

**A G E N D A**  
**WORK SESSION MEETING**  
**City of Moberly**  
**June 29, 2023**  
**6:00 PM**

**Requests, Ordinances, and Miscellaneous**

1. A Discussion Regarding A Hay Harvest Agreement Between The City Of Moberly, Missouri And For Mowing The City Wastewater Treatment Plant Biosolids Land Application Site And Authorizing The City Manager To Sign The Agreement.
2. A Discussion Regarding Accepting A Permanent Water And Sewer Line Easement For The Wright Legacy-Jermyn Sewer Project.
3. A Discussion Regarding Accepting The Bid And Authorizing The City Manager To Execute The Agreement For Morley Pump Station And Force Main EDA Project For Public Utilities.
4. Request To Have The Addition Of N And S Prefix To All Necessary College Ave Addresses.
5. A Request For Approving A Resolution Authorizing The Moberly Fire Department To Submit A Grant Application Through The Emergency Management Performance Grant Direct Assistance Program.
6. Discussion Of An Agreement Between WSKF and City Of Moberly for Joint Communication Renovation.

# City of Moberly

## City Council Agenda Summary

Agenda Number: \_\_\_\_\_

WS #1.

Department: Public Utilities

Date: June 29, 2023

**Agenda Item:** A Discussion Regarding A Hay Harvest Agreement Between The City Of Moberly, Missouri And For Mowing The City Wastewater Treatment Plant Biosolids Land Application Site And Authorizing The City Manager To Sign The Agreement.

**Summary:** The hay harvest project sought to identify area farmers who had capabilities (labor & equipment) for cutting, baling and removal of hay bales from the City Farm in a timely manner so application of biosolids by city personnel can then be made to the farm site also in a strict schedule so farmer/hay contractor can repeat the process to get as many hay crop cuttings done each year to recycle nutrients from the biosolids that are land applied for long term sustainability on the city's land application site. Boone Consulting contacted Mr. John Kirchhoff of the Randolph County Soil & Water Conservation District who knows farmers in the area who may be interested in participating in City's Hay Program.

Boone Consulting emailed and shared the RFP document and Farm Map attached with each of the provided farmers and spoke with each and toured the City Farm Site with interested parties to review. Boone Consulting then asked each of the interested farmers/hay contractors to submit a proposal to the City of Moberly if they were interested in the cutting, raking, baling and removal of hay bales. The farmers that John Kirchhoff provided and the response of each:

| Farmer   | Discussion/RFP  | Bid Hay Crop   |
|--|---|--|
| Don Wyatt<br>20829 Frost Pl<br>Callao, MO 63534<br>Cell Phone: 660-651-7438<br><a href="mailto:donwyatt@cvalley.net">donwyatt@cvalley.net</a>                        | <ul style="list-style-type: none"><li>• Several calls</li><li>• Emailed RFP</li><li>• Visit Farm Site</li></ul> | Will not work for their family this year. Still interested in future contract to do haying for the City. |
| Ryan Britt<br>11764 N. Highway 3<br>Clifton Hill, MO 65244<br>Cell Phone: 660-676-4898<br><a href="mailto:ryan.brittfarms@gmail.com">ryan.brittfarms@gmail.com</a>   | <ul style="list-style-type: none"><li>• Several calls</li><li>• Emailed RFP</li><li>• Visit Farm Site</li></ul> | \$1,555.00   |
| Grayden Pretz<br>703 E. Terrill St.<br>Moberly MO 65270<br>Cell phone: 785-375-9195<br><a href="mailto:Grayden.pretz28@gmail.com">Grayden.pretz28@gmail.com</a>      | <ul style="list-style-type: none"><li>• Several calls</li><li>• Emailed RFP</li><li>• Visit Farm Site</li></ul> | Decided not to bid this year.  |
| Daniel John Edgerton<br>3502 Highway D<br>Huntsville, MO 65259<br>Cell Phone: 660-414-5623<br><a href="mailto:dirt_rules36@hotmail.com">dirt_rules36@hotmail.com</a> | <ul style="list-style-type: none"><li>• Several calls</li><li>• Emailed RFP</li></ul>                           | Decided not to bid this year. Interested in the future.  |
| Marshall Dougherty<br>3080 State Rte. O<br>Higbee, MO 65243<br>Cell phone: 660-651-5492  | <ul style="list-style-type: none"><li>• No Interest</li></ul>   | Decided not to bid this year.  |
| Bill Chinn<br>County Road 2720<br>Moberly, Missouri 65270<br>Cell phone: 660-651-1882  | <ul style="list-style-type: none"><li>• No Interest</li></ul>   | N/A  |

NOTE: John Kirchhoff Randolph SWCD stated that other farmers may be interested in this project beginning in 2024...others may be watching this year and interested in hay bale feed value; (ADF-Acid Detergent Fiber, NDF-Neutral Detergent Fiber, TDN-Total Digestible Nutrients, RFV-Relative Feed Value, Protein, NEL-Net Energy of Lactation, and other nutrients) harvested this year.

WS #1.

**Recommended**

**Action:** Direct staff to present a resolution at the next council meeting.

**Fund Name:** N/A

**Account Number:** N/A

**Available Budget \$:** N/A

**ATTACHMENTS:**

|   |  |
|---|--|
| <input type="checkbox"/> Memo               | <input type="checkbox"/> Council Minutes               |
| <input type="checkbox"/> Staff Report       | <input type="checkbox"/> Proposed Ordinance            |
| <input type="checkbox"/> Correspondence     | <input type="checkbox"/> Proposed Resolution           |
| <input type="checkbox"/> Bid Tabulation     | <input type="checkbox"/> Attorney's Report             |
| <input type="checkbox"/> P/C Recommendation | <input type="checkbox"/> Petition                      |
| <input type="checkbox"/> P/C Minutes        | <input type="checkbox"/> Contract                      |
| <input type="checkbox"/> Application        | <input type="checkbox"/> Budget Amendment              |
| <input type="checkbox"/> Citizen            | <input type="checkbox"/> Legal Notice                  |
| <input type="checkbox"/> Consultant Report  | <input type="checkbox"/> Other <u>Agreement, other</u> |

**Roll Call**

**Aye**

**Nay**

**Mayor**

M\_\_\_ S\_\_\_ **Brubaker**

\_\_\_

\_\_\_

**Council Member**

M\_\_\_ S\_\_\_ **Lucas**

\_\_\_

\_\_\_

M\_\_\_ S\_\_\_ **Kimmons**

\_\_\_

\_\_\_

M\_\_\_ S\_\_\_ **Jeffrey**

\_\_\_

\_\_\_

M\_\_\_ S\_\_\_ **Kyser**

\_\_\_

\_\_\_

Passed Failed

City of

*Moberly!*

101 West Reed Street ■ Moberly, Missouri 65270-1551

Phone: (660) 263-4420

Fax: (660) 263-9398

**CITY OF MOBERLY WWTP FARM – HAY HARVEST  
REQUEST FOR PROPOSALS (RFP) TO MOW, BALE, & REMOVE HAY BALES 2023 SEASON**

City of Moberly is considering a one-year (2023-growing season) RFP to cut, bale, and remove hay bales from the WWTP Farm 117 +/- acres (see attached map with address) that has been seeded to a grass/legume mixture. City will contact bidder 30 days before cutting of hay can begin and will have 10-12 days to cut, bale, and remove hay bales from the farm-site.

City will land apply treated liquid biosolids that meet both federal/state regulations outlined in 40CFR503 and PART III STANDARD CONDITIONS – stating a 30 day pause before harvesting after application of biosolids.

The first cutting/baling of hay will be in July 2023 and possible second cutting/baling in late September 2023 depending upon weather.

Bidder will make payment to City (payable to the City of Moberly) within 5 days after each harvest. Bidder agrees to pay Lump Sum for each cutting after harvest \$ 1,555.<sup>00</sup>.

Bidder understands and agrees to responsibilities outlined in this RFP and General Instructions for cutting, baling, & removing hay bales from the WWTP Farm.

Price & Signature of this RFP must be submitted to City Hall by June 9, 2023 to be considered.



