



NOTICE OF MEETING OF THE WOODBURY COUNTY BOARD OF SUPERVISORS  
(JANUARY 10, 2017) (WEEK 2 OF 2017)

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Agenda and Minutes also available at  
[www.woodburycountyiowa.gov](http://www.woodburycountyiowa.gov)

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You are hereby notified a meeting of the Woodbury County Board of Supervisors will be held January 10, 2017 at **4:30 p.m.** Preceding this meeting, Budget Review Discussions will be held at **1:00 p.m.** in the Basement of the Courthouse, 620 Douglas Street, Sioux City, Iowa for the purpose of taking official action on the agenda items shown hereinafter and for such other business that may properly come before the Board.

This is a formal meeting during which the Board may take official action on various items of business. If you wish to speak on an item, please follow the seven participation guidelines adopted by the Board for speakers.

1. Anyone may address the Board on any agenda item after initial discussion by the Board.
2. Speakers will approach the microphone one at a time and be recognized by the Chair.
3. Speakers will give their name, their address, and then their statement.
4. Everyone will have an opportunity to speak. Therefore, please limit your remarks to **three minutes on any one item.**
5. At the beginning of the discussion on any item, the Chair may request statements in favor of an action be heard first followed by statements in opposition to the action.
6. Any concerns or questions you may have which do not relate directly to a scheduled item on the agenda will also be heard under the first or final agenda item "Citizen Concerns."
7. For the benefit of all in attendance, please turn off all cell phones and other devices while in the Board Chambers.

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## **AGENDA**

- 1:00 p.m.** 1. **Budget Review Discussion for FY 2018**
- a. Department of Human Services - General Basic - Tax Supported
  - b. Civil Service – General Basic -Tax Supported
  - c. Secondary Roads Fund
    - 1. Secondary Roads – Secondary Roads & Rural Basic Fund – Tax Supported
    - 2. Secondary Roads – Special 5 Year Bridge Project – Secondary Roads & Rural Basic Fund – Tax Supported
    - 3. Roadside Management – Rural Basic Fund -Tax Supported
  - d. Emergency Services
    - 1. Emergency Services – General Supplemental Fund – Tax Supported
    - 2. Animal Control – Rural Basic Fund – Tax Supported
    - 3. EMS Loan Fund – Non Tax
    - 4. EMS Training – Non Tax
  - e. District Health – General Basic – Tax Supported
  - f. WCICC – General Basic – Tax Supported
- 4:00 p.m.** 2. Closed Session {Iowa Code Section 21.5 (1) (c)} Attorney Allyson Dirksen
- 4:30 p.m.** 3. Call Meeting to Order – Pledge of Allegiance to the Flag – Moment of Silence
- 4:30 p.m.** 4. Building Services – Kenny Schmitz  
(Set time) a. Hearing – Courthouse #207 Window Renovation Project Action

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|--|-------------|
| 5. Citizen Concerns  | Information |
| 6. Approval of the agenda January 10, 2017   | Action      |
| 7. Approval of the minutes of the January 3, 2017 meeting  | Action      |
| 8. Discussion and Approval of claims   | Action      |
| 9. Presentation of Proclamation "Slavery and Human Trafficking Prevention And Awareness Month"   | Information |
| 10. Building Services – Kenny Schmitz  |             |
| a. Courthouse #207 Window Renovation Project – Contractor Bids received for review   | Action      |
| b. Courthouse Steam Trap Project – Motion to approve Courtroom Fin-Tube Radiation and grill replacement  | Action      |
| c. Motion to approve Trostler-Hoyt Juvenile Detention AIA B132 Contract Goldberg Group Architectural fees for Juvenile Detention Master Control System upgrade, Partial Doors and Security Hardware Replacement Project              | Action      |
| d. Motion to approve Courthouse HVAC Control Project Contract – AIA B132 Resource Consulting Engineers   | Action      |
| e. LEC Jail Expansion Project – Additional soil testing required   | Action      |
| 11. Board of Supervisors – Matthew Ung   |             |
| a. Approval of four special committees   | Action      |
| 1. Woodbury County Courthouse Advisory Committee for Historical Preservation   |             |
| 2. Law Enforcement Expansion/Prairie Hills   |             |
| 3. Policy Review Committee   |             |
| 4. Health and Wellness Committee   |             |
| b. Approval of Chairman's 2017 liaison and committee assignments   | Action      |
| 12. Human Resources – Ed Gilliland   |             |
| a. Approval of Memorandum of Personnel Transactions  | Action      |
| b. Authorize Chairman to sign Authorization to Initiate Hiring Process   | Action      |
| c. Approve the implementation of the Acceptable Use Policy   | Action      |
| 13. County Auditor – Patrick Gill  |             |
| Receive an appointment of Mayor for the City of Lawton   | Action      |
| 14. Planning/Zoning – John Pylelo  |             |
| Consideration and adoption of Construction Evaluation Resolution pursuant to Iowa Code Section 459.304(3) applicable to the period from February 1, 2017 through January 31, 2018 and to authorize your Chairman's signature thereon | Action      |
| 15. Communications Director – Glenn Sedivy   |             |
| Approval of resolution fixing date of January 17 <sup>th</sup> for a public hearing at 4:45 p.m. For an agreement for Senet, Inc. to lease tower space from Starcomm on the WIT Tower for their operations                           | Action      |
| 16. Juvenile Detention – Mark Olsen  |             |
| Request to reduce the current daily detention cost for the BIA from \$150.00 per day down to \$100.00 per day  | Action      |
| 17. County Sheriff – Dave Drew   |             |
| Request to promote a Deputy Sergeant to Deputy Lieutenant. Promote a Deputy Sheriff to Deputy Sergeant. Backfill the vacated Deputy Sheriff position with a new hire Deputy Sheriff  | Information |

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|---|-------------|
| 18. Chairman's Report                   | Information |
| a. Little Anthon Courthouse             |             |
| b. First Department Head Meeting & Memo |             |
| 19. Reports on Committee Meetings       | Information |
| 20. Citizen Concerns                    | Information |
| 21. Board Concerns and Comments         | Information |

## **ADJOURNMENT**

*Subject to Additions/Deletions*

## CALENDAR OF EVENTS

<b>WEDNESDAY, JANUARY 11</b>	<b>8:05 a.m.</b> Woodbury County Information Communication Commission, Board of Supervisors' Chambers
	<b>12:00 noon</b> District Board of Health Meeting, 1014 Nebraska St.
	<b>7:30 p.m.</b> 911 Service Board Meeting, Public Safety Center, Climbing Hill
	<b>8:00 p.m.</b> County's Mayor Association Meeting, Public Safety Center, Climbing Hill
<b>THURSDAY, JANUARY 12</b>	<b>7:00 p.m.</b> Siouxland Mental Health Center, Board Meeting, 625 Court Street
	<b>12:00 p.m.</b> SIMPCO Board of Directors, 1122 Pierce St, Sioux City, Iowa
<b>MONDAY, JANUARY 16</b>	<b>4:30 p.m.</b> Community Action Agency of Siouxland Board Meeting, 2700 Leech Ave
<b>WEDNESDAY, JANUARY 18</b>	<b>10:00 a.m.</b> Siouxland Center for Active Generations Board of Directors Meeting
	<b>12:00 noon</b> Siouxland Economic Development Corporation Meeting, 617 Pierce St.
<b>THURSDAY, JANUARY 19</b>	<b>11:00 a.m.</b> Siouxland Regional Transit Systems (SRTS) Board Meeting, SIMPCO Office, 1122 Pierce St., Sioux City, Iowa
<b>MONDAY, JANUARY 23</b>	<b>6:00 p.m.</b> Zoning Commission Meeting, Board of Supervisors' Chambers
	<b>7:30 p.m.</b> Fair Board Meeting, Woodbury County Fair Office, Fairgrounds, Merville
<b>TUESDAY, JANUARY 24</b>	<b>8:00 a.m.</b> County Department Head Meeting
	<b>1:00 p.m.</b> Sioux Rivers Regional Governance Board Meeting, Plymouth County Courthouse Annex Building, 215 4th Ave. S.E., Le Mars, Iowa
	<b>2:00 p.m.</b> Decat Board Meeting, Western Hills AEA, Room F
<b>WEDNESDAY, FEBRUARY 1</b>	<b>12:00 noon</b> District Board of Health Meeting, 1014 Nebraska St.
<b>THURSDAY, FEBRUARY 2</b>	<b>5:00 p.m.</b> Conservation Board Meeting, Dorothy Pecaut Nature Center, Stone Park
<b>MONDAY, FEBRUARY 6</b>	<b>6:00 p.m.</b> Board of Adjustment meeting, Board of Supervisors' Chambers
<b>TUESDAY, FEBRUARY 7</b>	<b>4:45 p.m.</b> Veteran Affairs Meeting, Veteran Affairs Office, 1211 Tri-View Ave.

**The following Boards/Commission have vacancies:** Commission To Assess Damages - Category A, Category B, Category C and Category D

**Woodbury County is an Equal Opportunity Employer. In compliance with the Americans with Disabilities Act, the County will consider reasonable accommodations for qualified individuals with disabilities and encourages prospective employees and incumbents to discuss potential accommodations with the Employer.**

*Federal and state laws prohibit employment and/or public accommodation discrimination on the basis of age, color, creed, disability, gender identity, national origin, pregnancy, race, religion, sex, sexual orientation or veteran's status. If you believe you have been discriminated against, please contact the Iowa Civil Rights Commission at 800-457-4416 or Iowa Department of Transportation's civil rights coordinator. If you need accommodations because of a disability to access the Iowa Department of Transportation's services, contact the agency's affirmative action officer at 800-262-0003.*

Tax Rates  
FY 2018 Proposed

<u>Fund</u>	<u>FY 2017 Current Tax Rates</u>	<u>Proposed Budget Tax Rates for FY 2018</u>	<u>After 1-3-17 Adjustments</u>	<u>After 1-10-17 Adjustments</u>	<u>After 1-17-17 Adjustments</u>	<u>After 1-24-17 Adjustments</u>	<u>After 1-31-17 Adjustments</u>	<u>After 2-7-17 Adjustments</u>	<u>Pre-Final Review After 2-14-17 Adjustments</u>	<u>Final Review After 2-21-17 Adjustments</u>
General Basic	3.65035	3.79973	3.75144							
General Supplemental	2.81028	2.98892	2.98892							
County Services	0.72650	0.57031	0.57031							
Debt Service	0.26710	0.48154	0.48154							
<b>Total County - Wide Tax Rate</b>	<b>7.45423</b>	<b>7.84050</b>	<b>7.79221</b>	<b>0.00000</b>	<b>0.00000</b>	<b>0.00000</b>	<b>0.00000</b>	<b>0.00000</b>	<b>0.00000</b>	<b>0.00000</b>
Rural Basic	3.04187	3.77437	3.77437							
<b>Total Township Tax Rate</b>	<b>10.49610</b>	<b>11.61487</b>	<b>11.56658</b>	<b>0.00000</b>	<b>0.00000</b>	<b>0.00000</b>	<b>0.00000</b>	<b>0.00000</b>	<b>0.00000</b>	<b>0.00000</b>

<u>Taxable Valuations:</u>	
Rural (Townships)	1,061,320,121
Urban (Cities)	2,967,955,366
<b>Total for County</b>	<b>4,029,275,487</b>
Debt Service	4,321,196,548

Reductions from Proposed New Tax Rates

	<u>Proposed New Tax Rate</u>	<u>Re-Adjusted Tax Rate After Changes</u>	<u>Increase or Decrease</u>
General Basic	3.79973	3.75144	(0.04829)
General Supplemental	2.98892	2.98892	0.00000
County Services	0.57031	0.57031	0.00000
Debt Service	0.48154	0.48154	0.00000
<b>Total County - Wide Tax Rate</b>	<b>7.84050</b>	<b>7.79221</b>	<b>(0.04829)</b>
Rural Basic	3.77437	3.77437	0.00000
<b>Total Township Tax Rate</b>	<b>11.61487</b>	<b>11.56658</b>	<b>(0.04829)</b>

**Summary of Budgets to be Received on January 10, 2017**

<u>Fund</u>	<u>Department</u>		<u>Current</u>	<u>Proposed</u>	<u>Increase or Decrease</u>	
	<u>Division</u>	<u>Category - Expense</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>Dollar</u>	<u>%</u>
<b>General Basic - Tax</b>						
	<b>Department of Human Services</b>					
	Administration					
		Salaries & Benefits	0	0	0	0.00%
		Operating	98,775	107,800	9,025	9.14%
		Capital & Equipment	23,000	14,000	-1,500	-6.52%
		Subtotal	<u>121,775</u>	<u>121,800</u>	<u>25</u>	<u>0.02%</u>
	<b>Civil Service</b>		9,997	12,049	2,052	20.53%
<b>Secondary Roads Fund</b>						
	<b>Secondary Roads</b>					
		Secondary Roads	10,103,475	11,114,208	1,010,733	10.00%
		Special 5 Year Bridge Project				
		Salaries & Benefits	0	0	0	0.00%
		Operating	0	0	0	0.00%
		Capital & Equipment	1,000,000	1,300,000	300,000	30.00%
		Subtotal	<u>1,000,000</u>	<u>1,300,000</u>	<u>300,000</u>	<u>30.00%</u>
	<b>Total Secondary Roads</b>					

**Rural Basic Fund - Tax**

Secondary Roads Allocation	2,328,000	2,400,000	72,000	3.09%
Roadside Management				
Salaries & Benefits	57,678	61,615	3,937	6.83%
Operating	24,850	24,900	50	0.20%
Capital & Equipment	0	1,500	1,500	100.00%
Subtotal	<u>82,528</u>	<u>88,015</u>	<u>5,487</u>	6.65%
<b>Total Secondary Roads</b>	<b>2,410,528</b>	<b>2,488,015</b>	<b>77,487</b>	<b>3.21%</b>

**General Supplemental Fund - Tax****Emergency Services**

Emergency Services				
Salaries & Benefits	483,144	690,704	207,560	42.96%
Operating	80,293	87,418	7,125	8.87%
Capital & Equipment	72,125	7,125	-65,000	-90.12%
Subtotal	<u>635,562</u>	<u>785,247</u>	<u>149,685</u>	23.55%

**Rural Basic Fund - Tax**

Animal Control				
Salaries & Benefits	0	0	0	0.00%
Operating	0	0	0	0.00%
Capital & Equipment	7,067	7,067	0	0.00%
Subtotal	<u>7,067</u>	<u>7,067</u>	<u>0</u>	0.00%

**Non- Tax Funds**

EMS Training				
Salaries & Benefits	0	0	0	0.00%
Operating	13,512	8,652	-4,860	-35.97%
Capital & Equipment	0	0	0	0.00%
Subtotal	<u>13,512</u>	<u>8,652</u>	<u>-4,860</u>	-35.97%

EMS Loan Fund				
Salaries & Benefits	0	0	0	0.00%
Operating	0	0	0	0.00%
Capital & Equipment	190,212	184,242	-5,970	-3.14%
Subtotal	<u>190,212</u>	<u>184,242</u>	<u>-5,970</u>	-3.14%
<b>General Basic - Tax</b>				
<b>District Health Allocation</b>				
Administration	2,064,299	2,524,490	460,191	22.29%
<b>General Basic - Tax</b>				
<b>WCICC Allocation</b>				
Administration	986,510	986,734	224	0.02%



WOODBURY COUNTY  
Budget Level Miscellaneous Information Entry

Budget level . . . . . : OP DENNIS CHGS FY18  
Account number . . . . . : 2017 001 3041 430 48 15 OTHER SERVICES / TAX ALLO  
Total budget amount . . . . . : 2,524,490

*Adjusted 2,179,640 - 344,850*

Seq.#/ Priority	Freeform information	Amount
1.00	CURRENT COUNTY FY 2017 ALLOCATION	2064299
2.00	ADD BACK THE CASH RESERVE REDUCTION FOR FY 2017	216853
3.00	ADD THE INCREASED SALARIES, BENEFITS & OPERATIONAL	168338
4.00	INCREASE IN SALARIES AND BENEFITS	
5.00	THE BOARD OF SUPERVISORS DO NOT COVER GRANT	151850-
6.00	FUNDING WITH TAX DOLLARS. THIS COVERS FY'S 17 & 18	
7.00	AT A COST OF \$75,925 EACH FY.	
8.00	USE THE CASH RESERVE OVERAGE AS OF JUNE 30, 2016	118000-
9.00		
10.00		
11.00		
12.00		

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F3=Exit    F7=Update    F9=Copy    F12=Cancel

**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM**

Date: 1/04/2017 Weekly Agenda Date: 1/10/2017

**ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN:** Kenny Schmitz

**WORDING FOR AGENDA ITEM:**

Hearing - Courthouse #207 Window Renovation Project

**ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

**EXECUTIVE SUMMARY:**

Open and Close Public Hearing relating to the Courthouse #207 Window Renovation Project

**BACKGROUND:**

Courthouse Courtrooms require repairs to address structural weakness and deterioration of windows.

**FINANCIAL IMPACT:**

**IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?**

Yes  No

**RECOMMENDATION:**

Open and Close Public Hearing

**ACTION REQUIRED / PROPOSED MOTION:**

Motion to open & close public hearing

## NOTICE OF HEARING AND LETTING

A hearing will be conducted on the proposed plans and specifications, the proposed form of contract and estimate of cost for the Courtroom 207 Window Renovation, Woodbury County Courthouse, Sioux City, Iowa at a meeting of the Woodbury County Supervisors to be held at the Board Room, Woodbury County Courthouse, Sioux City, IA at 4:30 pm, on the 10th of January 2017, at which time and place any person may appear and file objections to the proposed plans, specifications and form of contract and estimated costs for the Project.

Sealed proposals will be accepted for a General Contract and a Stained Glass Contract for the Courtroom 207 Window Renovation at the Woodbury County Courthouse Sioux City, Iowa in the Board Room. Proposals will be received on behalf of the County, until 2:00 o'clock P.M. on the 5th day of January 2017, and at such time and place will be opened and publicly read.

A prebid meeting will be held for all interested contractors at 2:00 p.m. on the 28<sup>th</sup> of December, 2016. This will be held in Courtroom 207 and will allow for contractors to view existing conditions and ask questions of the Architect and Owner. Attendance is recommended but is not mandatory.

Contract documents may be examined at the office of the Architect, Cannon Moss Brygger Architects, 302 Jones Street, Suite 200, Sioux City, Iowa 51102-3689, or obtained from the Architect for a \$100 refundable deposit. Contract documents may also be examined at the following building Exchanges.

Ft. Dodge Plan Room, 1406 central, Ft. Dodge, IA 50501

McGraw-Hill construction Dodge, c/o Beeline & Blue, 2507 Ingersoll Ave, Des Moines, IA 50312

Master Builders of Iowa, 221 Park Street, Des Moines, IA 50309

North Iowa Builders Exchange, 15 West State Street, Box 1154, Mason City, IA 50401

Omaha Builders Exchange, 4255 S. 94<sup>th</sup> Street, Omaha NE 68127

Plains Builders Exchange, 220 N. Kiwanis Avenue, Sioux Falls SD 57104

Sioux City Construction League, 3900 Stadium Drive, Sioux City, IA 51106

Sioux Falls Builders Exchange, 1418 "C" Avenue, Sioux Falls, SD 57104

Work under the proposed contract shall be commenced upon receipt of signed contract and shall be completed in a timely manner but in no event shall Substantial Completion be later than March 31, 2017, subject to any extension of time which may be granted by the Woodbury County Board of Supervisors.

The Woodbury County Board of Supervisors reserves the right to reject any and all proposals, re-advertise for new bids and to waive informalities that may be in the best interest of the County.

Each Proposal shall be accompanied by cash, a bid bond, certified check, cashier's check or certified credit union share draft in a separate sealed envelope in an amount equal to 5% of the total amount of the base bid or base bids. The certified check or cashier's check or certified share draft shall be drawn on a bank or credit union in Iowa or a bank or credit union chartered under the laws of the United States of America and shall be made payable to Woodbury County as security that if awarded a contract by resolution of the Woodbury County Board of Supervisors, the bidder will enter into a contract at the prices bid and furnish the required performance bond, the certified check, cashier's check, or certified share draft may be cashed, or the bid bond forfeited, and the proceeds retained as penalty if the bidder fails to execute a contract of file

acceptable performance and payment bonds or provide an acceptable certificate of insurance within 10 days after the acceptance of such proposal by resolution of the Woodbury County Board of Supervisors.

By virtue of statutory authority, a preference will be given to products and provisions grown and locally produced with the State of Iowa and to Iowa domestic labor.

No bidder may withdraw a bid for at least 30 days after the scheduled closing time for receiving bids.

The successful bidder will be notified on or after January 11, 2017, after the proposals have been reviewed by the Architect and recommendation as to the lowest responsible bidder has been made to the County and accepted by the County Board of Supervisors.

The successful bidder of the General Contract will be required to furnish a Performance Bond, separate Labor & Material Payment Bond, and Insurance; said documents to be issued by a responsible surety approved by Woodbury County and shall guarantee the faithful performance of the contract and the terms and conditions therein contained.

Plans and specifications governing the construction of said proposed improvements have been prepared by Cannon Moss Brygger Architects, Sioux City, IA which plans and specifications referring to and defining said proposed improvements are hereby made a part of this notice and the proposed contract shall be executed to comply therein.

Notice is published upon order of Woodbury County of Sioux City, Iowa.

## **JANUARY 3, 2017, FIRST MEETING OF THE WOODBURY COUNTY BOARD OF SUPERVISORS**

The Board of Supervisors met on Tuesday, January 3, 2017 at 3:00 p.m. Board members present were Ung, Taylor, De Witt, Pottebaum, and Radig. Staff members present were Dennis Butler, Budget/Tax Analyst, Karen James, Board Administrative Coordinator, Ed Gilliland, Human Resources Director, Abigail Sills, Assistant County Attorney and Patrick Gill, Auditor /Clerk to the Board.

1. The Oath of Office was administered to Elected Official Rocky De Witt, Board of Supervisors, by Chief District Court Judge John Ackerman.  
  
The Oath of Office was administered to Elected Official Marty Pottebaum, Board of Supervisors, by Chief District Court Judge John Ackerman.  
  
The Oath of Office was administered to Elected Official Keith Radig, Board of Supervisors, by Chief District Court Judge John Ackerman.  
  
The Oath of Office was administered to Elected Official Patrick Gill, County Auditor, by Chief District Court Judge John Ackerman.  
  
The Oath of Office was administered to Elected Official Dave Drew, County Sheriff, by Chief District Court Judge John Ackerman.
2. The meeting was called to order with the Pledge of Allegiance to the Flag and a Moment of Silence.
3. Motion by Pottebaum second by Ung to approve the adoption of current Board of Supervisors Bylaws. Carried 5-0.
4. Motion by Ung second by Radig to approve Taylor as temporary Chairperson to preside over Election of Chairperson. Carried 5-0.
5. Motion by Taylor second by Radig to approve Supervisor Ung as Chairperson. Carried 5-0.
6. Motion by Ung second by De Witt to approve Supervisor Taylor as Vice-Chairperson. Carried 5-0.
7. There were no citizen concerns.
8. Motion by Taylor second by De Witt to approve the Agenda for January 3, 2017. Carried 5-0. Copy filed.
9. Motion by Ung second by Taylor to approve the minutes of the December 20, 2016 Board meeting. Carried 5-0. Copy filed.
10. Motion by Ung second by Pottebaum to approve the claims totaling \$723,446.62. Carried 5-0. Copy filed.
11. End of 2016 Board Chairperson's report- Jeremy Taylor
12. Motion by Ung second by Pottebaum to receive for signatures Resolution of proclamation for "Slavery and Human Trafficking Prevention and Awareness Month". Carried 5-0.

### **WOODBURY COUNTY, IOWA RESOLUTION #12,472 PROCLAMATION**

**WHEREAS,** the United States was founded upon the principle that all people are created with the unalienable right to freedom, and added the 13<sup>th</sup> amendment to the Constitution making slavery illegal; and

**WHEREAS,** slavery within the United States today is most often found in the form of forced

labor and sex trafficking, which weakens our social fabric, increases violence and organized crime, and debases our humanity; and

**WHEREAS,** this problem is found even within our community; and

**WHEREAS,** every business, community organization, faith community, family and individual can make a difference by choosing products that are not made by forced labor; by working to protect our young people from sexual exploitation; by addressing the problems of internet sex trafficking and pornography; and by becoming more aware of the problem and possible solutions; and

**NOW, THEREFORE, Woodbury County Board of Supervisors,** do hereby proclaim the month of January, 2017 as

**“SLAVERY AND HUMAN TRAFFICKING PREVENTION  
AND AWARENESS MONTH”**

in Woodbury County, Iowa and urge all citizens to become more familiar with the problem and to work towards solutions.

WOODBURY COUNTY BOARD OF SUPERVISORS  
Copy filed.

- 13a. Motion by Ung second by Radig to approve the appointment of County Engineer, Mark Nahra. Carried 5-0.
- 13b. Motion by Ung second by Pottebaum to approve the appointment of County Medical Examiner, Dr. Thomas Carroll. Carried 5-0. Copy filed.
- 13c. Motion by Ung second by Pottebaum to approve the appointment of Jered Jepsen as County Weed Commissioner. Carried 5-0.
- 13d. Motion by Ung second by Radig to approve to select The Sioux City Journal, The Sergeant Bluff Advocate, and The Merville Record as the County’s official newspapers. Carried 5-0. Copy filed.
- 13e. Motion by Ung second by Taylor to approve the appointment of Supervisor Pottebaum to the Third Judicial Department of Correctional Services. Carried 5-0. Copy filed.
- 14a. Motion by Ung second by De Witt to approve the appointment of Suzan Boden, a full five year term to the Woodbury Conservation Board. Carried 5-0. Copy filed.
- 14b. Motion by Ung second by Pottebaum to approve the appointment of Shauna LaFleur and George Boykin to the Siouxland District Board of Health. Carried 5-0. Copy filed.
- 14c. Motion by Ung second by Radig to approve the appointment of Leo Jochum, Thomas Ullrich, and Debbie DeForrest to the Commission to Assess Damages Category A – Owner/Operators of Agricultural Property, Bob Batcheller, Peter Macfarlane, Ruth Groth, and Kathleen Fenceroy to the Commission to Assess Damages Category B – Owners of City Property, Colleen Baker, Anita Small, Nancy Henry, and Tori Jackson to the Commission to Assess Damages Category C – Licensed Real Estate Salesman of Real Estate Broker and Patrick Curry, Leon Ortner, Linda Mathison, and Doug Lehman to the Commission to Assess Damages Category D – Persons Having Knowledge of Property Values in the County by Reason of their Occupation. Carried 5-0. Copy filed.
- 15. Motion by Ung second by De Witt to approve the separation of Sharon Hefty, Clerk II, Auditor/Recorder Dept., effective 11-22-16. Resignation.; the appointment of Rocky De Witt, Board Member, Board of Supervisors Dept., effective 01-01-17, \$33,151/year. Elected Official.; the appointment of Martin Pottebaum, Board Member, Board of Supervisors Dept., effective 01-01-17, \$33,151/year. Elected Official.; the appointment of Keith Radig, Board Member, Board of Supervisors Dept., effective 01-01-17, \$33,151/year. Elected Official.; the appointment of Arthur Doakes, Civilian Jailer, County Sheriff Dept., effective 01-01-17, \$18.00/hour. Job Vacancy Posted 11-9-16. Entry Level Salary: \$18.00/hour.; the reclassification of Angelique Kelly, P/T Youth Worker, Juvenile Detention Dept., effective 01-13-17, \$18.68/hour, 4%=\$.71/hour. Per AFSCME Juvenile Detention Contract agreement, from

Grade 1/Step 1 to Grade 1/Step 2.; and the reclassification of Theodore Karrer, Maintenance Worker-Grounds Keeper, Building Services Dept., effective 01-15-17, \$16.36/hour, 4.5%=\$.72/hour. Per AF5CME Courthouse Contract agreement, from Grade 3/Step 1 to Grade 3/Step 2. Carried 5-0. Copy filed.

- 16a. Motion by Taylor second by Ung to approve and authorize the Chairperson to sign a Resolution approving petition for suspension of taxes for Kathryn Watterson, 1445 Burton St., Sioux City. Carried 5-0.

**WOODBURY COUNTY, IOWA  
RESOLUTION #12,473  
RESOLUTION APPROVING PETITION FOR SUSPENSION OF TAXES**

**WHEREAS**, Kathryn Watterson, is the titleholder of property located at 1445 Burton St, Sioux City, IA, Woodbury County, Iowa, and legally described as follows:

**Parcel# 8948 24 453 007**

**HIGHLAND PARK LOTS 20 & 21 BLK 47**

**WHEREAS**, Kathryn Watterson, is the titleholder of the aforementioned properties have petitioned the Board of Supervisors for a suspension of taxes pursuant to the 2009 Iowa Code section 427.9, and

**WHEREAS**, the Board of Supervisors recognizes from documents provided that the petitioner is unable to provide to the public revenue; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Woodbury County Board of Supervisors hereby grants the request for a suspension of taxes, and hereby directs the Woodbury County Treasurer to so record the approval of this tax suspension for this property.

**SO RESOLVED** this 3rd day of January, 2017.  
WOODBURY COUNTY BOARD OF SUPERVISORS  
Copy filed.

- 16b. Motion by Taylor second by Ung to approve and authorize the Chairperson to sign a Resolution approving petition for suspension of taxes through the redemption process for Teresa Andrews-Stowe, 2311 W 4<sup>th</sup> St., Sioux City. Carried 5-0.

**WOODBURY COUNTY, IOWA  
RESOLUTION #12,474  
RESOLUTION APPROVING PETITION FOR SUSPENSION  
OF TAXES THROUGH THE REDEMPTION PROCESS**

**WHEREAS**, Teresa Andrews-Stowe as joint titleholders of a property located at 2311 W. 4<sup>th</sup> St., Sioux City, Iowa, Woodbury County, Iowa, and legally described as follows:

**Parcel # 894730251011**

**HORNICKS 2ND LOT 14 BLK 7**

**WHEREAS**, Teresa Andrews-Stowe, as joint titleholders of the aforementioned property has petitioned the Board of Supervisors for a suspension of taxes pursuant to the 1999 Iowa Code Section 447.9(3) and,

**WHEREAS**, the Board of Supervisors recognizes from documents provided that the petitioner is unable to provide to the public revenue; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Woodbury County Board of Supervisors hereby directs the County Auditor to redeem this property Parcel #894730251011 owned by the petitioner from the holder of a certificate of

purchase of the amount necessary to redeem under section 447.9, and hereby directs the Woodbury County Treasurer to so record the approval of this tax suspension for this parcel.

**SO RESOLVED** this 3rd day of January, 2017.  
WOODBURY COUNTY BOARD OF SUPERVISORS  
Copy filed.

- 17. Motion by Ung second by Radig to approve the refund in the amount to \$2,430.00 to A L S. Carried 5-0. Copy filed.
- 18a. Motion by Radig second by Ung to approve and authorize the Chairperson to sign a Resolution authorizing the County Engineer to close any secondary road for the purpose of construction, routine maintenance, or emergencies during 2017. Carried 5-0.

**RESOLUTION #12,475**  
**RESOLUTION AUTHORIZING THE COUNTY ENGINEER TO CLOSE ANY  
 SECONDARY ROAD FOR THE PURPOSE OF CONSTRUCTION, ROUTINE  
 MAINTENANCE, OR EMERGENCIES DURING 2017**

WHEREAS, the Woodbury County Board of Supervisors is concerned about traffic safety involved during construction and maintenance work or during natural or traffic emergencies on the secondary road system, and

WHEREAS, they are further interested in making appropriate traffic accommodations for the traveling public, adjacent landowners and related users during construction and maintenance operations, and

WHEREAS, the Board of Supervisors under section 306.41 of the Code of Iowa can delegate the authority to temporarily closure of roads to the County Engineer,

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Woodbury County Board of Supervisors give Mark J. Nahra, Woodbury County Engineer the authority to temporarily close sections of highway in Woodbury County's road system when necessary because of construction, maintenance, or natural disaster.

DATED this 3<sup>rd</sup> day of January, 2017.  
WOODBURY COUNTY BOARD OF SUPERVISORS  
Copy filed.

- 18b. Motion by Pottebaum second by Ung to approve and authorize the Chairperson to sign a Resolution authorizing the County Engineer to execute certification of completion of work on federal aid, state aid, and farm to market construction during 2016. Carried 5-0.

**RESOLUTION #12,476**  
**RESOLUTION AUTHORIZING THE COUNTY ENGINEER TO EXECUTE  
 CERTIFICATION OF COMPLETION OF WORK ON FEDERAL AID, STATE AID, AND  
 FARM TO MARKET CONSTRUCTION DURING 2016**

BE IT RESOLVED by the Board of Supervisors of Woodbury County, Iowa, that Mark J. Nahra, the County Engineer of Woodbury County, Iowa, be and is hereby designated, authorized, and empowered on behalf of the Board of Supervisors of said County to execute the certification of completion of work and final acceptance thereof in accordance with plans and specifications in connection with all Farm-to-Market and federal or state aid construction projects in this county.

Dated at Sioux City, Iowa, this 3<sup>rd</sup> day of January, 2017.  
WOODBURY COUNTY BOARD OF SUPERVISORS  
Copy filed.



19. Information about revising the current Woodbury County/BIA contract by reducing the daily bed rate from \$150.00 per day to \$100.00. Copy filed.

20. Information on conducting hearing for Courthouse Courtroom window renovation on 1/10/2017 at Board of Supervisors meeting. Copy filed.

Information on authorizing CMBA Architects & the County Auditor of representative to accept and open bids January 5<sup>th</sup>, 2017 at 2:00 p.m. Copy filed.

