



AIA Document C132™ – 2009

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9/26/17

Standard Form of Agreement Between Owner and Construction Manager as Adviser

AGREEMENT made as of the ^{26th} day of SEPT in the year 2017
(In words, indicate day, month and year.)

BETWEEN the Owner:

(Paragraph Deleted)

Woodbury County Board of Supervisors
620 Douglas Street – Room 104
Sioux City, IA 51101

and the Construction Manager:

(Paragraph Deleted)

Baker Group
4224 Hubbell
Des Moines, IA 50317

for the following Project:

(Paragraph Deleted)

Woodbury County Court House
Project #2 Automation Controls/HVAC Retrofit on Floors 3-7

The Professional Engineer is:

(Paragraph Deleted)

Resource Consulting
6116 South Duff Ave
Ames, IA 50010

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A132™–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition.

AIA Document A232™–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

The Owner and Construction Manager agree as follows.

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User Notes:

(3B9ADA28)

Law Enforcement Center Budget is Two Hundred Eighty Thousand Dollars (\$280,000)

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

.1 Design phase milestone dates, if any:

Design phase to be completed by October 24, 2017 with Public Bid dates targeted for no later than November 24, 2017

.2 Commencement of construction:

Construction to commence upon approval and execution of the A132 Agreement between the Contractor and the Owner and as approved by Woodbury County Board of Supervisors.

.3 Substantial Completion date or milestone dates: Full installation in both facilities by October 1, 2018 with operable systems during their respective season of need.

.4 Other:

Final Completion of work shall occur before November 1, 2018.

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

(Paragraph Deleted)

Competitive bid.

§ 1.1.6 The Owner's requirements for accelerated or fast-track scheduling, multiple bid packages, or phased construction are set forth below:

(Paragraph Deleted)

The Owner intends to issue separate contracts for the following scopes of work:

(Paragraph Deleted)

Mechanical Contractor
General Construction Services as needed
Electrical Work
Building Automation Contractor

§ 1.1.7.1 The Work will be performed in actively occupied buildings, and the Construction Manager will be required to plan activities and verify schedules so that they will minimize interference with County activities.

§ 1.1.7.2 Prior to commencement of construction Work, the Construction Manager, in consultation with the Owner's Representative and Professional Engineer, shall confer with the State Historical Preservation Office and the National Park Service to gain their approval of any products being installed in the Court House to be acceptable in maintaining the building's National Historic Landmark designation. Any licensing, approval or inspection fees that may be required will be the responsibility of Woodbury County.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5:

§ 1.1.12 The Construction Manager's staffing plan as required under Section 3.3.2 shall include:

(Paragraph Deleted)

Project Manager
Site Foreman to be determined

§ 1.1.13 The Construction Manager's consultants retained under Basic Services, if any:

.1 Cost Estimator:

(Paragraph Deleted)

N/A

.2 Other consultants:

N/A

§ 1.1.14 The Construction Manager's consultants retained under Additional Services:

N/A

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

In addition to Construction Management services outlined in this agreement, Baker Group will also verify all systems for proper operation after installation, verify workable graphics from the Control Vendor, and coordinate with WCICC to set up a virtual server for the Building Automation System.

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Construction Manager shall adjust its services and the Owner and the Construction Manager shall appropriately adjust the schedules, and the Construction Manager's compensation, as necessary, and as mutually agreed upon by the parties.

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

§ 2.1 The Construction Manager shall provide the services as set forth in this Agreement and other services as may be necessary to provide a complete and accurate performance of services. The Construction Manager shall exercise reasonable care, in the event it engages engineers, consultants, subcontractors, agents, employees and/or officers (collectively the "Consultants"), to engage only such persons and entities who possess the experience, skill, knowledge and character necessary to qualify them individually for the particular duties they perform and who shall perform all work in conformity with the standards of reasonable care and skill with respect to professional services they are rendering. Said consultants shall carry professional liability insurance. The Construction Manager assumes responsibility and liability for the acts, errors and omissions of its Consultants.

ARTICLE 3 SCOPE OF CONSTRUCTION MANAGER'S BASIC SERVICES

§ 3.1 Definition

The Construction Manager's Basic Services consist of those described in Sections 3.2 and 3.3 and include usual and customary construction coordination and scheduling, constructability review, cost estimating, and allocation of construction activities among the Multiple Prime Contractors.