Bidder Signature

6-9-23

Date

Email: ryan.britt@farms@gmail.comRyan Britt

Print Name

Address: 1114 N Hwy 3  
Clifton Hill, MO 65244



City of

*Moberly!*

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101 West Reed Street ■ Moberly, Missouri 65270-1551  
Phone: (660) 263-4420  
Fax: (660) 263-9398

**RFP to Mow, Bale, & Remove Hay Bales - General Instructions**

1. The highest, or any proposal, may not be accepted. Processing proposals and the subsequent awarding of the agreement will take approximately one week.
2. The bidder is responsible for viewing the farm prior to bidding.
3. The bidder is responsible for all field activities in regard to cutting, baling and removing of hay bales.
4. Schedule #1: Cutting of hay must not start before the 30 notice by the City.
5. Schedule #2: All cut hay must then be removed from the farm-site in 10-12 day time-frame.
6. The bidder will communicate with Wastewater Chief Operator on any and all activities on the farm-site. Emily Lute can be contacted by phone at Plant: 660-269-9437.
7. City does recognize that there is some wood debris and some possible rocks in places due to the removal of timber. Bidder to be aware.
8. The bidder is responsible for all field activities in regard to mowing, baling and removal of the hay. The bidder shall ensure that they operate with due consideration for the condition of the property and not enter or run equipment if field conditions are such that damage to the land will occur (i.e. wet or soft field conditions).
9. The bidder shall assume the full responsibility for safety in accordance with all the applicable laws, regulations and generally accepted practices, including safety of all persons and property.
10. The bidder hereby releases City of Moberly and its officers, employees and agents from any actions, claims, accounts, demands, or injuries which the bidder now has or may have in cutting, baling, and removal of hay bales.

**ACREAGE EXHIBIT FOR  
CITY OF MOBERLY-WASTEWATER TREATMENT PLANT FARM**

**1429 County Road, Moberly, MO 65270**

A PORTION OF SECTION 33, TOWNSHIP 54 NORTH, RANGE 13 WEST  
RANDOLPH COUNTY, MISSOURI 117 Acres +/- Hayland



**RANDOLPH COUNTY SURVEYING  
& MAPPING**

**Anthony Derboven, PLS**  
7669 Highway B  
Higbee, MO 65257  
(573)289-3256

**SITE ADDRESS**  
COUNTY ROAD 150  
MOBERLY MO 65270



**NOTES**

1. THE BASIS OF BEARINGS IS GRID NORTH AS DETERMINED BY GPS OBSERVATION, REFERENCED TO THE MISSOURI CENTRAL ZONE.
2. THIS SURVEY WAS EXECUTED TO COMPLY WITH THE ACCURACY STANDARDS FOR A RURAL CLASS PROPERTY JANUARY, 2023



## HAY CUTTING, BALING, & REMOVAL HAY BALES SALE AGREEMENT

THIS AGREEMENT by and between the City of Moberly, Missouri, a municipal corporation, (hereinafter called "City") and Ryan Britt (hereinafter called "Hay Contractor") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2023 (hereinafter the "Effective Date"). City and Contractor are each individually referred to herein as a "Party" or collectively as the "Parties".

WHEREAS, City sought Proposals from qualified vendors for the hay cutting, baling, and removal of hay bales from approximately one hundred seventeen (117+/-) acres on farmland where conservation improvements and newly seeded vegetation of city owned real estate north of the Waste Water Treatment Plant; and

WHEREAS, the Hay Contractor is a Missouri owned business willing to provide the desired services and was the successful bidder for the City request; and

WHEREAS, City is the legal owner of hay crop located on the City property and warrants the title to the hay bales hereby conveyed against the lawful claims of all third parties.

WHEREAS, Hay Contractor agrees to buy the hay bales described herein upon the terms and conditions provided.

**NOW**, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree as follows:

### 1. PROJECT DESCRIPTION AND SCOPE OF WORK.

#### Project Description.

Hayland crop is located on one-hundred seventeen (117+/-) acres on City of Moberly, Missouri, north of the Waste Water Treatment Plant (WWTP) which is shown on the attached Exhibit- Map. Hay Contractor has agreed to cut, bale and remove hay bales from the property.

#### Scope of Work.

- The Hay Contractor is responsible for all field activities in regard to cutting, baling and removing of hay bales.
- Hay Contractor must not start cutting hay before the 30 Day notice by the City.
- All cut hay must be bales and hay bales removed from the farm-site in a 10-12 day

timeframe by Hay Contractor.

- The Hay Contractor will communicate with Wastewater Chief Operator on any and all activities on the farm-site. Emily Lute can be contacted by phone at Wastewater Plant during business hours at 660-269-9437.
- City does recognize that there is some wood debris and some possible rocks in places due to the removal of timber. Hay Contractor is to be aware.
- The Hay Contractor is responsible for all field activities in regard to mowing, baling and removal of hay bales. The Hay Contractor shall ensure that all operations in cutting, baling, and removal of hay bales with due consideration for the condition of the property and not enter or run equipment if field conditions are such that damage to the land will occur (i.e. wet or soft field conditions).
- The Hay Contractor shall assume the full responsibility for safety in accordance with all the applicable laws, regulations and generally accepted practices, including safety of all persons and property.
- The bidder hereby releases City of Moberly and its officers, employees and agents from any actions, claims, accounts, demands, or injuries which the bidder now has or may have in cutting, baling, and removal of hay bales.

## **2. CONSIDERATION.**

### In-Kind.

The sole consideration for the work performed by Hay Contractor pursuant to this agreement shall be retaining the hay bales harvested from the property. Further the Hay Contractor agrees to pay to City the sum of One Thousand Five Hundred Fifty-Five Dollars for the hay bales removed from the property which amount the Parties agree is fair compensation for the value of the hay bales for each cutting.

### Payment.

Hay Contractor shall make payment to City in a lump sum of One Thousand Five Hundred Fifty-Five Dollars (\$1,555.00) following completion of the cutting, baling, and removal of hay bales. Payment to be made no later than thirty days (30) after removal of the hay bales from the property.

## **3. TERM.**

Hay Contractor may begin performance of this agreement the week of July 17, 2023, weather and land conditions. Cutting of hay, baling, and removal of hay bales is estimated to take ten-to-twelve days (10-12) days to complete. Second cutting hay, baling, and removal of hay bales in September-October 2023 will follow all items outlined in this agreement.

#### **4. HOLD HARMLESS AGREEMENT AND IMMUNITIES.**

##### Hold Harmless.

To the fullest extent not prohibited by law, Hay Contractor shall indemnify and hold harmless the City of Moberly, its elected officials, officers, agents and employees from and against all claims, damages, losses, and expenses (including but not limited to attorneys and fees) arising by reason of any act or failure to act, negligence or otherwise of Hay Contractor, of any subcontractor, or anyone directly or indirectly employed by Hay Contractor or any subcontractor, in connection with this agreement. These provisions do not, however, require Hay Contractor to indemnify, hold harmless, or defend City from its own negligence.

##### Immunities.

The Parties hereto understand and agree City is relying on and does not waive or intend to waive by any provision of this Contract any monetary limitations, or any other rights, immunities and protections provided by the State of Missouri, as from time to time amended, or otherwise available to the City, or its elected officials and employees.

#### **5. DEFAULT.**

Hay Contractor shall be in default for failure to comply with any provision of this Agreement. City may immediately terminate the agreement based upon the events of default described herein with or without notice to Hay Contractor. At City's option in the event of default it may provide Hay Contractor with ten (10) days' notice and allow Hay Contractor to cure the default within that time.

#### **6. GOVERNING LAW AND VENUE.**

This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Missouri. The venue for all litigation arising or relating to the Agreement shall be in the Circuit Court of Randolph County, Missouri.

## 7. INDEPENDENT CONTRACTOR.

It is understood by both Parties that Hay Contractor is an independent contractor and not an employee of City. Hay Contractor shall not transfer or subcontract any part of this Agreement without prior written approval of City.

## 8. INSURANCE.

If required by state law, the contractor shall be covered by workers' compensation and public liability insurance and shall provide proof of insurance coverage for the duration of the agreement to City upon execution of this agreement. Further Hay Contractor agrees that all vehicles utilized by it in the performance of this Agreement shall be covered by General Liability Insurance with limits of at least \$1,000,000 each occurrence (combined single limit for bodily injury and property damage).

## 9. ENTIRE AGREEMENT.

This document represents the entire agreement between the Parties. All previous or contemporaneous representations, promises and conditions relating to Hay Contractor's services are superseded.

IN WITNESS WHEREOF, the Parties have hereunto set their hands the day and year first above written.