21. The Board members reported on their committee meetings.

22. There were no citizen concerns.

23. Board members presented their concerns and comments.

24. State of the Budget presentation by Dennis Butler. Copy filed.

25a. Motion by Taylor second by De Witt to receive the Motor Vehicle budget as submitted. Carried 5-0.

Motion by Ung second by Taylor to receive the Tax Department budget with expenses reduced by \$1,250.00 and revenues increased by \$15,000.00. Carried 5-0.

25b. Motion by Taylor second by Ung to receive the Conservation Administration budget as submitted. Carried 5-0.

Motion by Ung second by Taylor to receive the Conservation Parks budget reduced by \$165,326.00. Carried 5-0.

Motion by Taylor second by Ung to receive the Conservation Naturalist budget as submitted. Carried 5-0.

Motion by Taylor second by De Witt to receive the Conservation Nature Center budget as submitted. Carried 5-0.

Motion by Taylor second by Radig to receive REAP as submitted. Carried 5-0.

Motion by Taylor second by Radig to receive the Conservation Reserve budgets as submitted. Carried 5-0.

25c. Motion by Ung second by Radig to receive the General Relief administration budget as submitted. Carried 5-0.

Motion by Ung second by Radig to receive the General Relief assistance budget reduced by \$12,000.00. Carried 5-0.

25d. Motion by Radig second by Taylor to receive the County Library budget as submitted. Carried 5-0.

The Board adjourned the regular meeting until January 10, 2016.

Meeting sign in sheet. Copy filed.

WOODBURY COUNTY, IOWA

RESOLUTION NO. 12,472

**PROCLAMATION**

**WHEREAS,** *the United States was founded upon the principle that all people are created with the unalienable right to freedom, and added the 13<sup>th</sup> amendment to the Constitution making slavery illegal; and*

**WHEREAS,** *slavery within the United States today is most often found in the form of forced labor and sex trafficking, which weakens our social fabric, increases violence and organized crime, and debases our humanity; and*

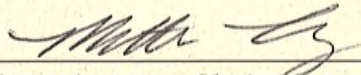
**WHEREAS,** *this problem is found even within our community; and*

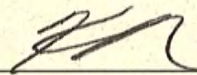
**WHEREAS,** *every business, community organization, faith community, family and individual can make a difference by choosing products that are not made by forced labor; by working to protect our young people from sexual exploitation; by addressing the problems of internet sex trafficking and pornography; and by becoming more aware of the problem and possible solutions; and*

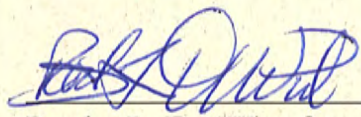
**NOW, THEREFORE,** *Woodbury County Board of Supervisors, do hereby proclaim the month of January, 2017 as*

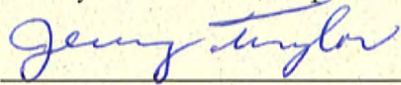
**“SLAVERY AND HUMAN TRAFFICKING PREVENTION  
AND AWARENESS MONTH”**

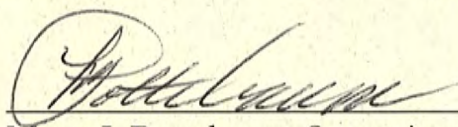
*in Woodbury County, Iowa and urge all citizens to become more familiar with the problem and to work towards solutions.*

  
Matthew A. Ung, Chairman

  
Keith W. Radig, Supervisor

  
Rocky L. De Witt, Supervisor

  
Jeremy J. Taylor, Supervisor

  
Marty J. Pottebaum, Supervisor

**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM**

Date: 1/5/2017

Weekly Agenda Date: 1/10/2017

**ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN:** Kenny Schmitz

**WORDING FOR AGENDA ITEM:**

Courthouse #207 Window Renovation Project- Contractor Bids received for review

**ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

**EXECUTIVE SUMMARY:**

On January 5th, at 2:00 pm in the Woodbury County Courthouse Contractor Bids were received and opened by Cannon Moss Brygger Architects and the Woodbury County Auditors Office relating to the Courthouse #207 Window Renovation Project.

Bid costs are being presented to the Woodbury County Board of Supervisors.

Woodbury County Building Services and Cannon Moss Brygger Architects will review the contractor bid costs and associated documents in preparation for recommendations to be presented at the January 17th Board of Supervisors Meeting.

**BACKGROUND:**

In March of 2016, Cannon Moss Brygger Architects provided a study relating to structural and window repair recommendations associated with the Courthouse Courtroom #203 where previously an interior marble slab section had fallen and stained glass windows had shifted outward.

Other Courtrooms were then evaluated. It was determined that similar structural conditions also existed to a lesser extent but that stained glass window casements were at the same or greater level of deterioration in the other areas.

On November 8th, 2016 the Woodbury County Board of Supervisors voted approval to seek bids relating to additional Courthouse Courtroom windows and structural repairs.

**FINANCIAL IMPACT:**

To be determined

**IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?**

Yes  No

**RECOMMENDATION:**

Instruct Building Services to present Contractor bid recommendations for approval at the Board of Supervisors January 17th Meeting.

**ACTION REQUIRED / PROPOSED MOTION:**

Information:  
Acknowledge receiving, opening, and reading of Contractor bids.

**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM**

Date: 1/04/2017

Weekly Agenda Date: 1/10/2017

**ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN:** Kenny Schmitz

**WORDING FOR AGENDA ITEM:**

Courthouse Steam Trap Project-  
Motion to approve Courtroom Fin-Tube Radiation and grill replacement.

**ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

**EXECUTIVE SUMMARY:**

The Courthouse Courtrooms steam radiation heating is experiencing numerous unit failures. Courtroom #203 currently has no operable radiant heating units due to leakage beyond repair. Other Courtrooms have unit leaks which have been repaired on multiple occasions. These units require replacement.

Building Services anticipates additional project components will be purchased directly from the vendors by the County and installations will be conducted by the Contractor as identified in the Steam Trap Project Contract.

CMBA Architects have provided detail specific information on the radiant heating replacement and grill panels to the National Park Service and have received approval to proceed as designed.

**BACKGROUND:**

The Courthouse steam trap project encompasses other heating system areas that will need attention in conjunction and coordination and as part of the steam trap project.

As previously discussed information on items for repair such as registers, condensate return system components or piping, and other items which may be identified during the project will be provided.

**FINANCIAL IMPACT:**

2017 CIP Allocation #

Fin-Tube radiators- (Qty. 12 two tier) Hydronic Energy= \$5,625  
Decorative Panels/ Grills (94 linear foot) Siouxland Ornamental Iron= \$19,440

\$25,065.00

**IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?**

Yes  No

**RECOMMENDATION:**

Approve funds for Courtroom fin-tube radiation heat & grill replacements

**ACTION REQUIRED / PROPOSED MOTION:**

Motion to approve funds to replace Courthouse Courtrooms Fin-tube radiation heaters and decorative grills.



**SIouxLAND  
ORNAMENTAL IRON**

513 Clark • Sioux City, Iowa 51101  
(712) 258-2412

**PROPOSAL**

No. 1036

Date 12/12/2016

Sheet No. \_\_\_\_\_

**Proposal Submitted To:**

Name CMB Architects <sup>c/o Terry Glade</sup>  
Street 302 Jones  
City Sioux City State Ia  
Phone 712-224-3106

**Work To Be Performed At:**

Woodbury County Grilles  
Street \_\_\_\_\_  
City Sioux City State Ia  
Date of Plans 10/12/2016 Architect Terry Glade

We hereby propose to furnish the materials and perform the labor necessary for the completion of

<u>Approximately 23'5" of decorative grilles</u>	<u>\$ 3860.00</u>
<u>Powder-coat textured black</u>	<u>250.00</u>
<u>Installation</u>	<u>750.00</u>
<u>Per courtroom</u>	<u>\$ 4860.00</u>

Will provide prototype of grill plus a sample of what the textured powder-coat would look like. On the installation, Shane Albrecht, said he would provide 2 helpers to install grille.

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the sum of four thousand eight hundred sixty and 00/100 Dollars (\$ 4860.00 ) with payments to be made as follows: \_\_\_\_\_

Any alteration or deviation from above specifications involving extra costs, will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance upon above work. Workmen's Compensation and Public Liability Insurance on above work to be taken out by \_\_\_\_\_

Respectfully submitted Siouxland Ornamental Iron  
Per Denny Carlson

Note-This proposal may be withdrawn by us if not accepted within \_\_\_\_\_ days.

**ACCEPTANCE OF PROPOSAL**

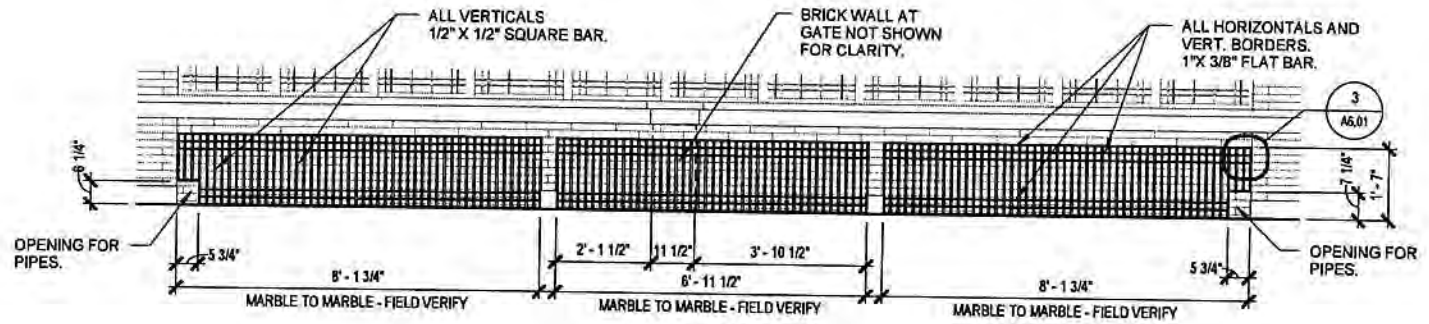
The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature \_\_\_\_\_  
Date \_\_\_\_\_ Signature \_\_\_\_\_

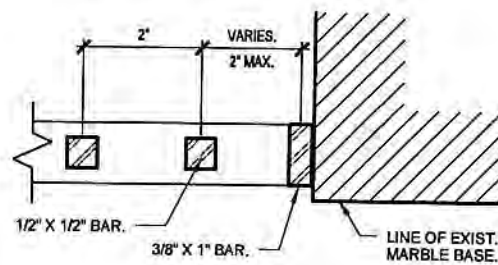


# Woodbury County Courthouse

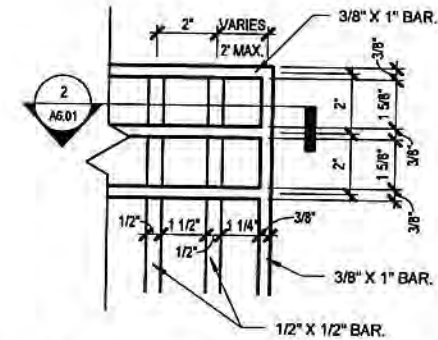
## DECORATIVE GRILLE DETAILS



**1** DECORATIVE GRILLE ELEVATION  
3/8" = 1'-0"



**2** DECORATIVE GRILLE DETAIL  
6" = 1'-0"



**3** ENLARGED GRILLE ELEVATION  
3" = 1'-0"

**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM**

Date: 1/04/2017

Weekly Agenda Date: 1/10/2017

**ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN:** Kenny Schmitz

**WORDING FOR AGENDA ITEM:**

Motion to Approve Trospers Hoyt Juvenile Detention AIA B132 Contract- Goldberg Group Architectural fees for Juvenile Detention Master Control System upgrade, Partial Doors, and Security Hardware Replacement Project.

**ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

**EXECUTIVE SUMMARY:**

Goldberg Architects at the request of Woodbury County Building Services has provided an Architects fee schedule and scope of services for security system master control upgrade, partial door replacement, and security hardware replacement related to the Trospers Hoyt Juvenile Detention Facility.

Goldbergs Groups scope of work would include drafting documents, specifications, and contracts to be utilized in a formal competitive bidding process for upgrades at the Trospers Hoyt Juvenile Detention Facility.

**BACKGROUND:**

Trospers Hoyt Juvenile Detention area Master Control System, security doors, frames, and electronic security hardware have reached or surpassed useful life expectancy.

The control systems components are in need of replacement due to age and daily repetitive use.

The electronic door hardware and locking devices are in need of replacements.

Security doors and frames have in some cases been damaged and are in need of repair and/or replacement.

It is time to begin to address potential safety and security concerns associated with the worn components.

Detention and Security Product and materials relative to this project environment require substantial preparation and lead time.

**FINANCIAL IMPACT:**

Funding allocated:  
2016 CIP #C4(doors \$50,000),  
2017 CIP #C4-17 (doors \$50,000)  
2017 CIP (Update Security Boards in Receiving Unit \$355,100)

Architectural Design: Goldberg Group Architects = \$66,000.00

**IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?**

Yes  No

**RECOMMENDATION:**

Building Services recommends approval to begin steps to address current aging of security systems at the Trospen-Hoyt facility. Approval of Architectural Design is the first step toward this process.

**ACTION REQUIRED / PROPOSED MOTION:**

Motion to Approve AIA B132 Contract with Goldberg Group Architects for Architectural Services relating to the Trospen Hoyt Juvenile Detention Security Systems Master Control, Door and Hardware Project in the amount of \$66,000.00.



**AIA**<sup>®</sup>

# Document B132<sup>™</sup> – 2009

## *Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition*

AGREEMENT made as of the \_\_\_\_\_ day of December in the year 2016  
*(In words, indicate day, month and year.)*

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

Woodbury County, IA and/or Woodbury Board of Supervisors  
Woodbury County Courthouse  
620 Douglas Street  
Sioux City, IA 51101

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

Goldberg Group Architects, PC  
805 N. 36<sup>th</sup> Street – Suite B  
St. Joseph, MO 64506

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

Woodbury County Juvenile Facility  
Security Systems & Door Upgrades  
Woodbury County  
620 Douglas Street  
Sioux City, IA

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

The Baker Group  
4224 Hubbell Avenue  
Des Moines, IA 50317

The Owner and Architect agree as follows.

### **ADDITIONS AND DELETIONS:**

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

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

This document is intended to be used in conjunction with AIA Documents A132<sup>™</sup>–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232<sup>™</sup>–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and C132<sup>™</sup>–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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

TABLE OF ARTICLES

1 INITIAL INFORMATION  
2 ARCHITECT'S RESPONSIBILITIES  
3 SCOPE OF ARCHITECT'S BASIC SERVICES  
4 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.  
*(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")*

§ 1.1.1 The Owner's program for the Project:  
*(Identify documentation or state the manner in which the program will be developed.)*

Door Replacement: Replace as many of the detention doors and frames as Owner's budget will permit.  
Security System(s) Replacement: Replace and upgrade the existing Electronic Security Systems and Controls, including but not limited to door controls, locks, central panels, security cameras, intercoms, such that operating safety, security and efficiency are improved.

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

§ 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.)*

One Hundred Thousand & no/100 Dollars (\$100,000.00) for Door Replacement  
Three Hundred Fifty Five Thousand & no/100 Dollars (\$355,000.00) for Security upgrades.

§ 1.1.4 The Owner's anticipated design and construction schedule:  
.1 Design phase milestone dates, if any:

- | N/A
- .2 Commencement of construction:
  - | N/A
- .3 Substantial Completion date or milestone dates:
  - | N/A
- .4 Other:
  - | N/A

§ 1.1.5 The Owner intends to retain a Construction Manager adviser and:  
*(Note that, if Multiple Prime Contractors are used, the term "Contractor" as referred to throughout this Agreement will be as if plural in number.)*

- One Contractor
- Multiple Prime Contractors
- Unknown at time of execution

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

| N/A

§ 1.1.7 Other Project information:  
*(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)*

The Construction Manager and the Architect shall work together to develop sequence of work to minimize impact of work as the building will be occupied throughout the construction process. Separately, areas of the Courthouse Building identified on the National Register of Historic Places shall have existing control panels removed, and placement of new control devices shall be reviewed to verify acceptability.

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

Kenny Schmitz  
 Director of Building Services  
 Woodbury County  
 620 Douglas Street  
 Sioux City, IA 51101

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

| Construction Manager

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

Init.  
 /

- .1 Construction Manager: The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention:

*(Paragraphs deleted)*

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

Kevin Rost, AIA  
Goldberg Group Architects, PC  
805 N. 36<sup>th</sup> Street – Suite B  
St. Joseph, MO 64506

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

§ 1.1.12.1 Consultants retained under Basic Services:  
*(Paragraphs deleted)*

None

§ 1.1.12.2 Consultants retained under Additional Services:

N/A

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

N/A

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

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in AIA Document C132™–2009, Standard Form of Agreement Between Owner and Construction Manager, as modified and as amended and approved by the Owner and Construction Manager. The Architect shall not be responsible for actions taken by the Construction Manager.

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

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

§ 2.6 The Architect shall maintain insurance as specified in Exhibit "C".

*(Paragraphs deleted)*

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§ 2.6.6 The Architect shall provide to the Owner certificates of insurance evidencing insurance as specified in Exhibit "C".

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

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

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

3.1.2 The Architect shall be a representative of and shall advise and consult with the Owner during the administration of the Contract for Construction and shall serve, in conjunction with the Construction Manager, as the "Owner's Authorized Contract Representative" for all designated purposes and/or responsibilities under Iowa Code Chapter 26. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this agreement, unless otherwise modified by written amendment.

*(Paragraph deleted)*

§ 3.1.3 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager and the Owner's other consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, the Construction Manager, and the Owner's other 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.

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

3.1.4.1 The Construction Manager shall provide the estimating services to establish the Project construction budget. However, the Architect is responsible for designing the Project within the Owner-approved Project construction budget. The "Project construction budget" means the estimate of cost of the Work developed or to be developed for the project by the Construction Manager and approved by the Owner, as such may be amended or updated from time to time. The Architect and Construction Manager shall coordinate and cooperate with each other in the development of the design in order to facilitate the achievement of the Owner's Project construction budget.

§ 3.1.5 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services.

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

*(Paragraph deleted)*

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

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

*(Paragraphs deleted)*

§ 3.1.9 The Architect shall work with the Construction Manager to file on behalf of the Owner documents required for the approval of governmental authorities having jurisdiction over the Project.

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**§ 3.3 Design Development Phase Services**

**§ 3.3.1** Based on preliminary discussions between the Owner, the Construction Manager and the Architect, the Architect shall prepare Design Development Documents for the Owner's approval and the Construction Manager's review. The Design Development Documents shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

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

**§ 3.3.3** Upon receipt of the Owner's comments and the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall provide the completed Design Development Documents to the Owner for approval. If necessary, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of said actions.

**§ 3.4 Construction Documents Phase Services**

**§ 3.4.1** Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval and the Construction Manager's review. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. All architectural documents shall be dated and shall contain the signature of the registered architect in responsible charge, a certificate that the work was done by such registered architect or under the registered architect's direct personal supervision, and the Iowa legible seal for such registrant. The Owner and Architect acknowledge that, in order to construct 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, and the Architect shall assist the Construction Manager in filing the documents in the Owner's name, if necessary, required for the approval of governmental authorities having jurisdiction over the Project.

**§ 3.4.3** During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and the Construction Manager in the development and preparation of (1) bidding and 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; (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions); and (4) compile a project manual that includes the Conditions of the Contract for Construction and may include bidding requirements and sample forms.

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

**§ 3.4.5** Upon completion of the Construction Documents phase of the Project, the Architect shall provide Construction Documents, including drawings and specifications, for the Owner's approval and the Construction Manager's information. Prior to bid, the Construction Manager shall prepare a final estimate of the budget for the Cost of the Work based on said Construction Documents. The Architect shall make revisions to the Construction Documents when requested by the Owner if the final estimate of the Cost of the Work exceeds the Project construction budget.

## § 3.5 Bidding or Negotiation Phase Services

### § 3.5.1 General

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

**3.5.1.1** Revisions to Construction Documents requested by the Owner after the Construction Documents have been bid shall be made as Additional Services, except where such change is due to changes initiated by the Architect in scope, capacities of systems, or the kinds and quality of materials, finishes or equipment.

### § 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 and Construction Manager in bidding the Project by

- .1 facilitating the reproduction of Bidding Documents for distribution to prospective bidders,
- .2 participating in a pre-bid conference for prospective bidders, and
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents in the form of prepared and issued addenda.
- .4 reviewing and making recommendations of bids.

**§ 3.5.2.3** The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, shall consult with the Construction Manager and Owner, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

**3.5.2.4** The Architect shall include in the Specifications requirements that the Contractors provide operation manuals and adequate training for the Owner in the operation and maintenance of mechanical, electrical, heating and ventilation, air-conditioning, and other building systems installed by the contractors, and provide all warranty information pertaining to such systems.

**3.5.2.5** The Architect shall work with the Construction Manager to file documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall be responsible for making such changes in the Construction Documents as may be mandated by said governmental authorities at its own expense if determined to be originally drawn in error.

### § 3.5.3 Negotiated Proposals – NOT APPLICABLE

*(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 A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition as modified and as amended and approved by the parties.

**§ 3.6.1.2** The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement, and until the final correction period is complete. 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 to the extent the Architect has performed its own contractual obligations as they related to priorities and updating the Project Schedule, and observing and approving the Contractor's work. However, Architect shall report to the Owner known deviations from the Contract Documents from the most recent Construction Schedule. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager, or the Contractor or of any other persons or entities performing portions of the Work.

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§ 3.6.1.3 Subject to Section 4.3, 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, consistent with the standard of care set out in this Agreement, to observe and evaluate the work in order to become generally familiar with the progress and quality of the Work; and to determine for the Owner's benefit and protection if the Work is proceeding in accordance with the intent of the Contract Documents. As needed, the Architect shall attend all construction progress meetings in conjunction with or in addition to visiting the site in satisfaction of other responsibilities. The Architect shall use reasonable care to guard the Owner against defects and deficiencies in the work and the Contractor's failure to carry out the work in accordance with the Contract Documents and the construction schedule. On the basis of his on-site observations as a professional Architect, the Architect shall keep the Owner informed of the progress and quality of the work, and shall give prompt notice to the Owner in writing of any major or material deviations from the Contract Documents in the work. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall provide architectural services made necessary by major defects or deficiencies in the work of the Contractor which, through reasonable care, should have been discovered by the Architect and promptly reported to the Owner and Contractor(s), but which the Architect failed to discover and/or report.

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

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness. The Owner shall not be bound by the Architect's interpretation or decision, however the Architect shall not be obligated to address issues arising from the Owner's decision to deviate from the Architect's interpretation or decision.

§ 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.

§ 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 A232-2009, as modified and as amended and approved by the parties, 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 an application for payment not more frequently than monthly. Within seven days after the Architect receives an application for payment forwarded from the Construction Manager, the Architect shall review and certify the application as follows:

1. Where there is only one Contractor responsible for performing the Work, the Architect shall review the Contractor's Application and Certificate for Payment that the Construction Manager has previously reviewed and certified. The Architect shall certify the amount due the Contractor and shall issue a Certificate for Payment in such amount.
2. Where there are Multiple Prime Contractors responsible for performing different portions of the Project, the Architect shall review a Project Application and Project Certificate for Payment, with a Summary of Contractors' Applications for Payment, that the Construction Manager has previously

prepared, reviewed and certified. The Architect shall certify the amounts due the Contractors and shall issue a Project Certificate for Payment in the total of such amounts.

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

§ 3.6.3.3 The issuance of a Certificate for Payment or a Project Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences, or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the 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. However, the issuance of a Certificate of Payment shall constitute a representation to the Owner that to the best of the Architect's knowledge, information, and belief, the Contractors are entitled to payment in the amount certified.

§ 3.6.3.4 The Architect shall maintain a record of the applications and certificates for payment.

#### § 3.6.4 Submittals

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

§ 3.6.4.2 In accordance with the Architect-approved Project submittal schedule, and after the Construction Manager reviews, approves and transmits the submittals, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, for the 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, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the 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 shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

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

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

#### § 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect shall review and sign, or take other appropriate action, on Change Orders and Construction Change Directives prepared by the Construction Manager for the Owner's approval and execution in accordance with the Contract Documents. The Architect shall provide services to evaluate Contractor claims, including requests for supplemental instructions and change orders.

§ 3.6.5.2 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be effected by written order issued by the Architect through the Construction Manager, to the Owner and Contractor.

§ 3.6.5.3 The Architect shall maintain records relative to changes in the Work and shall produce said records upon request from the Owner.

#### § 3.6.6 Project Completion

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

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

§ 3.6.6.3 When the Work is found to be substantially complete by the Construction Manager and Architect, and after certification by the Construction Manager and the Architect, 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, in addition to retainage, if necessary, for final completion or correction of the Work or to cover filed Iowa Code Chapter 573 claims.

3.6.6.3.1 Upon Substantial Completion of the Project, the Architect shall prepare a set of reproducible record drawings showing changes in the Work made during construction based on marked-up print, drawings and other data furnished by the Contractors.

§ 3.6.6.4 Upon Final completion of the Project, the Architect shall attest that no asbestos or asbestos-containing material was specified as a building material in any Construction Documents for the Project and that, to the best of the Architect's knowledge, no asbestos or asbestos-containing materials were used as a building material on the Project, to comply with 40 C.F.R. Section 763.99(a)(7).

3.6.6.5 Eleven (11) months after the date of Substantial Completion, the Architect shall, without additional compensation, contact Owner and schedule and conduct a meeting with the Owner to review the facility operations and performance and to conduct a one-year correction period review to determine that the completed work remains in accordance with the requirements of the Contract Documents and to identify any then-required correction period work.

#### ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Architect's fees are all-inclusive, except for reimbursables identified below, or any additions to the scope of the Project which may be added by the Owner.

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- .4 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations, or official interpretations;
- .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner, Construction Manager or the Owner's other consultants or contractors;
- .6 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .10 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 Unless, in the Construction Manager's opinion, an emergency exists which requires immediate action to avoid damage to property or injury to persons, to avoid delay in the Construction Phase, the Architect shall provide the following Additional Services at no additional charge, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need, and advise the Owner if continued services by the Architect would only be rendered if the Owner makes additional payments to the Architect, and also advise Owner of the anticipated cost of such services. If the Owner subsequently determines that all or parts of those services are required, the Owner shall give prompt written notice to the Architect and the Owner shall compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the initial Project submittal schedule agreed to 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 more than five (5) Claims as the Initial Decision Maker;
- .5 Evaluating more than ten (10) substitutions proposed by the Owner, Construction Manager or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.

§ 4.2.3 If the services covered by this Agreement have not been completed within fourteen ( 14 ) 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 retain a Construction Manager to provide services, duties, and responsibilities as described in AIA Document C132-2009, Standard Form of Agreement Between Owner and Construction Manager. The Owner shall provide the Architect a copy of the executed agreement between the Owner and the Construction Manager, and any further modifications to the agreement.

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

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

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

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

§ 5.6 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 The Owner shall furnish services of geotechnical engineers, when such services are requested by the Architect to the extent necessary to allow Architect to perform its service under this Agreement. Such services 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 Owner, with the assistance of the Construction Manager and Architect, shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided.

§ 5.9 The Owner shall furnish tests, inspections, and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials. The Architect, as authorized by the Owner, shall provide to the Owner for the Owner's approval, a list of tests, inspections or reports that are required or anticipated in the Contract Documents

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

§ 5.11 The Owner shall provide prompt written notice to the Architect and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions, or inconsistencies in the Architect's Instruments of Service. However, Owner shall have no obligation or responsibility to inspect the Project, Contract Documents, or Instruments of Service for defects.



§ 5.12 Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor through the Construction Manager, and shall contemporaneously provide the same communications to the Architect about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall with the assistance of the Architect and Construction Manager, 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 Construction Manager and Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

5.15 When asbestos-related materials are suspected or found in the course of the Project, the Owner shall immediately provide the services of an asbestos-related expert or consultant to determine the proper course of action.

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the contractors' general conditions costs, overhead, and profit. The Cost of the Work includes the compensation of the Construction Manager and Construction Manager's consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

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

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

§ 6.3.1 If the Architect is providing detailed cost estimating services as an Additional Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect 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 Architect, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments, at no additional cost to the Owner.

§ 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 Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .3 implement any other mutually acceptable alternative.

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

§ 6.7 If, after incorporating the modifications under Section 6.6, actual bids received under the completed Construction documents prepared by the Architect for the Project are in excess of the approved budget for the Cost of the Work, and if the Owner rejects such bids, the Architect will, at no cost to the Owner, and in cooperation with the Construction Manager, revise the Construction Documents using all necessary staff, and prepare to re-advertise or do such other reasonable and practical things as may be necessary to bring costs within the budget of the Cost of the Work. The modification of such documents shall be the limit of the Architect's responsibility. The Owner agrees to cooperate with the Architect within the basic framework of the Project, as given to the Architect at the time he/she began his/her preliminary plans and studies, in order to accomplish such revisions of the Construction Documents to secure bids or reductions in the amount of the bid consistent with said functional needs of the budget of the Cost of the Work. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced, unless the failure to commence the Construction phase is directly attributable to the fault of the Architect.

#### ARTICLE 7 COPYRIGHTS AND LICENSES

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

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

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

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

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

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## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Final Acceptance 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 A232–2009, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

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

*(Paragraph deleted)*

### § 8.2 Mediation

*(Paragraphs deleted)*

### § 8.3 Arbitration – NOT APPLICABLE

*(Paragraphs deleted)*

### § 8.3.4 Consolidation or Joinder – NOT APPLICABLE

*(Paragraphs deleted)*

## 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, except that payment may be withheld from the Architect for the Architect's substantial non-compliance or non-performance formally claimed and/or determined in accordance with the terms of this Agreement, without penalty to Owner for such withholding. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all 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 for more than ninety (90) consecutive days, for reasons other than the fault of the Architect, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect's compensation shall be equitably adjusted to provide for expenses incurred due to the interruption and resumption of the Architect's services.

§ 9.3 The Owner may terminate this Agreement upon no less than seven (7) days' written notice to the Architect, in the event the Project is permanently abandoned. If the Owner abandons the Project for more than one Hundred eighty (180) consecutive days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven (7) 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.

9.5.1 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 County 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.

§ 9.6 Upon any termination, the Owner shall be obligated to compensate the Architect for only those services rendered and acceptable before the notice of termination, less any damages that may be assessed for non-performance.

*(Paragraphs deleted)*

#### 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.

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

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 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. The Architect shall not specify or approve for use in the Project any new materials containing asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. If the Architect discovers that such substances as described herein have been used or do exist in the Project. The Architect shall promptly notify the Owner in writing. When asbestos containing materials, polychlorinated biphenyl (PCB) or other toxic or hazardous substances are suspected or found in the course of the Project, the Owner shall immediately provide the services of an appropriately qualified expert or consultant to determine the proper course of action.

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

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it

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to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information, or (4) comply with any public records requests under Iowa's Open Records Law, as applicable.

**ARTICLE 11 COMPENSATION**

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

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

Door Replacement: Stipulated fixed fee of \$13,500.00  
 Security System Replacement: Stipulated fixed fee of \$52,500.00

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

N/A

§ 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 Rates per Section 11.3

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

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

Design Development Phase	Thirty Five percent (	35	%)
Construction Documents Phase	Forty Five percent (	45	%)
Construction Phase	Twenty percent (	20	%)
Total Basic Compensation	one hundred percent (	100	%)

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

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work prepared by the Construction Manager for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

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

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Hourly billing rates are listed below:

Employee or Category	Rate (\$0.00)
Principal	\$135.00
Senior Technical	\$95.00
Technical	\$75.00
Clerical	\$30.00

#### § 11.8 Compensation for Reimbursable Expenses

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

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .3 Printing, reproductions, plots, standard form documents;

*(Paragraphs deleted)*

- .4 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;

*(Paragraphs deleted)*

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus zero percent ( 0 %) of the expenses incurred.

#### § 11.9

*(Paragraphs deleted)*

#### Payments to the Architect

*(Paragraphs deleted)*

§ 11.9.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services proven to have been performed. Payments are due and payable within thirty (30) days upon presentation of the Architect's invoice to the Owner. 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 fourteen days prior to the County Board of Supervisors meeting at which the invoice will be approved.

§ 11.9.2 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.

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

#### ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

12.1 The Architect shall be required to meet the requirements of Exhibit "C", Insurance

12.2 The Project is tax exempt. The Owner will provide a certificate of tax exemption

12.3 The Architect (Company) shall not be owned, operated, or managed by a registered sex offender who has been convicted of a sex offense against a minor in accordance with Iowa Code 692A. In addition, the Architect shall not permit an employee, subconsultant (Company) owned, operated, or managed by, or subconsultant employee who is a registered sex offender convicted of a sex offense against a minor on real property of the County. The Architect shall further acknowledge and certify services provided under this Contract comply with Iowa Code 692A, and shall fully execute and deliver a copy of 'Acknowledgement and Certification' form within ten (10) days of the execution of the Agreement or before any Company workers are on the Project site.

**ARTICLE 13 SCOPE OF THE AGREEMENT**

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

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

- .1 AIA Document B132™–2009, Standard Form Agreement Between Owner and Architect, Construction Manager as Adviser Edition

.2

*(Paragraphs deleted)*

Other documents:

*(List other documents, if any, including additional scopes of service forming part of the Agreement.)*

Exhibit "A" – Partial Waiver of Lien and Release of Claims

Exhibit "B" – Final Waiver of Lien and Release of Claims

Exhibit "C" – Insurance Requirements

Exhibit "D" – Original proposal from Architect to Owner

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

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

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

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

\_\_\_\_\_  
Lawrence T. Goldberg, AIA, NCARB, ASC  
*(Printed name and title)*

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N/A

...

N/A

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N/A

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N/A

...

N/A

...