§ 3.2 Preconstruction Phase

§ 3.2.1 The Construction Manager shall review the program furnished by the Owner and any evaluation of the Owner's program provided by the Professional Engineer, to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner and Professional Engineer.

§ 3.2.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.2.3 The Construction Manager shall prepare, and deliver to the Owner, a written Construction Management Plan that includes, at a minimum, the following: (1) preliminary evaluations required in Section 3.2.2, (2) a Project schedule, (3) cost estimates, (4) recommendations for Project delivery method, and (5) Contractors' scopes of Work, if multiple Contractors or fast-track construction will be used. The Construction Manager shall periodically update the Construction Management Plan over the course of the Project, unless additional updates are reasonable requested by the Owner.

§ 3.2.4 Based on preliminary design and other design criteria prepared by the Professional Engineer, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Professional Engineer's review and Owner's approval. If the Professional Engineer suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems and may also provide its own suggestions.

§ 3.2.5 The Construction Manager shall expeditiously review design documents during their development and advise the Owner and Professional Engineer on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations to the Owner and Professional Engineer on constructability, availability of materials and labor, sequencing for phased construction, time requirements for procurement, installation and construction, and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 3.2.6 The Construction Manager shall prepare and routinely update the Project schedule included in the Construction Management Plan for the Professional Engineer's review and the Owner's acceptance. The Construction Manager shall obtain the Professional Engineer's approval for the portion of the Project schedule relating to the performance of the Professional Engineer's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities with anticipated construction schedules and highlighted critical and long lead-time items that could affect the Project's timely completion.

§ 3.2.7 As the Professional Engineer progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Professional Engineer, estimates of the Cost of the Work of increasing detail and refinement. The Construction Manager shall include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in the estimates of the Cost of the Work. Such estimates shall be provided for the Professional Engineer's review and the Owner's approval. The Construction Manager shall advise the Owner and Professional Engineer if it appears that the Cost of the Work may exceed the Owner's budget and make recommendations for corrective action.

§ 3.2.8 As the Professional Engineer progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Professional Engineer and make recommendations whenever the Construction Manager determines that design details adversely affect constructability, cost or schedules.

§ 3.2.22 The Construction Manager shall ensure that all required permits, licenses and other regulatory agency approvals have been obtained before beginning work on each phase of the project. The Construction Manager shall advise the Owner in writing that such permits, licenses and other approvals have been obtained. The Construction Manager shall verify that the Owner has paid applicable fees and assessments. The Construction Manager shall file documents required for the approvals of government authorities having jurisdiction over the Project.

§ 3.3 Construction Phase Administration of the Construction Contract

§ 3.3.1 Subject to Section 4.3, the Construction Manager's responsibility to provide Construction Phase Services commences with the award of the initial Contract for Construction and terminates on thirty (30) days after the Owner accepts the Professional Engineer's final Certificate for Payment. Construction Manager will manage any repair or correction issues, as outlined in Section 12.2.2 of the A232-2009 General Conditions for the Contract of Construction as modified, with all contractors and equipment suppliers for a period of one year after substantial completion and will provide a one-year correction period inspection on the Work.

§ 3.3.2 The Construction Manager shall provide a staffing plan to include one or more representatives who shall be in attendance at the Project site, full time, whenever the Work is being performed and when otherwise necessary even when work is not being performed.

§ 3.3.3 The Construction Manager shall provide on-site administration of the Contracts for Construction in cooperation with the Professional Engineer as set forth below and in AIA Document A232™-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition as modified and as amended and approved by Owner.

§ 3.3.4 The Construction Manager shall provide administrative, management and related services to coordinate scheduled activities and responsibilities of the Multiple Prime Contractors with each other and with those of the Construction Manager, the Owner and the Professional Engineer. The Construction Manager shall coordinate the activities of the Multiple Prime Contractors in accordance with the latest approved Project schedule and the Contract Documents.

§ 3.3.5 Utilizing the construction schedules provided by the Multiple Prime Contractors, the Construction Manager shall update the Project schedule, incorporating the activities of the Owner, Professional Engineer, and Multiple Prime Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery and procurement of products, including those that must be ordered well in advance of construction. The Project schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. The Construction Manager shall update and reissue the Project schedule as required to show current conditions. If an update indicates that the previously approved Project schedule may not be met, the Construction Manager shall recommend corrective action, if any, to the Owner and Professional Engineer.