### CITY OF MOBERLY

By: \_\_\_\_\_  
Brian Crane, City Manager

Attest: \_\_\_\_\_  
Shannon Hance, City Clerk

Ryan Britt

By: \_\_\_\_\_



**ACREAGE EXHIBIT FOR  
CITY OF MOBERLY-WASTEWATER TREATMENT PLANT FARM**

**1429 County Road, Moberly, MO 65270**

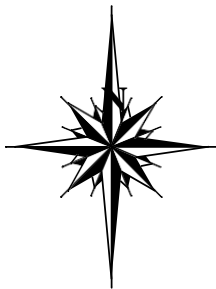
A PORTION OF SECTION 33, TOWNSHIP 54 NORTH, RANGE 13 WEST  
RANDOLPH COUNTY, MISSOURI 117 Acres +/- Hayland



**RANDOLPH COUNTY SURVEYING  
& MAPPING**

**Anthony Derboven, PLS**  
7659 Highway B  
Higbee, MO 65257  
(573)289-3256

SITE ADDRESS  
COUNTY ROAD 1350  
MOBERLY, MO 65170



- NOTES
1. THE BASIS OF BEARINGS IS GRID NORTH AS DETERMINED BY GPS OBSERVATION. REFERENCED TO THE MISSOURI CENTRAL ZONE.
  2. THIS SURVEY WAS EXECUTED TO COMPLY WITH THE ACCURACY STANDARDS FOR A RURAL CLASS PROPERTY JANUARY, 2023



# City of Moberly

## City Council Agenda Summary

Agenda Number: WS #2.  
 Department: Public Utilities  
 Date: June 29, 2023

**Agenda Item:** A Discussion Regarding Accepting A Permanent Water and Sewer Line Easement For The Wright Legacy-Jermyn Sewer Project.

**Summary:** The city desires to extend gravity sewer north from Wright Legacy property north onto the Jermyn property. This project has been in the planning stage since the 1990s. This easement and sewer extension will allow Moberly to serve the adjoining properties in the future should development occur to the west of these properties, and allow the Jermyn property to connect to city sewer and cease use of an onsite evaporative lagoon. The city needs to officially accept this easement from the property owner to complete the transaction. This action will officially accept the easement. The location of the property currently granting the easement is:

“...20.0 foot sanitary sewer easement  
 A strip of land being a portion of lot 1 of Christian’s subdivision Urbandale Road, and being located in the southwest quarter of section 12, township 53 north, range 14 west, city of Moberly, Randolph county, Missouri ...”

**Recommended Action:** Direct staff to present a resolution at the next regularly scheduled council meeting.

**Fund Name:** N/A

**Account Number:** N/A

**Available Budget \$:** N/A

| ATTACHMENTS:                                |   | Roll Call                 | Aye    | Nay    |
|---|---|---------------------------|--------|--------|
| <input type="checkbox"/> Memo               | <input type="checkbox"/> Council Minutes                  | <b>Mayor</b>              |        |        |
| <input type="checkbox"/> Staff Report       | <input type="checkbox"/> Proposed Ordinance               | M___ S___ <b>Brubaker</b> | ___    | ___    |
| <input type="checkbox"/> Correspondence     | <input type="checkbox"/> Proposed Resolution              |                           |        |        |
| <input type="checkbox"/> Bid Tabulation     | <input type="checkbox"/> Attorney's Report                | <b>Council Member</b>     |        |        |
| <input type="checkbox"/> P/C Recommendation | <input type="checkbox"/> Petition                         | M___ S___ <b>Lucas</b>    | ___    | ___    |
| <input type="checkbox"/> P/C Minutes        | <input type="checkbox"/> Contract                         | M___ S___ <b>Kimmons</b>  | ___    | ___    |
| <input type="checkbox"/> Application        | <input type="checkbox"/> Budget Amendment                 | M___ S___ <b>Jeffrey</b>  | ___    | ___    |
| <input type="checkbox"/> Citizen            | <input type="checkbox"/> Legal Notice                     | M___ S___ <b>Kyser</b>    | ___    | ___    |
| <input type="checkbox"/> Consultant Report  | <input checked="" type="checkbox"/> Other <u>Easement</u> |                           | Passed | Failed |

- 
1. Title: PERMANENT SEWER EASEMENT
  2. Date: 6-10-23
  3. Grantor: Cathey E. Dodd and Stephen E. Wright, Trustees of the Wright Legacy Trust dated December 7, 2020
  4. Grantee: City of Moberly, Missouri
  5. Mailing Address of Grantee: 101 West Reed Street, Moberly, MO 65270
  6. Legal Description:  
*DESCRIPTION: 20.0 FOOT SANITARY SEWER EASEMENT*  
*A STRIP OF LAND BEING A PORTION OF LOT 1 OF CHRISTIAN'S SUBDIVISION URBANDALE ROAD, AND BEING LOCATED IN THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 53 NORTH, RANGE 14 WEST, CITY OF MOBERLY, RANDOLPH COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:*

*COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1 AND WITH THE SOUTH LINE THEREOF, N 88° 08' 38" W, 183.98 FEET; THENCE LEAVING THE SOUTH LINE OF SAID LOT 1, N 1° 05' 41" W, 39.25 FEET TO THE END OF AN EXISTING SEWER EASEMENT RECORDED IN BOOK 59M, PAGE 374. AND THE POINT OF BEGINNING OF THIS DESCRIBED STRIP: SAID STRIP BEING 20.00 FEET WIDE AND LYING 10.00 FEET ON BOTH SIDES OF AND ADJACENT TO THE FOLLOWING DESCRIBED CENTERLINE; THENCE FROM THE POINT OF BEGINNING, N 1° 05' 41" W, 61.25 FEET TO THE NORTH LINE OF SAID LOT 1 AND THE END OF THIS DESCRIBED CENTERLINE.*

*THE END POINT OF THIS DESCRIBED CENTERLINE BEING 188.60 FEET FROM THE NORTHEAST CORNER OF SAID LOT 1 AS MEASURED ALONG THE NORTH LINE THEREOF.*

*THE ABOVE DESCRIBED STRIP OF LAND IS A PORTION OF THE SAME LAND DESCRIBED BY DEED RECORDED IN BOOK 925, PAGE 1469, OF THE RANDOLPH COUNTY RECORDS. SUBJECT TO ANY EASEMENT OR RESTRICTION OF RECORD OR NOT OF RECORD, IF ANY.*

#### PERMANENT SEWER EASEMENT

#### KNOW ALL MEN BY THESE PRESENTS:

**THAT**, Cathey E. Dodd and Stephen E. Wright, Trustees of the Wright Legacy Trust dated December 7, 2020 hereinafter called the Grantor, for and in consideration of One Thousand Dollars (\$1,000.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, sell and convey unto the City of Moberly, Missouri, a municipal corporation of the State of Missouri, hereafter called Grantee, an easement or right of way for the location, construction, reconstruction, maintenance, removal, operation and repair of a sewer line, manhole(s) and any and all appurtenances incidental thereto on, over, under and through the following described tract of land lying, being and situated in the City of Moberly, Randolph County, Missouri, to-wit:

*DESCRIPTION: 20.0 FOOT SANITARY SEWER EASEMENT*

*A STRIP OF LAND BEING A PORTION OF LOT 1 OF CHRISTIAN'S SUBDIVISION URBANDALE ROAD, AND BEING LOCATED IN THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 53 NORTH, RANGE 14 WEST, CITY OF MOBERLY, RANDOLPH COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:*

*COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1 AND WITH THE SOUTH LINE THEREOF, N 88° 08' 38" W, 183.98 FEET; THENCE LEAVING THE SOUTH LINE OF SAID LOT 1, N 1° 05' 41" W, 39.25 FEET TO THE END OF AN EXISTING SEWER EASEMENT RECORDED IN BOOK 59M, PAGE 374. AND THE POINT OF BEGINNING OF THIS DESCRIBED STRIP: SAID STRIP*

BEING 20.00 FEET WIDE AND LYING 10.00 FEET ON BOTH SIDES OF AND ADJACENT TO THE FOLLOWING DESCRIBED CENTERLINE; THENCE FROM THE POINT OF BEGINNING, N 1° 05' 41" W, 61.25 FEET TO THE NORTH LINE OF SAID LOT 1 AND THE END OF THIS DESCRIBED CENTERLINE.

THE END POINT OF THIS DESCRIBED CENTERLINE BEING 188.60 FEET FROM THE NORTHEAST CORNER OF SAID LOT 1 AS MEASURED ALONG THE NORTH LINE THEREOF.