The Construction Manager and the Architect shall work together to develop sequence of work to minimize impact of work as the building will be occupied throughout the construction process. Separately, areas of the Courthouse Building identified on the National Register of Historic Places shall have existing control panels removed, and placement of new control devices shall be reviewed to verify acceptability.

...

Kenny Schmitz  
Director of Building Services  
Woodbury County  
620 Douglas Street  
Sioux City, IA 51101

...

Construction Manager

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~~.2 — Cost Consultant (if in addition to the Construction Manager):  
(If a Cost Consultant is retained, appropriate references to the Cost Consultant should be inserted in Sections 3.2.6, 3.2.7, 3.3.2, 3.3.3, 3.4.5, 3.4.6, 5.4, 6.3, 6.3.1, 6.4 and 11.6.)~~

~~.3 — Land Surveyor:~~

.4 — Geotechnical Engineer:

.5 — Civil Engineer:

.6 — Other consultants:

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

...

Kevin Rost, AIA  
Goldberg Group Architects, PC  
805 N. 36<sup>th</sup> Street – Suite B  
St. Joseph, MO 64506

...

§ 1.1.12.1 Consultants retained under Basic Services:

.1 — Structural Engineer:

.2 — Mechanical Engineer:

.3 — Electrical Engineer:

None

...

N/A

...

N/A

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

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§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in AIA Document C132™-2009, Standard Form of Agreement Between Owner and Construction Manager, as modified and as amended and approved by the Owner and Construction Manager. The Architect shall not be responsible for actions taken by the Construction Manager.

...

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

~~§ 2.6.1 Comprehensive General Liability with policy limits of not less than — (\$ —) for each occurrence and in the aggregate for bodily injury and property damage.~~

~~§ 2.6.2 Automobile Liability covering owned and rented vehicles operated by the Architect with policy limits of not less than — (\$ —) combined single limit and aggregate for bodily injury and property damage.~~

~~§ 2.6.3 The Architect may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies.~~

~~§ 2.6.4 Workers' Compensation at statutory limits and Employers Liability with a policy limit of not less than — (\$ —).~~

~~§ 2.6.5 Professional Liability covering the Architect's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than — (\$ —) per claim and in the aggregate.~~

§ 2.6.6 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.6. The certificates will show the Owner as an additional insured on the Comprehensive General Liability, Automobile Liability, umbrella or excess policies. insurance as specified in Exhibit "C".

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3.1.2 The Architect shall be a representative of and shall advise and consult with the Owner during the administration of the Contract for Construction and shall serve, in conjunction with the Construction Manager, as the "Owner's Authorized Contract Representative" for all designated purposes and/or responsibilities under Iowa Code Chapter 26. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this agreement, unless otherwise modified by written amendment.

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

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Construction Manager a schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review, (2) for the Construction Manager's review, (3) for the performance of the Owner's consultants, and (4) for approval of submissions by authorities having jurisdiction over the Project. The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager and the Owner's other consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, the Construction Manager, and the Owner's other 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.

~~§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Construction Manager a schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review, (2) for the Construction Manager's review, (3) for the performance of the Owner's consultants, and (4) for approval of submissions by authorities having jurisdiction over the Project.~~

3.1.4.1 The Construction Manager shall provide the estimating services to establish the Project construction budget. However, the Architect is responsible for designing the Project within the Owner-approved Project construction budget. The "Project construction budget" means the estimate of cost of the Work developed or to be developed for the project by the Construction Manager and approved by the Owner, as such may be amended or updated from time to time. The Architect and Construction Manager shall coordinate and cooperate with each other in the development of the design in order to facilitate the achievement of the Owner's Project construction budget.

§ 3.1.5 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services.

~~§ 3.1.5~~ 3.1.6 Once the Owner and the Architect agree to the time limits established by the Project schedule, the Owner and the Architect shall not exceed them, except for reasonable cause.

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

§ 3.1.7 The Architect shall, at appropriate times, in coordination with the Construction Manager, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services. The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made without the Architect's approval.

~~§ 3.1.8 The Architect shall assist the Owner and Construction Manager in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project shall, at appropriate times, in coordination with the Construction Manager, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.~~

### ~~§ 3.2 Schematic Design Phase Services~~

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

~~§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or 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 Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. 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 to the Owner and Construction Manager, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.~~

~~§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval and the Construction Manager's review. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.~~

~~§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.~~

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

~~§ 3.2.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.~~

~~§ 3.2.7 Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, identify agreed upon adjustments to the Project's size, quality or budget, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.~~

~~§ 3.2.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.~~

§ 3.1.9 The Architect shall work with the Construction Manager to file on behalf of the Owner documents required for the approval of governmental authorities having jurisdiction over the Project.

~~§ 3.3.1 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 pursuant to Section 5.4, the preliminary discussions between the Owner, the Construction Manager and the Architect, the Architect shall prepare Design Development Documents for the Owner's approval and the Construction Manager's review. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.~~

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§ 3.3.3 Upon receipt of the Owner's comments and the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall provide the completed Design Development Documents to the Owner for approval. If necessary, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.said actions.

...

~~§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval and the Construction Manager's review. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work All architectural documents shall be dated and shall contain the signature of the registered architect in responsible charge, a certificate that the work was done by such registered architect or under the registered architect's direct personal supervision, and the Iowa legible seal for such registrant. The Owner and Architect acknowledge that, in order to construct 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 into the Construction Documents the design requirements the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents, and the Architect shall assist the Construction Manager in filing the documents in the Owner's name, if necessary, required for the approval of governmental authorities having jurisdiction over the Project.Project.

§ 3.4.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and the Construction Manager in the development and preparation of (1) bidding and 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); and (4) compile a project manual that includes the Conditions of the Contract for Construction and may include bidding requirements and sample forms.

...

§ 3.4.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7 and request the Owner's approval of the Construction Documents. completion of the Construction Documents phase of the Project, the Architect shall provide Construction Documents, including drawings and specifications, for the Owner's approval and the Construction Manager's information. Prior to bid, the Construction Manager shall prepare a final estimate of the budget for the Cost of the Work based on said Construction Documents. The Architect shall make revisions to the

Construction Documents when requested by the Owner if the final estimate of the Cost of the Work exceeds the Project construction budget.

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3.5.1.1 Revisions to Construction Documents requested by the Owner after the Construction Documents have been bid shall be made as Additional Services, except where such change is due to changes initiated by the Architect in scope, capacities of systems, or the kinds and quality of materials, finishes or equipment.

...

- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents in the form of prepared and issued addenda.
- .4 reviewing and making recommendations of bids.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall consult with the Construction Manager and Owner, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

3.5.2.4 The Architect shall include in the Specifications requirements that the Contractors provide operation manuals and adequate training for the Owner in the operation and maintenance of mechanical, electrical, heating and ventilation, air-conditioning, and other building systems installed by the contractors, and provide all warranty information pertaining to such systems.

3.5.2.5 The Architect shall work with the Construction Manager to file documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall be responsible for making such changes in the Construction Documents as may be mandated by said governmental authorities at its own expense if determined to be originally drawn in error.

### § 3.5.3 Negotiated Proposals – NOT APPLICABLE

~~§ 3.5.3.1 Proposal Documents shall consist of proposal requirements, and proposed Contract Documents.~~

~~§ 3.5.3.2 The Architect shall assist the Owner and Construction Manager in obtaining proposals by~~

- ~~.1 — facilitating the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;~~
- ~~.2 — participating in selection interviews with prospective contractors; and~~
- ~~.3 — participating in negotiations with prospective contractors.~~

~~§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall consult with the Construction Manager and prepare and distribute addenda identifying approved substitutions to all prospective contractors.~~

...

~~§ 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 A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition. If the Owner and Contractor modify AIA Document A232–2009, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. Edition as modified and as amended and approved by the parties.~~

§ 3.6.1.2 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. Agreement, and until the final correction period is complete. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, ~~sequences~~ 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. Documents to the extent the Architect has performed its own contractual obligations as they related to priorities and updating the Project Schedule, and observing and approving the Contractor's work. However, Architect shall report to the Owner known deviations from the Contract Documents from the most recent Construction Schedule. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager, or the Contractor or of any other persons or entities performing portions of the Work.

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§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, ~~or as otherwise required in Section 4.3.3, consistent with the standard of care set out in this Agreement, to observe and evaluate the work in order 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 Work; and to determine for the Owner's benefit and protection if the Work is proceeding in accordance with the intent of the Contract Documents. As needed, the Architect shall attend all construction progress meetings in conjunction with or in addition to visiting the site in satisfaction of other responsibilities. The Architect shall use reasonable care to guard the Owner against defects and deficiencies in the work and the Contractor's failure to carry out the work in accordance with the Contract Documents and the construction schedule. On the basis of his on-site observations as a professional Architect, the Architect shall keep the Owner informed of the progress and quality of the portion of the Work completed, and report to the Owner and the Construction Manager (1) known deviations from the Contract Documents and from the most recent construction schedule, and (2) defects and deficiencies observed in the Work, work, and shall give prompt notice to the Owner in writing of any major or material deviations from the Contract Documents in the work. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall provide architectural services made necessary by major defects or deficiencies in the work of the Contractor which, through reasonable care, should have been discovered by the Architect and promptly reported to the Owner and Contractor(s), but which the Architect failed to discover and/or report.~~

§ 3.6.2.2 The Architect ~~has the authority to~~ shall reject Work that does not conform to the Contract Documents ~~after prior notification to the Owner~~ and shall notify the Construction Manager about the rejection. Whenever the Architect considers it necessary or advisable, the Architect, upon written authorization from the Owner and notification to the Construction Manager, shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, ~~installed~~ 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, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness. ~~The Owner shall not be bound by the Architect's interpretation or decision, however the Architect shall not be obligated to address issues arising from the Owner's decision to deviate from the Architect's interpretation or decision.~~

§ 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 A232–2009, as modified and as amended and approved by the parties, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

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

§ 3.6.3.3 The issuance of a Certificate for Payment or a Project 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~~ sequences, or procedures, (3) reviewed copies of requisitions received from Subcontractors and material 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. However, the issuance of a Certificate of Payment shall constitute a representation to the Owner that to the best of the Architect's knowledge, information, and belief, the Contractors are entitled to payment in the amount certified.

...

§ 3.6.4.2 In accordance with the Architect-approved Project submittal schedule, and after the Construction Manager reviews, approves and transmits the submittals, 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, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, ~~sequences~~ 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.

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§ 3.6.5.1 The Architect shall review and sign, or take other appropriate action, on Change Orders and Construction Change Directives prepared by the Construction Manager for the Owner's approval and execution in accordance with the Contract Documents. The Architect shall provide services to evaluate Contractor claims, including requests for supplemental instructions and change orders.

§ 3.6.5.2 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be effected by written order issued by the Architect through the ~~Construction Manager~~ Manager, to the Owner and Contractor.

§ 3.6.5.3 The Architect shall maintain records relative to changes in the ~~Work~~ Work and shall produce said records upon request from the Owner.

...

§ 3.6.6.3 When the Work is found to be substantially complete by the Construction Manager and Architect, and after certification by the Construction Manager and the Architect, 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 in addition to retainage, if necessary, for final completion or correction of the Work or to cover filed Iowa Code Chapter 573 claims.

3.6.6.3.1 Upon Substantial Completion of the Project, the Architect shall prepare a set of reproducible record drawings showing changes in the Work made during construction based on marked-up print, drawings and other data furnished by the Contractors.

§ 3.6.6.4 Upon request of the Owner, and prior to the expiration of one year from Final completion of the Project, the Architect shall attest that no asbestos or asbestos-containing material was specified as a building material in any Construction Documents for the Project and that, to the best of the Architect's knowledge, no asbestos or asbestos-containing materials were used as a building material on the Project, to comply with 40 C.F.R. Section 763.99(a)(7).

3.6.6.5 Eleven (11) months after the date of Substantial Completion, the Architect shall, without additional compensation, contact Owner and schedule and conduct a meeting with the Owner to review the facility operations and performance and to conduct a one-year correction period review to determine that the completed work remains in accordance with the requirements of the Contract Documents and to identify any then-required correction period work.

...

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. (Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.) Architect's fees are all-inclusive, except for reimbursables identified below, or any additions to the scope of the Project which may be added by the Owner.

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§ 4.1.1 Programming (B202™ 2009)		
§ 4.1.2 Multiple preliminary designs		
§ 4.1.3 Measured drawings		
§ 4.1.4 Existing facilities surveys		
§ 4.1.5 Site evaluation and planning (B203™ 2007)		
§ 4.1.6 Building Information Modeling (E202™ 2008)		
§ 4.1.7 Civil engineering		
§ 4.1.8 Landscape design		
§ 4.1.9 Architectural interior design (B252™ 2007)		
§ 4.1.10 Value analysis (B204™ 2007)		
§ 4.1.11 Detailed cost estimating		
§ 4.1.12 On-site project representation (B207™ 2008)		
§ 4.1.13 Conformed construction documents		
§ 4.1.14 As-designed record drawings		
§ 4.1.15 As-constructed record drawings		
§ 4.1.16 Post-occupancy evaluation		
§ 4.1.17 Facility support services (B210™ 2007)		
§ 4.1.18 Tenant-related services		
§ 4.1.19 Coordination of Owner's consultants		
§ 4.1.20 Telecommunications/data design		
§ 4.1.21 Security evaluation and planning (B206™ 2007)		
§ 4.1.22 Commissioning (B211™ 2007)		

§ 4.1.23 Extensive environmentally responsible design		
§ 4.1.24 LEED <sup>®</sup> certification (B214 <sup>™</sup> 2012)		
§ 4.1.25 Historic preservation (B205 <sup>™</sup> 2007)		
§ 4.1.26 Furniture, furnishings, and equipment design (B253 <sup>™</sup> 2007)		

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

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

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

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, building systems, the Owner's schedule or budget for Cost of the Work, constructability considerations, procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes or equipment;
- .3 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED<sup>®</sup> certification;
- .4 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner, Construction Manager or the Owner's other consultants or contractors;
- .6 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .9 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .10 Evaluation of the qualifications of bidders or persons providing proposals;
- .11 Consultation concerning replacement of Work resulting from fire or other cause during construction;  
or
- .12 Assistance to the Initial Decision-Maker, if other than the Architect.

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

- .1 — Reviewing a Contractor's submittal out of sequence from the initial Project submittal schedule agreed to 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;
- .5 — Evaluating substitutions proposed by the Owner, Construction Manager or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 — To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.

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

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

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

§ 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 services until the Architect receives the Owner's written authorization following the County Board of Supervisors approval:

- .1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, building systems, the Owner's schedule or budget for Cost of the Work, constructability considerations, procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes or equipment;
- .3 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .4 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations, or official interpretations;
- .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner, Construction Manager or the Owner's other consultants or contractors;
- .6 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;

- .9 Consultation concerning replacement of Work resulting from fire or other cause during construction;  
or
- .10 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 Unless, in the Construction Manager's opinion, an emergency exists which requires immediate action to avoid damage to property or injury to persons, to avoid delay in the Construction Phase, the Architect shall provide the following Additional Services at no additional charge, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need, and advise the Owner if continued services by the Architect would only be rendered if the Owner makes additional payments to the Architect, and also advise Owner of the anticipated cost of such services. If the Owner subsequently determines that all or parts of those services are required, the Owner shall give prompt written notice to the Architect and the Owner shall compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the initial Project submittal schedule agreed to 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 more than five (5) Claims as the Initial Decision Maker;
- .5 Evaluating more than ten (10) substitutions proposed by the Owner, Construction Manager or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.

§ 4.2.3 If the services covered by this Agreement have not been completed within fourteen ( 14 ) 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.

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

§ 5.2 The Owner shall retain a Construction Manager to provide services, ~~duties-duties~~, and responsibilities as described in AIA Document C132-2009, Standard Form of Agreement Between Owner and Construction Manager. The Owner shall provide the Architect a copy of the executed agreement between the Owner and the Construction Manager, and any further modifications to the agreement.

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

§ 5.4.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of

all relevant Construction Documents, and costs for the Contractor to remove and replace previously installed Work. If the Owner selects accelerated, ~~phased-phased~~, or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

...

§ 5.6 The Owner shall furnish surveys to describe physical characteristics, ~~legal limitations-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-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 The Owner shall furnish services of geotechnical engineers, ~~which may include but are not limited to when such services are requested by the Architect to the extent necessary to allow Architect to perform its service under this Agreement.~~ Such services 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 ~~Owner-Owner~~, with the assistance of the Construction Manager and Architect, shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided.

§ 5.9 The Owner shall furnish tests, ~~inspections-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. The Architect, as authorized by the Owner, shall provide to the Owner for the Owner's approval, a list of tests, inspections or reports that are required or anticipated in the Contract Documents

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

§ 5.11 The Owner shall provide prompt written notice to the Architect and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, ~~omissions-omissions~~, or inconsistencies in the Architect's Instruments of Service. However, Owner shall have no obligation or responsibility to inspect the Project, Contract Documents, or Instruments of Service for defects.

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§ 5.13 Before executing the Contract for Construction, the Owner shall with the assistance of the Architect and Construction Manager, 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.

...

5.15 When asbestos-related materials are suspected or found in the course of the Project, the Owner shall immediately provide the services of an asbestos-related expert or consultant to determine the proper course of action.

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the contractors' general conditions costs, ~~overhead-overhead~~, and profit. The Cost of the Work includes the compensation of the Construction Manager and Construction Manager's consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

...

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such ~~adjustments-adjustments~~, at no additional cost to the Owner.

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

~~§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by subsequent cost estimates that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment. If, after incorporating the modifications under Section 6.6, actual bids received under the completed Construction documents prepared by the Architect for the Project are in excess of the approved budget for the Cost of the Work, and if the Owner rejects such bids, the Architect will, at no cost to the Owner, and in cooperation with the Construction Manager, revise the Construction Documents using all necessary staff, and prepare to re-advertise or do such other reasonable and practical things as may be necessary to bring costs within the budget of the Cost of the Work. The modification of such documents shall be the limit of the Architect's responsibility. The Owner agrees to cooperate with the Architect within the basic framework of the Project, as given to the Architect at the time he/she began his/her preliminary plans and studies, in order to accomplish such revisions of the Construction Documents to secure bids or reductions in the amount of the bid consistent with said functional needs of the budget of the Cost of the Work. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced, unless the failure to commence the Construction phase is directly attributable to the fault of the Architect.~~

...

and adding to the Project, or to comply with any public records requests under Iowa's Open Records Law, as applicable, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Construction Manager, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

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§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the

method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of ~~Substantial Completion~~ Final Acceptance of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

...

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

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

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

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

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

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

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: *(Specify)*

### **§ 8.3 Arbitration – NOT APPLICABLE**

~~§ 8.3.1~~ If the parties have selected arbitration as the method for binding dispute resolution in this Agreement any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement, unless the parties mutually agree otherwise. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

~~§ 8.3.1.1~~ A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute



of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question:

~~§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

#### ~~§ 8.3.4 Consolidation or Joinder – NOT APPLICABLE~~

~~§ 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 issues 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 fact or law 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.~~

~~§ 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. Agreement, except that payment may be withheld from the Architect for the Architect's substantial non-compliance or non-performance formally claimed and/or determined in accordance with the terms of this Agreement, without penalty to Owner for such withholding. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all 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, Project for more than ninety (90) consecutive days, for reasons other than the fault of the Architect, 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 Architect's compensation shall be equitably adjusted to provide for expenses incurred due to 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 The Owner may terminate this Agreement upon no less than seven (7) days' written notice to the Architect, in the event the Project is permanently abandoned. If the Owner abandons the Project for more than one Hundred eighty (180) consecutive days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven (7) days' written notice.~~

PAGE 17

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 County 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.

~~§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7. Upon any termination, the Owner shall be obligated to compensate the Architect for only those services rendered and acceptable before the notice of termination, less any damages that may be assessed for non-performance.~~

~~§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.~~

~~§ 9.8 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 11.9.~~

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

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

...

~~§ 10.6 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. The Architect shall not specify or approve for use in the Project any new materials containing asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. If the Architect discovers that such substances as described herein have been used or do exist in the Project. The Architect shall promptly notify the Owner in writing. When asbestos containing materials, polychlorinated biphenyl (PCB) or other toxic or hazardous substances are suspected or found in the course of the Project, the Owner shall immediately provide the services of an appropriately qualified expert or consultant to determine the proper course of action.~~

...

~~§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential ~~information~~information, or (4) comply with any public records requests under Iowa's Open Records Law, as applicable.~~

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Door Replacement: Stipulated fixed fee of \$13,500.00

Security System Replacement: Stipulated fixed fee of \$52,500.00

...

N/A

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, 4.2, the Owner shall compensate the Architect as follows:

...

Hourly Rates per Section 11.3

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

...

Schematic Design Phase		percent—(		%)
Design Development Phase	<u>Thirty Five</u>	percent (	<u>35</u>	%)
Construction Documents Phase	<u>Forty Five</u>	percent (	<u>45</u>	%)
Bidding or Negotiation Phase		percent—(		%)
Construction Phase	<u>Twenty</u>	percent (	<u>20</u>	%)

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Hourly billing rates are listed below:

...

<u>Principal</u>	<u>\$135.00</u>
<u>Senior Technical</u>	<u>\$95.00</u>
<u>Technical</u>	<u>\$75.00</u>
<u>Clerical</u>	<u>\$30.00</u>

...

- ~~.2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;~~
- ~~.3 Fees paid for securing approval of authorities having jurisdiction over the Project;~~
- ~~.4 .3 Printing, reproductions, plots, standard form documents;~~
- ~~.5 Postage, handling and delivery;~~
- ~~.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;~~
- ~~.7 .4 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;~~
- ~~.8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;~~
- ~~.9 All taxes levied on professional services and on reimbursable expenses;~~
- ~~.10 Site office expenses; and~~
- ~~.11 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 zero percent ( 0 %) of the expenses incurred.

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

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

Payments to the Architect

~~§ 11.10 Payments to the Architect~~

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

~~§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid — ( — ) 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.)~~

~~— %~~

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

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

§ 11.9.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services proven to have been performed. Payments are due and payable within thirty (30) days upon presentation of the Architect's invoice to the Owner. 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 fourteen days prior to the County Board of Supervisors meeting at which the invoice will be approved.

§ 11.9.2 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.

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

...

12.1 The Architect shall be required to meet the requirements of Exhibit "C", Insurance

12.2 The Project is tax exempt. The Owner will provide a certificate of tax exemption

12.3 The Architect (Company) shall not be owned, operated, or managed by a registered sex offender who has been convicted of a sex offense against a minor in accordance with Iowa Code 692A. In addition, the Architect shall not permit an employee, subconsultant (Company) owned, operated, or managed by, or subconsultant employee who is a registered sex offender convicted of a sex offense against a minor on real property of the County. The Architect shall further acknowledge and certify services provided under this Contract comply with Iowa Code 692A, and shall fully execute and deliver a copy of 'Acknowledgement and Certification' form within ten (10) days of the execution of the Agreement or before any Company workers are on the Project site.

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.2 AIA Document E201™ 2007, Digital Data Protocol Exhibit, if completed, or the following:

.3 AIA Document E202™ 2008, Building Information Modeling Protocol Exhibit, if completed, or the following:

4—Other documents:

*(List other documents, if any, including additional scopes of service forming part of the Agreement.)*

Exhibit "A" – Partial Waiver of Lien and Release of Claims

Exhibit "B" – Final Waiver of Lien and Release of Claims

Exhibit "C" – Insurance Requirements

Exhibit "D" – Original proposal from Architect to Owner

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Lawrence T. Goldberg, AIA, NCARB, ASC

## **Certification of Document's Authenticity**

AIA® Document D401™ – 2003

I, \_\_\_\_\_, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 09:52:48 on 12/15/2016 under Order No. 6834508721\_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B132™ – 2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

\_\_\_\_\_  
*(Signed)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Dated)*

## **Certification of Document's Authenticity**

AIA® Document D401™ – 2003

I, \_\_\_\_\_, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 09:52:48 on 12/15/2016 under Order No. 6834508721\_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B132™ – 2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

*Kemi Fatt, AIA*  
\_\_\_\_\_  
(Signed)

*SR. PROJECT MANAGER*  
\_\_\_\_\_  
(Title)

*12.15.16*  
\_\_\_\_\_  
(Dated)

**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM**

Date: 1/4/2017 Weekly Agenda Date: 1/10/2017

**ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN:** Kenny Schmitz

**WORDING FOR AGENDA ITEM:**

Motion to Approve Courthouse HVAC Control Project Contract- AIA B132 Resource Consulting Engineers

**ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

**EXECUTIVE SUMMARY:**

Motion approving Resource Consulting Engineers AIA B132 Contract

**BACKGROUND:**

On September 6th, 2016 the Board of Supervisors approved the Courthouse & LEC Buildings HVAC Controls Project. The AIA B132 Contract is for the previously approved project.

**FINANCIAL IMPACT:**

2017 CIP Allocation  
Resource Consulting Engineers- \$64,000

**IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?**

Yes  No

**RECOMMENDATION:**

Approve AIA B132 Contract

**ACTION REQUIRED / PROPOSED MOTION:**

Motion to Approve AIA B132 Contract with Resource Consulting Engineers for the Woodbury County HVAC Controls Project.





**AIA**<sup>®</sup>

# Document B132<sup>™</sup> – 2009

## ***Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition***

**AGREEMENT** made as of the twenty-second day of November in the year two thousand seventeen  
*(In words, indicate day, month and year.)*

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

Woodbury County  
620 Douglas Street  
Sioux City, IA

and the Professional Engineer:  
*(Name, legal status, address and other information)*

Resource Consulting Engineers, LLC  
3116 South Duff Avenue  
Suite 201  
Ames, IA 50010

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

Woodbury County Courthouse and LEC Control Upgrades  
Sioux City, IA  
Upgrades of existing Building Automation Systems at Woodbury County Courthouse and Law Enforcement Center to provide new Direct Digital Control Systems throughout.

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

The Baker Group  
4224 Hubbell Avenue  
Des Moines, IA 50317

The Owner and Professional Engineer agree as follows.

### **ADDITIONS AND DELETIONS:**

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

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

This document is intended to be used in conjunction with AIA Documents A132<sup>™</sup>–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232<sup>™</sup>–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and C132<sup>™</sup>–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 PROFESSIONAL ENGINEER'S RESPONSIBILITIES
- 3 SCOPE OF PROFESSIONAL ENGINEER'S BASIC SERVICES
- 4 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.

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

§ 1.1.1 The Owner's program for the Project:

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

N/A – See Project's physical characteristics section below

§ 1.1.2 The Project's physical characteristics:

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

Project shall consist of extending new, Direct Digital Control (DDC) Systems throughout the Woodbury County Courthouse and Law Enforcement Center (LEC) Buildings. Existing mechanical system components shall generally remain in place, with new control components provided for systems. Controls shall be integrated into existing county networked control system, and shall extend current main building controllers installed in Courthouse and LEC Buildings.

§ 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.)*

Eight-hundred twenty thousand Dollars (\$820,000.00) or as determined by County Board on final project selection.

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

- .1 Design phase milestone dates, if any:

Init.

Completion of Design: January 31<sup>st</sup>, 2017

.2 Commencement of construction:

March 1<sup>st</sup>, 2017

.3 Substantial Completion date or milestone dates:

September 1<sup>st</sup>, 2017

.4 Other:

N/A

§ 1.1.5 The Owner intends to retain a Construction Manager adviser and:

*(Note that, if Multiple Prime Contractors are used, the term "Contractor" as referred to throughout this Agreement will be as if plural in number.)*

One Contractor

Multiple Prime Contractors

Unknown at time of execution

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

*(List number and type of bid/procurement packages.)*

N/A

§ 1.1.7 Other Project information:

*(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)*

The Construction Manager and Professional Engineer shall work together to develop sequence of work to minimize impact of Work as building will be occupied throughout the construction process. Separately, areas of the Courthouse Building identified on the National Register of Historic Places shall have existing control panels removed, and placement of new control devices shall be reviewed to verify acceptability.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.4:

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

Kenny Schmitz  
Director of Building Services  
Woodbury County  
620 Douglas Street  
Sioux City, IA 51101

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Professional Engineer's submittals to the Owner are as follows:

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

Construction Manager

§ 1.1.10 The Owner will retain the following consultants:

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

Init.

- .1 Construction Manager: The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention:

*(Paragraphs deleted)*N/A

§ 1.1.11 The Professional Engineer identifies the following representative in accordance with Section 2.3:  
*(List name, address and other information.)*

Corey B. Metzger, PE  
Principal  
Resource Consulting Engineers, LLC  
3116 South Duff Avenue  
Suite 201  
Ames, IA 50010

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

*(Paragraphs deleted)*

§ 1.1.12.2 Consultants retained under Additional Services:

N/A

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

N/A

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

## ARTICLE 2 PROFESSIONAL ENGINEER'S RESPONSIBILITIES

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

§ 2.2 The Professional Engineer shall perform its services consistent with the professional skill and care ordinarily provided by professional engineers practicing in the same or similar locality under the same or similar circumstances. The Professional Engineer 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 Professional Engineer shall provide its services in conjunction with the services of a Construction Manager as described in AIA Document C132™–2009, Standard Form of Agreement Between Owner and Construction Manager, as modified and as amended and approved by the Owner and Construction Manager. The Professional Engineer shall not be responsible for actions taken by the Construction Manager.

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

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

§ 2.6 The Professional Engineer shall maintain insurance as specified in Exhibit "C."

*(Paragraphs deleted)*

§ 2.6.6 The Professional Engineer shall provide to the Owner certificates of insurance evidencing insurance as specified in Exhibit "C."

### ARTICLE 3 SCOPE OF PROFESSIONAL ENGINEER'S BASIC SERVICES

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

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

§ 3.1.2 The Professional Engineer shall be a representative of and shall advise and consult with the Owner during the administration of the Contract for Construction and shall serve, in conjunction with the Construction Manager, as the "Owner's Authorized Contract Representative" for all designated purposes and/or responsibilities under Iowa Code Chapter 26. The Professional Engineer shall have authority to act on behalf of the Owner only to the extent provided in this agreement, unless otherwise modified by written amendment.

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

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

§ 3.1.4.1 The Construction Manager shall provide the estimating services to establish the Project construction budget. However, the Professional Engineer is responsible for designing the Project within the Owner-approved Project construction budget. The "Project construction budget" means the estimate of cost of the Work developed or to be developed for the Project by the Construction Manager and approved by the Owner, as such may be amended or updated from time to time. The Professional Engineer and Construction Manager shall coordinate and cooperate with each other in the development of the design in order to facilitate the achievement of the Owner's Project construction budget.

§ 3.1.5 The Professional Engineer shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Professional Engineer's services.

§ 3.1.6 Once the Owner and the Professional Engineer agree to the time limits established by the Project schedule, the Owner and the Professional Engineer shall not exceed them, except for reasonable cause.

*(Paragraph deleted)*

§ 3.1.7 The Professional Engineer shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made without the Professional Engineer's approval.

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

Init.

*(Paragraphs deleted)*

§ 3.1.9 The Professional Engineer shall work with the Construction Manager to file on behalf of the Owner documents required for the approval of governmental authorities having jurisdiction over the Project.

### § 3.3 Design Development Phase Services

§ 3.3.1 Based on preliminary discussions between the Owner, the Construction Manager and the Professional Engineer, the Professional Engineer shall prepare Design Development Documents for the Owner's approval and the Construction Manager's review. The Design Development Documents shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

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

§ 3.3.3 Upon receipt of the Owner's comments and the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Professional Engineer shall provide the completed Design Development Documents to the Owner for approval. If necessary, the Professional Engineer shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of said actions.

### § 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Professional Engineer shall prepare Construction Documents for the Owner's approval and the Construction Manager's review. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. All engineering documents shall be dated and shall contain the signature of the registered engineer in responsible charge, a certificate that the work was done by such registered engineer or under the registered engineer's direct personal supervision, and the Iowa legible seal for such registrant. The Owner and Professional Engineer acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Professional Engineer shall review in accordance with Section 3.6.4.

§ 3.4.2 The Professional Engineer shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project and the Professional Engineer shall assist the Construction Manager in filing the documents in the Owner's name, if necessary, required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, if requested by the Owner, the Professional Engineer shall assist the Owner and the Construction Manager in the development and preparation of (1) bidding and 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); and (4) compile a project manual that includes the Conditions of the Contract for Construction and may include bidding requirements and sample forms.

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

§ 3.4.5 Upon completion of the Construction Documents phase of the Project, the Professional Engineer shall provide Construction Documents, including drawings and specifications, for the Owner's approval and the Construction Manager's information. Prior to bid, the Construction Manager shall prepare a final estimate of the budget for the Cost of the Work based on said Construction Documents. The Professional Engineer shall make

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revisions to the Construction Documents when requested by the Owner if the final estimate of the Cost of the Work exceeds the Project construction budget.

### § 3.5 Bidding or Negotiation Phase Services

#### § 3.5.1 General

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

§ 3.5.1.1 Revisions to Construction Documents requested by the Owner after the Construction Documents have been bid shall be made as Additional Services, except where such change is due to changes initiated by the Professional Engineer in scope, capacities of systems, or the kinds and quality of materials, finishes or equipment.

#### § 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 Professional Engineer shall assist the Owner and Construction Manager in bidding the Project by

- .1 facilitating the reproduction of Bidding Documents for distribution to prospective bidders,
- .2 participating in a pre-bid conference for prospective bidders, and
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents in the form of prepared and issued addenda,
- .4 reviewing and making recommendations of bids.

§ 3.5.2.3 The Professional Engineer shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall consult with the Construction Manager and Owner, and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.2.4 The Professional Engineer shall include in the Specifications requirements that the Contractors provide operation manuals and adequate training for the Owner in the operation and maintenance of mechanical, electrical, heating and ventilation, air-conditioning, and other building systems installed by the contractors, and provide all warranty information pertaining to such systems.