§ 3.3.6 The Construction Manager shall schedule and conduct weekly meetings to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner, Professional Engineer and Multiple Prime Contractors.

§ 3.3.7 Consistent with various bidding documents and utilizing information from the Multiple Prime Contractors, the Construction Manager shall schedule and coordinate the sequence of construction and assignment of space in areas where the Multiple Prime Contractors are performing Work, in accordance with the Contract Documents and the latest approved Project schedule.

§ 3.3.8 The Construction Manager shall schedule all tests and inspections required by the Contract Documents or governmental authorities, and arrange for the delivery of test and inspection reports to the Owner and Professional Engineer.

§ 3.3.9 The Construction Manager shall accept work only in conformance with the Contract Documents and shall have authority, upon consultation with the Professional Engineer and Owner, to reject work which does not conform to the Contract Documents. The Construction Manager shall work solely for the benefit of the Owner..

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The Construction Manager's responsibilities for coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractor, Multiple Prime Contractors, Subcontractors, agents or employees of the Contractors or Multiple Prime Contractors or Subcontractors, or any other persons performing portions of the Work and not directly employed by the Construction Manager.

§ 3.3.14 The Construction Manager shall work to guard the Owner against defects and deficiencies in the Work by only accepting work performed in accordance with the Contract Documents, unless non-conforming work is expressly approved by the Owner. The Construction Manager, in consultation with the Professional Engineer, shall reject Work that does not conform to the Contract Documents and shall notify the Owner prior to the rejection. The failure of the Construction Manager to reject Work shall not constitute the acceptance of the Work. The Construction Manager shall record any rejection of Work in its daily log and include information regarding the rejected Work in its progress reports to the Professional Engineer and Owner pursuant to Section 3.3.20.1. Upon written authorization from the Owner, the Construction Manager may require and make arrangements for additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed, and the Construction Manager shall give timely notice to the Professional Engineer of when and where the tests and inspections are to be made so that the Professional Engineer may be present for such procedures.

§ 3.3.15 The Construction Manager shall advise and consult with the Owner and Professional Engineer during the performance of its Construction Phase Services. The Construction Manager shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Construction Manager 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 of each of the Contractors, since these are solely the Contractor's rights and responsibilities under the Contract Documents. The Construction Manager shall not be responsible for a Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall be responsible for the Construction Manager'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 Multiple Prime Contractors, Subcontractors, or their agents or employees, or any other persons or any other persons or entities performing portions of the Work.

§ 3.3.16 The Construction Manager shall transmit to the Professional Engineer requests for interpretations and requests for information of the meaning and intent of the Drawings and Specifications with its written recommendation, and assist in the resolution of questions that may arise.

§ 3.3.17 The Construction Manager shall review requests for changes, assist in negotiating Contractors' proposals, submit recommendations to the Professional Engineer and Owner, and, if they are accepted, prepare Change Orders and Construction Change Directives that incorporate the Professional Engineer's modifications to the Contract Documents.

§ 3.3.17.1 The Construction Manager shall receive certificates of insurance and bond documents from the Contractors and forward them to the Owner with a copy to the Professional Engineer.

§ 3.3.18 The Construction Manager shall assist the Initial Decision Maker in the review, evaluation and documentation of Claims.

§ 3.3.19 Utilizing the submittal schedules provided by each Contractor, the Construction Manager shall prepare, and revise as necessary, a Project submittal schedule incorporating information from the Owner, Owner's consultants, Owner's separate contractors and vendors, governmental agencies, and all other participants in the Project under the management of the Construction Manager. The Project submittal schedule and any revisions shall be submitted to the Professional Engineer for approval. The Construction Manager shall review and approve and then submit the shop drawings, product data, samples and other submittals to the Professional Engineer for approval with copies to the Owner. It is the Construction Manager's responsibility to ascertain that the drawings, plans and specifications (except for those designed by the Professional Engineer) are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations. If the Construction Manager recognizes the portions of the drawings, plans and specifications are at variance therewith, the Construction Manager shall promptly notify the Professional Engineer and Owner in writing. By approving and submitting shop drawings, product data, samples and other submittals, the Construction Manager thereby represents that it used its best professional judgment and

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Completion. The Construction Manager shall submit the executed Certificate to the Owner and Contractor. The Construction Manager shall coordinate the correction and completion of the Work. Following issuance of a Certificate of Substantial Completion of the Work or a designated portion thereof, the Construction Manager shall evaluate the completion of the Work of the Contractor or Multiple Prime Contractors and make recommendations to the Professional Engineer when Work is ready for final inspection. The Construction Manager shall assist the Professional Engineer in conducting final inspections.