THE ABOVE DESCRIBED STRIP OF LAND IS A PORTION OF THE SAME LAND DESCRIBED BY DEED RECORDED IN BOOK 925, PAGE 1469, OF THE RANDOLPH COUNTY RECORDS. SUBJECT TO ANY EASEMENT OR RESTRICTION OF RECORD OR NOT OF RECORD, IF ANY

**TO HAVE AND TO HOLD** the same for the aforesaid use with all rights, privileges, appurtenances, and immunities thereto belonging unto the Grantee, its successors and assigns for so long as said use shall continue, the Grantor hereby covenanting for its heirs and successors and assigns unto the Grantee, its successors and assigns the following:

1. Said easement will be kept free from buildings and any other structures or obstructions which will interfere with the Grantee in using said land for the purpose of erecting, constructing, reconstructing, operating, repairing, and maintaining said sewer line and appurtenances.
2. The right of Grantee, its agents, servants, employees, or independent contractor to go upon said land, and so much of the Grantor's adjoining land as may be reasonably necessary, at any time for the purpose of erecting, constructing, reconstructing, operating, removing, replacing, repairing, or maintaining said sewer line and all appurtenances incidental thereto.
3. That Grantor is lawfully seized and possessed of the real estate above described, that it has a good and lawful right to convey the same; that it is free from all encumbrances done or suffered by them which would interfere with the rights granted hereunder; and that it will forever warrant and defend the title thereto against the lawful claims of all affecting the right and easement granted hereunder.
4. Grantee may exercise the rights granted under this instrument so long as Grantee utilizes the real estate above described for the purpose of erecting, constructing, reconstructing, operating, removing, replacing, repairing or maintaining said sewer line and once Grantee ceases such use this Easement shall terminate.

**IN WITNESS WHEREOF**, said Grantor does hereunder set his hand and subscribe his name to the foregoing, this 10 day of June, 2023.

CITY OF MOBERLY, MISSOURI, Grantee

WRIGHT LEGACY TRUST, Grantor

By: \_\_\_\_\_  
Brian Crane, City Manager

By: Cathey E. Dodd  
Cathey E. Dodd, Trustee

ATTEST: \_\_\_\_\_  
Shannon Hance, City Clerk

By: Stephen E. Wright  
Stephen E. Wright, Trustee



## GRANTOR'S ACKNOWLEDGMENT

STATE OF MISSOURI           )  
   )  
 COUNTY OF RANDOLPH       )

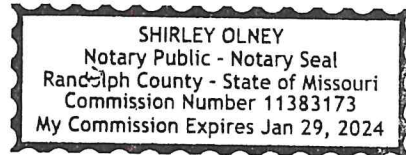
On this 10 day of June, 2023, before me, the undersigned Notary Public, personally appeared Cathey E. Dodd, to me personally known, who by me being duly sworn, did say she is a Trustee of the Wright Legacy Trust, dated December 7, 2020, and that said instrument was signed by her in accordance with authority granted to her by the Wright Legacy Trust and acknowledged that she executed the same as her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in Randolph County, Missouri, the day and year last above written.

Shirley Olney

Notary Public

My commission expires Jan 29, 2024



## GRANTOR'S ACKNOWLEDGMENT

STATE OF MISSOURI           )  
   )  
 COUNTY OF RANDOLPH       )

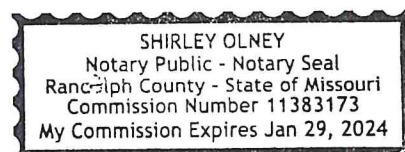
On this 28 day of April, 2023, before me, the undersigned Notary Public, personally appeared Stephen E. Wright, to me personally known, who by me being duly sworn, did say he is a Trustee of the Wright Legacy Trust, dated December 7, 2020, and that said instrument was signed by him in accordance with authority granted to him by the Wright Legacy Trust and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in Randolph County, Missouri, the day and year last above written.

Shirley Olney

Notary Public

My Commission expires Jan 29, 2024



## GRANTEE'S ACKNOWLEDGMENT

STATE OF MISSOURI            )  
   )  
 COUNTY OF RANDOLPH        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned Notary Public, personally appeared Brian Crane, to me personally known, who being by me duly sworn, did say he is the City Manager of the City of Moberly, Missouri, a municipal corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its City Council, and the said Brian Crane acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal at my office in Randolph County, Missouri, the day and year last above written.

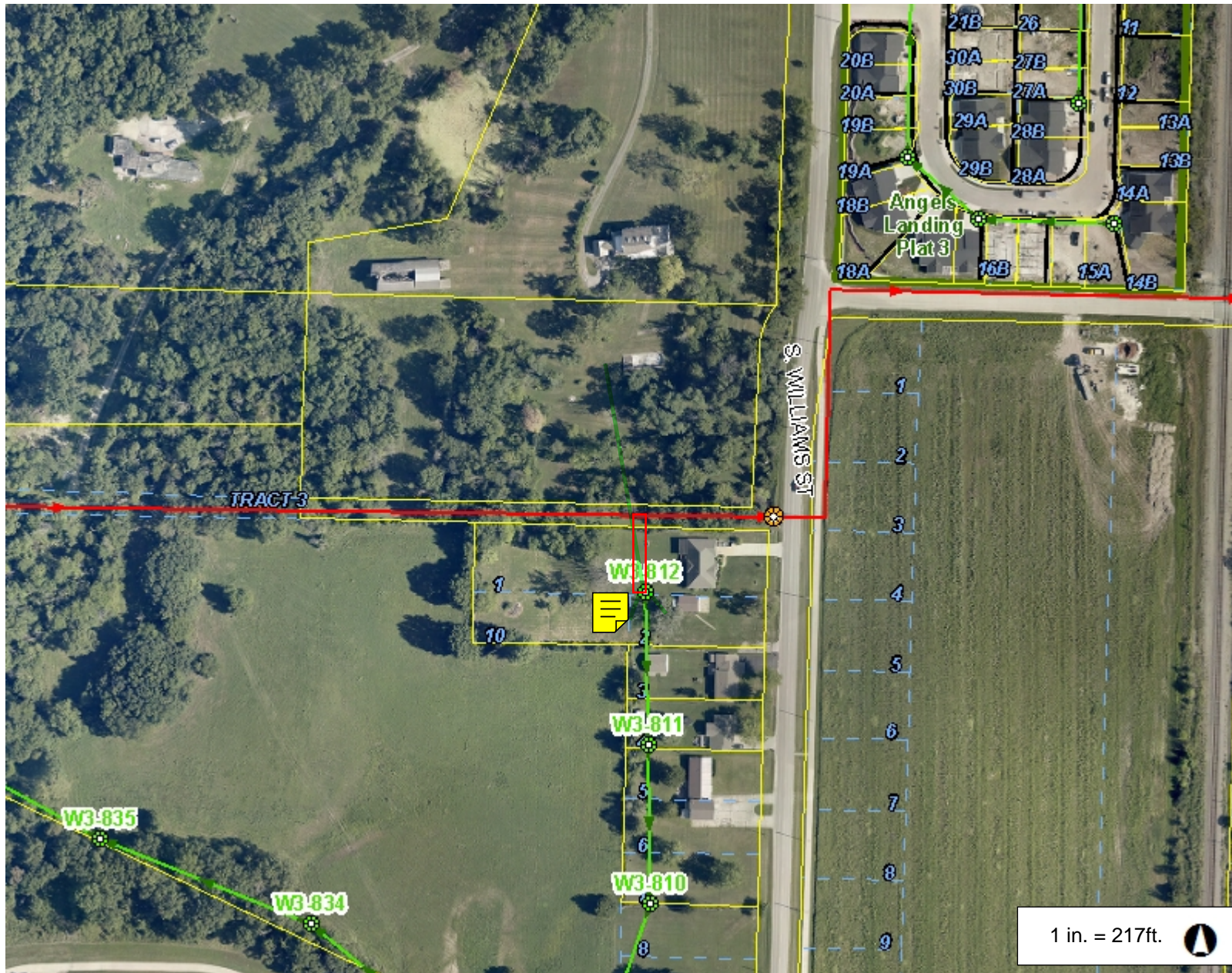
\_\_\_\_\_  
 Notary Public

My commission expires: \_\_\_\_\_



# Moberly, MO

WS #2.



