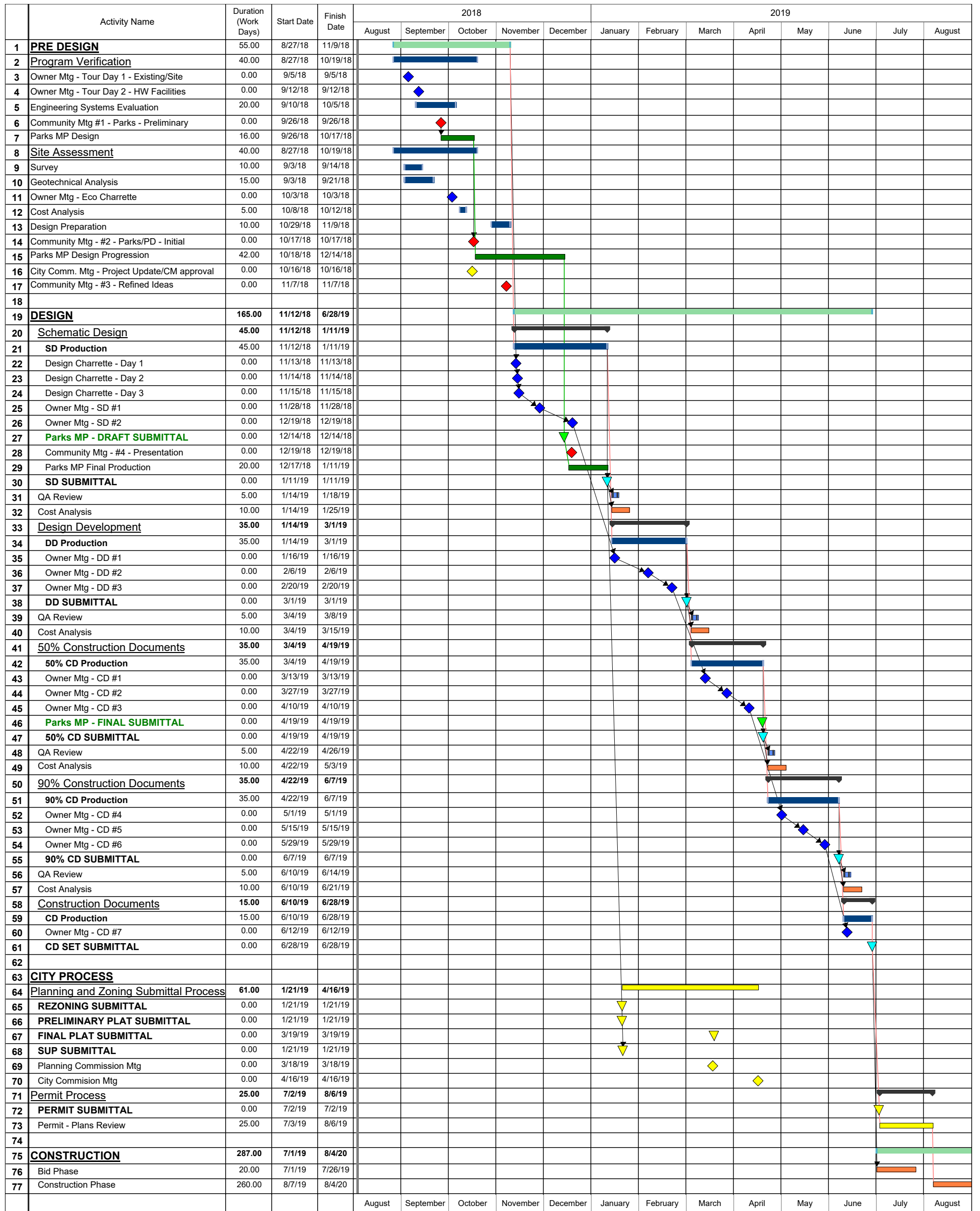


Exhibit D