§ 3.3.25 The Construction Manager shall forward to the Owner, with a copy to the Professional Engineer, the following information received from the Contractor or Multiple Prime Contractors: (1) certificates of insurance and bond documents received from the Contractor or Multiple Prime Contractors; (2) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (3) affidavits, receipts, releases and waivers of liens and/or Iowa Code Chapter 573 claim or bonds indemnifying the Owner against liens and/or Iowa Code Chapter 573 claims; and (4) any other documentation required of the Contractor under the Contract Documents, including warranties and similar submittals.

§ 3.3.26 The Construction Manager shall secure and transmit to the Professional Engineer warranties and similar submittals required by the Contract Documents for delivery to the Owner and deliver all keys, manuals, record drawings and maintenance stocks to the Owner. The Construction Manager shall forward to the Professional Engineer a final Project Application for Payment upon compliance with the requirements of the Contract Documents. The Construction Manager shall also secure and transmit to the Owner required affidavits, releases, bonds and waivers and shall deliver to the Owner all keys and other information. In consultation with the Professional Engineer, the Construction Manager shall determine when the Project and the Contractor's work is finally completed, and shall provide to the Owner a written recommendation regarding payment to the Contractor and shall issue a final Project Application for payment upon compliance with the requirements of the Contract Documents. At the conclusion of the Project, the Construction Manager shall prepare and deliver to the Owner final project account and close-out reports. The Construction Manager shall collect and submit the as-built drawings to the Owner within a reasonable period of time following final completion. The Construction Manager shall also observe commissioning work and be responsible for requiring the Contractor to check all equipment and verify that all Project systems are working properly at the end of the Project and prior to Final Acceptance.

§ 3.3.27 Duties, responsibilities and limitations of authority of the Construction Manager as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, and Construction Manager. Consent shall not be unreasonably withheld. The Professional Engineer shall be informed of any modifications made to the Construction Manager's contractual duties or responsibilities.

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

(Paragraph Deleted)

§ 3.3.29 The Construction Manager shall, by visits to the site and by adequate and necessary observations and inspections, required or otherwise appropriate to the stage and nature of the construction activities, exercise due diligence to safeguard the Owner from defects and deficiencies in the work performed and materials provided by the Contractor and from the trade contractor's failure to carry out the work in accordance with the Contract Documents and the Project Schedule. These provisions shall require a representative of the Construction Manager to be available in Sioux City for communication with the site supervisors and/or managers of each Contractor while Construction is being performed. A representative shall also be available at all times, whether on site or not, by cellular phone.

§ 3.3.30 During the one (1) year correction period following the date of Substantial Completion, the Construction manager shall oversee, monitor and coordinate the remedial work of the Contractors, including but not limited to, making certain that the respective Contractors are notified of the extent and nature of the remedial work which needs to be done; and that such work is done in a timely and satisfactory manner.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1

§ 5.2 The Owner, in consultation with the Professional engineer and Construction Manager shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Professional Engineer. The Owner, Professional Engineer, and Construction Manager, shall thereafter make a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

§ 5.3 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it the risk of additional costs. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 The Owner shall retain a Professional Engineer to provide services, duties and responsibilities as described in AIA Document B132-2009, Standard Form of Agreement Between Owner and Professional Engineer, Construction Manager as Adviser Edition as modified and as amended and approved by the Owner. The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and Professional Engineer, and any further modifications to the agreement.