## Legend

- Sewer Line Investigation Locat
- ⊕ Manhole
- ⊕ Air Release Valve
- ⬠ Lamphole
- ⬠ Lift Station
- Other Sewer Feature
  - Area Inlet
  - ⊕ Bar Screen
  - ⊕ Curb Inlet
  - ⊕ Grate Inlet
  - G Grit Chamber
  - ⊕ Storm Drain
  - ⬠ Tee
- Gravity Main
- Force Main
- Private Sewer Line
- LS\_Electrical
- Roads
  - Corporate Limit
  - Parcel
  - Original Lot
  - Stream
  - Subdivision
  - Lots
  - South Ridge Lot Line
  - City Easement

## Notes

433.0 0 216.50 433.0 Feet

This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.



# City of Moberly

## City Council Agenda Summary

Agenda Number: WS #3.

Department: Public Utilities

Date: June 29, 2023

**Agenda Item:** A Discussion Regarding Accepting The Bid And Authorizing The City Manager To Execute The Agreement For Morley Pump Station And Force Main EDA Project For Public Utilities.

**Summary:** The Public Utilities Department has received bids for the Morley Pump Station And Force Main EDA Project that was approved as one of six projects included within an EDA grant. The quote selected is the \$1,908,522.00 from Emery Sapp & Sons Inc.. The advertisement for bids resulted in bids received ranging from this lowest bid of \$1,829,385.20 to the high bid of \$2,059,198.00. The lowest bidder failed to meet the minimum demonstrated experience requirement for this type of construction work, namely sewer lift station construction and was excluded. This exclusion was approved by EDA. Project funding is from an EDA Grant with a corresponding Moberly match. EDA requires project completion no later than September 28, 2024. EDA approval of this award is included.

### Recommended

**Action:** Direct staff to offer a resolution at the next council meeting

**Fund Name:** Capital Improvement Plan

**Account Number:** 301.112.5412

**Available Budget \$:** To be secured from capital reserve

| ATTACHMENTS:                                |   | Roll Call                 | Aye                      | Nay                      |
|---|---|---------------------------|--------------------------|--------------------------|
| <input type="checkbox"/> Memo               | <input type="checkbox"/> Council Minutes                  | <b>Mayor</b>              |                          |                          |
| <input type="checkbox"/> Staff Report       | <input type="checkbox"/> Proposed Ordinance               | M___ S___ <b>Brubaker</b> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Correspondence     | <input type="checkbox"/> Proposed Resolution              |                           |                          |                          |
| <input type="checkbox"/> Bid Tabulation     | <input type="checkbox"/> Attorney's Report                | <b>Council Member</b>     |                          |                          |
| <input type="checkbox"/> P/C Recommendation | <input type="checkbox"/> Petition                         | M___ S___ <b>Lucas</b>    | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> P/C Minutes        | <input checked="" type="checkbox"/> Contract              | M___ S___ <b>Kimmons</b>  | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Application        | <input type="checkbox"/> Budget Amendment                 | M___ S___ <b>Jeffrey</b>  | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Citizen            | <input type="checkbox"/> Legal Notice                     | M___ S___ <b>Kyser</b>    | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Consultant Report  | <input checked="" type="checkbox"/> Other <u>Exhibits</u> |                           | Passed                   | Failed                   |



United States Department of Commerce  
Economic Development Administration  
Denver Regional Office  
1244 Speer Boulevard, Suite 431  
Denver, Colorado 80204

WS #3.

Date: June 22, 2023

In reply refer to:  
Award No. 05-79-06034

Tim Brubaker  
Mayor, City of Moberly  
101 West Reed  
Moberly, MO 65270

Re: Infrastructure Improvements  
Bid Award Approval

Dear Mayor Brubaker:

The Economic Development Administration (EDA) has reviewed the bid award documentation, which you submitted for construction of the City of Moberly Pump Station Retrofit and Force Main Extension Project. We concur with your proposed award of a contract to the following bidder:

| <u>CONTRACTOR</u>       | <u>TYPE OF WORK</u> | <u>AMOUNT</u> |
|-------------------------|---------------------|---------------|
| Emery Sapp & Sons, Inc. | Utility Work        | \$1,908,522   |

To obtain EDA approval of the executed contract documents, please submit one copy of the following:

1. A copy of the Executed Documents Checklist. This checklist is located on the Post-Approval Tool.
2. All documents furnished to the bidder, prior to the receipt of bids, including all addenda issues upon which the bids were based, if not previously submitted.
3. A copy of the executed contract or agreement between the grantee and the contractor, with all necessary blanks completed.
4. A copy of the performance and payment bonds for the contractor, dated the same, or not prior to the date of the contract, and supported by a properly signed power of attorney issued by the Surety.
5. A copy of the Certificate of Insurance which the contractor must carry, in conformance with the contract requirements.
6. An executed copy of the Certificate Regarding Lobbying, from the contractor, as required by Section 1352, Title 31, of the U.S. Code, if not previously submitted.

7. A copy of the Recipient's Notification of Award of Prime Contracts letter to the Director, Office of Federal Contract Compliance Programs (OFCCP), in response to the requirements of E.O. 11246 and 41 CFR Chapter 60.

WS #3.

Once construction has started, the contractor and subcontractors are required to submit weekly payroll reports. The payroll reports may be submitted on the U.S. Department of Labor Standard Form WH-347 or on the contractor's own form provided the form contains all of the information required on the Form WH-347. In addition, a "Statement of Compliance" will need to be submitted with each payroll. Although copies of the payrolls do not need to be submitted to this office, you must retain a copy of each payroll for a period of three (3) years and submit copies to this office upon request.

If you have any questions, please contact me at (202) 880-2906

Sincerely,  
**Katherine  
Travers**

Digitally signed by  
Katherine Travers  
Date: 2023.06.22 11:51:25  
-06'00'

Katherine Travers, PE  
Project Engineer

Morley St. Lift Station  
Retrofit and Force  
Main

WS #3.

CITY OF MOBERLY

"BID OPENING"

Date: 5/23/2023 1:00 pm

Earthworks Excavation \$ 2,059,198.<sup>00</sup>

Willis Bros. \$ 2,049,750.<sup>00</sup>

Gene Haile Excavating Inc. \$ 1,829,385.<sup>20</sup>

BSS \$ 1,908,522.<sup>00</sup>

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

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# City of Moberly

## City Council Agenda Summary

Agenda Number: \_\_\_\_\_

WS #4.

Department: Comm. Dev.

Date: June 29, 2023

**Agenda Item:** Request to have the addition of N and S prefix to all necessary College Ave addresses.

**Summary:** The Postmaster recommended the obvious which is to add N or S prefix to all College Avenue addresses. Only one address would be impacted by adding the N. prefix. The S. would impact 8 private houses and multiple address points with the college. If agreeable, we would have to revise our ordinance for street names to include that prefix. I have included a section of code at the bottom that describes that process and notification procedure.

**Recommended Action:** Direct staff to bring forward to the July 17, 2023 regular City Council meeting for final approval.

**Fund Name:** N/A

**Account Number:** N/A

**Available Budget \$:** N/A

### ATTACHMENTS:

|   |   |
|---|---|
| <input type="checkbox"/> Memo               | <input type="checkbox"/> Council Minutes          |
| <input type="checkbox"/> Staff Report       | <input type="checkbox"/> Proposed Ordinance       |
| <input type="checkbox"/> Correspondence     | <input type="checkbox"/> Proposed Resolution      |
| <input type="checkbox"/> Bid Tabulation     | <input type="checkbox"/> Attorney's Report        |
| <input type="checkbox"/> P/C Recommendation | <input type="checkbox"/> Petition                 |
| <input type="checkbox"/> P/C Minutes        | <input type="checkbox"/> Contract                 |
| <input type="checkbox"/> Application        | <input type="checkbox"/> Budget Amendment         |
| <input type="checkbox"/> Citizen            | <input type="checkbox"/> Legal Notice             |
| <input type="checkbox"/> Consultant Report  | <input checked="" type="checkbox"/> Other Request |

### Roll Call

Aye

Nay

### Mayor

M\_\_\_ S\_\_\_ **Brubaker**

### Council Member

M\_\_\_ S\_\_\_ **Lucas**

M\_\_\_ S\_\_\_ **Kimmons**

M\_\_\_ S\_\_\_ **Jeffrey**

M\_\_\_ S\_\_\_ **Kyser**

Passed

Failed

**Carla Beal**

---

**From:** Tom Sanders  
**Sent:** Tuesday, June 20, 2023 2:43 PM  
**To:** Shirley Olney; Carla Beal  
**Cc:** Brian Crane; Randall Thompson; tlink; DR  
**Subject:** Addition of N & S prefix to all necessary College Ave addresses