§ 3.5.2.5 The Professional Engineer shall work with the Construction Manager to file documents required for the approval of governmental authorities having jurisdiction over the Project. The Professional Engineer shall be responsible for making such changes in the Construction Documents as may be mandated by said governmental authorities at its expenses if determined to be originally drawn in error.

#### § 3.5.3 Not Applicable

*(Paragraphs deleted)*

### § 3.6 Construction Phase Services

#### § 3.6.1 General

§ 3.6.1.1 The Professional Engineer shall provide administration of the Contract between the Owner and the Contractor 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 the parties.

§ 3.6.1.2 The Professional Engineer shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Professional Engineer shall have authority to act on behalf of the Owner only to the extent provided in this Agreement and until the final correction period is complete. The Professional Engineer 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 Professional Engineer be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents to the extent the Professional Engineer has performed its own contractual obligations as they related to priorities and updating the Project Schedule, and observing and approving the Contractor's work. However, Professional Engineer shall report to the Owner known deviations from the Contract Documents from the

most recent Construction Schedule. The Professional Engineer shall be responsible for the Professional Engineer's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager, or the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Professional Engineer's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Professional Engineer issues the final Certificate for Payment.

### § 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Professional Engineer shall visit the site at intervals appropriate to the stage of construction, consistent with the standard of care set out in this Agreement, to observe and evaluate the work in order to become generally familiar with the progress and quality of the Work; and to determine for the Owner's benefit and protection if the Work is proceeding in accordance with the intent of the Contract Documents. As needed, the Professional Engineer shall attend all construction progress meetings in conjunction with or in addition to visiting the site in satisfaction of other responsibilities. The Professional Engineer shall use reasonable care to guard the Owner against defects and deficiencies in the work and the Contractor's failure to carry out the work in accordance with the Contract Documents and the construction schedule. On the basis of his on-site observations as a professional engineer, the Professional Engineer shall keep the Owner informed of the progress and quality of the work, and shall give prompt notice to the Owner in writing of any major or material deviations from the Contract Documents in the work. However, the Professional Engineer shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Professional Engineer shall provide engineering services made necessary by major defects or deficiencies in the work of the Contractor which, through reasonable care, should have been discovered by the Professional Engineer and promptly reported to the Owner and Contractor(s), but which the Professional Engineer failed to discover and/or report.

§ 3.6.2.2 The Professional Engineer shall reject Work that does not conform to the Contract Documents after prior notification to the Owner and shall notify the Construction Manager about the rejection. Whenever the Professional Engineer considers it necessary or advisable, the Professional Engineer, upon written authorization from the Owner and notification to the Construction Manager, shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Professional Engineer 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 Professional Engineer to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Professional Engineer shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Professional Engineer's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness. The Owner shall not be bound by the Professional Engineer's interpretation or decision, however the Professional Engineer shall not be obligated to address issues arising from the Owner's decision to deviate from the Professional Engineer's interpretation or decision.

§ 3.6.2.4 Interpretations and decisions of the Professional Engineer 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 Professional Engineer 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.

§ 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 A232-2009, as modified and as amended and approved by the parties, the Professional Engineer 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 Professional Engineer shall review and certify an application for payment not more frequently than monthly. Within seven days after the Professional Engineer receives an application for payment forwarded from the Construction Manager, the Professional Engineer shall review and certify the application as follows:

- .1 Where there is only one Contractor responsible for performing the Work, the Professional Engineer shall review the Contractor's Application and Certificate for Payment that the Construction Manager has previously reviewed and certified. The Professional Engineer shall certify the amount due the Contractor and shall issue a Certificate for Payment in such amount.
- .2 Where there are Multiple Prime Contractors responsible for performing different portions of the Project, the Professional Engineer shall review a Project Application and Project Certificate for Payment, with a Summary of Contractors' Applications for Payment, that the Construction Manager has previously prepared, reviewed and certified. The Professional Engineer shall certify the amounts due the Contractors and shall issue a Project Certificate for Payment in the total of such amounts.

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

§ 3.6.3.3 The issuance of a Certificate for Payment or a Project Certificate for Payment shall not be a representation that the Professional Engineer has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the 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. However, the issuance of a Certificate of Payment shall constitute a representation to the Owner that to the best of the Professional Engineer's knowledge, information and belief, the Contractors are entitled to payment in the amount certified.

§ 3.6.3.4 The Professional Engineer shall maintain a record of the applications and certificates for payment.

### § 3.6.4 Submittals

§ 3.6.4.1 The Professional Engineer shall review the Construction Manager's Project submittal schedule and shall not unreasonably delay or withhold approval. The Professional Engineer's action in reviewing submittals transmitted by the Construction Manager 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 Professional Engineer's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Professional Engineer-approved Project submittal schedule, and after the Construction Manager reviews, approves and transmits the submittals, the Professional Engineer shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, for the 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 Professional Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Professional Engineer, of any construction means, methods, techniques, sequences or procedures. The Professional Engineer'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 Professional Engineer shall specify the appropriate performance and design criteria that such services must satisfy. The Professional Engineer shall review shop drawings and other submittals related to the Work designed or certified by the design professional

retained by the Contractor that bear such professional's seal and signature when submitted to the Professional Engineer. The Professional Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 After receipt of the Construction Manager's recommendations, and subject to the provisions of Section 4.3, the Professional Engineer shall review and respond to requests for information about the Contract Documents. The Professional Engineer, in consultation with the Construction Manager, 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 Professional Engineer's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Professional Engineer shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

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

### § 3.6.5 Changes in the Work

§ 3.6.5.1 The Professional Engineer shall review and sign, or take other appropriate action, on Change Orders and Construction Change Directives prepared by the Construction Manager for the Owner's approval and execution in accordance with the Contract Documents. The Professional Engineer shall provide services to evaluate Contractor claims, including requests for supplemental instructions and change orders.

§ 3.6.5.2 The Professional Engineer may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be effected by written order issued by the Professional Engineer through the Construction Manager, to the Owner and Contractor.

§ 3.6.5.3 The Professional Engineer shall maintain records relative to changes in the Work, and shall produce said records upon request from Owner.

### § 3.6.6 Project Completion

§ 3.6.6.1 The Professional Engineer, assisted by the Construction Manager, shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion prepared by the Professional Engineer; receive from the Construction Manager and review written warranties and related documents required by the Contract Documents and assembled by the Contractor; and, after receipt of a final Contractor's Application and Certificate for Payment or a final Project Application and Project Certificate for Payment from the Construction Manager, issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

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

§ 3.6.6.3 When the Work is found to be substantially complete by the Construction Manager and Professional Engineer, and after certification by the Construction Manager and the Professional Engineer, the Professional Engineer 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, in addition to retainage, if necessary, for final completion or correction of the Work or to cover filed Iowa Code Chapter 573 claims.

§ 3.6.6.3.1 Upon Substantial Completion of the Project, the Professional Engineer shall prepare a set of reproducible record drawings showing changes in the Work made during construction based on marked up prints, drawings and other data furnished by the Contractors.

§ 3.6.6.4 Upon Final Completion of the Project, the Professional Engineer shall attest that no asbestos or asbestos-containing material was specified as a building material in any Construction Documents for the Project and that, to the best of the Professional Engineer's knowledge, no asbestos or asbestos-containing materials were used as a building material on the Project, to comply with 40 C.F.R. section 763.99(a)(7).

§ 3.6.6.5 Eleven (11) months after the date of Substantial Completion, the Professional Engineer shall, without additional compensation, contact Owner and schedule and conduct a meeting with the Owner to review the facility operations and performance and to conduct a one-year correction period review to determine that the completed work remains in accordance with the requirements of the Contract Documents and to identify any then-required correction period work.

**ARTICLE 4 ADDITIONAL SERVICES**

§ 4.1 Professional Engineer’s fees are all-inclusive, except for reimbursables identified below, or any additions to the scope of the Project which may be added by the Owner.

Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
<i>(Rows deleted)</i>		

§ 4.2 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Professional Engineer, any Additional Services provided in accordance with this Section 4.2 shall entitle the Professional Engineer to compensation and an appropriate adjustment in the Professional Engineer’s schedule.

*(Paragraphs deleted)*

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Professional Engineer shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Professional Engineer shall not proceed to provide the following services until the Professional Engineer receives the Owner’s written authorization following County Board of Supervisors approval:

- .1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, building systems, the Owner’s schedule or budget for Cost of the Work, constructability considerations, procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager’s estimate of the Cost of the Work exceeds the Owner’s budget, except where such excess is due to changes initiated by the Professional Engineer in scope, capacities of basic systems, or the kinds and quality of materials, finishes or equipment;
- .3 Services necessitated by the Owner’s request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .4 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner’s other consultants or contractors;
- .6 Preparing digital data for transmission to the Owner’s consultants and contractors, or to other Owner authorized recipients;
- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Professional Engineer is party thereto;
- .9 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .10 Assistance to the Initial Decision Maker, if other than the Professional Engineer.

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§ 4.2.2 Unless in the Construction Manager's opinion an emergency exists which requires immediate action to avoid damage to property or injury to persons, to avoid delay in the Construction Phase, the Professional Engineer shall provide the following Additional Services at no additional charge, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need, and advise the Owner if continued services by the Professional Engineer would only be rendered if the Owner makes additional payments to the Professional Engineer, and also advise Owner of the anticipated cost of such services. If the Owner subsequently determines that all or parts of those services are required, the Owner shall give prompt written notice to the Professional Engineer, and the Owner shall compensate the Professional engineer for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the initial Project submittal schedule agreed to by the Professional Engineer;
- .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 more than five (5) Claims as the Initial Decision Maker;
- .5 Evaluating more than ten (10) substitutions proposed by the Owner, Construction Manager or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Professional Engineer's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.

§ 4.2.3 If the services covered by this Agreement have not been completed within fourteen ( 14 ) months of the date of this Agreement, through no fault of the Professional Engineer, extension of the Professional Engineer'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 retain a Construction Manager to provide services, duties and responsibilities as described in AIA Document C132-2009, Standard Form of Agreement Between Owner and Construction Manager. The Owner shall provide the Professional Engineer a copy of the executed agreement between the Owner and the Construction Manager, and any further modifications to the agreement.

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

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

§ 5.4.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Professional Engineer to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractor to remove and replace previously

installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

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

§ 5.6 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 The Owner shall furnish services of geotechnical engineers when such services are requested by the Professional Engineer to the extent necessary to allow Professional Engineer to perform its service under this Agreement. Such services 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 Owner, with the assistance of the Construction Manager and Professional Engineer, shall coordinate the services of its own consultants with those services provided by the Professional Engineer. Upon the Professional Engineer'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 Professional Engineer to furnish them as an Additional Service, when the Professional Engineer 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. The Professional Engineer, as authorized by the Owner, shall provide to the Owner for the Owner's approval, a list of tests, inspections or reports that are required or anticipated in the Contract Documents.

§ 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 Professional Engineer and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Professional Engineer's Instruments of Service. However, Owner shall have no obligation or responsibility to inspect the Project, Contract Documents, or Instruments of Service for defects.

§ 5.12 Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor through the Construction Manager, and shall contemporaneously provide the same communications to the Professional Engineer about matters arising out of or relating to the Contract Documents. Communications by and with the Professional Engineer's consultants shall be through the Professional Engineer.

§ 5.13 Before executing the Contract for Construction, the Owner shall, with the assistance of the Professional Engineer and Construction Manager, coordinate the Professional Engineer's duties and responsibilities set forth in the Contract for Construction with the Professional Engineer's services set forth in this Agreement. The Owner shall provide the Professional Engineer 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 Professional Engineer access to the Project site prior to commencement of the Work and shall obligate the Construction Manager and Contractor to provide the Professional Engineer access to the Work wherever it is in preparation or progress.

§ 5.15 When asbestos-related materials are suspected or found in the course of the Project, the Owner shall immediately provide the services of an asbestos-related expert or consultant to determine the proper course of action.

## 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 Professional Engineer and shall include the contractors' general conditions costs, overhead and profit. The Cost of the Work includes the compensation of the Construction Manager and Construction Manager's consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work does not include the compensation of the Professional Engineer, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

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

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

§ 6.3.1 If the Professional Engineer is providing detailed cost estimating services as an Additional Service, 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 Professional Engineer, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Professional Engineer in making such adjustments, at no additional costs to the Owner.

§ 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 Professional Engineer and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .3 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.2, the Professional Engineer, without additional compensation, shall incorporate the required modifications in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1.

§ 6.7 If, after incorporating the modifications under Section 6.6, the actual bids received under the completed Construction Documents prepared by the Professional Engineer for the Project are in excess of the approved budget for the Cost of the Work, and if the Owner rejects such bids, the Professional Engineer will, at no additional costs to

the Owner, and in cooperation with the Construction Manager, revise the Construction Documents using all necessary staff, and prepare to re-advertise or do such other reasonable and practical things as may be necessary to bring costs within the budget of the Cost of the Work. The modification of such documents shall be the limit of the Professional Engineer's responsibility. The Owner agrees to cooperate with the Professional Engineer within the basic framework of the Project, as given to the Professional Engineer at the time he/she began his/her preliminary plans and studies, in order to accomplish such revisions of the Construction Documents to secure bids or reductions in the amount of the bid consistent with said functional needs of the budget of the Cost of the Work. The Professional Engineer shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced, unless the failure to commence the Construction Phase is directly attributable to the fault of the Professional Engineer.

## ARTICLE 7 COPYRIGHTS AND LICENSES

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

§ 7.2 The Professional Engineer and the Professional Engineer'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 Professional Engineer and the Professional Engineer's consultants.

§ 7.3 Upon execution of this Agreement, the Professional Engineer grants to the Owner a nonexclusive license to use the Professional Engineer's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project or to comply with law or court order, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Professional Engineer shall obtain similar nonexclusive licenses from the Professional Engineer's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Construction Manager, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Professional Engineer 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 Professional Engineer and Professional Engineer'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 Professional Engineer 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 Professional Engineer. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Professional Engineer and the Professional Engineer's consultants.

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

§ 8.1.1 The Owner and Professional Engineer 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,

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but in any case not more than 10 years after the date of Final Acceptance of the Work. The Owner and Professional Engineer waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

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

*(Paragraphs deleted)*

§ 8.3.4 Consolidation or Joinder – NOT APPLICABLE

*(Paragraphs deleted)*

**ARTICLE 9 TERMINATION OR SUSPENSION**

§ 9.1 If the Owner fails to make payments to the Professional Engineer in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Professional Engineer's option, cause for suspension of performance of services under this Agreement, except that payment may be withheld from the Professional Engineer for the Professional Engineer's substantial non-compliance or non-performance formally claimed and/or determined in accordance with the terms of this Agreement, without penalty to Owner for such withholding. If the Professional Engineer elects to suspend services, the Professional Engineer shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Professional Engineer shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Professional Engineer shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Professional Engineer's services. The Professional Engineer'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 Professional Engineer, the Professional Engineer shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Professional Engineer's compensation shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the Professional Engineer's services.

§ 9.3 The Owner may terminate this Agreement upon no less than seven (7) days' written notice to the Professional Engineer, in the event the Project is permanently abandoned. If the Owner abandons the Project for more than one hundred eighty (180) consecutive days for reasons other than the fault of the Professional Engineer, the Professional Engineer may terminate this Agreement by giving not less than seven (7) 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 Professional Engineer 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 County 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 Upon any termination, the Owner shall be obligated to compensate the Professional Engineer for only those services rendered and acceptable before the notice of termination, less any damages that may be assessed for non-performance.

*(Paragraphs deleted)*

#### 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.

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

§ 10.4 If the Owner requests the Professional Engineer to execute certificates, the proposed language of such certificates shall be submitted to the Professional Engineer for review at least 14 days prior to the requested dates of execution. If the Owner requests the Professional Engineer to execute consents reasonably required to facilitate assignment to a lender, the Professional Engineer shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Professional Engineer for review at least 14 days prior to execution. The Professional Engineer 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 Professional Engineer.

§ 10.6 Unless otherwise required in this Agreement, the Professional Engineer 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. The Professional Engineer shall not specify or approve for use in the Project any new materials containing asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. If the Professional Engineer discovers that such substances as described herein have been used or do exist in the Project, the Professional Engineer shall promptly notify the Owner in writing. When asbestos containing materials, polychlorinated biphenyl (PCB) or other toxic or hazardous substances are suspected or found in the course of the Project, the Owner shall immediately provide the services of an appropriately qualified expert or consultant to determine the proper course of action.

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

§ 10.8 If the Professional Engineer or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information, or (4) comply with any public records requests under Iowa's Open Records Law, as applicable.

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**ARTICLE 11 COMPENSATION**

§ 11.1 For the Professional Engineer’s Basic Services described under Article 3, the Owner shall compensate the Professional Engineer as follows:

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

Stipulated Sum of \$64,000.00.

*(Paragraphs deleted)*

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows: Construction Documents Phase completed up to and including Bid Day – 75%. Completion of Construction Phase – 25%.

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

*(Paragraph deleted)*

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

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Hourly billing rates are listed below.

Employee or Category	Rate (\$0.00)
Senior Mechanical Engineer/Project Manager	\$140.00
Senior Electrical Engineer	\$140.00
Mechanical Engineer	\$120.00
Electrical Engineer	\$120.00
Engineering Intern or Designer	\$80.00
Clerical	\$45.00

**§ 11.8 Compensation for Reimbursable Expenses**

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

.1

*(Paragraphs deleted)*

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

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

*(Paragraphs deleted)*

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

*(Paragraph deleted)*

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

§ 11.9

*(Paragraphs deleted)*

**Payments to the Professional Engineer**

*(Paragraphs deleted)*

§ 11.9.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services proven to have been performed. Payments are due and payable within thirty (30) days upon presentation of the Professional Engineer's invoice to the Owner. 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 fourteen days prior to the County Board of Supervisors meeting at which the invoice will be approved.

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

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

**ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

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

§ 12.1 The Professional Engineer shall be required to meet the requirements of Exhibit "C", Insurance Requirements.

§ 12.2 The Project is tax exempt. The Owner will provide a certificate of tax exemption.

§ 12.2 The Professional Engineer (Company) shall not be owned, operated, or managed by a registered sex offender who has been convicted of a sex offense against a minor in accordance with Iowa Code 692A. In addition, the Professional Engineer shall not permit an employee, subconsultant (Company) owned, operated, or managed by, or subconsultant employee who is a registered sex offender convicted of a sex offense against a minor on real property of the County. The Professional Engineer shall further acknowledge and certify services provided under this Contract comply with Iowa Code 692A, and shall fully execute and deliver a copy of 'Acknowledgement and Certification' form within ten (10) days of the execution of the Agreement or before any Company workers are on the Project site.

**ARTICLE 13 SCOPE OF THE AGREEMENT**

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

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

- .1 AIA Document B132™–2009, Standard Form Agreement Between Owner and Architect, Construction Manager as Adviser Edition

*(Paragraphs deleted)*

- .2 Other documents:

*(List other documents, if any, including additional scopes of service forming part of the Agreement.)*

Exhibit "A" – Partial Waiver of Lien and Release of Claims

Exhibit "B" – Final Waiver of Lien and Release of Claims

Exhibit "C" – Insurance Requirements

Exhibit "D" – Original proposal from Professional Engineer to Owner

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

OWNER *(Signature)*

PROFESSIONAL ENGINEER *(Signature)*

Matthew Ung, Board of Supervisors Chairperson  
*(Printed name and title)*

Corey B. Metzger, PE, Principal  
*(Printed name and title)*

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# **Additions and Deletions Report for** **AIA® Document B132™ – 2009**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:03:38 on 01/04/2017.

## **PAGE 1**

**AGREEMENT** made as of the twenty-second day of November in the year two thousand seventeen

...

**BETWEEN** the ~~Architect's~~Professional Engineer's client identified as the Owner:

...

Woodbury County  
620 Douglas Street  
Sioux City, IA

...

and the ~~Architect~~Professional Engineer:

...

Resource Consulting Engineers, LLC  
3116 South Duff Avenue  
Suite 201  
Ames, IA 50010

...

Woodbury County Courthouse and LEC Control Upgrades  
Sioux City, IA  
Upgrades of existing Building Automation Systems at Woodbury County Courthouse and Law Enforcement Center  
to provide new Direct Digital Control Systems throughout.

...

The Baker Group  
4224 Hubbell Avenue  
Des Moines, IA 50317

...

The Owner and ~~Architect~~Professional Engineer agree as follows.

## **PAGE 2**

2 ARCHITECT'S PROFESSIONAL ENGINEER'S RESPONSIBILITIES

3 SCOPE OF ARCHITECT'S PROFESSIONAL ENGINEER'S BASIC SERVICES

...

N/A – See Project's physical characteristics section below

...

Project shall consist of extending new, Direct Digital Control (DDC) Systems throughout the Woodbury County Courthouse and Law Enforcement Center (LEC) Buildings. Existing mechanical system components shall generally remain in place, with new control components provided for systems. Controls shall be integrated into existing county networked control system, and shall extend current main building controllers installed in Courthouse and LEC Buildings.

...

Eight-hundred twenty thousand Dollars (\$820,000.00) or as determined by County Board on final project selection.

PAGE 3

Completion of Design: January 31<sup>st</sup>, 2017

...

March 1<sup>st</sup>, 2017

...

September 1<sup>st</sup>, 2017

...

N/A

...

One Contractor

...

N/A

...

The Construction Manager and Professional Engineer shall work together to develop sequence of work to minimize impact of Work as building will be occupied throughout the construction process. Separately, areas of the Courthouse Building identified on the National Register of Historic Places shall have existing control panels removed, and placement of new control devices shall be reviewed to verify acceptability.

...

Kenny Schmitz  
Director of Building Services  
Woodbury County  
620 Douglas Street

Sioux City, IA 51101

...

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

...

Construction Manager

PAGE 4

.2 — Cost Consultant (if in addition to the Construction Manager):  
*(If a Cost Consultant is retained, appropriate references to the Cost Consultant should be inserted in Sections 3.2.6, 3.2.7, 3.3.2, 3.3.3, 3.4.5, 3.4.6, 5.4, 6.3, 6.3.1, 6.4 and 11.6.)*

.3 — Land Surveyor:

.4 — Geotechnical Engineer:

.5 — Civil Engineer:

.6 — Other consultants:  
*(List any other consultants retained by the Owner, such as a Project or Program Manager, or scheduling consultant.)*  
N/A

§ 1.1.11 The Architect-Professional Engineer identifies the following representative in accordance with Section 2.3:

...

Corey B. Metzger, PE  
Principal  
Resource Consulting Engineers, LLC  
3116 South Duff Avenue  
Suite 201  
Ames, IA 50010

§ 1.1.12 The ~~Architect-Professional Engineer~~ will retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:

...

§ ~~1.1.12.1~~ Consultants retained under ~~Basic Services~~:

~~.1 — Structural Engineer;~~

~~.2 — Mechanical Engineer;~~

~~.3 — Electrical Engineer;~~

N/A

...

N/A

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

## **ARTICLE 2 — ARCHITECT'S RESPONSIBILITIES**

### **ARTICLE 2 PROFESSIONAL ENGINEER'S RESPONSIBILITIES**

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

§ 2.2 The ~~Architect-Professional Engineer~~ shall perform its services consistent with the professional skill and care ordinarily provided by ~~architects-professional engineers~~ practicing in the same or similar locality under the same or



similar circumstances. The Architect-Professional Engineer 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-Professional Engineer shall provide its services in conjunction with the services of a Construction Manager as described in AIA Document C132™–2009, Standard Form of Agreement Between Owner and Construction Manager, ~~The Architect-Manager, as modified and as amended and approved by the Owner and Construction Manager. The Professional Engineer shall not be responsible for actions taken by the Construction Manager.~~

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

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

§ 2.6 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost. Professional Engineer shall maintain insurance as specified in Exhibit "C."

~~§ 2.6.1 Comprehensive General Liability with policy limits of not less than — (\$ —) for each occurrence and in the aggregate for bodily injury and property damage.~~

~~§ 2.6.2 Automobile Liability covering owned and rented vehicles operated by the Architect with policy limits of not less than — (\$ —) combined single limit and aggregate for bodily injury and property damage.~~

~~§ 2.6.3 The Architect may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies.~~

~~§ 2.6.4 Workers' Compensation at statutory limits and Employers Liability with a policy limit of not less than — (\$ —).~~

~~§ 2.6.5 Professional Liability covering the Architect's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than — (\$ —) per claim and in the aggregate.~~

§ 2.6.6 The Architect-Professional Engineer shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.6. The certificates will show the Owner as an additional insured on the Comprehensive General Liability, Automobile Liability, umbrella or excess policies. insurance as specified in Exhibit "C."

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

### ~~ARTICLE 3 SCOPE OF PROFESSIONAL ENGINEER'S BASIC SERVICES~~

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

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

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager and the Owner's other consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, the Construction Manager, and the Owner's other 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. Professional Engineer shall be a representative of and

shall advise and consult with the Owner during the administration of the Contract for Construction and shall serve, in conjunction with the Construction Manager, as the "Owner's Authorized Contract Representative" for all designated purposes and/or responsibilities under Iowa Code Chapter 26. The Professional Engineer shall have authority to act on behalf of the Owner only to the extent provided in this agreement, unless otherwise modified by written amendment.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Construction Manager a schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review, (2) for the Construction Manager's review, (3) for the performance of the Owner's consultants, and (4) for approval of submissions by authorities having jurisdiction over the Project. The Professional Engineer shall coordinate its services with those services provided by the Owner, the Construction Manager and the Owner's other consultants. The Professional Engineer shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, the Construction Manager, and the Owner's other consultants. The Professional Engineer shall provide prompt written notice to the Owner if the Professional Engineer becomes aware of any error, omission or inconsistency in such services or information.

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

§ 3.1.4.1 The Construction Manager shall provide the estimating services to establish the Project construction budget. However, the Professional Engineer is responsible for designing the Project within the Owner-approved Project construction budget. The "Project construction budget" means the estimate of cost of the Work developed or to be developed for the Project by the Construction Manager and approved by the Owner, as such may be amended or updated from time to time. The Professional Engineer and Construction Manager shall coordinate and cooperate with each other in the development of the design in order to facilitate the achievement of the Owner's Project construction budget.

§ 3.1.5 The Professional Engineer shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Professional Engineer's services.

~~§ 3.1.5~~ 3.1.6 Once the Owner and the Architect-Professional Engineer agree to the time limits established by the Project schedule, the Owner and the Architect-Professional Engineer shall not exceed them, except for reasonable cause.

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

~~§ 3.1.7~~ The Architect shall, at appropriate times, in coordination with the Construction Manager, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services. Professional Engineer shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made without the Professional Engineer's approval.

~~§ 3.1.8~~ The Architect shall assist the Owner and Construction Manager in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. Professional Engineer shall, at appropriate times, in coordination with the Construction Manager, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services

to the Project. In designing the Project, the Professional Engineer shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

### ~~§ 3.2 Schematic Design Phase Services~~

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

~~§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or 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 Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. 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 to the Owner and Construction Manager, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.~~

~~§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval and the Construction Manager's review. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.~~

~~§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.~~

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

~~§ 3.2.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.~~

~~§ 3.2.7 Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, identify agreed upon adjustments to the Project's size, quality or budget, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.~~

~~§ 3.2.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.~~

§ 3.1.9 The Professional Engineer shall work with the Construction Manager to file on behalf of the Owner documents required for the approval of governmental authorities having jurisdiction over the Project.

~~§ 3.3.1 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 pursuant to Section 5.4, the Architect-preliminary discussions between the Owner, the Construction Manager and the Professional Engineer, the Professional Engineer shall prepare Design Development Documents for the Owner's approval and the Construction Manager's review. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.~~

~~§ 3.3.2 Prior to the conclusion of the Design Development Phase, the Architect-Professional Engineer shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect-Professional Engineer shall meet with the Construction Manager to review the Design Development Documents.~~

~~§ 3.3.3 Upon receipt of the Owner's comments and the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect-the Professional Engineer shall provide the completed Design Development Documents to the Owner for approval. If necessary, the Professional Engineer shall take action as required under Sections 6.5 and 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.said actions.~~

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~~§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect-Professional Engineer shall prepare Construction Documents for the Owner's approval and the Construction Manager's review. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect-All engineering documents shall be dated and shall contain the signature of the registered engineer in responsible charge, a certificate that the work was done by such registered engineer or under the registered engineer's direct personal supervision, and the Iowa legible seal for such registrant. The Owner and Professional Engineer acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect-Professional Engineer shall review in accordance with Section 3.6.4.~~

~~§ 3.4.2 The Architect-Professional Engineer shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project and the Professional Engineer shall assist the Construction Manager in filing the documents in the Owner's name, if necessary, required for the approval of governmental authorities having jurisdiction over the Project.~~

~~§ 3.4.3 During the development of the Construction Documents, if requested by the Owner, the Architect Professional Engineer shall assist the Owner and the Construction Manager in the development and preparation of (1) bidding and 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); and (4) compile a project manual that includes the Conditions of the Contract for Construction and may include bidding requirements and sample forms.~~

~~§ 3.4.4 Prior to the conclusion of the Construction Documents Phase, the Architect-Professional Engineer shall submit the Construction Documents to the Owner and the Construction Manager. The Architect-Professional Engineer shall meet with the Construction Manager to review the Construction Documents.~~

~~§ 3.4.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7 and request the Owner's approval of the Construction Documents-completion of the Construction Documents phase of the Project, the Professional Engineer shall provide Construction Documents, including drawings and specifications, for the Owner's approval~~

and the Construction Manager's information. Prior to bid, the Construction Manager shall prepare a final estimate of the budget for the Cost of the Work based on said Construction Documents. The Professional Engineer shall make revisions to the Construction Documents when requested by the Owner if the final estimate of the Cost of the Work exceeds the Project construction budget.

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

§ 3.5.1.1 Revisions to Construction Documents requested by the Owner after the Construction Documents have been bid shall be made as Additional Services, except where such change is due to changes initiated by the Professional Engineer in scope, capacities of systems, or the kinds and quality of materials, finishes or equipment.

...

§ 3.5.2.2 The Architect-Professional Engineer shall assist the Owner and Construction Manager in bidding the Project by

...

- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents in the form of addenda of prepared and issued addenda,
- .4 reviewing and making recommendations of bids.

§ 3.5.2.3 The Architect-Professional Engineer shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall consult with the Construction Manager and Owner, and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.2.4 The Professional Engineer shall include in the Specificatins requirements that the Contractors provide operation manuals and adequate training for the Owner in the operation and maintenance of mechanical, electrical, heating and ventilation, air-conditioning, and other building systems installed by the contractors, and provide all warranty information pertaining to such systems.

§ 3.5.2.5 The Professional Engineer shall work with the Construction Manager to file documents required for the approval of governmental authorities having jurisdiction over the Project. The Professional Engineer shall be responsible for making such changes in the Construction Documents as may be mandated by said governmental authorities at its expenses if determined to be originally drawn in error.

§ 3.5.3 Negotiated Proposals Not Applicable

~~§ 3.5.3.1 Proposal Documents shall consist of proposal requirements, and proposed Contract Documents.~~

~~§ 3.5.3.2 The Architect shall assist the Owner and Construction Manager in obtaining proposals by~~

- ~~.1 facilitating the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;~~
- ~~.2 participating in selection interviews with prospective contractors; and~~
- ~~.3 participating in negotiations with prospective contractors.~~

~~§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall consult with the Construction Manager and prepare and distribute addenda identifying approved substitutions to all prospective contractors.~~

...

§ 3.6.1.1 The Architect-Professional Engineer shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A232™-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition. ~~If the Owner and Contractor modify AIA Document A232-2009, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.~~ Edition as modified and as amended and approved by the parties.

§ 3.6.1.2 The Architect-Professional Engineer shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect-Professional Engineer shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. ~~The Architect-Agreement and until the final correction period is complete. The Professional Engineer 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-Professional Engineer 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 Documents to the extent the Professional Engineer has performed its own contractual obligations as they related to priorities and updating the Project Schedule, and observing and approving the Contractor's work. However, Professional Engineer shall report to the Owner known deviations from the Contract Documents from the most recent Construction Schedule. The Professional Engineer shall be responsible for the Professional Engineer's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager, or the Contractor or of any other persons or entities performing portions of the Work.~~

§ 3.6.1.3 Subject to Section 4.3, the Architect's-Professional Engineer's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect Professional Engineer issues the final Certificate for Payment.

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§ 3.6.2.1 The Architect-Professional Engineer shall visit the site at intervals appropriate to the stage of construction, ~~or as otherwise required in Section 4.3.3, consistent with the standard of care set out in this Agreement, to observe and evaluate the work in order 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 Work; and to determine for the Owner's benefit and protection if the Work is proceeding in accordance with the intent of the Contract Documents. As needed, the Professional Engineer shall attend all construction progress meetings in conjunction with or in addition to visiting the site in satisfaction of other responsibilities. The Professional Engineer shall use reasonable care to guard the Owner against defects and deficiencies in the work and the Contractor's failure to carry out the work in accordance with the Contract Documents and the construction schedule. On the basis of his on-site observations as a professional engineer, the Professional Engineer shall keep the Owner informed of the progress and quality of the portion of the Work completed, and report to the Owner and the Construction Manager (1) known deviations from the Contract Documents and from the most recent construction schedule, and (2) defects and deficiencies observed in the Work, work, and shall give prompt notice to the Owner in writing of any major or material deviations from the Contract Documents in the work. However, the Professional Engineer shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Professional Engineer shall provide engineering services made necessary by major defects or deficiencies in the work of the Contractor which, through reasonable care, should have been discovered by the Professional Engineer and promptly reported to the Owner and Contractor(s), but which the Professional Engineer failed to discover and/or report.~~

§ 3.6.2.2 The Architect has the authority to Professional Engineer shall reject Work that does not conform to the Contract Documents after prior notification to the Owner and shall notify the Construction Manager about the rejection. Whenever the Architect-Professional Engineer considers it necessary or advisable, the Architect, Professional Engineer, upon written authorization from the Owner and notification to the Construction Manager, shall have the authority to require inspection or testing of the Work in accordance with the provisions of the

Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the ~~Architect-Professional Engineer~~ 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-Professional Engineer~~ to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The ~~Architect-Professional Engineer~~ shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The ~~Architect's-Professional Engineer's~~ response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness. The Owner shall not be bound by the Professional Engineer's interpretation or decision, however the Professional Engineer shall not be obligated to address issues arising from the Owner's decision to deviate from the Professional Engineer's interpretation or decision.