§ 5.5 The Owner shall render decisions pertaining to documents the Construction Manager submits in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Construction Manager's services. The Board of Supervisors or its authorized designee, to the extent such designation is permitted by law, shall be solely authorized to act on the Owner's behalf with respect to the Project. Change Order Approvals and the Approved Construction Budget. The Owner's administrative representative or Board designee shall be available during working hours as often as may be necessary to render decisions which can be made without the Board of Supervisor approval and to furnish information in a timely manner. The Owner shall provide to the Construction Manager the contact information for the Owner's contact person(s). If it becomes necessary to appoint a new representative, such appointment shall be communicated to the Construction Manager in writing within three (3) days of such appointment.

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

§ 5.7 Unless provided by the Construction Manager, the Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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

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

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services required to verify the Contractors' Applications for Payment or to ascertain how or for what purposes the trade contractors have

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alternate bids in the Construction Documents to adjust the Construction Cost to the fixed limit. Fixed limits, if any, shall be increased in the amount of any increase in the Contract Sums occurring after execution of the Contracts for Construction.

§ 6.3 If the Professional Engineer is providing detailed cost estimating services, and a discrepancy exists between the Construction Manager's cost estimates and the Professional Engineer's cost estimates, the Professional Engineer and the Construction Manager shall work cooperatively to conform the cost estimates to one another.

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

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

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

§ 6.6 If the Owner chooses to proceed under Section 6.5.2 and the Professional Engineer and Construction Manager incorporate the required modifications to the Construction Documents to reduce the Cost of Work, yet the sum of the lowest responsive, responsible bid on the Project exceeds the Owner's budget for the Cost of Work, the Owner may

- .1 give written approval to increase the budget for the Cost of the Work;
- .2 authorize rebidding of the Project within a reasonable time;
- .3 If the project is abandoned, terminate in accordance with Section 9.3; or
- .4 cooperate in revising the Project scope and quality as required to reduce the budget for the Cost of Work.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Construction Manager, without additional charge, shall cooperate with the Owner and Professional Engineer as necessary to bring the bids within the budget of the Cost of Work.

ARTICLE 7 COPYRIGHTS AND LICENSES

The Construction Manager and the Construction Manager's consultants, if any, shall not own or claim a copyright in the Instruments of Service. The Drawings, Specifications and other documents prepared by the Professional Engineer for this Project are deemed Instruments of Service for use with this Project and shall become the property of the Owner, whether or not the Project is completed.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

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

§ 8.1.2

The Construction Manager shall indemnify and hold the Owner and the Owner's officers, directors and employees harmless from and against damages, losses and judgments arising from claims by third parties, regardless of the nature, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Construction Manager, its employees and its consultants in the performance of professional services under this Agreement. The Construction Manager's duty to indemnify the

formally claimed and/or determined in accordance with the terms of this Agreement without penalty to the Owner for such withholding. If the Construction Manager elects to suspend services, the Construction Manager shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services due to substantial nonperformance, the Construction Manager shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Construction Manager shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Construction Manager's services. The Construction Manager's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project for more than ninety (90) consecutive days for reasons other than the fault of the Construction Manager, the Construction Manager shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Construction Manager's compensation shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the Construction Manager's compensation shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the Construction Manager's services.

§ 9.3 This Agreement may be terminated by either party upon not less than seven days' written notice in the event that the Project is abandoned by the Owner for more than 180 consecutive days for reasons other than the fault of the Construction Manager.

§ 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 fourteen days' written notice to the Construction Manager for the Owner's convenience and without cause.

§ 9.5.1 Notwithstanding any other provisions of this Agreement, if funds anticipated for the continued fulfillment of the Agreement are at any time not forthcoming or insufficient, either through the failure of the state or the Owner to appropriate funds or through discontinuance or material alteration of the program for which funds were provided, the Owner shall have the right to terminate this Agreement without penalty by giving not less than thirty (30) days' written notice documenting the lack of funding.

§ 9.5.2 With the mutual agreement of both parties upon receipt and acceptance of not less than thirty (30) days' written notice, this Agreement may be terminated on any agreed date before the end of the term without penalty to either party.

§ 9.6 In the event of termination for the Owner's convenience after commencement of construction, the Construction Manager shall be entitled to receive payment for services performed through the effective date of termination.

§ 9.7 Construction Manager shall be responsible for providing Owner with all requested documentation necessary to support the payment requested by Construction Manager for services performed prior to the date of termination.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of Iowa.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232-2009, General Conditions of the Contract for Construction as modified and as amended and agreed by Construction Manager and Owner, except for purposes of this Agreement, the term "Work" shall include the work of all Contractors under the administration of the Construction Manager.