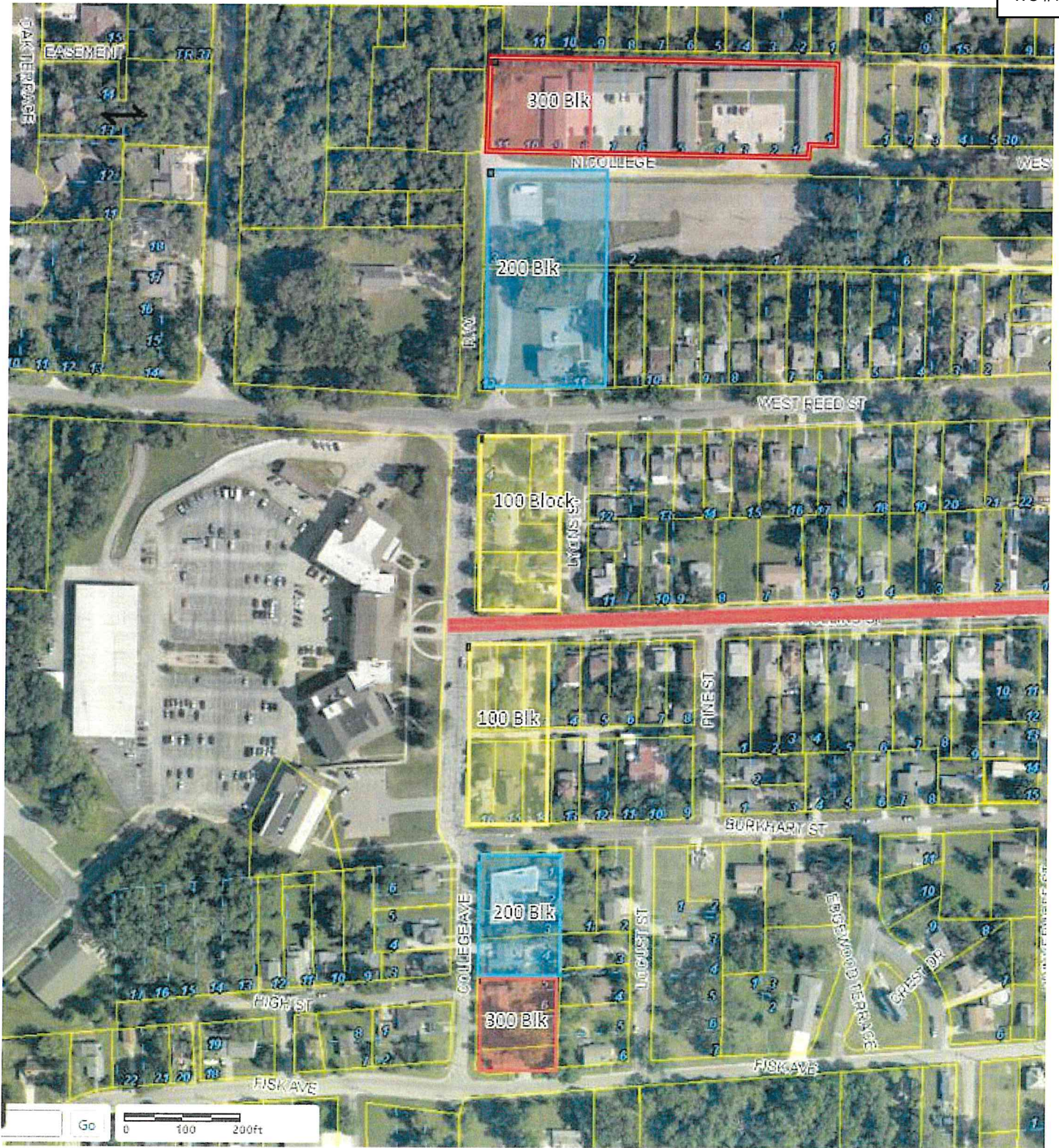
I would like to include the following on the next council work session please.

Thanks,  
Tom

Steve Lankford lives at 300 College Ave. It should be 300 S. College Avenue. There was never a specific designation for South College Ave, only North when the Apartments (highlighted) were added at the top of the hill. The apartments are 300 N. College avenue and receive extensive mail service and deliveries, much of which gets routed to Mr. Lankford's house. He is asking that something get done. I told him I would speak with the postmaster as to a recommendation on their part for solutions and following that would take recommendations to council for review.

The Postmaster recommended the obvious which is to add N or S prefix to all College street addresses. Only one address would be impacted by adding the N. prefix. The S. would impact 8 private houses and multiple address points with the college. If agreeable, we would have to revise our ordinance for street names to include that prefix. I have included a section of code at the bottom that describes that process and notification procedure.







**Sec. 36-40. - Designated street names; procedure for changing street names.**

- (a) The official street names for the streets, avenues, and byways within the city shall be as listed in time to time to reflect the adoption of new streets and vacation of existing streets for the prima are on file in the office of the city clerk and the city police chief.
- (b) When it is deemed necessary by the council to change the name of any street or avenue, the co of name necessary to be made and shall cause such resolution to be published at least one wee weeks after such publication, a majority of the resident property owners along the line of such s written protest against such proposed change of name, the council shall have power by ordinar accordance with the terms of such resolution. Upon the passage and approval of such ordinanc deeds a certified copy of such ordinance and the recorder shall enter the same upon the county

(Code 1987, § 25-37; Ord. No. 8919, § 1, 12-17-2013; Ord. No. 8932, § 1, 1-21-2014; Ord. No. 9319, 4-17-201

# City of Moberly

## City Council Agenda Summary

Agenda Number: WS #5.  
Department: Fire  
Date: June 29, 2023

**Agenda Item:** A Request For Approving A Resolution Authorizing The Moberly Fire Department To Submit A Grant Application Through The Emergency Management Performance Grant Direct Assistance Program.

**Summary:** Moberly's Emergency Management Director, Fire Chief Ryan, wishes to apply for the FY22 Emergency Management Performance Grant. This grant would pay reimbursement to the City of Moberly for the time Chief Ryan is required to dedicate for Emergency Management duties.

**Recommended**

**Action:** Approve this request for permission to apply for this grant.

**Fund Name:**

**Account Number:**

**Available Budget \$:**

**ATTACHMENTS:**

|   |   |
|---|---|
| <input type="checkbox"/> Memo               | <input type="checkbox"/> Council Minutes                |
| <input type="checkbox"/> Staff Report       | <input type="checkbox"/> Proposed Ordinance             |
| <input type="checkbox"/> Correspondence     | <input checked="" type="checkbox"/> Proposed Resolution |
| <input type="checkbox"/> Bid Tabulation     | <input type="checkbox"/> Attorney's Report              |
| <input type="checkbox"/> P/C Recommendation | <input type="checkbox"/> Petition                       |
| <input type="checkbox"/> P/C Minutes        | <input type="checkbox"/> Contract                       |
| <input type="checkbox"/> Application        | <input type="checkbox"/> Budget Amendment               |
| <input type="checkbox"/> Citizen            | <input type="checkbox"/> Legal Notice                   |
| <input type="checkbox"/> Consultant Report  | <input type="checkbox"/> Other _____                    |

**Roll Call**

**Aye**

**Nay**

**Mayor**

M\_\_\_ S\_\_\_ **Brubaker**

**Council Member**

M\_\_\_ S\_\_\_ **Lucas**

M\_\_\_ S\_\_\_ **Jeffrey**

M\_\_\_ S\_\_\_ **Kimmons**

M\_\_\_ S\_\_\_ **Kyser**

Passed

Failed

# City of Moberly

## City Council Agenda Summary

**Agenda Number:** \_\_\_\_\_  
**Department:** Police  
**Date:** June 29, 2023

**Agenda Item:** Resolution approving agreement between WSKF and City of Moberly

**Summary:** A proposal was received from WSKF for design for existing joint communications renovation to expand joint communications to provide additional space for emergency services communications.