§ 3.6.2.4 Interpretations and decisions of the ~~Architect-Professional Engineer~~ 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-Professional Engineer~~ 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 A232-2009, the Architect as modified and as amended and approved by the parties, the Professional Engineer shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

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§ 3.6.3.1 The ~~Architect-Professional Engineer~~ shall review and certify an application for payment not more frequently than monthly. Within seven days after the ~~Architect-Professional Engineer~~ receives an application for payment forwarded from the Construction Manager, the ~~Architect-Professional Engineer~~ shall review and certify the application as follows:

- .1 Where there is only one Contractor responsible for performing the Work, the ~~Architect-Professional Engineer~~ shall review the Contractor's Application and Certificate for Payment that the Construction Manager has previously reviewed and certified. The ~~Architect-Professional Engineer~~ shall certify the amount due the Contractor and shall issue a Certificate for Payment in such amount.
- .2 Where there are Multiple Prime Contractors responsible for performing different portions of the Project, the ~~Architect-Professional Engineer~~ shall review a Project Application and Project Certificate for Payment, with a Summary of Contractors' Applications for Payment, that the Construction Manager has previously prepared, reviewed and certified. The ~~Architect-Professional Engineer~~ shall certify the amounts due the Contractors and shall issue a Project Certificate for Payment in the total of such amounts.

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

§ 3.6.3.3 The issuance of a Certificate for Payment or a Project Certificate for Payment shall not be a representation that the ~~Architect-Professional Engineer~~ has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3)

reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the 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. However, the issuance of a Certificate of Payment shall constitute a representation to the Owner that to the best of the Professional Engineer's knowledge, information and belief, the Contractors are entitled to payment in the amount certified.

§ 3.6.3.4 The ~~Architect~~Professional Engineer shall maintain a record of the applications and certificates for payment.

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§ 3.6.4.1 The ~~Architect~~Professional Engineer shall review the Construction Manager's Project submittal schedule and shall not unreasonably delay or withhold approval. The ~~Architect's~~Professional Engineer's action in reviewing submittals transmitted by the Construction Manager 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 Engineer's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the ~~Architect-approved~~Professional Engineer-approved Project submittal schedule, and after the Construction Manager reviews, approves and transmits the submittals, the ~~Architect~~Professional Engineer 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~~Professional Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the ~~Architect~~Professional Engineer, of any construction means, methods, techniques, sequences or procedures. The ~~Architect's~~Professional Engineer'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~~Professional Engineer shall specify the appropriate performance and design criteria that such services must satisfy. The ~~Architect~~Professional Engineer shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the ~~Architect~~Professional Engineer. The ~~Professional Engineer~~ shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 After receipt of the Construction Manager's recommendations, and subject to the provisions of Section 4.3, the ~~Architect~~Professional Engineer shall review and respond to requests for information about the Contract Documents. The ~~Architect~~Professional Engineer, in consultation with the Construction Manager, 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~~Professional Engineer'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~~Professional Engineer shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

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

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§ 3.6.5.1 The ~~Architect~~Professional Engineer shall review and sign, or take other appropriate action, on Change Orders and Construction Change Directives prepared by the Construction Manager for the Owner's approval and execution in accordance with the Contract Documents. The Professional Engineer shall provide services to evaluate Contractor claims, including requests for supplemental instructions and change orders.



~~§ 3.6.5.2 The Architect-Professional Engineer may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be effected by written order issued by the Architect-through the Construction Manager-Professional Engineer through the Construction Manager, to the Owner and Contractor.~~

~~§ 3.6.5.3 The Architect-Professional Engineer shall maintain records relative to changes in the Work-Work, and shall produce said records upon request from Owner.~~

...

~~§ 3.6.6.1 The Architect-Professional Engineer, assisted by the Construction Manager, shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion prepared by the Construction Manager-Professional Engineer; receive from the Construction Manager and review written warranties and related documents required by the Contract Documents and assembled by the Contractor; and, after receipt of a final Contractor's Application and Certificate for Payment or a final Project Application and Project Certificate for Payment from the Construction Manager, issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.~~

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

~~§ 3.6.6.3 When the Work is found to be substantially complete by the Construction Manager and Architect-Professional Engineer, and after certification by the Construction Manager and the Architect-the Architect Professional Engineer, the Professional Engineer 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, in addition to retainage, if necessary, for final completion or correction of the Work-Work or to cover filed Iowa Code Chapter 573 claims.~~

~~§ 3.6.6.3.1 Upon Substantial Completion of the Project, the Professional Engineer shall prepare a set of reproducible record drawings showing changes in the Work made during construction based on marked up prints, drawings and other data furnished by the Contractors.~~

~~§ 3.6.6.4 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. Final Completion of the Project, the Professional Engineer shall attest that no asbestos or asbestos-containing material was specified as a building material in any Construction Documents for the Project and that, to the best of the Professional Engineer's knowledge, no asbestos or asbestos-containing materials were used as a building material on the Project, to comply with 40 C.F.R. section 763.99(a)(7).~~

~~§ 3.6.6.5 Eleven (11) months after the date of Substantial Completion, the Professional Engineer shall, without additional compensation, contact Owner and schedule and conduct a meeting with the Owner to review the facility operations and performance and to conduct a one-year correction period review to determine that the completed work remains in accordance with the requirements of the Contract Documents and to identify any then-required correction period work.~~

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~~§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. (Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.) Professional Engineer's fees are all-inclusive, except for reimbursables identified below, or any additions to the scope of the Project which may be added by the Owner.~~

...

§ 4.1.1	Programming (B202™ 2009)	
§ 4.1.2	Multiple preliminary designs	
§ 4.1.3	Measured drawings	
§ 4.1.4	Existing facilities surveys	
§ 4.1.5	Site evaluation and planning (B203™ 2007)	
§ 4.1.6	Building Information Modeling (E202™ 2008)	
§ 4.1.7	Civil engineering	
§ 4.1.8	Landscape design	
§ 4.1.9	Architectural interior design (B252™ 2007)	
§ 4.1.10	Value analysis (B204™ 2007)	
§ 4.1.11	Detailed cost estimating	
§ 4.1.12	On-site project representation (B207™ 2008)	
§ 4.1.13	Conformed construction documents	
§ 4.1.14	As-designed record drawings	
§ 4.1.15	As-constructed record drawings	
§ 4.1.16	Post-occupancy evaluation	
§ 4.1.17	Facility support services (B210™ 2007)	
§ 4.1.18	Tenant-related services	
§ 4.1.19	Coordination of Owner's consultants	
§ 4.1.20	Telecommunications/data design	
§ 4.1.21	Security evaluation and planning (B206™ 2007)	
§ 4.1.22	Commissioning (B211™ 2007)	
§ 4.1.23	Extensive environmentally responsible design	
§ 4.1.24	LEED® certification (B214™ 2012)	
§ 4.1.25	Historic preservation (B205™ 2007)	
§ 4.1.26	Furniture, furnishings, and equipment design (B253™ 2007)	

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

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

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

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

1. Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, building systems, the Owner's schedule or budget for Cost of the Work, constructability considerations, procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
2. Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget, except where such excess is due to changes initiated by the

- Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes or equipment;
- .3 — Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .4 — Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .5 — Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner, Construction Manager or the Owner's other consultants or contractors;
- .6 — Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .7 — Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8 — Preparation for, and attendance at, a public presentation, meeting or hearing;
- .9 — Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .10 — Evaluation of the qualifications of bidders or persons providing proposals;
- .11 — Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .12 — Assistance to the Initial Decision Maker, if other than the Architect.

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

- .1 — Reviewing a Contractor's submittal out of sequence from the initial Project submittal schedule agreed to 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;
- .5 — Evaluating substitutions proposed by the Owner, Construction Manager or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 — To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.

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

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

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

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Professional Engineer shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The

Professional Engineer shall not proceed to provide the following services until the Professional Engineer receives the Owner's written authorization following County Board of Supervisors approval:

- .1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, building systems, the Owner's schedule or budget for Cost of the Work, constructability considerations, procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget, except where such excess is due to changes initiated by the Professional Engineer in scope, capacities of basic systems, or the kinds and quality of materials, finishes or equipment;
- .3 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .4 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's other consultants or contractors;
- .6 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Professional Engineer is party thereto;
- .9 Consultation concerning replacement of Work resulting from fire or other cause during construction;  
or
- .10 Assistance to the Initial Decision Maker, if other than the Professional Engineer.

§ 4.2.2 Unless in the Construction Manager's opinion an emergency exists which requires immediate action to avoid damage to property or injury to persons, to avoid delay in the Construction Phase, the Professional Engineer shall provide the following Additional Services at no additional charge, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need, and advise the Owner if continued services by the Professional Engineer would only be rendered if the Owner makes additional payments to the Professional Engineer, and also advise Owner of the anticipated cost of such services. If the Owner subsequently determines that all or parts of those services are required, the Owner shall give prompt written notice to the Professional Engineer, and the Owner shall compensate the Professional engineer for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the initial Project submittal schedule agreed to by the Professional Engineer;
- .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 more than five (5) Claims as the Initial Decision Maker;
- .5 Evaluating more than ten (10) substitutions proposed by the Owner, Construction Manager or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Professional Engineer's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.

§ 4.2.3 If the services covered by this Agreement have not been completed within fourteen ( 14 ) months of the date of this Agreement, through no fault of the Professional Engineer, extension of the Professional Engineer's services beyond that time shall be compensated as Additional Services.

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

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties and responsibilities as described in AIA Document C132-2009, Standard Form of Agreement Between Owner and Construction Manager. The Owner shall provide the ~~Architect-Professional Engineer~~ a copy of the executed agreement between the Owner and the Construction Manager, and any further modifications to the agreement.

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

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

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

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§ 5.7 The Owner shall furnish services of geotechnical engineers, ~~which may include but are not limited to engineers when such services are requested by the Professional Engineer to the extent necessary to allow Professional Engineer to perform its service under this Agreement.~~ Such services 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 Owner~~ Owner, with the assistance of the Construction Manager and Professional Engineer, shall coordinate the services of its own consultants with those services provided by the ~~Architect-Professional Engineer~~. Upon the ~~Architect's-Professional Engineer's~~ request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the ~~Architect-Professional Engineer~~ to furnish them as an Additional Service, when the ~~Architect-Professional Engineer~~ 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. The Professional Engineer, as authorized by the Owner, shall provide to the Owner for the Owner's approval, a list of tests, inspections or reports that are required or anticipated in the Contract Documents.

...

§ 5.11 The Owner shall provide prompt written notice to the ~~Architect-Professional Engineer~~ and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the ~~Architect's Instruments of Service-Professional Engineer's Instruments of Service~~. However, Owner shall have no obligation or responsibility to inspect the Project, Contract Documents, or Instruments of Service for defects.

§ 5.12 Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor through the Construction Manager, and shall contemporaneously provide the same communications to the ~~Architect-Professional Engineer~~ about matters arising out of or relating to the Contract Documents. Communications by and with the ~~Architect's-Professional Engineer's~~ consultants shall be through the ~~Architect-Professional Engineer~~.

§ 5.13 Before executing the Contract for Construction, the Owner shall ~~coordinate the Architect's~~ shall, with the assistance of the Professional Engineer and Construction Manager, coordinate the Professional Engineer's duties and responsibilities set forth in the Contract for Construction with the ~~Architect's-Professional Engineer's~~ services set forth in this Agreement. The Owner shall provide the ~~Architect-Professional Engineer~~ 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-Professional Engineer~~ access to the Project site prior to commencement of the Work and shall obligate the Construction Manager and Contractor to provide the ~~Architect Professional Engineer~~ access to the Work wherever it is in preparation or progress.

§ 5.15 When asbestos-related materials are suspected or found in the course of the Project, the Owner shall immediately provide the services of an asbestos-related expert or consultant to determine the proper course of action.

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§ 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-Professional Engineer~~ and shall include the contractors' general conditions costs, overhead and profit. The Cost of the Work includes the compensation of the Construction Manager and Construction Manager's consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work does not include the compensation of the ~~Architect, Professional Engineer~~, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

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

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

~~§ 6.3.1 If the Architect-Professional Engineer is providing detailed cost estimating services as an Additional Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's-Professional Engineer's cost estimates, the Architect-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 Architect-Professional Engineer, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect-in making such adjustments-Professional Engineer in making such adjustments, at no additional costs to the Owner.~~

...

- ~~.2~~ in consultation with the ~~Architect-Professional Engineer~~ and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or

...

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

~~§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by subsequent cost estimates that exceed the Owner's. If, after incorporating the modifications under Section 6.6, the actual bids received under the completed Construction Documents prepared by the Professional Engineer for the Project are in excess of the approved budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment, and if the Owner rejects such bids, the Professional Engineer will, at no additional costs to the Owner, and in cooperation with the Construction Manager, revise the Construction Documents using all necessary staff, and prepare to re-advertise or do such other reasonable and practical things as may be necessary to bring costs within the budget of the Cost of the Work. The modification of such documents shall be the limit of the Professional Engineer's responsibility. The Owner agrees to cooperate with the Professional Engineer within the basic framework of the Project, as given to the Professional Engineer at the time he/she began his/her preliminary plans and studies, in order to accomplish such revisions of the Construction Documents to secure bids or reductions in the amount of the bid consistent with said functional needs of the budget of the Cost of the Work. The Professional Engineer shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced, unless the failure to commence the Construction Phase is directly attributable to the fault of the Professional Engineer.~~

## PAGE 15

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

~~§ 7.2 The Architect-Professional Engineer and the Architect's-Professional Engineer'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-Professional Engineer and the Architect's-Professional Engineer's consultants.~~

§ 7.3 Upon execution of this Agreement, the ~~Architect~~ Professional Engineer grants to the Owner a nonexclusive license to use the ~~Architect's Professional Engineer's~~ Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the ~~Project~~, Project or to comply with law or court order, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The ~~Architect Professional Engineer~~ shall obtain similar nonexclusive licenses from the ~~Architect's Professional Engineer's~~ consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Construction Manager, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the ~~Architect Professional Engineer~~ 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 Professional Engineer and Professional Engineer'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 Professional Engineer~~ 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 Professional Engineer~~. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the ~~Architect Professional Engineer~~ and the ~~Architect's Professional Engineer's~~ consultants.

...

§ 8.1.1 The Owner and ~~Architect Professional Engineer~~ 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 ~~Substantial Completion~~ Final Acceptance of the Work. The Owner and ~~Architect Professional Engineer~~ 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 A232-2009, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein. The Professional Engineer shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Professional Engineer, its employees and its consultants in the performance of professional services under this Agreement. The Professional Engineer's duty to indemnify the Owner under this provision shall be limited to the available proceeds of insurance coverage.~~

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



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

## § 8.2 Mediation

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

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

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

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

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

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: *(Specify)*

## § 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement, unless the parties mutually agree otherwise. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

~~§ 8.3.2~~ The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

~~§ 8.3.3~~ The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

#### ~~§ 8.3.4 Consolidation or Joinder – NOT APPLICABLE~~

~~§ 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 issues 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 fact or law 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.

~~§ 9.1~~ If the Owner fails to make payments to the Architect-Professional Engineer in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's-Professional Engineer's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect-Agreement, except that payment may be withheld from the Professional Engineer for the Professional Engineer's substantial non-compliance or non-performance formally claimed and/or determined in accordance with the terms of this Agreement, without penalty to Owner for such withholding. If the Professional Engineer elects to suspend services, the Professional Engineer shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect-Professional Engineer shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect-Professional Engineer shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's-Professional Engineer's services. The Professional Engineer's fees for the remaining services and the time schedules shall be equitably adjusted.

~~§ 9.2~~ If the Owner suspends the Project, the Architect-Project for more than ninety (90) consecutive days, for reasons other than the fault of the Professional Engineer, the Professional Engineer shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated-Professional Engineer's compensation shall be equitably adjusted to provide 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-Professional Engineer's services.

~~§ 9.3~~ If the Owner suspends the Project for more than 90 cumulative-The Owner may terminate this Agreement upon no less than seven (7) days' written notice to the Professional Engineer, in the event the Project is permanently abandoned. If the Owner abandons the Project for more than one hundred eighty (180) consecutive days for reasons other than the fault of the Architect, the Architect-Professional Engineer, the Professional Engineer may terminate this Agreement by giving not less than seven (7) days' written notice.

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~~§ 9.5~~ The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect-Professional Engineer 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 County 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 not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7. Upon any termination, the Owner shall be obligated to compensate the Professional Engineer for only those services rendered and acceptable before the notice of termination, less any damages that may be assessed for non-performance.

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

§ 9.8 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 11.9.

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

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

§ 10.4 If the Owner requests the Architect-Professional Engineer to execute certificates, the proposed language of such certificates shall be submitted to the Architect-Professional Engineer for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect-Professional Engineer to execute consents reasonably required to facilitate assignment to a lender, the Architect-Professional Engineer shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect-Professional Engineer for review at least 14 days prior to execution. The Architect-Professional Engineer 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-Professional Engineer.

§ 10.6 Unless otherwise required in this Agreement, the Architect-Professional Engineer 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. The Professional Engineer shall not specify or approve for use in the Project any new materials containing asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. If the Professional Engineer discovers that such substances as described herein have been used or do exist in the Project, the Professional Engineer shall promptly notify the Owner in writing. When asbestos containing materials, polychlorinated biphenyl (PCB) or other toxic or hazardous substances are suspected or found

in the course of the Project, the Owner shall immediately provide the services of an appropriately qualified expert or consultant to determine the proper course of action.

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

§ 10.8 If the Architect-Professional Engineer or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential ~~information.~~ information, or (4) comply with any public records requests under Iowa's Open Records Law, as applicable.

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

...

Stipulated Sum of \$64,000.00.

~~§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows: (Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)~~

~~§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows: (Insert amount of, or basis for, compensation.)~~

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

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows: Construction Documents Phase completed up to and including Bid Day – 75%. Completion of Construction Phase – 25%.

Schematic Design Phase	percent—(	%)
Design-Development Phase	percent—(	%)
Construction Documents Phase	percent—(	%)
Bidding or Negotiation Phase	percent—(	%)
Construction Phase	percent—(	%)
<hr/> Total Basic Compensation	one-hundred percent—(	100 %)

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

~~§ 11.6~~ When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work prepared by the Construction Manager for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

...

Hourly billing rates are listed below.

...

<u>Senior Mechanical Engineer/Project Manager</u>	<u>\$140.00</u>
<u>Senior Electrical Engineer</u>	<u>\$140.00</u>
<u>Mechanical Engineer</u>	<u>\$120.00</u>
<u>Electrical Engineer</u>	<u>\$120.00</u>
<u>Engineering Intern or Designer</u>	<u>\$80.00</u>
<u>Clerical</u>	<u>\$45.00</u>

...

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

- ~~.1~~ Transportation and authorized out-of-town travel and subsistence;
- ~~.2~~ Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- ~~.3~~ Fees paid for securing approval of authorities having jurisdiction over the Project;
- ~~.4~~ .2 Printing, reproductions, plots, standard form documents;
- ~~.5~~ Postage, handling and delivery;
- ~~.6~~ Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- ~~.7~~ Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- ~~.8~~ Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- ~~.9~~ .3 All taxes levied on professional services and on reimbursable expenses;
- ~~.10~~ Site office expenses; and
- ~~.11~~ Other similar Project-related expenditures.

~~§ 11.8.2~~ For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect Professional Engineer and the Architect's Professional Engineer's consultants plus zero percent ( 0 %) of the expenses incurred.

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

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of

the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

### Payments to the Professional Engineer

#### § 11.10 Payments to the Architect

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

~~§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid — ( — ) 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.)~~

—%

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

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

§ 11.9.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services proven to have been performed. Payments are due and payable within thirty (30) days upon presentation of the Professional Engineer's invoice to the Owner. 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 fourteen days prior to the County Board of Supervisors meeting at which the invoice will be approved.

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

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

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§ 12.1 The Professional Engineer shall be required to meet the requirements of Exhibit "C", Insurance Requirements.

§ 12.2 The Project is tax exempt. The Owner will provide a certificate of tax exemption.

§ 12.2 The Professional Engineer (Company) shall not be owned, operated, or managed by a registered sex offender who has been convicted of a sex offense against a minor in accordance with Iowa Code 692A. In addition, the Professional Engineer shall not permit an employee, subconsultant (Company) owned, operated, or managed by, or subconsultant employee who is a registered sex offender convicted of a sex offense against a minor on real property of the County. The Professional Engineer shall further acknowledge and certify services provided under this Contract comply with Iowa Code 692A, and shall fully execute and deliver a copy of 'Acknowledgement and Certification' form within ten (10) days of the execution of the Agreement or before any Company workers are on the Project site.

...

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

...

~~.2~~ — AIA Document E201™ 2007, Digital Data Protocol Exhibit, if completed, or the following:

~~.3~~ — AIA Document E202™ 2008, Building Information Modeling Protocol Exhibit, if completed, or the following:

~~.4~~ —

~~.2~~ Other documents:

*(List other documents, if any, including additional scopes of service forming part of the Agreement.)*

Exhibit "A" – Partial Waiver of Lien and Release of Claims

Exhibit "B" – Final Waiver of Lien and Release of Claims

Exhibit "C" – Insurance Requirements

Exhibit "D" – Original proposal from Professional Engineer to Owner

PAGE 20

OWNER *(Signature)*

ARCHITECT PROFESSIONAL ENGINEER *(Signature)*

Matthew Ung, Board of Supervisors Chairperson

Corey B. Metzger, PE, Principal

## **Certification of Document's Authenticity**

AIA® Document D401™ – 2003

I, Corey B. Metzger, PE, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:03:38 on 01/04/2017 under Order No. 9756262010\_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B132™ – 2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

---

*(Signed)*

---

*(Title)*

---

*(Dated)*



**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 Professional Engineer 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 Professional Engineer 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 Professional Engineer is located;
  - 2) Carries a Best's policy holder rating of A or better and at least a Class A financial rating;
  - 3) Is a company mutually agreed upon by the Owner and the Professional Engineer.
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 Professional Engineer 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 Professional Engineer 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 Professional Engineer should retain consultants to perform any of its services, Professional Engineer 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 Professional Engineer 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 Professional Engineer'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 Professional Engineer 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 Professional Engineer'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 Professional Engineer 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. Professional Engineer 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 Professional Engineer'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 Professional Engineer's liability under the Contract.

10. Professional Engineer 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. Professional Engineer 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. Professional Engineer 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 Professional Engineer 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. Professional Engineer 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 Professional Engineer 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. Professional Engineer shall maintain Excess Liability coverage on an umbrella form with minimum limits of \$2,000,000.00 per occurrence and \$2,000,000.00 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, Professional Engineer's liability with respect to its performance of this Agreement.
13. Professional Liability coverage. The Professional Engineer 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.

August 30, 2016



RESOURCE  
CONSULTING  
ENGINEERS LLC

**Kenny Schmitz**

*Director of Building Services*

Woodbury County

620 Douglas Street

Sioux City, IA 51101

Re: Woodbury County Courthouse and Law Enforcement Center – Control System Upgrades

Dear Kenny,

I am pleased to present you with this proposal for services related to a Control System Upgrades Project for the Woodbury County Courthouse and Law Enforcement Center. This proposal includes Engineering Design and Construction Administration Services for the project. I appreciate the opportunity to provide this proposal, and look forward to helping Woodbury County in significantly improving operational reliability and efficiency for these two important facilities.

Based on the decision made by the County Board of Supervisors at their meeting on August 23, 2016, we understand that the scope of this project will be to replace the existing Building Automation Systems (BAS) throughout the Woodbury County Courthouse and the Woodbury County Law Enforcement Center (LEC). Existing systems are a combination of digital, electric, and pneumatic controls, and do not allow for effective monitoring of systems and spaces, or diagnosing of system issues. The current systems also limit opportunities to improve both occupant comfort and building energy efficiency. Additionally, numerous existing actuators do not function properly and require replacement. Providing new Building Automation Systems for these facilities will help to improve occupant comfort, building energy performance, and building operation and monitoring capabilities.

## Scope of services:

### Services to be provided:

- Mechanical and Electrical Engineering Design Phase Services, including:
  - Site Surveys to document locations of existing control components and to determine requirements for new control systems, e.g., what sensors will be required to control a system and where they will be located
  - Development of sequence of operations for each system located in the Courthouse and LEC
  - Development of required points list for each system located in the Courthouse and LEC
  - Development of electronic background drawings for first floor of Law Enforcement Center (to be based on existing hard copy or scanned drawings provided by Woodbury County – field verification will not be completed in spaces other than those housing mechanical equipment)
  - Development of Drawings showing:
    - Locations of equipment to be controlled
    - Locations of control components not mounted at equipment, including temperature sensors, differential pressure sensors, static pressure sensors, etc.
    - Flow diagrams where necessary to communicate system configuration and control component locations
    - Details related to installation of new control components (valves, flow measurement devices, etc.)
    - Sequences of Operations
    - Point Lists
    - Information for required electrical power system modifications to serve new control components
  - Development of Project Manual, including:
    - Procurement and Contracting Requirements (Division 00 Specification Sections) – specific forms and requirements to be reviewed with County Personnel prior to development
    - General Requirements (Division 01 Specification Sections)
    - Technical Specifications (expected to include Division 23 and Division 26 Specification Sections)
  - Review meeting(s) with County Personnel to review proposed sequences of operations and point lists for new control systems



- Development of bid alternates as determined appropriate by County Personnel
- Review meeting with Woodbury County Personnel to verify required information is included in Contract Documents to be used for bidding the Project
- Production of contract documents to include:
  - Project Manual
  - Drawings
- Mechanical and Electrical Engineering Bidding Phase Services, including:
  - Response to requests for information
  - Attendance at pre-bid meeting
  - Preparation of Addenda as necessary
- Mechanical and Electrical Engineering Construction Phase Services, including:
  - Review of submittals
  - Response to contractor questions
  - Preparation of Supplemental Instructions, Proposed Contract Document Revisions, etc., as necessary
  - Attendance at project construction progress meetings
  - Field observations during construction phase as appropriate
  - Preparation of punch list
  - Incorporation of changes into electronic record documents

Not included (available upon request):

- Mechanical system design and construction services not listed above, including:
  - Heating and cooling load calculations
  - Ventilation calculations
  - Building pressurization analysis
  - Energy modeling services
  - Modifications to other mechanical systems not specifically identified above
- Development of electronic background drawings for Law Enforcement Center not specifically identified, or requiring field measurement and verification of all spaces

- Design of modifications to electrical power distribution system (other than those specifically required to serve control system modifications)
- Design of modifications to plumbing systems
- Design of modifications to fire alarm system (other than those associated with control of mechanical equipment such as air handling units)
- Design of modifications to lighting or lighting control systems
- Design of modifications to communications systems
- Design of modifications to building architectural components
- Building code analysis
- Review with Authority overseeing building areas listed on National Register of Historic Places (not believed to be required due to scope of project)
- Design of modifications to, or analysis of, building structural components
- Design of modifications to building systems other than those described herein
- Commissioning Services
- Civil Engineering services
- Support for LEED or other third party certification programs

Deliverables:

- Review Documents to be approved before production of Contract Documents, including detailed opinion of cost
- Contract Documents (assumed to be a single set for both buildings) to include:
  - Project Manual including Procurement and Contracting Requirements, General Requirements, and Technical Specifications
  - Drawings defining scope of Project Work (scope limited to necessary information to locate controlled equipment and system components – will not include all mechanical system components)

**Schedule**

We will work with Woodbury County and Baker Group to develop a detailed schedule for completion of documents once we have received a notice to proceed. Based on our understanding of the project at this time, we expect to be able to complete the work described in this proposal by mid-November of 2016.

## Basic Services

We propose to provide the Architectural and Engineering Design and Construction Administration Services outlined above for a fixed fee of \$64,000. This fee is based on an expected total project construction cost of approximately \$820,000.

Additional services outside the scope defined in this proposal will be provided on an hourly basis. No additional services will be provided without prior authorization from Woodbury County. The hourly rates for staff expected to work on this project are as follows:

- Senior Mechanical Engineer/Project Manager - \$140/hour
- Senior Electrical Engineer - \$140/hour
- Mechanical or Electrical Engineer - \$125/hour
- Engineering Intern or Designer - \$80/hour
- Clerical - \$40/hour

## Summary

I appreciate the opportunity to provide this proposal to provide design and construction administration services for a Controls System Upgrade Project at the Woodbury County Courthouse and Law Enforcement Center. If you have questions or comments regarding this proposal, please do not hesitate to share them with me. I would be happy to review scope and fees in detail if it is helpful. I look forward to working together on this project. Thank you.

Respectfully,



Corey B. Metzger, PE  
Principal  
Resource Consulting Engineers, LLC

**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM**

Date: 1/05/2017

Weekly Agenda Date: 1/10/2017

**ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN:** Kenny Schmitz

**WORDING FOR AGENDA ITEM:**

LEC Jail Expansion Project- Additional soil testing required

**ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

**EXECUTIVE SUMMARY:**

The LEC Expansion Project initial soil testing reports conducted by Certified Testing Services have come back less than favorable. It will be necessary to move forward with additional borings at Eight exact column locations.

The borings are essential in determining if the LEC Expansion Project can move forward under the \$1.2 Million Dollar threshold.

This request is for One of Eight borings that would be necessary.

Each location boring test would more than likely require a positive results prior to moving forward with one of the other Seven locations.

Attachments: Certified Testing Services Report Dated December 20th, 2016  
Certified Testing Services Proposal Additional Soil Testing Proposal Dated January 6th, 2017

**BACKGROUND:**

Borings and sample testing to determine if soil is conducive for support columns that are necessary to provide for weight distribution of additional detention cells was conducted.

The Board of Supervisors earlier approved Certified Testing Services initial sampling and soil testing.

Certified Testing Services provided their findings in the report dated December 20th, 2016.

**FINANCIAL IMPACT:**

2017 CIP Allocation #B-8

Certified Testing Services (not to exceed)- \$2,500.00

Concrete Removal (By others)- \$1,500 (estimate)

Total= \$4,000

**IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?**

Yes  No

**RECOMMENDATION:**

Building Services recommends approval of funding to proceed with additional soil testing required at one column location.

Boring Location: Grid Line #1 Midway between Grid Lines "H" and "J".

**ACTION REQUIRED / PROPOSED MOTION:**

1. Motion to approve LEC Expansion Project additional soil testing with Certified Testing Services per January 6th, 2017 Proposal and funding necessary to complete concrete saw cutting and removal. Totals not to exceed \$4,000.00



CERTIFIED TESTING SERVICES, INC.

**GEOTECHNICAL ENGINEERING REPORT**

**BUILDING MODIFICATIONS  
WOODBURY COUNTY LAW ENFORCEMENT CENTER  
SIOUX CITY, IOWA**

**CTS PROJECT NO. G4933**

This document was originally issued and sealed by James A. Bertsch, P.E., License No. 12121 on December 20, 2016.

I hereby certify that this engineering document was prepared by me or under my direct personal supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Iowa.

Signature:

Name: James A. Bertsch, P.E. (date)

License Number 12121

My license renewal date is December 31, 2018.

Pages or sheets covered by this seal:

This report contains 18 pages, including this page.

CTS File Number G4933



**Certified Testing Services, Inc.**

419 W. 6th Street • P.O. Box 1193 • Sioux City, Iowa 51102 • Phone (712) 252-5132

December 20, 2016

Attn: Mr. Kenny Schmitz  
Building Services Director  
Woodbury County  
620 Douglas Street, Room B07  
Sioux City, Iowa 51101

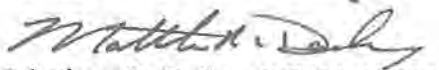
RE: Geotechnical Exploration Services  
Building Modification  
Woodbury County Law Enforcement  
Center  
Sioux City, Iowa  
CTS Job No. G4933

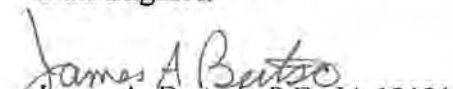
Dear Mr. Schmitz:

Certified Testing Services, Inc. is pleased to transmit our Geotechnical Engineering Report for the referenced project. This report includes the results of field and laboratory testing, estimated settlement amounts, as well as groundwater information.

We appreciate the opportunity to perform this Geotechnical Study and look forward to continued participation during the design and construction phases of this project. If you have any questions pertaining to this report or if we may be of further service, please contact our office.

Respectfully submitted,  
CERTIFIED TESTING SERVICES, INC.

  
Matthew R. Dailey, P.E. IA 19700  
Staff Engineer

  
James A. Bertsch, P.E. IA 12121  
Senior Geotechnical Engineer

MRD/JAB/jb

cc: CMBA Architects



**GEOTECHNICAL ENGINEERING REPORT**

**BUILDING MODIFICATIONS  
WOODBURY COUNTY LAW ENFORCEMENT CENTER  
SIOUX CITY, IOWA**

**CTS PROJECT NO. G4933**

**PREPARED FOR**

**ATTN: MR. KENNY SCHMITZ  
BUILDING SERVICES DIRECTOR  
WOODBURY COUNTY  
620 DOUGLAS STREET, ROOM B07  
SIOUX CITY, IOWA 51101**

**DECEMBER 20, 2016**

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## **PROJECT INFORMATION**

### **Project Authorization**

Certified Testing Services, Inc. has completed a subsurface exploration for the above referenced project. Our work was authorized by Mr. Kenny Schmitz, Building Services Director, for Woodbury County in an email on December 1, 2016. This work was performed in accordance with CTS Proposal 3886, dated September 7, 2016.