§ 10.3 The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager 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.

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(Paragraph Deleted)

§ 11.3 Additional Services shall be billed on an hourly basis as outlined in Exhibit D – Construction Manager billing rates.

(Paragraph Deleted)

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

§ 11.5 The hourly billing rates for services of the Construction Manager and the Construction Manager’s consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Construction Manager’s and Construction Manager’s consultants’ normal review practices.

(Paragraph Deleted)

See Exhibit “D”

Employee or Category

Rate (\$0.00)

§ 11.6 Compensation for Reimbursable Expenses

§ 11.6.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Construction Manager and the Construction Manager’s consultants directly related to the Project, as follows:

.1

(Paragraph Deleted)

Fees paid for securing approval of authorities having jurisdiction over the Project;

.2 Printing, reproductions, plots, standard form documents;

(Paragraphs Deleted)

§ 11.6.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Construction Manager and the Construction Manager’s consultants plus zero percent (0 %) of the expenses incurred.

§ 11.7 Payments to the Construction Manager

§ 11.7.1 An initial payment of Three Thousand Dollars (\$3,000.00) 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.

§ 11.7.1.1 Subsequent payments for Basic Services shall be made monthly and, where applicable, shall be in proportion to services performed within each phase of service on the basis set forth in Section 11.1.

§ 11.7.2 Unless otherwise agreed, payments for services shall be made monthly by the last day of each month in proportion to services proven to have been performed. Amounts unpaid sixty (60) days after the invoice date shall bear interest at the rate established by Section 74A.2 of the Code of Iowa. All pay requests must be received by the County seven days prior to the Board of Supervisors meeting which is held every Tuesday of each month.

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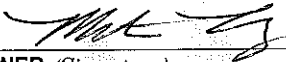
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User Notes:

(3B9ADA28)

- Exhibit "A" – Partial Lien Waiver
- Exhibit "B" – Final Lien Waiver
- Exhibit "C" – Insurance Requirements
- Exhibit "D" – Construction Manager Billing Rates

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



OWNER (Signature)

Matthew Uly Cherna

(Printed name and title)



CONSTRUCTION MANAGER (Signature)

Kathy Ladd, VP-COO

(Printed name and title)

Init.

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User Notes:

(3B9ADA28)

EXHIBIT A

PARTIAL RELEASE OF LIEN AND WAIVER OF CLAIMS

To: _____, the Owner of the real estate (the "Property") identified below, any Lender(s) having any loans secured by the Property, the Applicant's Contractor (if not the General Contractor) and other parties, if any, having any interest in (hereinafter collectively the "Beneficiaries").

The "Property": _____

Description of the "Project": _____

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

Payment Request Amount: \$ _____

Date of last work covered by payment request: _____

Certificate

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

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

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

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

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

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

Partial Waiver and Release of Claims

NOW, THEREFORE, the undersigned acknowledges receipt of progress payments in the sum of \$_____ for all work through _____, 20__, for which the undersigned irrevocably and unconditionally releases and waives any and all mechanic's liens or other liens or right to claim any and all mechanic's liens or other liens against the Property, except as pertains to unpaid retainage and claims documented as required by the Contract. Additionally, the undersigned waives and releases any other claims against the Owner or its sureties on any bonds, or any other claims of any kind whatsoever in connection with this Contract and with the Property, also referred to as _____. The undersigned shall indemnify and hold the Beneficiaries and their respective successors and assigns harmless against any lien, bond, claims or suits in connection with the materials, labor, and everything else in connection with this Contract for which payment has been made.

Dated _____, 20__.

CONTRACTOR: _____

By: _____

Name: _____

Title: _____

State of _____)
County of _____)

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

Notary Public in and for said County and State

Commission Expires

EXHIBIT B

FINAL WAIVER OF LIEN AND RELEASE OF CLAIMS

To: _____, the Owner of the real estate (the "Property") identified below, any Lender(s) having any loans secured by the Property, the Applicant's Contractor (if not the General Contractor) and other parties, if any, having any interest in (hereinafter collectively the "Beneficiaries").