**Recommended**

**Action:** Direct staff to bring to the next regular City Council meeting for approval.

**Fund Name:**

**Account Number:**

**Available Budget \$:**

**ATTACHMENTS:**

|  |  |
|--|--|
| <input type="checkbox"/> Memo                    | <input type="checkbox"/> Council Minutes     |
| <input checked="" type="checkbox"/> Staff Report | <input type="checkbox"/> Proposed Ordinance  |
| <input type="checkbox"/> Correspondence          | <input type="checkbox"/> Proposed Resolution |
| <input type="checkbox"/> Bid Tabulation          | <input type="checkbox"/> Attorney's Report   |
| <input type="checkbox"/> P/C Recommendation      | <input type="checkbox"/> Petition            |
| <input type="checkbox"/> P/C Minutes             | <input type="checkbox"/> Contract            |
| <input type="checkbox"/> Application             | <input type="checkbox"/> Budget Amendment    |
| <input type="checkbox"/> Citizen                 | <input type="checkbox"/> Legal Notice        |
| <input type="checkbox"/> Consultant Report       | <input type="checkbox"/> Other _____         |

**Roll Call**

**Aye**

**Nay**

**Mayor**

M\_\_\_ S\_\_\_ **Brubaker**

**Council Member**

M\_\_\_ S\_\_\_ **Lucas**

M\_\_\_ S\_\_\_ **Kimmons**

M\_\_\_ S\_\_\_ **Jeffrey**

M\_\_\_ S\_\_\_ **Kyser**

Passed

Failed

| ATTACHMENTS:       |                                 | Role Call                | Aye | Nay |
|--------------------|---------------------------------|--------------------------|-----|-----|
| ___ Memo           | ___ Council Minutes             | <b>Mayor</b>             |     |     |
| ___ Staff Report   | <u>  x  </u> Proposed Ordinance | M___ S___ <b>Jeffrey</b> | ___ | ___ |
| ___ Correspondence | ___ Proposed Resolution         |                          |     |     |
| ___ Bid Tabulation | ___ Attorney's Report           | <b>Council Member</b>    |     |     |



# AIA® Document B101® – 2017

## Standard Form of Agreement Between Owner and Architect

**AGREEMENT** made as of the Seventh day of July in the year Two Thousand Twenty Three  
(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 Moberly  
101 West Reed Street  
Moberly, Missouri 65270

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

WSKF, Inc.  
110 Armour Rd.  
North Kansas City, MO 64116

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

Project No. 22043  
The proposed Scope of Work will involve Design for the existing Dispatch renovation of the Existing Police Department Headquarters, 300 N. Clark Street, Moberly, Missouri Moberly, Missouri.

Generally, the Dispatch Renovation/of the existing Police Headquarters is to provide space for emergency services communications (dispatch, approximately 500 square feet),

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.

## TABLE OF ARTICLES

|    |                                      |
|----|--------------------------------------|
| 1  | INITIAL INFORMATION                  |
| 2  | ARCHITECT'S RESPONSIBILITIES         |
| 3  | SCOPE OF ARCHITECT'S BASIC SERVICES  |
| 4  | SUPPLEMENTAL AND ADDITIONAL SERVICES |
| 5  | OWNER'S RESPONSIBILITIES             |
| 6  | COST OF THE WORK                     |
| 7  | COPYRIGHTS AND LICENSES              |
| 8  | CLAIMS AND DISPUTES                  |
| 9  | TERMINATION OR SUSPENSION            |
| 10 | MISCELLANEOUS PROVISIONS             |
| 11 | COMPENSATION                         |
| 12 | SPECIAL TERMS AND CONDITIONS         |
| 13 | SCOPE OF THE AGREEMENT               |

**ARTICLE 1 INITIAL INFORMATION**

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

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

**§ 1.1.1** The Owner's program for the Project:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

Generally, the proposed Police Dispatch renovation consist of expanding and reconfiguring the existing Dispatch space to accommodate up to 3 Dispatch consoles. The envisioned space requirements is approximately 500 SF of renovation within the existing Dispatch Room.

**§ 1.1.2** The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

The Police Dept. is located at 300 N. Clark, Moberly, Missouri. The existing Dispatch is approximately 300 SF and is to be expanded by adding the existing vault space to the existing Dispatch for a total area of approximately 500 SF. The scope of work will require demolition of the existing vault including masonry walls and concrete ceiling deck.

**§ 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.)*

\$500,000.00

Init.

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User Notes:

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

- .1 Design phase milestone dates, if any:  
Approximately 3 months from Notice to Proceed
- .2 Construction commencement date:  
Approximately 5 months from Notice to Proceed
- .3 Substantial Completion date or dates:  
Approximately 8 months from Notice to Proceed
- .4 Other milestone dates:  
TBD.

**§ 1.1.5** The Owner intends the following procurement and delivery method for the Project:

*(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)*

Competitive bid, best-value contract award to a single prime bidder.

*(Paragraphs deleted)*

**§ 1.1.7** The Owner identifies the following representative in accordance with Section 5.3:

*(List name, address, and other contact information.)*

Brian Crane, City Manager  
101 W. Reed Street  
Moberly, Missouri 65270

**§ 1.1.8** The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

*(List name, address, and other contact information.)*

NA

**§ 1.1.9** The Owner shall retain the following consultants and contractors:

*(List name, legal status, address, and other contact information.)*

- .1 Geotechnical Engineer:  
NA
- .2 Civil Engineer:

*(Paragraphs deleted)*

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



Special Inspections & Construction Testing  
Environmental Services (as needed)

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:  
(List name, address, and other contact information.)

Rick Kuhl/Doug Boe  
110 Armour Road  
North Kansas City, MO 64116

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:  
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Bob D. Campbell, Inc.  
4338 Belleview Ave.  
Kansas City, MO 64111

.2 Mechanical Engineer:

PKMR Engineers, Inc.  
13300 W. 98<sup>th</sup> St.  
Lenexa, KS 66215

.3 Electrical Engineer:

PKMR Engineers, Inc.  
13300 W. 98th St.  
Lenexa, KS 66215

§ 1.1.11.2 Consultants retained under Supplemental Services:

NA

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

WSKF Inc. to provide Interior Design Services.

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

(Paragraphs deleted)

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall

perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

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

§ 2.4 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.

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

§ 2.5.1 Commercial General Liability with policy limits of not less than One Million Dollars and 00/100's (\$1,000,000.00) for each occurrence and Two Million Dollars and 00/100's (\$2,000,000.00) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars and 00/100's (\$1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than One Million Dollars and 00/100's (\$1,000,000.00) each accident, One Million Dollars and 00/100's (\$1,000,000.00) each employee, and One Million Dollars and 00/100's (\$1,000,000.00) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million Dollars and 00/100's (\$1,000,000.00) per claim and Two Million Dollars and 00/100's (\$2,000,000.00) in the aggregate.

§ 2.5.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

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

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

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner 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 for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

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

## § 3.2 Schematic Design Phase Services

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

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, 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.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

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

*(Paragraphs deleted)*

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

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

*(Paragraphs deleted)*

### **§ 3.4 Construction Documents Phase Services**

**§ 3.4.1** Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor 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.

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

**§ 3.4.3** During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

**§ 3.4.4** The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

**§ 3.4.5** The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

### **§ 3.5 Procurement Phase Services**

#### **§ 3.5.1 General**

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining competitive bids; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

#### **§ 3.5.2 Competitive Bidding**

**§ 3.5.2.1** Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

**§ 3.5.2.2** The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

**§ 3.5.2.3** If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

*(Paragraphs deleted)*

## § 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 Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor 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 The Architect shall advise and consult with the Owner 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 Contractor’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 Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect’s responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

### § 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) 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 the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. 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 Contractor, 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 Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### § 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor 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 Contractor’s



Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

**§ 3.6.3.2** The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor 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 Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

**§ 3.6.4.2** The Architect shall review and approve, or take other appropriate action upon, the Contractor'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 Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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

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

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

#### **§ 3.6.5 Changes in the Work**

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

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

### § 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct project reviews to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's project review(s) 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 Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, 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 Contractor: (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 Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

## ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

### § 4.1 Supplemental Services

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

*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

| Supplemental Services  | Responsibility<br>(Architect, Owner, or not provided) |
|--|---|
| § 4.1.1.1 Programming  | NP  |
| § 4.1.1.2 Multiple preliminary designs   | NP  |
| § 4.1.1.3 Measured drawings  | NP  |
| § 4.1.1.4 Existing facilities surveys  | NP  |
| § 4.1.1.5 Site evaluation and planning   | NP  |
| § 4.1.1.6 Building Information Model management responsibilities               | NP  |
| § 4.1.1.7 Development of Building Information Models for post construction use | NP  |
| § 4.1.1.8 Civil engineering  | NP  |

| Supplemental Services   | Responsibility<br>(Architect, Owner, or not provided) |
|---|---|
| § 4.1.1.9 Landscape design  | NP  |
| § 4.1.1.10 Architectural interior design                                | A   |
| § 4.1.1.11 Value analysis   | NP  |
| § 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3 | NP  |
| § 4.1.1.13 On-site project representation                               | NP  |
| § 4.1.1.14 Conformed documents for construction                         | NP  |
| § 4.1.1.15 As-designed record drawings                                  | NP  |
| § 4.1.1.16 As-constructed record drawings                               | NP  |
| § 4.1.1.17 Post-occupancy evaluation                                    | NP  |
| § 4.1.1.18 Facility support services                                    | NP  |
| § 4.1.1.19 Tenant-related services                                      | NP  |
| § 4.1.1.20 Architect's coordination of the Owner's consultants          | NP  |
| § 4.1.1.21 Telecommunications/data design                               | NP  |
| § 4.1.1.22 Security evaluation and planning                             | NP  |
| § 4.1.1.23 Commissioning  | NP  |
| § 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3       | NP  |
| § 4.1.1.25 Fast-track design services                                   | NP  |
| § 4.1.1.26 Multiple bid packages  | NP  |
| § 4.1.1.27 Historic preservation  | NP  |
| § 4.1.1.28 Furniture, furnishings, and equipment design                 | NP  |
| § 4.1.1.29 Other services provided by specialty Consultants             | NP  |
| § 4.1.1.30 Other Supplemental Services                                  | NP  |
|   |   |

#### § 4.1.2 Description of Supplemental Services

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

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

4.1.1.10 - Interior Design services as needed to design the project

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

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

Interior Design - Services to include illustration of furniture, fixtures and equipment for the design, all interior finishes selection and specification, illustration of all interior cabinetry and related work (including related construction oversight of design provided); excludes dispatch consoles.

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

## § 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner 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;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 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, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,



- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

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

- .1 One (1) review of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Monthly visits to the site by the Architect during construction; additional site visits as determined by the Owner; refer to 4.2 Additional Services.
- .3 One (1) review of the work in progress for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 One (1) review of the work in progress for any portion of the Work to determine final completion.

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

§ 4.2.5 If the services covered by this Agreement have not been completed within Twelve ( 12 ) 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.

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

§ 5.3 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.

*(Paragraphs deleted)*

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

*(Paragraph deleted)*

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

§ 5.9 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 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 include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. 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 Contractor, 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 Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

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

## ARTICLE 6 COST OF THE WORK

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

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## ARTICLE 7 COPYRIGHTS AND LICENSES

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

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

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for 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 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.

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

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

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

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

§ 8.1.3 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 this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 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.)*

☐ Arbitration pursuant to Section 8.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other: *(Specify)*



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

*(Paragraphs deleted)*

#### **§ 8.3.4 Consolidation or Joinder**

**§ 8.3.4.1** Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

**§ 8.3.4.2** Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

**§ 8.3.4.3** The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

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

### **ARTICLE 9 TERMINATION OR SUSPENSION**

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

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

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

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

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

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

**§ 9.7** In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

**.1 Termination Fee:**

Lump sum amount or as otherwise agreed

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

Lump sum amount or as otherwise agreed

**§ 9.8** Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

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

**ARTICLE 10 MISCELLANEOUS PROVISIONS**

**§ 10.1** This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. 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.

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

**§ 10.4** If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that 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. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

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

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

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

## ARTICLE 11 COMPENSATION

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

- .1 Stipulated Sum  
(\$50,000.00)

*(Paragraph deleted)*

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, 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.)*

Lump Sum; amount to be determined.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

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

Hourly with agreed upon max.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent ( %), or as follows:

*(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*

Hourly with agreed upon max.

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

|                        |             |           |    |    |
|------------------------|-------------|-----------|----|----|
| Schematic Design Phase | twenty five | percent ( | 15 | %) |
|------------------------|-------------|-----------|----|----|

Init.

|                              |             |           |     |    |
|------------------------------|-------------|-----------|-----|----|
| Construction Documents Phase | forty-five  | percent ( | 35  | %) |
| Procurement Phase            | five        | percent ( | 5   | %) |
| Construction Phase           | twenty-five | percent ( | 25  | %) |
| Total Basic Compensation     | one hundred | percent ( | 100 | %) |

*(Paragraphs deleted)*

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

| Employee or Category           | Rate (\$0.00) |
|--------------------------------|---------------|
| Refer to attached hourly rates |               |

### **§ 11.8 Compensation for Reimbursable Expenses**

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

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Permitting and other fees required by authorities having jurisdiction over the Project;
- .3 Printing, reproductions, plots, and standard form documents;
- .4 Postage, handling, and delivery;

*(Paragraph deleted)*

- .5 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .6 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .7 All taxes levied on professional services and on reimbursable expenses;

*(Paragraph deleted)*

- .8 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .9 Other similar Project-related expenditures.

**§ 11.8.2** For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus 1.15% of the expenses incurred.

**§ 11.9 Architect's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

*(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)*

None at this time.

### **§ 11.10 Payments to the Architect**

#### **§ 11.10.1 Initial Payments**

**§ 11.10.1.1** 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.

**§ 11.10.1.2** If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero (\$0) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying

Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

### § 11.10.2 Progress Payments

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

*(Insert rate of monthly or annual interest agreed upon.)*

Eight Percent (8%)

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

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

## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

*(Include other terms and conditions applicable to this Agreement.)*

§ 12.1 **Indemnification:** The Architect agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Owner against damages, liabilities and costs arising from the negligent acts of the Architect in the performance of professional services under this Contract, to the extent that the Architect is responsible for such damages, liabilities and costs on a comparative basis of fault and responsibility between the Architect and the Owner. The Architect shall not be obligated to indemnify the Owner for the Owner's own negligence.

§ 12.2 **Consequential Damages:** Notwithstanding any other provisions of this Contract, and to the fullest extent permitted by law, neither the Owner nor the Architect, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect, or consequential damage arising out of or connected in any way to the Project or to this Contract. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty.

§ 12.3 **Limitation of Liability:** To the fullest extent permitted by law, and notwithstanding any other provision of this Contract, the total liability, in the aggregate, of the Architect and the Architect's officers, directors, partners, employees and subconsultants, and any of them, to the Owner and anyone claiming by or through the Owner, for any and all claims, losses, costs or damages, including attorneys' fees and costs and expert-witness fees and costs of any nature whatsoever or claims expenses resulting from or in any way related to the Project or the Contract from any cause or causes shall not exceed the total compensation received by the Architect under this Contract. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise permitted by law.

§ 12.4 **Corporate Protection:** It is intended by the parties to this Contract that the Architect's services in connection with the Project shall not subject the Architect's individual employees, officers or directors to any personal legal exposure for the risks associated with this Project. Therefore, and notwithstanding anything to the contrary contained herein, the Owner agrees that as the Owner's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against the Architect, a Missouri corporation, and not against any of the Architect's individual employees, officers or directors.

§ 12.5 **Betterment:** If, due to the Architect's negligence, a required item or component of the Project is omitted from the Architect's construction documents, the Architect shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been required and included in the original



construction documents. In no event will the Architect be responsible for any cost or expense that provides betterment or upgrades or enhances the value of the Project.

**§ 12.6 Defects in Service:** The Owner shall promptly report to the Architect any defects or suspected defects in the Architect's services of which the Owner becomes aware, so that the Architect may take measures to minimize the consequences of such a defect. The Owner further agrees to impose a similar notification requirement on all contractors in its Owner/Contractor contract and shall require all subcontracts at any level to contain a like requirement. Failure by the Owner and the Owner's contractors or subcontractors to notify the Architect shall relieve the Architect of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given when such defects were first discovered.

**§ 12.7 Delays:** The Owner agrees that the Architect is not responsible for damages arising directly or indirectly from any delays for causes beyond the Architect's control. For purposes of this Contract, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters; fires, riots, war or other emergencies or acts of God; failure of any government agency to act in timely manner; failure of performance by the Owner or the Owner's contractors or architects; or discovery of any hazardous substances or differing site conditions. In addition, if the delays resulting from any such causes increase the cost or time required by the Architect to perform its services in an orderly and efficient manner, the Architect shall be entitled to an equitable adjustment in schedule and/or compensation.

### ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

.1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect  
(Paragraphs deleted)

.2 Exhibits:

(Paragraphs deleted)

.3 Other documents:

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

Hourly Rates.

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

City of Moberly

WSKF, Inc.

\_\_\_\_\_  
OWNER (Signature)

\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
ARCHITECT (Signature)

Rick Kuhl, Principal

\_\_\_\_\_  
(Printed name, title, and license number, if required)