### **Project Description**

Mr. Brent Koch, AIA for CMBA Architects presented preliminary project information through a request for proposal received by email on September 2, 2016. The request for proposal included project information, a modified copy of a Sheet S-1A that showed the proposed boring locations and a portion of Sheet S-1A that showed the proposed new column locations and column information. Mr. Schmitz provided additional information in an email on December 1, 2016. The email included a drawing titled, "First Floor Framing Plan" and a drawing titled, "Foundation Plan" that were both marked "Revised Soil Boring Locations". CTS understands that the project will consist of renovating a portion of the second floor to add modular jail cells, which will require the installation of additional columns in the southwest/western portion of the existing building. CTS understands that the top of the columns will be located 8 inches below the top of floor slab and the footings would be 12 inches thick. It is further understood that the columns will have loads of 39 kips

### **Purpose and Scope of Services**

The purpose of this study was to explore the subsurface conditions at the site to determine if the existing material would be suitable for supporting the new column foundations. Our original scope of services included coring two locations in the basement area and two boring in the first floor area. However, based on the new boring information received in the email on December 1, 2016, the number of borings in the basement was reduced to one. It should be noted that hand auger refusal and sample refusal was encountered in the borings at depths ranging from 10 inches to 11 feet below the top of floor slab. The scope of work also included select laboratory testing and preparation of this geotechnical report. This report briefly outlines the testing procedures, presents available project information, describes the site and subsurface conditions and presents our opinion on the suitability of the subgrade material to support the new column loads and groundwater information.

The scope of services does not include an environmental assessment of the site.

## SITE AND SUBSURFACE CONDITIONS

### **Site Location and Description**

The project site is the Woodbury County Law Enforcement Center located 407 7<sup>th</sup> Street in in Sioux City, Iowa. At the time of drilling, the surface at the boring locations was covered with 3¾-inch to 4¼-inch concrete slab.

### **Subsurface Conditions**

The site subsurface conditions were explored with three soil borings hand augered or sampled to depths varying from 10 inches to 11 feet below the existing ground surface. It should be noted that hand auger refusal was met in debris at 5 feet in Boring B1, 10 feet in Boring B2 and 10 inches in Boring B3. The boring locations and depths were chosen by CMBA Architects personnel and basement boring locations was adjusted in the field by CTS personnel based on accessibility. The approximate locations of the borings are indicated on the "Boring Location Plans" included in the Appendix, which are modified copies of the drawings provide in the email on December 1, 2016.

The borings were advanced utilizing hand auger drilling methods and dynamic cone penetrometer testing. Soil samples were routinely obtained during the drilling process. Select soil samples were later tested in the laboratory to determine the materials properties for our evaluation. Drilling, soil sampling and the laboratory testing were accomplished generally in accordance with ASTM procedures.

The subsurface conditions below the surface material consisted of silty sand fill, lean clay with silt lumps and debris fill, silt fill, lean clay fill, and silty sand with concrete debris fill. It should be noted that the classifications of the materials encountered in the cone penetrometer tests is assumed based on hand auger refusal in rubble.

The boring logs included in the Appendix should be reviewed for specific information at the individual boring locations. These records include soil/rock descriptions, stratifications, cone penetration resistances, and locations of the samples and laboratory test data. The stratifications shown on the boring logs represent the conditions only at the actual boring locations. Variations may occur and should be expected at other locations across the site. The stratifications represent the approximate boundary between subsurface materials and the actual transition may be gradual. Water level information obtained during field operations are also shown on the boring logs. Samples that were not altered by laboratory testing will be retained for 30 days from the date of this report and then will be discarded.

### **Water Level Measurements**

Free water was not encountered in the borings at the time of drilling. Water levels should be expected to fluctuate with changes in climatic conditions. The water level measurements presented in this report are the levels that were measured at the time of our field activities.

## EVALUATION AND RECOMMENDATIONS

### **Geotechnical Discussion**

Based on the fill material encountered in the borings, it is CTS's opinion that the existing fill material is not suitable to support the proposed columns. It would be CTS's opinion that helical piles would be suitable for support of the columns. Based on the existing building being constructed on piling, the original geotechnical report from the construction of the building should be supplied to the pile contractor to determine the depth of piles. It should also be noted that debris encountered in the borings may cause construction difficulty.

### REPORT LIMITATIONS

The recommendations submitted are based on the available subsurface information obtained by CTS and design details furnished by Mr. Brent Koch, AIA of CMBA Architects and Mr. Kenny Schmitz of Woodbury County. If deviations from the subsurface conditions noted in this report are encountered during construction, CTS should be notified immediately to determine if changes in the foundation recommendations are required. If CTS is not retained to perform these functions, CTS will not be responsible for the impact of those conditions on the project.

The geotechnical engineer warrants that the findings, recommendations, specifications, or professional advice contained herein have been made in accordance with generally accepted professional geotechnical engineering practices in the local area. No other warranties are implied or expressed.

This report has been prepared for the exclusive use of Woodbury County and their consultants for the specific application to the proposed Woodbury County Law Enforcement Center Modifications project in Sioux City, Iowa.

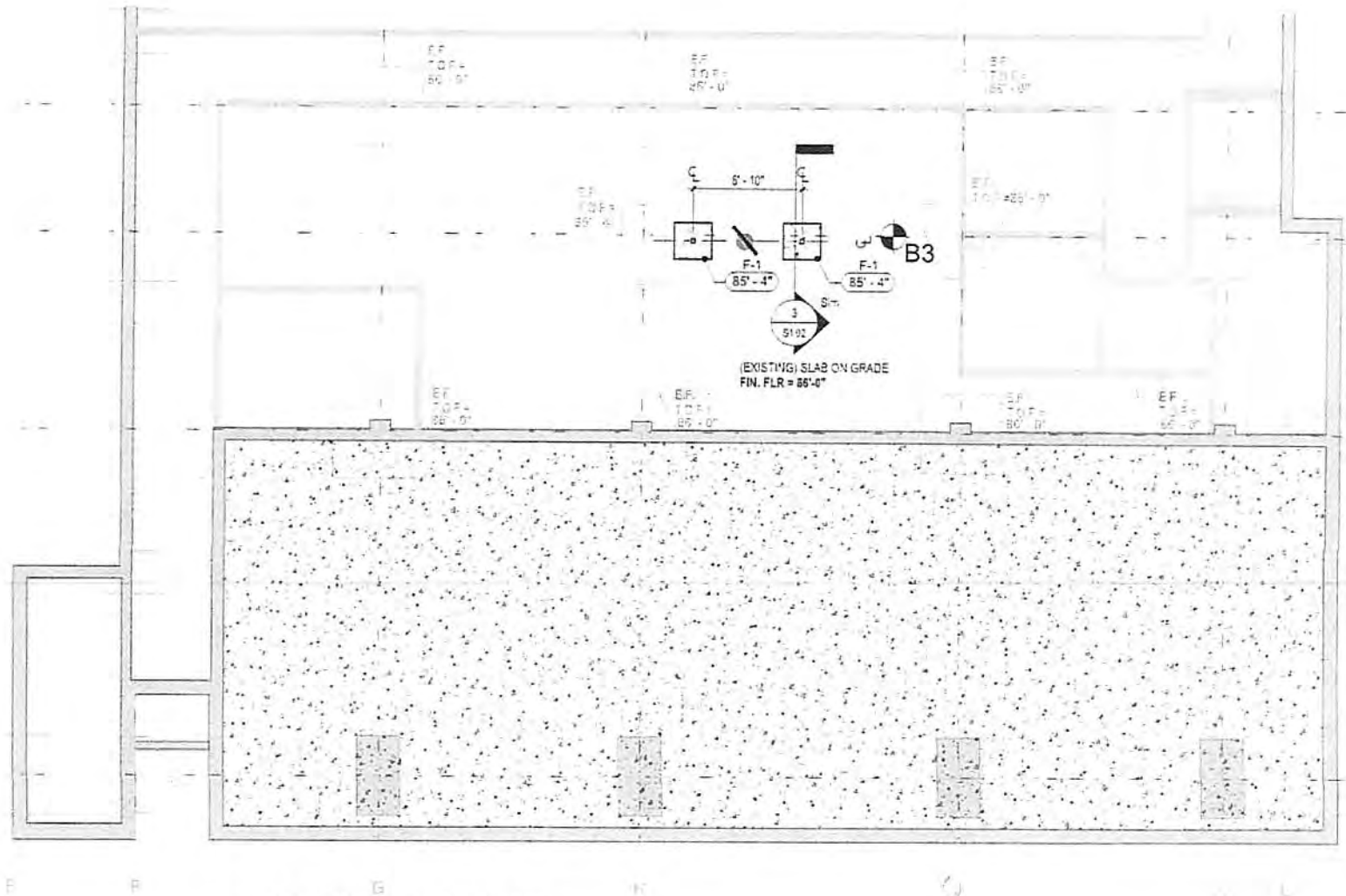
## APPENDIX

## **BORING LOCATION PLANS**





REVISED SOIL BORING LOCATIONS



**1 FOUNDATION PLAN**  
1/8" = 1'-0"

## **BORING LOGS**





# LOG OF EXPLORATORY BORING

Job Number: **G4933**  
 Project: **LEC Building Modification**  
 Date Started: **12/13/16**  
 Date Completed: **12/13/16**

Boring No.: **B-2**  
 Boring Location: **Sioux City, Iowa**  
 Drill Type: **Hand Auger**  
 Ground Elev.:

Depth in Feet	Graphic Log	Sample Type	<input type="checkbox"/> Shelby Tube <input checked="" type="checkbox"/> Modified California	<input checked="" type="checkbox"/> Standard Split Spoon <input checked="" type="checkbox"/> Grab Sample	<input type="checkbox"/> Water Level ATD <input type="checkbox"/> Water Level After 7 Days	USCS	Blow Counts SPT (N) Blows/Foot	Moisture Content, %	Dry Density (PCF)	% Saturation	Hand Penetrometer (TSF)	Unconfined Comp. Strength (TSF)	Liquid Limit %	Plastic Limit %	Plasticity Index %	Cone Penetrometer (Blows per 1-3/4")	
			SOIL DESCRIPTION														
			3.75-Inch Concrete Layer														
			0.75-Inch Insulation Layer														
			FILL, Silt, Yellow Brown, Dry					6									58
5								11	89	33	4.50						
			FILL, Lean Clay, Dark Brown, Moist					15	96	56	4.50						
10								15									25
			(Debris Encountered)														
			END OF BORING AT 11 FEET DUE TO AUGER/SAMPLE REFUSAL IN DEBRIS FREE WATER WAS NOT ENCOUNTERED AT TIME OF DRILLING														44

## **SOIL CLASSIFICATION CHART AND GENERAL NOTES**



# LOG OF EXPLORATORY BORING

Job Number: **G4933**      Boring No.: **B-3**  
 Project: **LEC Building Modification**      Boring Location: **Sioux City, Iowa**  
 Date Started: **12/13/16**      Drill Type: **Hand Auger**  
 Date Completed: **12/13/16**      Ground Elev.:

Depth in Feet	Graphic Log	Sample Type	SOIL DESCRIPTION	USCS	Blow Counts SPT (N) Blows/Foot	Moisture Content, %	Dry Density (PCF)	% Saturation	Hand Penetrometer (TSF)	Unconfined Comp. Strength (TSF)	Liquid Limit %	Plastic Limit %	Plasticity Index %	Cone Penetrometer (Blows per 1-3/4")
		<input type="checkbox"/> Shelby Tube <input checked="" type="checkbox"/> Standard Split Spoon <input type="checkbox"/> Water Level ATD <input checked="" type="checkbox"/> Modified California <input checked="" type="checkbox"/> Grab Sample <input type="checkbox"/> Water Level After 7 Days	<b>4.25-Inch Concrete Layer</b> FILL, Silty Sand with Concrete Debris, Grayish Yellow Brown, Moist <b>END OF BORING AT 10 INCHES DUE TO AUGER/SAMPLE REFUSAL IN CONCRETE DEBRIS</b> <b>FREE WATER WAS NOT ENCOUNTERED AT TIME OF DRILLING</b>			15								17







# SOIL CLASSIFICATION CHART

MAJOR DIVISIONS			SYMBOLS		TYPICAL DESCRIPTIONS
			GRAPH	LETTER	
<p><b>COARSE GRAINED SOILS</b></p> <p>MORE THAN 50% OF MATERIAL IS LARGER THAN NO. 200 SIEVE SIZE</p>	<p><b>GRAVEL AND GRAVELLY SOILS</b></p>	<p>CLEAN GRAVELS</p> <p>(LITTLE OR NO FINES)</p>		<b>GW</b>	WELL-GRADED GRAVELS, GRAVEL - SAND MIXTURES, LITTLE OR NO FINES
		<p>GRAVELS WITH FINES</p> <p>(APPRECIABLE AMOUNT OF FINES)</p>		<b>GP</b>	POORLY-GRADED GRAVELS, GRAVEL - SAND MIXTURES, LITTLE OR NO FINES
		<p>GRAVELS WITH FINES</p> <p>(APPRECIABLE AMOUNT OF FINES)</p>		<b>GM</b>	SILTY GRAVELS, GRAVEL - SAND - SILT MIXTURES
	<p><b>SAND AND SANDY SOILS</b></p>	<p>CLEAN SANDS</p> <p>(LITTLE OR NO FINES)</p>		<b>SW</b>	WELL-GRADED SANDS, GRAVELLY SANDS, LITTLE OR NO FINES
				<b>SP</b>	POORLY-GRADED SANDS, GRAVELLY SAND, LITTLE OR NO FINES
		<p>SANDS WITH FINES</p> <p>(APPRECIABLE AMOUNT OF FINES)</p>		<b>SM</b>	SILTY SANDS, SAND - SILT MIXTURES
				<b>SC</b>	CLAYEY SANDS, SAND - CLAY MIXTURES
				<b>ML</b>	INORGANIC SILTS AND VERY FINE SANDS, ROCK FLOUR, SILTY OR CLAYEY FINE SANDS OR CLAYEY SILTS WITH SLIGHT PLASTICITY
	<p><b>FINE GRAINED SOILS</b></p> <p>MORE THAN 50% OF MATERIAL IS SMALLER THAN NO. 200 SIEVE SIZE</p>	<p><b>SILTS AND CLAYS</b></p> <p>LIQUID LIMIT LESS THAN 50</p>		<b>CL</b>	INORGANIC CLAYS OF LOW TO MEDIUM PLASTICITY, GRAVELLY CLAYS, SANDY CLAYS, SILTY CLAYS, LEAN CLAYS
				<b>OL</b>	ORGANIC SILTS AND ORGANIC SILTY CLAYS OF LOW PLASTICITY
			<b>MH</b>	INORGANIC SILTS, MICACEOUS OR DIATOMACEOUS FINE SAND OR SILTY SOILS	
<p><b>SILTS AND CLAYS</b></p> <p>LIQUID LIMIT GREATER THAN 50</p>			<b>CH</b>	INORGANIC CLAYS OF HIGH PLASTICITY	
			<b>OH</b>	ORGANIC CLAYS OF MEDIUM TO HIGH PLASTICITY, ORGANIC SILTS	
			<b>PT</b>	PEAT, HUMUS, SWAMP SOILS WITH HIGH ORGANIC CONTENTS	
<b>HIGHLY ORGANIC SOILS</b>				<b>PT</b>	PEAT, HUMUS, SWAMP SOILS WITH HIGH ORGANIC CONTENTS



NOTE: DUAL SYMBOLS ARE USED TO INDICATE BORDERLINE SOIL CLASSIFICATIONS

# GENERAL NOTES

## SAMPLING SYMBOLS:

	STANDARD PENETRATION TEST - 1 3/8" I.D., 2" O.D.
	SHELBY THIN-WALLED TUBE - 3" O.D. UNDISTURBED SAMPLE
	GRAB SAMPLE
	ROCK CORE
	AUGER SAMPLE
	NO RECOVERY

## WATER LEVEL MEASUREMENT SYMBOLS:

	WATER LEVEL AT TIME OF DRILLING
	WATER LEVEL AFTER 7 DAYS

CONSISTENCY OF FINE-GRAINED SOILS	
UNCONFINED COMPRESSIVE STRENGTH, QU, PSF	CONSISTENCY
< 500	VERY SOFT
500 - 1,000	SOFT
1,001 - 2,000	MEDIUM
2,001 - 4,000	STIFF
4,001 - 8,000	VERY STIFF
8,001 - 16,000	HARD
> 16,000	VERY HARD

RELATIVE DENSITY OF COARSE GRAINED SOILS	
N-BLOWS/FT.	RELATIVE DENSITY
0 - 3	VERY LOOSE
4 - 9	LOOSE
10 - 29	MEDIUM DENSE
30 - 49	DENSE
50 - 80	VERY DENSE
80 +	EXTREMELY DENSE

RELATIVE PROPORTIONS OF SAND AND GRAVEL	
DESCRIPTIVE TERM(S) (OF COMPONENTS ALSO PRESENT IN SAMPLE)	PERCENT OF DRY WEIGHT
WITH	15 - 29
MODIFIER	> 30

GRAIN SIZE TERMINOLOGY	
MAJOR COMPONENT OF SAMPLE	SIZE RANGE
BOULDERS	OVER 12 IN. (300MM)
COBBLES	12 IN. TO 3 IN. (300 MM TO 75 MM)
GRAVEL	3 IN. TO #4 SIEVE (75MM TO 4.75MM)
SAND	#4 TO #200 SIEVE (4.75MM TO 0.075 MM)
SILT OR CLAY	PASSING #200 SIEVE (0.075MM)

RELATIVE PROPORTIONS OF FINES	
DESCRIPTIVE TERM(S) (OF COMPONENTS ALSO PRESENT IN SAMPLE)	PERCENT OF DRY WEIGHT
WITH	15 - 29
MODIFIER	> 30







**Certified Testing Services, Inc.**

419 W. 6th Street • P.O. Box 1193 • Sioux City, Iowa 51102 • Phone (712) 252-5132

January 6, 2017

Attn: Mr. Kenny Schmitz  
Building Services Director  
Woodbury County  
620 Douglas Street, Room B07  
Sioux City, Iowa 51101

RE: Additional Geotechnical Exploration  
Services  
Building Modification  
Woodbury County Law Enforcement  
Center  
Sioux City, Iowa  
CTS Proposal No. 3994

Dear Mr. Schmitz,

Introduction

Certified Testing Services, Inc. is pleased to submit this proposal to perform an additional geotechnical exploration for the above referenced project. This proposal presents our understanding of the furnished project information, scope of work, as well as schedule and fees.

Project Information

Mr. Bill Murphy of CMBA Architects presented additional information in a telephone conversation on January 6, 2017. CTS understands that the owner is going to cut a 4 feet square hole in the first floor area that would allow CTS to make several attempts at completing the borings to depths of 15 feet below the existing grade.

#### Scope of Work

Based on the above information and the information supplied previously, CTS proposes perform a boring in the removed area to a depth of 15 feet. CTS will make as many attempts as possible within an 8 hour day. At the completion of the fieldwork, samples collected in the field will be transported to the laboratory and tested to determine select engineering properties that will be used in our analysis. The results of the fieldwork, laboratory testing, project information and other information will be evaluated by a professional engineer familiar with the soil conditions in the project area and presented in an addendum report.

Items that will be addressed in the addendum report include our understanding of the project information, topographic and subsurface information, review of geologic and subsurface information, review of field and laboratory test procedures, recommendations for type, design and construction of shallow foundations, to include bearing capacities and settlement estimates, discussion on alternate foundations, if required, and groundwater information.

The scope of services is based on the utilities being located by the owner, electrical service and water being provided by the owner and the boring locations being accessible to hand auger equipment. **CTS cannot be held responsible for utility lines that are cut that we are not made aware of their specific location.** Field and laboratory testing will be performed, where applicable, in accordance with ASTM procedures.

#### Cost

Based on the scope of work discussed above, CTS proposes to perform the work for hand auger soil test borings for a not to exceed amount \$2,500.00, which will include three copies of the addendum report. It is further proposed to perform the work in

accordance with the attached CTS "General Conditions" which are incorporated into this proposal.

Our not to exceed price covers the activity required to present our findings in an addendum report form. Our not to exceed price includes up to one hour of engineering services for the review of applicable drawings and specifications, at our office, to determine their compliance with our addendum and original report. This proposal does not include the preparation of construction specifications, special conferences and other activities requested after submittal of our addendum report.

#### Schedule and Authorization

Based on our present schedule, we can commence the fieldwork within three to five working days after receiving written notice to proceed, if we are provided with access to the site and the concrete had been removed in the area of our work. CTS's written addendum report would be completed within five to seven working days of completion of the fieldwork.

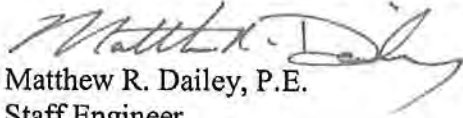
CTS will proceed with the fieldwork based on the receipt of a signed copy of this proposal. To speed up the process a copy of the signature page may be faxed to (712) 252-0110 or e-mailed to [jimbertsch@cableone.net](mailto:jimbertsch@cableone.net) would serve as written authorization. Please complete as many items as possible on the attached project data sheet and return with the signature page.

CTS appreciates the opportunity to submit this proposal and look forward to working with you on this project. If you should have any questions or need additional information, feel free to contact our office.

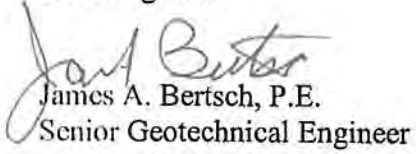
Woodbury County  
January 6, 2017  
CTS Proposal No. 3886  
Page 4 of 7

Sincerely,

CERTIFIED TESTING SERVICES, INC.



Matthew R. Dailey, P.E.  
Staff Engineer



James A. Bertsch, P.E.  
Senior Geotechnical Engineer

MRD/JAB/jb

Attachment: Schedule of Services and Fees  
Project Data Sheet  
General Conditions

**AGREED TO THIS** \_\_\_\_\_ **DAY OF** \_\_\_\_\_, 20\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

**PRINTED NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**FIRM:** \_\_\_\_\_

**SCHEDULE OF SERVICES AND FEES**

<b><u>Field Services</u></b>	<b><u>Unit</u></b>	<b><u>Unit Fees</u></b>
Mobilization, Three Man Crew and Equipment	Lump Sum	\$200.00
Hand Auger Drilling, Three Man Crew	Per Hour	200.00
Coring	Each	75.00
Standby	Hour	200.00
<b><u>Lab Services</u></b>		
Atterberg Limits	Each	\$90.00
Moisture Content	Each	8.00
Dry Density	Each	10.00
Unconfined Compression	Each	15.00
Gradation Test	Each	90.00
<b><u>Report</u></b>		
Additional Reports	Each	\$30.00
Senior Engineering Technician	Hour	64.00
Crew Chief	Hour	74.00
Staff Engineer	Hour	125.00
Senior Engineer	Hour	155.00

**CERTIFIED TESTING SERVICES, INC  
PROJECT DATA SHEET  
SUBSURFACE EXPLORATION**

1. Project Name: \_\_\_\_\_
2. Project Location: \_\_\_\_\_
3. Your Job Number \_\_\_\_\_ Purchase Order No.: \_\_\_\_\_
4. Project Manager: \_\_\_\_\_ Telephone No.: \_\_\_\_\_
5. Number and Distribution of Reports:  
Copies To: \_\_\_\_\_ Copies To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_ Attn: \_\_\_\_\_
6. Invoicing Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

# GENERAL CONDITIONS

## SUBSURFACE EXPLORATION SERVICES

### SECTION 1: Scope of Work

CTS shall perform the services defined in the contract and shall invoice the client for those services at the fee schedule rates. Any cost estimates stated in this contract shall not be considered as a firm figure unless otherwise specifically stated in this contract. If unexpected site conditions are discovered, the scope of work may change, even as the work is in progress. CTS will provide these additional services at the contract fee schedule rate.

Rates for work beyond the scope of this contract and not covered by the contract fee schedule can be provided. CTS can perform additional work with verbal authorization, and will provide written confirmation of fees, if requested. All costs incurred because of delays in authorizing the additional work will be billed to the client.

Fee schedules are valid for one year following the date of the contract unless otherwise noted.

### SECTION 2: Access to Sites

Unless otherwise agreed, the client will furnish CTS with right-of-access to the site in order to conduct the planned exploration.

While CTS will take all reasonable precautions to minimize any damage to the property, it is understood by the client that in the normal course of work some damage may occur, the restoration of which is not part of this agreement.

### SECTION 3: Soil Boring Locations

The client will furnish CTS with a diagram indicating the location of the site. Test boring locations may also be indicated on the diagram. CTS reserves the right to deviate a reasonable distance from the boring locations specified unless this right is specifically revoked by the client in writing at the time the location diagram is supplied. CTS reserves the right to terminate this contract if conditions preventing drilling at the specified locations are encountered which were not made known to CTS prior to the date of this contract.

The accuracy and proximity of provided survey control will affect the accuracy of in situ test location and evaluation determinations. Unless otherwise noted, the accuracy of test locations and elevations will be commensurate only with pacing and approximate measurements or estimates.

### SECTION 4: Utilities

In the performance of its work, CTS will take all reasonable precautions to avoid damage or injury to subterranean structures or utilities.

The client agrees to hold CTS harmless and indemnify CTS for any claims, payments or other liability, including costs and attorney fees incurred by CTS for any damages to subterranean structures which are not called to CTS's attention and correctly shown on plans furnished to CTS.

### SECTION 5: Samples

CTS will retain all soil and rock samples for 30 days after submission of the report. Further storage or transfer of samples can be made at owner expense upon written request.

### SECTION 6: Unanticipated Hazardous Materials

It shall be the duty of the owner or his representative to advise CTS of any known or suspected hazardous substances which are or may be related to the services provided; such hazardous substances including but not limited to products, materials, by-products, wastes or samples of the foregoing which CTS may be provided or obtain performing its services or which hazardous substances exist or may exist on or near any premises upon which work is to be performed by CTS's employees, agents or subcontractors.

If during the course of providing services CTS observes or suspects the existence of unanticipated hazardous materials, CTS may at its option terminate further work on the project and notify client of the condition. Services will be resumed only after a renegotiation of scope of services and fees. In the event that such renegotiation cannot occur to the satisfaction of CTS, CTS may at its option terminate this contract.

### SECTION 7: Reports and Invoices

CTS will furnish three (3) copies of the report to the client. Additional copies will be furnished at the rate specified in the fee schedule.

CTS will submit invoices to the client monthly and a final bill upon completion of services. Payment is due upon presentation of invoice and is past due thirty (30) days from the invoice date. Client agrees to pay a finance charge of one and one-half percent (1 1/2%) per month, but not exceeding a maximum rate allowed by law, on past due accounts.

### SECTION 8: Ownership of Documents

All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by CTS as instruments of service, shall remain the property of CTS, unless there are other contractual agreements.

### SECTION 9: Confidentiality

CTS shall hold confidential all businesses or technical information obtained from the client or his affiliates or generated in the performance of services under this agreement and identified in writing by the client as "confidential". CTS shall not disclose such information without the client's consent except to the extent required for 1) Performance of services under this agreement; 2) Compliance with professional standards of conduct for preservation of public safety, health, and welfare; 3) Compliance with any court order or other governmental directive

and/or 4) Protection of CTS against claims or liabilities arising from performance of services under this agreement. CTS obligations hereunder shall not apply to information in the public domain or lawfully acquired on a non-confidential basis from others.

### SECTION 10: Standard of Care

Services performed by CTS under this Agreement will be conducted in the manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. No other warranty, express or implied, is made or intended by the proposal for consulting services or by furnishing oral or written reports of the findings made.

The client recognizes that the subsurface conditions may vary from those encountered at the location where borings, surveys or explorations are made by CTS and that the data, interpretations and recommendations of CTS are based solely upon the data available to CTS. CTS will be responsible for those data, interpretations, and recommendations, but shall not be responsible for the interpretation by others of the information developed.

### SECTION 11: Subpoenas

The client is responsible, after notification, for payment of time charges and expenses resulting from our required response to subpoenas issued by any party in conjunction with our work. Charges are based on fee schedules in effect at the time the subpoena is served.

### SECTION 12: Limitation of Liability

The client agrees to limit CTS's liability to the owner and all construction contractors and subcontractors on the project arising from CTS's professional acts, errors, or omissions, such that the total aggregate liability of CTS to all those named shall not exceed \$50,000 or CTS's total fee for the services rendered on this project, whichever is greater. The owner further agrees to require of the contractor and his subcontractors an identical limitation of CTS's liability for damages suffered by the contractor or subcontractor arising from CTS's professional acts, errors, or omissions. Neither the contractor nor any of his subcontractors assumes any liability for damages to others which may arise on account of CTS's professional acts, errors or omissions.

### SECTION 13: Insurance and Indemnity

CTS represents that it and its staff are protected by worker's compensation insurance and that CTS has such coverage under public liability and property damage insurance policies which CTS deems to be adequate. It is the policy of CTS to require certificates of insurance from all consultants or subcontractors employed by CTS. Certificates for all such policies of insurance will be provided to client upon request in writing. Within the limits and conditions of such insurance, CTS agrees to indemnify and save client harmless from and against any loss, damage, injury or liability arising from any negligent acts of CTS or its employees. CTS shall not be responsible for any loss, damage or liability beyond the amounts, limits and conditions of such insurance. CTS shall not be responsible for any loss, damage or liability arising from any acts by a client, its agents, staff or other consultants employed by others.

CTS's compensation hereunder is not commensurate with the potential risk of injury or loss that may be caused by exposures to pollution, hazardous waste or toxic or other dangerous substances or conditions. Accordingly, except as expressly provided in this contract, the client waives any claim against CTS and agrees to indemnify and save CTS, its agents, and its employees harmless from any claim, liability or defense cost for injury or loss sustained by any party from such exposures allegedly arising out of or related to CTS's performance of services hereunder.

### SECTION 14: Termination

This Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination shall not be effective if that substantial failure has been remedied before expiration of the period specified in the written notice. In the event of termination, CTS shall be paid for services performed to the termination notice date plus reasonable termination expenses. Expenses or termination or suspension shall include all direct costs of CTS required to complete analysis and records necessary to complete its files and may also include a report on the services performed to the date of notice of termination or suspension.

### SECTION 15: Precedence

These Standards, Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding CTS's services.



**Certified Testing Services, Inc.**

419 W. 6th Street  
P O Box 1193  
Sioux City, Iowa 51102

CREATION/CHANGE OF COMMITTEE FORM  
Form Approved by the Board of Supervisors 11/17/15

Board Approval Date:

Date Originally Created:

Ending Date (if known):

Name of Committee:

Woodbury County Courthouse Advisory Committee for Historical Preservation

Purpose:

interpreting and balancing between the beauty of the past with the function of the present

	Members OR Position	Entity Represented
1.	Matthew Ung, Supervisor	Woodbury County Board of Supervisors
2.	Jeremy Taylor, Supervisor	Woodbury County Board of Supervisors
3.	Ed Gilliland, Director	Woodbury County Human Resources Dept.
4.	Terry Glade	CMBA Architects
5.	Jim Jung	Sioux City Historic Preservation
6.	Kenny Schmitz, Director	Woodbury County Building Services Dept.
7.	Ed Storm	FEH Architects - Historian
8.	Mike Walsh	public citizen
9.	Pat Gill, County Auditor	Woodbury County Auditor's Office
10.		
11.		
12.		

Is this Committee - X the box that applies

	Required by Iowa Code
	Created by the provision of Iowa Code Chapter 28E
	Committee Created by Agreement
X	Committee Created for Special Purpose*

The Committee plans to at least meet - X the box that applies

	Weekly
	Monthly
X	Quarterly
	Annually
	Other/Unknown

\* Special committees will sunset at the end of every calendar year unless re-approved each year.



CREATION/CHANGE OF COMMITTEE FORM  
Form Approved by the Board of Supervisors 11/17/15

Board Approval Date:

Date Originally Created:

Ending Date (if known):

Name of Committee:

Law Enforcement Expansion/Prairie Hills

Purpose:

to study the cost-effectiveness of closing the Prairie Hills facility and dedicating an expansion to the Law Enforcement Center to serve the needs of what Prairie Hills once did

	Members OR Position	Entity Represented
1.	Matthew Ung, Supervisor	Woodbury County Board of Supervisors
2.	Jeremy Taylor, Supervisor	Woodbury County Board of Supervisors
3.	Shane Albrecht	The Baker Group
4.	Dave Drew, Sheriff	Woodbury County Sheriff's Office
5.	Greg Stallman, Major	Woodbury County Sheriff's Office
6.	Todd Wieck, Major	Woodbury County Sheriff's Office
7.	Kenny Schmitz, Director	Building Services Dept.
8.		
9.		
10.		
11.		
12.		

Is this Committee - X the box that applies

<input type="checkbox"/>	Required by Iowa Code
<input type="checkbox"/>	Created by the provision of Iowa Code Chapter 28E
<input type="checkbox"/>	Committee Created by Agreement
<input checked="" type="checkbox"/>	Committee Created for Special Purpose*

The Committee plans to at least meet - X the box that applies

<input type="checkbox"/>	Weekly
<input type="checkbox"/>	Monthly
<input checked="" type="checkbox"/>	Quarterly
<input type="checkbox"/>	Annually
<input type="checkbox"/>	Other/Unknown

\* Special committees will sunset at the end of every calendar year unless re-approved each year.