The "Property": _____

Description of the "Project": _____

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

Payment Request Amount: \$ _____

Certificate

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

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

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

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

4. The undersigned has complied with Federal, State and Local tax laws, including, without limitation, Income Tax Withholding, Sales Tax, Fringe Benefits owed pursuant to collective bargaining agreements, Social Security, Unemployment Compensation and Worker's Compensation laws, insofar as applicable to the performance of the contract.

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

Final Waiver and Release of Claims

NOW, THEREFORE, the undersigned acknowledges receipt of final payment in the sum of \$ _____ for which the undersigned irrevocably and unconditionally releases and waives any and all mechanic's liens or other liens or right to claim any and all mechanic's liens or other liens against the Property. Additionally, the undersigned waives and releases any other claims against the Owner, its sureties or on any bonds, or any other claims of any kind whatsoever in connection with this Contract and with the Property. The undersigned shall indemnify and hold the Beneficiaries and their respective successors and assigns harmless against any lien, bond, claims or suits in connection with the materials, labor, and everything else in connection with this Contract.

Dated _____, 20__.

CONTRACTOR: _____

By: _____

Name: _____

Title: _____

State of _____)

County of _____)

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

Notary Public in and for said County and State

Commission Expires

Exhibit "C"

INSURANCE REQUIREMENTS

1. The Construction Manager shall secure and maintain through the duration of this Contract insurance (on an occurrence basis unless stated below) of such types and in such amounts stated below, but in no case less than as may be necessary to protect the Construction Manager and the Owner and agents of the Owner against all hazards or risks of loss as hereinafter specified. The Owner will only accept coverage from an insurance carrier who offers proof that it:
 - 1) Is licensed to do business in the State where Construction Manager is located;
 - 2) Carries a Best's policy holder rating of A or better and at least a Class X financial rating;
 - 3) Is a company mutually agreed upon by the Owner and the Construction Manager.
2. The form of such insurance, together with the underwriter thereof in each case, shall be approved by the Owner, but regardless of such approval it shall be the responsibility of the Construction Manager to maintain adequate insurance coverage at all times. Owner reserves the right to review certified copies of any and all insurance policies to which the Contract is applicable. Failure of the Construction Manager to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation, including but not limited to, the indemnification obligation.
3. The cost of defense of claims shall not erode the limits of coverage furnished.
4. If Construction Manager should retain consultants to perform any of its services, Construction Manager shall see to it that such third party maintains such insurance and shall furnish evidence thereof to Owner.
5. The insurance policies shall provide that Owner shall be given not less than thirty (30) days written notice from the insurer(s) before cancellation, non-renewal or material modification of coverage of such insurance and shall contain an endorsement stating the insurers agreement to provide such notice, using CNA form G-140327-B (Ed. 07/11) or equivalent. The Construction Manager shall promptly notify the Owner of any reduction in limits of protection under any policy listed in the Certificate in excess of \$10,000.00, whether or not such impairment came about as a result of the Contract. If the Owner shall determine the Construction Manager's aggregate limits of protection shall have been impaired or reduced to such an extent that the Owner shall determine such limits inadequate for the balance of the project, the Construction Manager shall, upon notice from the Owner, promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the Owner.
6. Satisfactory certificates of insurance, **and a copy of the Additional Insured Endorsement, and a copy of the Additional Insured Endorsement and a copy of the Notice of Cancellation Endorsement**, written on a standard AIA Document G705 or ACORD form 25-S, Accord Form 27, as applicable, shall be filed with the Owner prior to Construction Manager's entry on to the Project site. The Certificate shall specify the date when such insurance expires. A renewal certificate shall be furnished to Owner prior to the expiration date of any coverage, and Construction Manager shall give Owner written notice of any proposed reduction or other material modification in such insurance no later than thirty (30) days prior to such change.
7. Cancellation, non-renewal or material modification of coverage of any such insurance shall be the basis for the Owner's exercising its right to terminate the Contract.
8. Severability of Interest. All insurance carried shall be endorsed to provide that, inasmuch as this policy is written to cover more than one insured, all terms, conditions, insuring agreements and endorsements, with the exception of limits of liability, shall operate in the same manner as if there were a separate policy covering each insured.
9. Construction Manager shall insure specifically the indemnification by it contained in the Contract, and shall include the Indemnitees as identified in the Contract as additional insureds on the Commercial General Liability Insurance and the Comprehensive Automobile Liability Insurance policies described above. Indemnitees shall be included as additional insureds under Construction Manager's furnished insurance