CREATION/CHANGE OF COMMITTEE FORM  
Form Approved by the Board of Supervisors 11/17/15

Board Approval Date:

Date Originally Created:

Ending Date (if known):

Name of Committee:

Policy Review Committee

Purpose:

to receive, consider, and recommend to the Board of Supervisors policy changes as requested by the county officials and the public

	Members OR Position	Entity Represented
1.	Matthew Ung, County Supervisor	Board of Supervisors
2.	Keith Radig, County Supervisor	Board of Supervisors
3.	Ed Gilliland, Director	Dept. of Human Resources
4.	Tonia Abell, Clerk	Dept. of Human Resources
5.	PJ Jennings, County Attorney (or designee)	Attorney's Office
6.	Pat Gill, County Auditor	Auditor's Office
7.		
8.		
9.		
10.		
11.		
12.		

Is this Committee - X the box that applies

- |                                     |   |
|-------------------------------------|---|
| <input type="checkbox"/>            | Required by Iowa Code                             |
| <input type="checkbox"/>            | Created by the provision of Iowa Code Chapter 28E |
| <input type="checkbox"/>            | Committee Created by Agreement                    |
| <input checked="" type="checkbox"/> | Committee Created for Special Purpose*            |

The Committee plans to at least meet - X the box that applies

- |                                     |               |
|-------------------------------------|---------------|
| <input type="checkbox"/>            | Weekly        |
| <input type="checkbox"/>            | Monthly       |
| <input checked="" type="checkbox"/> | Quarterly     |
| <input type="checkbox"/>            | Annually      |
| <input type="checkbox"/>            | Other/Unknown |

\* Special committees will sunset at the end of every calendar year unless re-approved each year.

## WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: January 5, 2016

Weekly Agenda Date: January 12, 2016

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Supervisor Matthew Ung

SUBJECT: Creation of Policy Review Committee

### **ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

**WORDING FOR AGENDA ITEM:** Creation of Policy Review Committee

**EXECUTIVE SUMMARY:** While attending ISAC's 2015 Fall School of Instruction in Cedar Rapids I had a good conversation with the Black Hawk County Auditor regarding the benefits they've noticed from using a Policy Review Committee, and reviewed a sample of their meeting agendas and minutes. They use it to flesh out the repercussions of policy changes with staff ahead of time to assist the full Board of Supervisors. Because they were updating many old policies (as we will likely be doing next year), they originally met monthly, and now meet only quarterly or as needed. It allows all the affected parties to a policy change to share with other departments how they would be affected, so that those unknowns would be known before it got to the full Board of Supervisors. Replicating their structure, the permanent members should be few and only those almost always affected or drawn upon for ANY policy change: Human Resources, the Auditor's Office, and legal counsel. As policies are considered that impact other departments, those representatives will be invited to share their thoughts.

**BACKGROUND:** Several months ago, the board voiced openness to change a policy that would impact both planning & zoning, and the county engineer. At the request of the Chair for board representation, I volunteered to serve on that ad-hoc committee, and our small group worked through revisions and brought a recommendation to the full board. I believe this practice was useful because it brought the departments together who would be most affected by the given change, rather than having one of them caught off-guard at a board meeting with the inevitable result being deferred action. In other words, this practice should be ongoing in a standing committee--not so much for the benefit of the Supervisors, but for the benefit of staff.

**FINANCIAL IMPACT:** N/A

**RECOMMENDATION:** County officials and the public are encouraged (not required) to filter requested policy changes through this Policy Review Committee which will receive, consider, and in some cases recommend action to the Board of Supervisors. The committee would meet at least quarterly, and more often if needed. Meetings and minutes will be open to the public.

**ACTION REQUIRED / PROPOSED MOTION:** Move the attached committee creation form be approved, creating the Policy Review Committee

*Approved by Board of Supervisors March 3, 2015. Revised May 5, 2015.*

CREATION/CHANGE OF COMMITTEE FORM  
Form Approved by the Board of Supervisors 11/17/15

Board Approval Date:

Date Originally Created:

Ending Date (if known):

Name of Committee:

Health and Wellness Committee

Purpose:

to update and share information to stakeholders on the finances and functions of the health insurance fund and other benefit plans, and to work towards improved wellness services that touch lives while responsibly controlling costs

	Members OR Position	Entity Represented
1.	Jeremy Taylor, Supervisor	Woodbury County Board
2.	Ed Gilliland, Director	Human Resources Dept.
3.	Dennis Butler, Budget Analyst	Finance Dept.
4.	Michael Clayton, County Treasurer	Woodbury County Treasurer's Office
5.	Kevin Grieme, Director	Siouxland District Board of Health
6.	Karen James, Secretary	Woodbury County Board Administration
7.	Michelle Skaff, Deputy Auditor	Woodbury County Auditor's Office
8.	Diane McTeer, Case Worker	Woodbury County Juvenile Detention; AFSCME
9.	Melissa Thomas, Administrative Assistant	Human Resources Dept.
10.	Diane Swoboda Peterson, Deputy Recorder	Recorder's Office
11.	Todd Trobaugh	CWA
12.		

Is this Committee - X the box that applies

<input type="checkbox"/>	Required by Iowa Code
<input type="checkbox"/>	Created by the provision of Iowa Code Chapter 28E
<input type="checkbox"/>	Committee Created by Agreement
X	Committee Created for Special Purpose*

The Committee plans to at least meet - X the box that applies

<input type="checkbox"/>	Weekly
<input type="checkbox"/>	Monthly
X	Quarterly
<input type="checkbox"/>	Annually
<input type="checkbox"/>	Other/Unknown

\* Special committees will sunset at the end of every calendar year unless re-approved each year.

**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM**

Date: 1-5-17

Weekly Agenda Date: 1-10-17

**ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN:** Supervisor Matthew Ung

**WORDING FOR AGENDA ITEM:**

Liaison and Committee Assignments

**ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

**EXECUTIVE SUMMARY:**

The following represent the liaison and committee assignments for the 2017 calendar year. These decisions are always challenging, because they must strike a balance between the Chair's agenda and an even workload. However, I believe this new board has much common ground and opportunity to lead with a spirit of excellence.

Department head meetings will continue to be led by the Chair and Vice-Chair.

Where possible and prudent--understanding this particular year sees three new supervisors--I envision a general rotation of supervisors going forward. This is in accordance with my past recommendations to the board, in order to "cross-train" the board as a whole, and to avoid territorial "silos" of influence.

To reiterate of a caution made at the beginning of last year, we should caution any oversimplified "scoring" of these, remembering each committee comes with varying meeting schedules and responsibilities. However, an overview certainly indicates everyone will be pulling their weight.

**BACKGROUND:**

My own assignments focus on my graduate background of management and finance, including close work with budgetary and long-term planning goals. As the often cited "techy" on the board, I will sit on WCICC-IT, and continue web accessibility improvements.

Keeping a necessary big-picture view is complimented by overseeing Human Resources, and continuing to oversee the Policy Review Committee, where I have invited an additional supervisor to participate.

But since this isn't all about me, I wanted to supply this context to my decisions in light of the strengths of others serving with me:

DeWitt: As the most rurally situated supervisor, his assignments include secondary roads, multi-county alliances, and county-wide boards like Emergency Management. His family's service background will compliment his work on veterans affairs-related assignments.

Pottebaum: Considerations were made to accommodate a secondary work schedule with primarily evenings open. His mediation background from police and union work will be instrumental in his committee assignments with large groups of several stakeholders.

Radig: His background of experience with Sioux City's economic development team mean he is well suited for economic development assignments. Additionally, his reputation as a taxpayer watchdog will prove helpful to his other assignments with evolving or challenging budget processes.

Taylor: His experience as an energy specialist makes him a natural choice to follow through on energy efficiency initiatives. Additionally, his initiative as past-Chairman to interface with Sioux Rivers Region will bring needed context and continuity there.

**FINANCIAL IMPACT:**

n/a

**IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?**

Yes  No

**RECOMMENDATION:**

see below

**ACTION REQUIRED / PROPOSED MOTION:**

Motion to approve liaison and committee assignments as presented.

## WOODBURY COUNTY BOARD OF SUPERVISORS ASSIGNMENTS 2017

Chairman Matthew Ung, Vice-Chairman Jeremy Taylor, Rocky De Witt, Marty Pottebaum, Keith Radig



*Liaisons act as a two-way conduit of information both to implement board policy and to keep the board informed concerning each department. While each supervisor is assumed to have an "open door policy," the proper procedure for dealing with concerns is to channel them through the appropriate supervisor. In this way, supervisors can divide their time and focus most productively.*

### Department & Liaison Assignments

Building Services	Taylor
Conservation	Pottebaum
Court Administration	Ung
Department of Human Services	Radig
Department Head Meetings	Chair (Ung), Vice-Chair (Taylor)
Emergency Services	De Witt
Human Resources	Ung
Juvenile Court Services	Taylor
Juvenile Detention	De Witt, Taylor
Planning and Zoning	De Witt, Pottebaum
Rural Economic Development*	Ung, Radig
Secondary Roads	De Witt, Pottebaum
Veterans Affairs	De Witt
Sioux Rivers Region**	Radig, Taylor
Siouxland District Health	Taylor
Union Relations	Ung

\*Will work with The Siouxland Initiative and Siouxland Chamber of Commerce

\*\*As statutory members of the Sioux Rivers region, it is expected that these supervisors keep informed and involved in any related committees, including the Hospitalization and Programs committees, Citizens Advisory Board—Cherokee MHI, Criminal Justice Committee, and the Tri-View facility.

### Buildings & Projects

Supervisors will be responsible for communicating facility needs to the Building Superintendent and Chairperson, and to keep the rest of the board informed about work, problems, and potential needs.

The Capital Improvement Plan process includes scoring based on criteria; The goal of long-term facility planning is to make sure a process is followed in identifying needs and implementing cost-saving preventative maintenance. The board has contracted the services of Energy CAP, Inc. ® to track utility usage; The goal of energy planning will be to help ensure the conservation of resources. Finally, the Ag Expo Center is a major undertaking where continuity of direction is imperative for success.

On these initiatives, the following act to make recommendations and implement decisions of the board:

Long Term Facility Planning	Ung and Taylor
Energy Planning	Taylor
Ag Expo	Ung and Taylor

**County Boards, Commissions, and Committees**

**BY IOWA CODE**

Board of Adjustment	Radig
Conservation Board	Pottebaum
DECAT (Decategorization) Board	Radig
E911 Board	De Witt
Emergency Management Commission	De Witt (Alternate: Ung)
Soil and Water Conservation District	Pottebaum
Third Judicial Department of Corrections	Pottebaum
Zoning Commission	Pottebaum, Radig

**BY AGREEMENT**

Community Action Agency of Siouxland Board of Directors	De Witt
Highway 20 Association	Ung
Siouxland Economic Development Corporation	De Witt
Siouxland Tri-State Area Radio Communications	De Witt

**CHAPTER 28E**

Area Solid Waste Board (Landfill)	De Witt, Pottebaum
Hazardous Materials Commission	De Witt
Hungry Canyons Alliance	De Witt
Loess Hills Alliance	Pottebaum (Alternate: De Witt)
Loess Hills Development and Conservation Authority	Pottebaum
Loess Hills Scenic Byway	Pottebaum
Officials Council & Regional Workforce Investment Board	Radig
Security Institute Commission	Ung, De Witt
Siouxland Interstate Metropolitan Planning Council Board	Ung
<i>Comprehensive Economic Development Strategy</i>	"
<i>Housing Trust Fund</i>	"
<i>Metropolitan Planning Organization Policy Board</i>	"
<i>Rural Planning Association</i>	"
<i>Finance Committee</i>	"
<i>Legislative Committee</i>	"
<i>Siouxland Regional Transit System Board</i>	"
Siouxland District Board of Health	Taylor
Siouxland Human Investment Partnership	Radig
WCICC	Ung, Pottebaum
Western Iowa Tourism	Pottebaum, Radig

**SPECIAL PURPOSE**

Courthouse Advisory Committee for Historical Preservation	Ung, Taylor
Health and Wellness Committee	Taylor
Law Enforcement Expansion/Prairie Hills	Ung, Taylor
Policy Review Committee	Ung, Radig
Safety & Security Committee (under Iowa Judicial guidelines)	Ung, Taylor



# HUMAN RESOURCES DEPARTMENT

## MEMORANDUM OF PERSONNEL TRANSACTIONS

**DATE:** January 10, 2017

**\* PERSONNEL ACTION CODE:**

- |                 |                      |
|-----------------|----------------------|
| A - Appointment | R - Reclassification |
| T - Transfer    | E - End of Probation |
| P - Promotion   | S - Separation       |
| D - Demotion    | O - Other            |

**TO: WOODBURY COUNTY BOARD OF SUPERVISORS**

NAME	DEPARTMENT	EFFECTIVE DATE	JOB TITLE	SALARY REQUESTED	% INCREASE	*	REMARKS
Taylor, Jeremy	Board of Supervisors	01-03-17	Board Vice Chair	\$33,151/year	-16%=\$6,318/year	O	From Board Chairman to Board Vice Chair.
Ung, Matthew	Board of Supervisors	01-03-17	Board Chairman	\$39,469/year	16%=\$6,318/year	O	From Board Vice Chair to Board Chairman.
Henneous, Independance	County Sheriff	01-03-17	Civilian Jailer			S	Resignation.
Claussen, Karla	County Attorney	01-17-17	Legal Secretary III	\$18.94/hour		A	Job Vacancy Posted 9-28-16. Entry Level Salary: \$18.94/hour.
Torres, Ranae	Juvenile Detention	01-22-17	P/T Youth Worker	\$22.60/hour	17%=\$3.28/hour	R	Per AFSCME Juvenile Detention Contract agreement, from Grade 1/Step 3 to Grade 1/Step 4.

**APPROVED BY BOARD DATE:**

2017-01-10

**ED GILLILAND, HR DIRECTOR:**

*Ed Gilliland*

**WOODBURY COUNTY**  
**HUMAN RESOURCES DEPARTMENT**

**TO:** Board of Supervisors and the Taxpayers of Woodbury County  
**FROM:** Ed Gilliland, Human Resources Director  
**SUBJECT:** Memorandum of Personnel Transactions  
**DATE:** January 10, 2017

For the January 10, 2017 meeting of the Board of Supervisors and the Taxpayers of Woodbury County the Memorandum of Personnel Transactions will include:

- 1) Board of Supervisors Board Chairman to Board Vice Chair.
- 2) Board of Supervisors Board Vice Chair to Board Chairman.
- 3) County Sheriff Civilian Jailer, Resignation.
- 4) County Attorney Legal Secretary III, Appointment.
- 5) Juvenile Detention P/T Youth Worker, from Grade 1/Step 3 to Grade 1/Step 4.

*Ed G*

Thank you

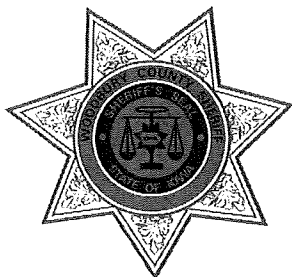
**HUMAN RESOURCES DEPARTMENT  
WOODBURY COUNTY, IOWA**

**DATE: January 10, 2017**

**AUTHORIZATION TO INITIATE HIRING PROCESS**

DEPARTMENT	POSITION	ENTRY LEVEL	APPROVED	DISAPPROVED
County Sheriff	Civilian Jailer	CWA Correctional Officers: \$18.00/hour		
	*Please See Attached Memo of Explanation.			

\_\_\_\_\_  
Chairman, Board of Supervisors



# Woodbury County Sheriff's Office

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LAW ENFORCEMENT CENTER  
P. O. BOX 3715 SIOUX CITY, IOWA 51102

DAVID A. DREW, SHERIFF

PHONE: 712.279.6010  
E-MAIL: [ddrew@sioux-city.org](mailto:ddrew@sioux-city.org)  
FAX: 712.279.6522

January 3<sup>rd</sup>, 2017

David A. Drew-Sheriff  
Ed Gilliland-HR Director

Good day,

Correctional Officer Independence Henneous has resigned her position as a Correctional Officer with the Woodbury County Sheriff's Office Jail Division. Officer Henneous's last day is effective immediately. Sheriff Dave Drew is requesting HR Director Gilliland begin the Board approved process to fill the opening with a qualified candidate.

Officer Henneous stated that Law Enforcement was no longer a career she wanted to be in. Officer Henneous had just transitioned to overnights in her training and had not completed the Jail Division's Field Training Program. Officer Henneous stated there was no one issue, that she enjoyed the staff and trainers she had meet here, but law enforcement was just not what she thought it was going to be.

Greg Stallman, Major

**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM**

Date: Jan 5 2017

Weekly Agenda Date: 2017-01-10

**ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN:** Ed Gilliland

**WORDING FOR AGENDA ITEM:**

Acceptable Use Policy, Discussion and Action.

**ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

**EXECUTIVE SUMMARY:**

Woodbury County recognizes the ongoing threats posed by those attempting to infiltrate or harm our IT infrastructure. We also recognize that there should be standards of acceptable use of the electronics associated with our IT infrastructure. This acceptable use policy lays out a solid foundation of what acceptable use of the IT infrastructure should be.

**BACKGROUND:**

Cyber attacks are a growing problem around the world. Clearly electronic communication has nearly replaced all other forms of communication so one cannot function in today's world without it and without proper guidance to it. Social Media and other methods of electronic communication have created tremendous vulnerability for all IT systems. This backdrop has created the need for Woodbury County to create policy that must be adhered to.

**FINANCIAL IMPACT:**

None.

**IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?**

Yes  No

**RECOMMENDATION:**

The Acceptable Use Policy has been reviewed by the Policy Review Committee and WCICC. It is our recommendation that we approve the policy and make everyone at Woodury County with computer access aware of the new policy. This should include all employees and anyone who may have access to our system.

**ACTION REQUIRED / PROPOSED MOTION:**

Please recognize and approve the implementation of the Acceptable Use Policy.

# Woodbury County, Iowa

## Acceptable Use Policy

**Last Update Status:** Updated December 2016

### 1. Overview

The intention for publishing an Acceptable Use Policy is to foster Woodbury County's established culture of openness, trust, and integrity. Woodbury County is committed to protecting Woodbury County's employees, partners, and organization from illegal or damaging actions by individuals, either knowing or unknowing.

Effective security is a team effort involving the participation and support of every Woodbury County employee and affiliate who deals with information and/or information systems. It is the responsibility of every computer user to know these guidelines and to conduct their activities accordingly.

### 2. Purpose

While computer resources are extremely valuable tools for Woodbury County, these resources must be used in a professional, ethical, and legal manner. The purpose of this policy is to outline the acceptable use of computer equipment at Woodbury County. These rules are in place to protect the employee and Woodbury County. Inappropriate use exposes Woodbury County to risks including virus attacks, compromise of network systems and services, and legal issues.

### 3. Scope

This policy applies to the use of information, electronic and computing devices, and network resources to conduct Woodbury County business or interact with internal networks and business systems, whether owned or leased by Woodbury County, the employee, or a third party. All employees, contractors, consultants, temporary, and other workers at Woodbury County are responsible for exercising good judgment regarding appropriate use of information, electronic devices, and network resources in accordance with Woodbury County policies and standards, and applicable laws and regulations.

### 4. Policy

#### 4.1 General Use and Ownership

- 4.1.1 When using company resources to access and use the Internet and communicate electronically, users must recognize that they represent the County. Communications must be able to withstand public scrutiny without embarrassment or liability to the County if those communications are forwarded beyond intended recipients, inadvertently accessed or disclosed, subpoenaed in a legal action, or otherwise made public. Generally accepted standards of business conversation in electronic communications are strongly encouraged.
- 4.1.2 While network administrators desire to provide a level of privacy, users should be aware that documents and other data created on County systems remain the property of Woodbury County. Users should be aware that they have no reasonable expectation of privacy while using the computer systems of Woodbury County, and the County reserves the right to

review, copy, or disclose at any time. Users should assume that e-mail, documents, and other forms of communication are or will become public records unless a specific exemption applies under Iowa Open Records Law.

- 4.1.3 Users have a responsibility to promptly report the theft, loss, or unauthorized disclosure of Woodbury County proprietary information. You may access, use, or share Woodbury County proprietary information only to the extent it is authorized and necessary to fulfill your assigned job duties.
- 4.1.4 Employees are responsible for exercising good judgment regarding the reasonableness of personal use. The use must be incidental and not interfere with an employee's job duties and responsibilities or resulting in any additional, easily quantifiable cost to the County. Employees should be guided by departmental policies, if applicable, on personal use, and if there is any uncertainty, employees should consult their supervisor or manager.
- 4.1.5 For security and network maintenance purposes, Woodbury County may monitor, log, and/or archive all aspects of its equipment, systems, and network at any time to ensure compliance with this policy.
- 4.1.6 Woodbury County may utilize hardware and software that makes it possible to identify and block access to internet sites containing sexually explicit or other material deemed inappropriate in the workplace. Woodbury County may also utilize hardware and software that makes it possible to identify and block access to internet sites containing non-work related or non-productive content.

## **4.2 Security and Proprietary Information**

- 4.2.1 All mobile and computing devices that connect to the internal network must comply with the policies and procedures established by the County and/or WCICC-IT.
- 4.2.2 Providing access to another individual, either deliberately or through failure to secure access, is prohibited.
- 4.2.3 All computing devices must be secured with a password-protected screensaver with automatic activation feature set to 10 minutes or less. You must lock the screen or log off when the device is unattended.
- 4.2.4 Postings by employees from a Woodbury County e-mail address to newsgroups should contain a disclaimer stating that the opinions expressed are strictly their own and not necessarily those of Woodbury County, unless posting is in the course of business duties.
- 4.2.5 Employees must use extreme caution when opening e-mail attachments and/or clicking on links received from unknown senders, which may contain malware.
- 4.2.6 Users should assume that e-mails and electronic messages, particularly on the internet, are not secure and may be reviewed by others without authorization.

## **4.3 Unacceptable Use**

The following activities are, in general, prohibited. Under no circumstances is an employee of Woodbury County authorized to engage in any activity that is illegal under local, state, federal, or international law while utilizing Woodbury County-owned resources.

The lists below are by no means exhaustive, but attempt to provide a framework for activities which fall into the category of unacceptable use.



#### 4.3.1 System Network Activities

The following activities are strictly prohibited, with no exceptions:

1. Violations of the rights of any person or company protected by copyright, trade secret, patent, or other intellectual property, or similar laws or regulations, including, but not limited to, the installation or distribution of "pirated" or other software products that are not appropriately licensed for use by Woodbury County.
2. Unauthorized copying of copyrighted material including, but not limited to, digitization and distribution of photographs from magazines, books or other copyrighted sources, copyrighted music, and the installation of any copyrighted software for which Woodbury County or the end user does not have an active license.
3. Accessing data, a server, or an account for any purpose other than conducting Woodbury County business, even if you have authorized access.
4. Introduction of malicious programs into the network or server (e.g., viruses, worms, Trojan horses, e-mail bombs, etc.).
5. Revealing your account password to others or allowing unauthorized use of your account by others.
6. Using a Woodbury County computing asset to actively engage in procuring or transmitting material that is in violation of applicable sexual harassment or hostile workplace laws and County policies.
7. Making fraudulent offers of products, items, or services originating from any Woodbury County account.
8. Making statements about warranty, expressly or impliedly, unless it is part of normal job duties.
9. Effecting security breaches or disruptions of network communication. Security breaches include, but are not limited to, accessing data of which the employee is not an intended recipient or logging into a server or account that the employee is not expressly authorized to access, unless these duties are within the scope of regular duties. For purposes of this section, "disruptions" includes, but is not limited to, network sniffing, ping floods, packet spoofing, denial of service, and forged routing information for malicious purposes.
10. Executing any form of network monitoring which will intercept data not intended for the employee's host, unless this activity is part of the employee's normal job/duty.
11. Circumventing user authentication or security of any host, network, or account.

#### 4.3.2 E-mail and Communication Activities

1. Sending unsolicited e-mail messages, including the sending of "junk mail" or other advertising material to an individual who did not specifically request such material (e-mail spam).
2. Any form of harassment via e-mail, telephone, or paging, whether through language, frequency, or size of messages.
3. Engaging in partisan political activities of any nature.

#### 4.3.3 Social Media

1. Blogging by employees, whether using Woodbury County's property and systems or personal computer systems, is also subject to the terms and restrictions set forth in this Policy. Limited and occasional use of Woodbury County's systems to engage in blogging is acceptable,

provided that it is done in a professional and responsible manner, does not otherwise violate Woodbury County's policy, is not detrimental to Woodbury County's best interests, and does not interfere with an employee's regular work duties. Blogging from Woodbury County's systems is also subject to monitoring.

2. Employees are prohibited from revealing County confidential or proprietary information or trade secrets when engaged in blogging.
3. Employees shall not engage in any blogging that may harm or tarnish the image, reputation and/or goodwill of Woodbury County and/or any of its employees. Employees are also prohibited from making any discriminatory, disparaging, defamatory, or harassing comments when blogging or otherwise engaging in any conduct prohibited by Woodbury County's *Non-Discrimination and Anti-Harassment* policy.
4. Employees may also not attribute personal statements, opinions, or beliefs to Woodbury County when engaged in blogging. If any employee is expressing his or her beliefs and/or opinions in blogs, the employee may not, expressly or implicitly, represent themselves as an employee or representative of Woodbury County. Employees assume any and all risk associated with blogging.
5. Apart from following all laws pertaining to the handling and disclosure of copyrighted or export controlled materials, Woodbury County's trademarks, logos, and any other Woodbury County intellectual property may also not be used in connection with any personal blogging activity.

#### **5. Policy Compliance**

WCICC-IT will verify compliance to this policy through various methods, including but not limited to, business tool reports, internal and external audits, and feedback to the policy owner. An employee in violation of this policy may be subject to limiting or revoking use of County electronic resources, including access to the internet and e-mail, and corrective or disciplinary action, up to and including termination of employment.

#### **6. Related Standards, Policies, and Processes**

- Password Policy
- Security Awareness Training Resolution #12,373 – Approved by the Board of Supervisors May 10, 2016

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Date

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Signature of Board of Supervisor Chairperson

WOODBURY COUNTY  
SIOUX CITY, IOWA 51101

*Office of Commissioner of Elections*

620 DOUGLAS ST., ROOM 103



**Patrick F. Gill**  
Commissioner  
Phone 712-279-6465  
Fax 712-279-6629  
pgill@woodburycountyiowa.gov

**Steve Hofmeyer**  
Deputy Commissioner  
Phone 712-279-6465  
Fax 712-279-6629  
shofmeyer@woodburycountyiowa.gov

To: Board of Supervisors

From: Patrick F. Gill, Auditor/Recorder & Commissioner of Elections

Date: January 4, 2017

Re: City of Lawton Mayor Appointment

Please receive the appointment of Dale Erickson, 93 Elm Street, Lawton, Iowa, as Mayor of the City of Lawton, to fill the office previously held by Rick Schorg, until the next regular election. The appointment was made on November 18, 2016.

**NOTICE OF APPOINTMENT TO FILL A VACANCY**

TO: Patrick F. Gill, Woodbury County Auditor/Recorder & Commissioner of Elections

From: \_\_ City of Lawton

School/City/Township/  
Extension/Soil & Water  
Secretary/Clerk

\_\_\_\_ Carla Eidenshink, City Clerk

\_\_\_\_ November 18, 2016 \_\_\_\_\_ Date

This is to notify you and the Board of Supervisors of Woodbury County that the following person has been appointed until the next regular/general election:

For the office of \_Mayor\_\_\_\_\_

Name \_\_Dale Erickson\_\_\_\_\_

Address \_93 Elm Street\_\_\_\_\_

City/Zip \_\_Lawton, IA 51030\_\_\_\_\_

This appointment is to fill the office previously held by:

Rick Schorg\_\_\_\_\_

(Name of previous official)

WOODBURY COUNTY  
AUDITOR/RECORDER  
COMMISSIONER OF ELECTIONS  
PATRICK F. GILL  
NOV 18 PM 2 14

**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM**

Date: 01/04/2017

Weekly Agenda Date: 01/10/2017

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: John Pylelo, Planning & Zoning

**WORDING FOR AGENDA ITEM:**

Consideration and Adoption of Construction Evaluation Resolution pursuant to Iowa Code Section 459.304(3) applicable to the period from February 1, 2017 through January 31, 2018 and to authorize your Chairman's signature thereon.

**ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

**EXECUTIVE SUMMARY:**

In order for Woodbury County to use the Iowa Department of Natural Resources (DNR) master matrix to evaluate applications for construction permits for large animal confinement operations, the board of supervisors must adopt a "construction evaluation resolution" annually. According to the DNR's administrative rules, if the board of supervisors wants to use the master matrix between February 1, 2017 and January 31, 2018, the county's Board of Supervisors must submit an adopted "construction evaluation resolution" to the DNR between January 1 and January 31, 2017.

**BACKGROUND:**

If a county board of supervisors does not adopt a construction evaluation resolution for 2017, then the county cannot:

1. Submit a formal recommendation to the DNR concerning a particular construction permit application; the county can submit comments, but they are not given nearly as much weight by DNR as a formal recommendation would be;
  2. Send a county employee along on a DNR site inspection; or
  3. Appeal the DNR's decision regarding a construction permit application to the Environmental Protection Commission.
- In addition, if the county chooses to use the master matrix, then applicants must meet stricter environmental standards than they would have to meet otherwise. So using the master matrix provides greater environmental protection for the county.

Mapping is attached showing those counties adopting the resolution in 2016.

**FINANCIAL IMPACT:**

No financial impact.

**IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?**

Yes  No

**RECOMMENDATION:**

Staff recommends the Board's adoption of the resolution.

**ACTION REQUIRED / PROPOSED MOTION:**

Motion to approve Construction Evaluation Resolution pursuant to Iowa Code Section 459.304(3) applicable to the period from February 1, 2017 through January 31, 2018 and to authorize your Chairman's signature thereon.

**WOODBURY COUNTY, IOWA  
RESOLUTION NO. \_\_\_\_\_**

**CONSTRUCTION EVALUATION RESOLUTION  
For Period February 1, 2017 - January 31, 2018**

**WHEREAS**, Iowa Code section 459.304(3) sets out the procedure if a board of supervisors wishes to adopt a “construction evaluation resolution” relating to the construction of a confinement feeding operation structure; and

**WHEREAS**, only counties that have adopted a construction evaluation resolution can submit to the Department of Natural Resources (DNR) an adopted recommendation to approve or disapprove a construction permit application regarding a proposed confinement feeding operation structure; and

**WHEREAS**, only counties that have adopted a construction evaluation resolution and submitted an adopted recommendation may contest the DNR’s decision regarding a specific application; and

**WHEREAS**, by adopting a construction evaluation resolution the board of supervisors agrees to evaluate every construction permit application for a proposed confinement feeding operation structure received by the board of supervisors between February 1, 2017 and January 31, 2018 and submit an adopted recommendation regarding that application to the DNR; and

**WHEREAS**, the board of supervisors must conduct an evaluation of every construction permit application using the master matrix created in Iowa Code section 459.305, but the board’s recommendation to the DNR may be based on the final score on the master matrix or may be based on reasons other than the final score on the master matrix;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF WOODBURY COUNTY** that the Board of Supervisors hereby adopts this construction evaluation resolution pursuant to Iowa Code section 459.304(3).

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Matthew Ung, Chairman  
Woodbury County Board of Supervisors

Date: January 10, 2017

ATTEST:

---

Patrick Gill, County Auditor

Date: January 10, 2017

# Status of Construction Evaluation Resolutions by County

## February 2, 2016



Counties that have passed a  
Construction Evaluation Resolution

no  
 yes

0 15 30 60 90 120 Miles





**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM**

Date: 12-28-16 Weekly Agenda Date: 01-10-17

**ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN:** Glenn Sedivy, Communications Director

**WORDING FOR AGENDA ITEM:**

Approval of Resolution fixing date of January 17th for a Public Hearing at 4:45 pm for an Agreement for Senet, Inc. to lease Tower Space from Starcomm on the WIT Tower for their operations.

**ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

**EXECUTIVE SUMMARY:**

The Starcomm Executive Board recommends to the County Supervisors to set a Public hearing in reference to a tower lease with Senet, Inc. for an initial term of 5 years to use a Starcomm radio tower.

**BACKGROUND:**

Senet Inc. has applied to Starcomm to lease tower space on the Starcomm WIT tower at 4647 Stone Avenue for a propane monitoring system.

**FINANCIAL IMPACT:**

Senet will pay Starcomm \$350.00 per month for renting usage on the Starcomm radio tower. This will be new revenue to be used within the Starcomm operating budget.

**IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?**

Yes  No

**RECOMMENDATION:**

Place this item on the January 17, 2017 agenda as a Public Hearing.

**ACTION REQUIRED / PROPOSED MOTION:**

Place this item on the January 17, 2017 agenda as a Public Hearing.

# RESOLUTION #

## NOTICE OF PROPERTY LEASE

**WHEREAS** Woodbury County, Iowa is the deed holder to certain radio communications tower sites on the Siouxland Tri-State Radio Communications System (hereinafter referred to as "STARCOMM"); and

**WHEREAS** Senet, Inc. (hereinafter referred to as "Senet") desires to enter a lease with Woodbury County, Iowa and Starcomm to use the Starcomm radio tower located at 4647 Stone Avenue, Sioux City, Iowa.

**NOW THEREFORE,**

**BE IT RESOLVED** by the Board of Supervisors of Woodbury County, Iowa as follows:

1. That a public hearing on the aforesaid proposal shall be held on the **January 17, 2017 at 4:45 pm** in the basement of the Woodbury County Courthouse.
2. That said Board proposes to lease space on the Starcomm system to Senet for an initial term of five (5) years with the possibility of three (3) additional five (5) year renewal terms.
3. That said Board proposes to lease the real estate at a rate of \$350.00 per month during the initial term with the amount of the rent increasing by 10% in each of the renewal terms.
4. That this resolution, preceded by the caption "Notice of Property Lease" and except for this subparagraph 4 be published as notice of the aforesaid proposal, hearing and sale.

Dated this <date approved>.

ATTEST:

WOODBURY COUNTY BOARD OF SUPERVISORS

---

Patrick F. Gill  
Woodbury County Auditor  
and Recorder

---

Matthew Ung, Chairman

**THIS LEASE IS THE PROPERTY OF:**

Woodbury County, Iowa  
620 Douglas Street, Suite 104  
Sioux City, Iowa 51101

**AND THE PROPERTY OF:**

Senet Inc.  
1000 Market Street Suite 102  
Portsmouth, NH 03801  
ATTN: Chauncey G. Morgan  
Phone:  
Fax:

C/O Starcomm Public Safety Board  
P.O. Box 447  
Sioux City, Iowa 51102  
ATTN: Glenn Sedivy  
Phone: (712) 279-6959  
Fax: (712) 279-6157

And

The City of Sioux City, Iowa  
405 6<sup>th</sup> Street, P.O. Box 447  
Sioux City, Iowa 51102

**SITE LEASE AGREEMENT**

THIS SITE LEASE AGREEMENT (hereinafter called "Lease"), is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between Woodbury County, Iowa, whose address is 620 Douglas Street, Suite 104, Sioux City, Iowa 51101 under the direction of the Starcomm Public Safety Board, whose address is P.O. Box 447 Sioux City, Iowa 51102 and the City of Sioux City, Iowa whose address is 405 6<sup>th</sup> Street, P.O. Box 447, Sioux City, IA 51102, hereinafter called "Lessors", and Senet, Inc. having an 1000 Market Street Suite 102 Portsmouth, NH 03801, hereinafter called "Lessee".

In consideration of the covenants and agreements hereinafter set forth, the parties hereto agree as follows:

**1. Leased Premises.** Lessors hereby Lease to the Lessee, for the period, at the rental, and upon the terms and conditions hereinafter set forth, the following Leased "Premises" located within the city limits of Sioux City, IA.

a. Space on the Woodbury County radio tower for one (1) antenna as shown in Exhibit A, Senet Inc. Site Sketch and Plans.

b. Space for equipment in Woodbury County Compound, which is the fenced in area around the tower, including the building shelter, as shown in Exhibit A, Senet Inc. Site Sketch and Plans.

c. The legal description for the location of the above tower and equipment is:

All that part of the South One-Half (S ½) of the Northwest Quarter (NW ¼) of Section 36, Township 89 North, Range 47 West of the 5<sup>th</sup> Principal Meridian, Sioux City, Woodbury County, Iowa, described as follows:

Commencing at the Northeast corner of the SW ¼ of the NW ¼ of said Section 36; thence S 43°22'02"W for 60.00 feet to the point of beginning; thence S 46°37'58"E for

50.00 feet; thence S 43°22'02"W for 100.00 feet; thence N 46°37'58"W for 100.00 feet; thence N 43°22'02"E for 100.00 feet; thence S 46°37'58"E for 50.00 feet to the point of beginning. Said described lease contains 10,000.0 square feet.

NOTE: Basis of bearings established by reference to Plat of Survey and legal description as recorded on Roll 598 – Images 635 through 639 in the Woodbury County Recorder's Office, Sioux City, Iowa

(Property located in the vicinity of 4647 Stone Avenue)

**2. Access.** Lessors also grant to Lessee, access to the spaces described in paragraph one (1) above, seven days a week, 24 hours a day, throughout the term of this Lease, provided that, prior to Lessee or Lessee's contractors climbing the tower for antenna access, Lessee will give Lessors no less than 12 hours prior notice. To allow this access to climb the tower or Fenced Compound, Lessors will give Lessee a key to the lock on the Compound. Each time the Lessee's employee(s) access the location all the Lessee's employees will notify the Facility Manager, in writing, in person or if necessary over the phone by calling (712) 279-6960. These employees will be subject to criminal background checks, except in emergency situations and when otherwise agreed upon by Lessor. Security access to the sites compound will be provided by the Starcomm Director or Facility Manager. Each employee of Lessee who climbs the tower will have in their possession a card showing that they have completed the Qualified Climber/Rescue course offered through Comtrain or similar program approved by Lessors. Each employee of Lessee will follow all OSHA regulations while climbing any portion of the tower including wearing all required safety harnesses and will use the safety climbing cable while on the tower. There will never be fewer than 2 certified climbers on the site during any type of climbing on the tower. Lessee shall further abide by the terms set forth in Exhibit C.

**3. Initial Term and Commencement Date of Lease .** The "Initial Term" of this Lease shall be for a period of Five (5) years. The "Commencement Date" for the Initial Term of this Lease begins on the date Lessee acquires a valid building permit for all Lessee's equipment including the antennas and shelter.

**4. Renewal Terms.** Lessors hereby grant to Lessee the right, privilege and option to extend this Lease for four (4) additional "Renewal Terms" of Five (5) years; provided that the total length of all terms does not extend beyond the term of the Lease Agreement between Lessors and WIT; each with the consent and written approval from Lessors, from the end of the Initial Term, under the same terms, covenants and conditions as herein contained, provided that Lessee is not in default of any of the terms, covenants or conditions of this Lease at the conclusion of the Initial Term or any prior Renewal Term, respectively. This Lease shall automatically terminate unless Lessee gives written notice of the desire to extend or renew the Lease at least one hundred eighty (180) days prior to the end of the applicable term and obtains Lessors' consent to each requested extension.

**5. Termination.**

a. Both Lessors and Lessee shall have the right to terminate this Lease for cause, in the event the other party defaults on any material provision of this Lease, and in the event that such default is not cured within thirty (30) days after written notice thereof is provided to the other party. Said curative period shall be extended another thirty (30) days provided defaulting party has shown a good faith effort to cure default.

b. The parties agree that in the event that federal or state law requires the installation of back up power sources or supplies that the terms of this Lease will require an amendment to be negotiated between the parties. No additional equipment shall be placed upon the Premises by Lessees with out the written

consent of Lessors including mandated equipment, and should the parties fail to reach agreement regarding the installation of any additional equipment including federally or state mandated back up power sources or supplies and fuel for those sources or supplies that this agreement shall terminate ninety (90) days from the date the impasse is reached.

c. This Lease may be terminated without further liability as set forth below:

1) by either party upon a default of any covenant or term hereof by the other party, which default is not cured within ninety (90) days of receipt of written notice of default except that the grace period for any monetary default is thirty (30) days from receipt of written notice and the grace period for lapse in insurance coverage is ten (10) days from the receipt of written notice; or

2) by Lessee if it does not obtain or maintain any license, permit or other approval necessary for the construction and operation of Lessee's facilities; or

3) by Lessee if Lessee is unable to occupy and utilize the tower site due to an action of the FCC, including without limitation, a take-back of channels, a change in frequencies, or a change in licensed coverage area; this will require ninety (90) days of the effective termination date by the FCC; or

4) by Lessee if Lessee determines that the tower site is not appropriate for its operations for economic or technological reasons, including, without limitation, signal interference; or

5) by Lessors if the Lessors determine the tower site is no longer suitable to be used by Lessors for their operation and the Lessors choose to remove the building; or

6) by Lessors after the expiration of the initial term of this Lease upon providing Lessee with written notice. Such notice, if given by Lessors, must be given not less than three hundred sixty-five (365) days prior to the date therein specified (this time is given for Lessee to find a new site, get zoning approval, construct a new site and move Lessee's shelter and antennas).

d. In the event of termination or expiration of this Lease, Lessee shall have a reasonable period of time (not exceeding ninety (90) days from the actual termination date) to remove all antennas, shelter, equipment, and other operating materials from the Premises, however all improvements to the tower and/or ancillary structures shall be left in place and in good repair by the Lessee. Upon expiration of this Lease, Lessee shall restore the Premises to reasonably good condition and repair, subject to ordinary wear and tear on the Premises, which is specifically excepted. Failure of Lessee to remove its equipment at the expiration or termination of this Lease will result in Lessors removing the equipment and payment of all charges occasioned by such removal will be the responsibility of the Lessee.

## **6. Initial Term Rent**

a. Lessee shall pay Woodbury County, Iowa, administrator of funds of Starcomm Public Safety Board, monthly "Rent" during each year of the Initial Term, based on the sum total of: All parties specifically agree that total Rent will not be less than \$ 350.00 per month, throughout the Initial Term of five (5) years, but total Rent may be higher than \$350.00 per month if Lessee's equipment increases in quantity or size, then a new monthly rate increasing the base rate may be negotiated by the parties. Each month's Rent payment shall be due to Woodbury County, Iowa on or before the first day of each month. In addition Lessee shall be responsible for all utility service payments with the exception of telephone service at the site used exclusively by Lessors. Lessors shall provide Lessee with a W-9 or its equivalent in order for Lessee to set up Lessors as a payee in Lessee's rent payment system. In addition, Lessors

shall receive their rent payment via Electronic Funds Transfer (EFT). Lessors shall provide documentation to Lessee in order for the Lessee to set up Lessors for a payment of the rent via EFT.

**7. Renewal Term Rent.** Lessee shall pay Woodbury County, Iowa, administrator of funds of Starcomm Public Safety Board, "Rent" for each month of the Five (5) years for Renewal Terms as listed below in this paragraph. Each monthly Rent payment shall be due to Woodbury County, Iowa on or before the first day of each month.

a. First Renewal Term (years 6 through 10) Rent shall be increased by 10% over the highest amount paid at the end of the Initial Term.

b. Second Renewal Term (years 11 through 15) Rent shall be increased by 10% over the highest amount paid at the end of the first Renewal Term.

c. Third Renewal Term (years 16 through 20) Rent shall be increased by 10% over the highest amount paid at the end of the second Renewal Term.

d. Fourth Renewal Term (years 21 through 25 ) Rent shall be increased by 10% over the highest amount paid at the end of the third Renewal Term.

**8. Use and Non-Interference of Premises.** The Premises shall be used by Lessee only for the installation, operation, and maintenance of a communications system, including but not limited to cellular telephone, PCS Telephone, radio, paging and other narrow band and broad band radiowave transmission and reception and related purposes. Lessee shall not do or permit any activities upon the Premises, which would cause interference to Landlord or with Landlord's principle use of the Premises as a Lattice Tower in the City of Sioux City, Iowa at 4647 Stone Ave behind WIT Building "C". The Lessee shall further not do or permit any activities upon the premises which would cause interference to Western Iowa Tech (WIT). In addition, Lessors and Lessee shall not do or permit any activities upon the Premises, which would cause or permit physical, electronic, or other interference with the radio transmission facilities, equipment, or signal of WIT's own radio station currently designated as KWIT. The Lessee will only install its equipment outside the communications tower house. This is not an exclusive lease of the premises. Landlord (Lessors) retains the right to lease additional space to other Tenants (Lessees) provided that the additional Tenants (Lessees) do not utilize equipment that would interfere with the transmission signals of the Tenant (Lessee). Additionally, Landlord will continue to use the premises for their own business or public safety purposes.

**9. Insurance and Indemnification.**

At all times during the term of this Lease, Lessee shall at its expense carry and maintain for the mutual benefit of the Lessors:

a. General public liability insurance against the claims for personal injury, death or property damage occurring in or about the Leased Premises or resulting from the installation, operation or maintenance of the Lessee's business on the Leased Premises, such insurance to be in the amount of at least \$1,000,000.00 for all personal injuries and deaths resulting from any one accident, \$1,000,000.00 for property damage in any one accident, and a minimum aggregate coverage in the amount of \$3,000,000.00 with Lessors named as additional insureds. Damages incurred by Lessee shall be limited to the insurance proceeds and/or third party recovery. Lessors shall not be liable for any damages, costs or fees incurred by the Lessee.

b. A Standard Workmen's Compensation and Employer's Liability Insurance Policy in the amount equal to the limit of liability and in a form prescribed by the laws of the state in which the Leased Premises is located.

c. Any contract workers contracted by Lessee shall also carry insurance as set forth in a and b above.

d. Lessors shall not be held liable for any injury or damage to any third party or parties caused in any manner by this Lease or the Lessors use of the Premises.

**10. Damage or Destruction.** If the Premises are damaged, destroyed by fire, winds, flood or other natural or manmade cause, Lessors shall have the option to repair or replace the Premises at their sole expense, or to terminate this Lease effective on the date of such damage or destruction. In the event Lessors elect to terminate this Lease, Lessee shall have no further obligations hereunder. Lessors shall have up to sixty (60) days to decide on whether to repair or replace the Premises. Failure by Lessors to notify Lessee within sixty (60) days of Lessors' decision to repair or replace the Premises shall be deemed an election by Lessors to terminate this Lease. If Lessors elect to repair or replace the Premises, Lessee shall have the option of either abating the rent due until such repair or replacement is completed and the Premises are restored to a condition that the Lessee can resume full operations at the Premises; or until Lessee begins operating a mobile telecommunication base station on the Premises. The option to operate a mobile telecommunications base station on the Premises is subject to the Lessee obtaining written consent of the Lessors and to Lessee obtaining all required State and local permits.

**11. Taxes.** Lessors shall pay and be responsible for all taxes on the Premises, and Lessee shall pay and be responsible for all taxes due on Lessee's equipment and fixtures installed on the Premises.

**12. Notices.** Any notices required or permitted to be given hereunder shall be given in writing, and shall be deemed to have been given only upon receipt after mailing by certified or registered first class mail, postage prepaid, return receipt requested, and addressed to the parties as follows:

Lessors: Woodbury County, Iowa  
Board of Supervisors  
620 Douglas Street, Suite 104  
Sioux City, Iowa 51101  
Phone: 712-279-6525

Starcomm Public Safety Board  
P.O. Box 447  
Sioux City, Iowa 51102  
ATTN: Glenn Sedivy  
Phone: (712) 279-6959  
Fax: (712) 279-6157

City Clerk  
City of Sioux City, Iowa  
405 6<sup>th</sup> Street, P.O. Box 447  
Sioux City, Iowa 51102

Lessee: Senet, Inc.  
1000 Market Street Suite 102  
Portsmouth, NH 03801  
ATTN: Chauncey G. Morgan  
Phone:  
Fax:

**13. Hazardous Materials.** At no time during the term hereof shall the Lessee store, place, leave or deposit at the Tower or the Premises any substance or material which, if known to be present on or at such property, would require cleanup, removal or some other remedial action under any federal, state or local law, including statutes, regulations, ordinances, codes, rules and other governmental restrictions and requirements relating to the discharge of air pollutants, water pollutants, processed waste water, solid wastes, or otherwise relating to environmental hazardous substances, including but not limited to the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Federal Resource Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and all acts amendatory thereto, regulations of the Environmental Protection Agency, regulations of the Nuclear Regulatory Agency, and regulation of any State Department of Natural Resources or State Environmental Protection Agency now or at any time hereinafter in effect. The Lessee agrees to and does hereby indemnify and save the Lessors and owners harmless from any and all claims, demands, suits, actions, recoveries, judgments, costs and expenses relating in any way to Lessee's violation of this Section, and this indemnification obligation shall survive the expiration or termination of this Lease. Lessors acknowledge and agree that Lessee shall have no liability or responsibility whatsoever for any environmental violations or issues, at the tower or premises, existing prior to the date of Lessee's occupancy or otherwise not caused by Lessee.

**14. Miscellaneous Provisions.**

- a. Lessors warrant that Lessors are the owners of the tower and owners and/or lessees of the tower site property and that Lessors have full right, power, and authority to execute this agreement and if necessary have obtained all necessary consents to sublease the Premises. Lessors covenant that Lessee, in paying Rent and performing the covenants by Lessee herein made, shall and may peacefully and quietly have, hold, and enjoy the Leased Premises.
- b. Lessee shall obtain all necessary governmental and regulatory approvals required for Lessee's occupation and use of the Premises, including but not limited to zoning changes, and shall be responsible for the cost of obtaining such approvals. Lessors shall cooperate with Lessee in obtaining such approvals.
- c. The provisions of this Lease shall bind and inure to the benefit of the parties hereto and their heirs, legal representatives, successors and assigns.
- d. This Lease and the attached exhibits contain the entire agreement of the parties with respect to any matter mentioned herein and supersede any prior oral or written agreements.
- e. This Lease may be amended in writing only, signed by the parties in interest at the time of such amendment.
- f. This Lease shall be assignable intra-company by the Lessee, without the necessity of obtaining the Lessors' consent, to an affiliate, subsidiary or any related company that acquires at least 51% of the Lessee's assets through a merger. All third party assignments will require the Lessors' consent. Lessee



shall notify Lessors in writing of the name and address of any assignee. This Lease may be assigned by Lessors without the consent of Lessee provided that the assignee shall occupy and use the Premises subject to this Lease.

g. No waiver by either party of any provision herein shall be deemed a waiver of any other provision or of any prior or subsequent breach of any provision herein.

h. If any term or provision of this Lease is held to be invalid or unenforceable, such invalidity or unenforceability shall not be construed to affect any other provision of this Lease and the remaining provisions shall be enforceable in accordance with their terms.

i. This agreement shall be governed by and construed in accordance with the laws of the State of IOWA.

j. If Lessee does not promptly vacate the Premises upon valid termination of this Lease, such holding over shall be treated as creating a month to month tenancy. This holdover will not be approved for more than ninety (90) days. Rent during the holdover will be 150% of the current rent. Further, if Lessee does not vacate the Premises as required, Lessee's equipment shall be removed by Lessors at Lessee's expense. Any bill for removal of Lessee's equipment by Lessors shall be paid in full within thirty (30) days of mailing.

k. Lessee may make reasonable alterations with prior approval from Lessors, additions or improvements to the Premises necessary for its antennas, communication shelter, power cables and telephone cables, so long as the structural integrity of the Premises is not affected. Lessee will bear the total cost of such alterations, additions or improvements, including regular maintenance, and the cost of removal and returning the Premises to the condition it was at the time of entering into the Lease (subject to the terms of paragraph 5(d) of this Lease).

l. Lessee shall be solely responsible for site maintenance, and shall arrange for all maintenance under separate contract for all such maintenance services. Lessee shall not expect or ask Lessors to do any special site maintenance for Lessee's antennas or shelter, unless Lessee enters into a separate maintenance contract with Lessors, which contract will be separate from the terms of this Lease (i.e.: in the event that some minor snow plowing is requested for Lessee's access to their shelter, Lessee will separately contract for that service under a separate document).

m. Lessee will bear any and all costs associated with temporary relocation of Lessee's equipment, if required, during repairs or painting of Lessors' building. Lessors will give Lessee at least thirty (30) days advance notice of scheduled repairs or painting of Lessors' building or tower which may affect Lessee's operation, so that Lessee can pre-plan for providing high-quality communications to Lessee's customers during any temporary relocation required by Lessors' repair or painting activities. Lessors are not required to provide notice of routine repairs, such as replacement of tower lights, which do not affect Lessee's operation. Lessors will provide Lessee notice of emergency repairs with at least twelve (12) hours prior notice unless it is impossible or impractical to do so and then the Lessee shall be provided with as much prior notice as possible under the emergency circumstances.

n. Lessee shall indemnify and hold Lessors harmless against all expenses, liabilities and claims of every kind, including reasonable attorney fees, made necessary by or on behalf of any person or entity arising out of:

1) A failure by Lessee to perform any of the terms and conditions of this Lease; or

2) Any injury or damage happening on or about the Leased Premises which is caused in whole or in part by Lessee's use of the Premises, any act or omission of Lessee or anyone for whose acts Lessee may be liable; or

3) Any injury or damage to any employee, agent, or customer of Lessee or Lessors on or about the Leased Premises; or

4) Failure of Lessee to comply with any applicable laws or governmental authority; or

5) Any action brought by a third party for damages as a result of action or inaction of the Lessee.

**15. Approval.** This Lease is subject to the consent to sublease by Western Iowa Tech (WIT), and subject to approval by Starcomm's Executive Board, the Woodbury County Board of Supervisors and the City Council of the City of Sioux City.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

**CITY OF SIOUX CITY, IOWA**

By \_\_\_\_\_  
Robert E. Scott  
Mayor of Sioux City, Iowa

Certification of City Clerk:

I, Lisa L. McCardle, certify that I am the City Clerk of the City of Sioux City, Iowa, and that Mayor Robert E. Scott, who executed this Agreement for and on behalf of the City, was duly authorized and empowered to do so as of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Lisa L. McCardle,  
City Clerk of the City of Sioux City, Iowa

**WOODBURY COUNTY, IOWA**

By \_\_\_\_\_  
\_\_\_\_\_  
(Print Name)  
Chairperson

Certification of County Auditor:

I, Patrick Gill, certify that I am the County Auditor of the Woodbury County, Iowa and that \_\_\_\_\_, who executed this Agreement for and on behalf of the County, was duly authorized and empowered to do so as of \_\_\_\_\_, 2017

\_\_\_\_\_  
Patrick Gill  
Woodbury County Auditor

**STARCOMM, WOODBURY, IOWA**

By \_\_\_\_\_  
Douglas Young  
Chairperson

Certification of Starcomm:

I, Carrie Anfinson-Haden, certify that I am the Administrative Secretary for Starcomm and that Chairperson Douglas Young, who executed this Lease for and on behalf of Starcomm, was duly authorized and empowered to do so as of October 19, 2016.

\_\_\_\_\_  
Carie Anfinson-Haden,  
Administrative Secretary for Starcomm



**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM**

Date: 1/4/17

Weekly Agenda Date: 1/10/17

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Mark Olsen - WCJDC Director

**WORDING FOR AGENDA ITEM:**

Request to reduce the current daily detention cost for the BIA from \$150.00 per day down to \$100.00 per day.

**ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

**EXECUTIVE SUMMARY:**

Formal approval to revise the existing BIA contract to reduce daily charge from \$150.00 per day to \$100.00 per day.

**BACKGROUND:**

As of December 31, 2016 the Juvenile Detention Center housed nineteen BIA youth for a total of 123 days for a total cost of \$18,450. We have received no juveniles in January 2017 and I do not expect to see any significant numbers over the second half of the 2017 fiscal year if we continue to charge \$150.00 per day.

For FY 2016 we housed a total of 2,293 tribal youth for a cost of \$343,900.00. If we would have charged at the \$100.00 per day rate Woodbury County would have received \$229,300.00. If we continue at the current \$150.00 rate I would project anywhere between \$25,000-\$40,000.00 depending on usage.

Special Agent's Long Wolf and Chino had made a commitment to then Chairman Taylor, Dennis Butler and myself if the Board would reduce the cost to \$100.00 they would return to using us as the primary detention center due to the reduce their driving time.

**FINANCIAL IMPACT:**

The loss of revenue to Woodbury County will be significant. I would estimate up to \$200,000.00.

**IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?**

Yes  No

**RECOMMENDATION:**

Formally revise the existing contract between Woodbury County and the Bureau of Indian Affairs to house tribal youth from the current \$150.00 per day to \$100.00 per day.

**ACTION REQUIRED / PROPOSED MOTION:**

Board Approval to revise contract

*Approved by Board of Supervisors April 5, 2016.*

**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM**

Date: 12.28.2016

Weekly Agenda Date: 01.10.2017

**ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN:** Sheriff Dave Drew

**WORDING FOR AGENDA ITEM:**

Request to promote a Deputy Sergeant to Deputy Lieutenant. Promote a Deputy Sheriff to Deputy Sergeant. Backfill the vacated Deputy Sheriff position with a new hire Deputy Sheriff.

**ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

**EXECUTIVE SUMMARY:**

With the substantial savings the County will absorb as a result of the closing of the Prairie Hill Jail Annex, the Sheriff's Office requests some of that savings be reallocated for the promotion of a Deputy Sergeant to Deputy Lieutenant, backfill a Deputy Sheriff to Deputy Sergeant at no cost, and backfilling the Deputy Sheriff position with a new hire Deputy Sheriff.

**BACKGROUND:**

The Sheriff's Office is requesting the Lieutenant promotion to continue to further our mission of providing increased oversight and provide the citizens of Woodbury County with better law enforcement service and protection.

**FINANCIAL IMPACT:**

Deputy Sergeant promoted to Deputy Lieutenant: Wage increase only \$10,353.98

Deputy Sheriff promoted to Deputy Sergeant backfill: \$0.00

Deputy Sheriff new hire to backfill Deputy Sheriff promoted to Deputy Sergeant: Wages and benefits \$84,742.88

Approximate Cost: \$95,096.86

**IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?**

Yes  No

**RECOMMENDATION:**

Promote Deputy Sergeant to Deputy Lieutenant. Promote Deputy Sheriff to Deputy Sergeant. Hire Deputy Sheriff to backfill promotions.

**ACTION REQUIRED / PROPOSED MOTION:**

Discussion on promoting Deputy Sergeant to Deputy Lieutenant. Promote Deputy Sheriff to Deputy Sergeant. Hire Deputy Sheriff to backfill promotions.





# Woodbury County Board of Supervisors

Courthouse • Room 104

620 Douglas Street • Sioux City, Iowa 51101

Telephone (712) 279-6525 • Fax (712) 279-6577

## MEMBERS

JEREMY J. TAYLOR  
SIOUX CITY

MATTHEW A. UNG  
SIOUX CITY

ROCKY L. DE WITT  
LAWTON

MARTY J. POTTEBAUM  
SIOUX CITY

KEITH W. RADIG  
SIOUX CITY

FINANCE / BUDGET DIRECTOR  
DENNIS BUTLER

BOARD ADMINISTRATIVE COORDINATOR  
KAREN JAMES

EXECUTIVE SECRETARY / PUBLIC BIDDER  
HEATHER SATTERWHITE

January 5, 2017

Dear department heads and elected officials,

How can we define this year of 2017 as a county government? One of our committees dealing with historical preservation of the courthouse lists its purpose as “balancing the beauty of the past with the function of the present.” We work in that reality as we seek continuous process improvement while remaining anchored in the fundamentals of stewardship. And that, I believe, is the tone of this year, or at least the tone I will seek to set. Continuous process improvement reminds me of this Edmund Burke quote: “Nobody made a greater mistake than he who did nothing because he could do only a little.” Whether our improvements (as a team) this year happen methodically, or quickly, and whether they are borne of aged experience or fresh ideals, it’s my hope that our first evaluation of success or failure will ask if the process has improved for future decisions and future outcomes.

- **Department Head Meetings**

The left hand should know what the right hand is doing, and these meetings continue to ensure that. We plan to hold the first department head meeting **Monday, January 23, 8:00-9:30 a.m. in the LEC Conference Room**. We will anticipate the same schedule of monthly Monday morning meetings (MMMM’s, for short) that are opposite payroll weeks, and you can expect to get a tentative schedule for at least the next six months during or shortly after the upcoming meeting. These will be led by myself as Chair and Supervisor Taylor as Vice-Chair. Whenever one of us is absent, it’s my intention to “rotate in” the three new supervisors, one at a time, so each may have a chance to attend at least once.

Here’s the process: A week before each department head meeting, on Monday, I will email a reminder asking for any agenda items by the Wednesday before the meeting. The agenda will then be sent out by close of business on the Thursday before the meeting.

Already we can anticipate discussions of committee assignments coming before the board January 10, a refresher on True Speak along with revised expectations, budget timetable updates, an Acceptable [Network] Use Policy rollout, and an FMLA review from Human Resources.

- **Agenda Items**

All agenda items should be emailed to both Karen James and Heather Satterwhite by **12:00 noon Thursday preceding the Tuesday board meeting**. Unless there is a time-sensitive issue, this deadline will be enforced, and late items will be considered the following week. Items that do not have the appropriate cover sheet completely filled out (either the 1 or 2-page version) will not be considered, unless previously authorized without. Routine agenda items do not need to be sent to me as I will review them all before the agendas are finalized, but you are always encouraged to carbon copy the Acting Chairman to your emails containing agenda items with new proposals or substantive backgrounds.

- **Board Administration Office**

Last year, the board office was reorganized and modernized. Then-Chairman Taylor oversaw changes including:

- Dennis Butler covering the board office/phones in the rare occasion that both secretaries are out.
- The Board Chair's office being in the 2<sup>nd</sup> floor of the Auditor's Office area.
- The board's secretaries tracking and reserving meeting space (with constituents, county employees, etc.) in the adjacent old board room as requested by supervisors and staff. Alternate meeting space is designated as the conference room outside the Board Chair's office, and requests to reserve this space should be directed to the Auditor's Office.
- The large electronic screen to the left of the entrance displaying in/out calendar notices for department heads and elected officials.

All of these reforms are, of course, supported this year as well. Besides mentioning them, I am reminding you of continuous process improvement being especially important here, as it is often the first stop of concerned citizens visiting their courthouse. If you ever see or think of something that can be improved to provide even better customer service, don't hesitate to share your ideas with the board office and members of the board of supervisors.

I look forward to working with you all and facing challenges, opportunities, and advancements together, as a team. God bless.

Sincerely,



Matthew Ung

Chairman, Board of Supervisors

Community Action Agency of Siouxland  
General Assistance

**EXPENSES PAID FROM JULY 2015 - JUNE 2016**

**HOUSEHOLDS SERVED**

CLIENT BURIALS	\$14,332.67	18
CLIENT INCIDENTALS	\$187.31	5
CLIENT HEALTH	\$640.40	7
CLIENT TRANSPORTATION	\$3,957.29	42
CLIENT UTILITIES	\$34,206.20	214
CLIENT SHELTER	\$67,886.24	178
<b>TOTAL CLIENT EXPENSES/HOUSEHOLDS SERVED</b>	<b>\$121,210.11</b>	<b>464</b>

**EXPENSES PAID FROM JULY 2016 - DECEMBER 2016**

**HOUSEHOLDS SERVED**

CLIENT BURIALS	\$6,335.00	8
CLIENT INCIDENTALS	\$46.97	1
CLIENT HEALTH	\$345.82	5
CLIENT TRANSPORTATION	\$857.01	12
CLIENT UTILITIES	\$19,380.83	135
CLIENT SHELTER	\$39,812.67	106
<b>TOTAL CLIENT EXPENSES/HOUSEHOLDS SERVED</b>	<b>\$66,778.30</b>	<b>267</b>

If you have any questions you can contact me at 712-251-1303.  
Thank you  
Jean Logan

**WOODBURY COUNTY JUVENILE DETENTION CENTER**

Trosper-Hoyt Bldg.  
822 Douglas St. - 4th Floor  
Sioux City, Iowa 51101

Phone 712-279-6522  
Email: molsen@sioux-city.org  
Fax 712-234-2900

**6:00 a.m.**

**6:00 p.m.**

**December, 2016**

December 26, 2016		10
December 27, 2016	10	10
December 28, 2016	10	10
December 29, 2016	9	9
December 30, 2016	9	9
December 31, 2016	9	9

**January, 2017**

January 1, 2017	9	9
January 2, 2017	9	

The Center averaged 9.3 residents per day during the 6:00 a.m. head count and 9.4 during the 6:00 p.m. check for a weekly average of 9.35 residents per day during the above week.

Of the nine youths detained on January 2, 2016, five or fifty six percent were identified gang members. Of the five, three are considered highly active and recently involved in felony level assaults on citizens in the community.

We are currently detaining zero juveniles from the BIA.

Mark Olsen

Director  
WCJDC

January 2, 2017

**WOODBURY COUNTY JUVENILE DETENTION CENTER**

Trosper-Hoyt Bldg,  
822 Douglas St. - 4th Floor  
Sioux City, Iowa 51101

Phone 712-279-6622  
Email: molsen@sioux-city.org  
Fax 712-234-2900

**6:00 a.m.**

**6:00 p.m.**

**December, 2016**

<b>December 19, 2016</b>		<b>10</b>
<b>December 20, 2016</b>	<b>10</b>	<b>10</b>
<b>December 21, 2016</b>	<b>10</b>	<b>10</b>
<b>December 22, 2016</b>	<b>10</b>	<b>10</b>
<b>December 23, 2016</b>	<b>10</b>	<b>10</b>
<b>December 24, 2016</b>	<b>10</b>	<b>10</b>
<b>December 25, 2016</b>	<b>10</b>	<b>11</b>
<b>December 26, 2016</b>	<b>10</b>	

The Center averaged 10 youth per day during the 6:00 a.m. head count and 10 during the 6:00 p.m. count for a weekly average of 10 youths per day.

Of the ten youth detained on December 26, 2016, five or fifty percent were identified gang members. Of the five three or sixty percent were identified as hard core members that were involved in violent crimes against people.

We were currently detaining zero BIA clients.

Mark Olsen



Director  
WCJDC

December 26, 2016

**WOODBURY COUNTY JAIL WEEKLY POPULATION REPORT AT 0600 HRS.**

<u>DATE</u>	<u>Day</u>	<u>DAILY TOTAL</u>	<u>LEC</u>	<u>ELECTRONIC MONITORING</u>	<u>PRAIRIE HILLS</u>	<u>FEDERAL PRISONERS</u>
12/24/16	Saturday	188	183	5	0	22
12/25/16	Sunday	182	177	5	0	22
12/26/16	Monday	175	170	5	0	22
12/27/16	Tuesday	187	182	5	0	22
12/28/16	Wednesday	190	185	5	0	22
12/29/16	Thursday	190	185	5	0	22
12/30/16	Friday	202	198	4	0	22
		<b>1314</b>	<b>1280</b>	<b>34</b>	<b>0</b>	<b>154</b>
<b>24 HOUR DAILY COUNT</b>						
<u>DATE</u>	<u>TOTAL</u>	<u>MALE</u>	<u>FEMALE</u>			
12/24/16	205	174	31			
12/25/16	194	166	28			
12/26/16	187	154	33			
12/27/16	193	157	36			
12/28/16	198	161	37			
12/29/16	203	162	41			
12/30/16	212	173	39			
	<b>1392</b>	<b>1147</b>	<b>245</b>			
*Highest population count each day						