(except Workers' Compensation Insurance and Professional Liability Insurance), for ongoing and completed operations, using ISO Additional Insured Endorsement (CG 20 10), edition date 11/85, or an equivalent (e.g., CG 20 10, edition date 10/93, plus CG 20 37, edition date 10/01). Said insurance shall be written on an OCCURRENCE basis, and shall be PRIMARY and NON-CONTRIBUTING and shall not be deemed to limit Construction Manager's liability under the Contract.

10. Construction Manager agrees to procure and carry, at its sole cost, until completion of the Contract all insurance, with identical limits of liability and scope of coverages, as set forth below:

10.1 Comprehensive Automobile Liability Insurance. Construction Manager shall maintain comprehensive automobile insurance, including contractual liabilities insuring the Indemnities set forth in the Contract covering all owned, non-owned and hired automobiles used in connection with the services or other work hereunder and shall have minimum bodily injury and property damage limits of \$1,000,000.00 combined single limit per occurrence. An MCS-90 endorsement shall be procured when applicable.

10.2 Workers' Compensation and Employer's Liability Insurance. Construction Manager shall maintain Worker's Compensation Insurance to cover the statutory limits of the Workers' Compensation laws of the state in which any work is to be performed and when applicable to Federal Laws, Voluntary Compensation and Employer's Liability (including occupational disease) coverage with limits not less than \$500,000.00 per occurrence. The Construction Manager shall also purchase insurance against claims for injury, disease or death of employees which, for any reason, may not fall within the provisions of a worker's compensation law. This policy shall include an "all states" endorsement.

10.3 Commercial General Liability Insurance. Construction Manager shall obtain and maintain Commercial General Liability Insurance, on an occurrence form for the hazards of (i) construction operation, (ii) subcontractors (iii) independent contractors, (iv) products and completed operations (with completed operations to remain in force for as long as Construction Manager or those included as Additional Insureds bear exposure under all applicable statutes of limitation following project completion), (v) explosion, collapse and underground, (vi) pollution liability, and (vii) contractual liability insuring the indemnities set forth in the Agreement. Each Project shall have minimum limits of \$1,000,000.00 per occurrence and \$2,000,000.00 products/completed operations aggregate coverage.

10.4 Excess Liability. Construction Manager shall maintain Excess Liability coverage on an umbrella form with minimum limits of \$2,000,000.00 per occurrence and \$5,000,000.00 aggregate.

11. Waiver of Subrogation. All insurance policies supplied shall include a waiver of any right of subrogation of the insurers against Owner and all its assigns, affiliates, employees, insurers and underwriters.

12. No Limitation of Liability. The required coverages referred to and set forth herein shall in no way affect, nor are they intended as a limitation on, Construction Manager's liability with respect to its performance of this Agreement.

13. Professional Liability coverage. The Construction Manager shall maintain and pay the premium on professional liability insurance in an aggregate amount of not less than Two Million Dollars (\$2,000,000.00), with a deductible of not more than One Hundred Thousand Dollars (\$100,000.00). Certificates of insurance for such coverage will be provided to Owner within ten (10) days of the execution of this Agreement. All such insurance shall be at no cost to the Owner.

14. The insurance company and the insured expressly agree and state that the purchase of this policy of insurance by the insured does not waive any of the defense of governmental immunity available to the insured under Iowa Code Section 670 as it now exists or may be amended from time to time. The company and the insured further agree that this policy of insurance shall cover only its claims not subject to the defense of governmental immunity under Iowa Code Section 670.

EXHIBIT D

**Baker Group
Construction Manager Billing Rates**

Professional Billing Rates per Hour:

Sr. Design Engineer (PE)	\$150.
Design Engineer (PE)	\$125.
LEED Accredited Professional (A.P.)	\$150.
Team Leader/Construction Manager	\$115
Senior Project Manager	\$110.
Assistant Project Manager/Site Foreman	\$ 85.
Project Principal / Executive	\$150.
Project Coordinator / Accounting	\$ 49.
Safety Director	\$105.
Estimating	\$ 79.