



**Board of Riley County
Commissioners
Regular Meeting
Agenda
July 31, 2023**

115 North 4th Street
Manhattan, KS 66502
www.rileycountyks.gov

Cindy Kabriel
785-565-6200

Commission Chambers

8:30 AM

[District 2 – Greg McKinley, Member](#)

[District 3 – Kathryn Focke, Chair](#)

[District 1 – John Ford, Vice Chair](#)

8:30 AM

Call to Order

Pledge of Allegiance

Public Comment

1. Public Comments

Commission Comments

2. Commission Comments

Business Meeting

3. Flat Rock Rd. Culvert Replacement Project- Easements
4. 2023 Riley County Trash Service Contract (Julie Winter - Zoom)
5. Sign Riley County Employee Action Form(s)

Review Minutes

6. Board of Riley County Commissioners - Regular Meeting - Jul 27, 2023 8:30 AM

Review Tentative Agenda

7. Tentative Agenda

Press Conference Topics

8. Discuss Press Conference

9:00 AM

Clancy Holeman, Counselor/Director of Administrative Services

9. Administrative Work Session
10. Pending County Projects County Counselor
11. Request to Fill Counselor Office Manager Position

9:20 AM

Lori Feldkamp, Big Lakes Developmental Center Director

12. Big Lakes Developmental Center update.

9:30 AM

Press Conference

9:35 AM

John Ellermann, Public Works Director/County Engineer

13. Public Safety Headquarters - Construction Manager at Risk Agreement

Adjournment

In order to comply with provisions of the Americans with Disabilities Act (ADA), Riley County will make reasonable efforts to accommodate the needs of persons with disabilities. Please contact the Division of Human Resources at (785) 537-6303 (voice and TTY) for assistance.



PUBLIC WORKS
Project

John Ellermann
Public Works
Director/County Engineer
6215 Tuttle Creek Blvd
Manhattan, KS 66503
Phone: 785-537-6330

COMMISSION AGENDA REPORT

FROM: Evan McMillan, Assistant Public Works Director

MEETING: July 31, 2023

SUBJECT: Flat Rock Rd. Culvert Replacement Project- Easements

PRESENTER: Evan McMillan, Assistant Public Works Director

Easements for this project were previously approved and signed on April 13, 2023; however, when filing the easements it was discovered that the land was actually owned by both the Edward A. Bergsten Trust and the Marcelyn M. Bergsten Trust. Only a signature for the Edward A. Bergsten Trust was included on the original Easements. Therefore, new easements were issued. Attached for your approval are 1 Permanent Easement Agreement and 1 Temporary Easement Agreement for the Flat Rock Rd. Culvert Replacement Project.

Staff recommends approval.

Possible Motions

Move to approve the Easement Agreements and authorize the Chairman to sign.

Enclosures:

- Permanent Easement - Bergsten_Signed_072623 (PDF)
- Temporary Easement - Bergsten_Signed_072623 (PDF)

GRANT OF PERMANENT EASEMENT

This agreement made and entered into this _____ day of _____, 2023, by and between the **Edward A. Bergsten Trust and the Marcelyn M Bergsten Trust**, hereinafter called Party of the First Part; and the BOARD OF COMMISSIONERS OF RILEY COUNTY, KANSAS, Party of the Second Part.

WITNESSETH: The WHEREAS, it has been found necessary by the Second Party to lay out, relocate, widen, or alter a certain public road known as:

Flat Rock Road

NOW, THEREFORE, in consideration of the sum of:

Permanent Easement - 0.0671 Acre ~ \$200.00

Replacement of Fence including Corner Post, Pull Posts, and Gates – 565 Feet ~ \$2,500

Total Compensation ~ \$2,700

The party of the First Part does HEREBY AGREE TO GRANT, to the party of the Second Part, PERMANENT EASEMENTS, solely for the purpose of constructing a road and/or Bridge Project, described as follows:

PERMANENT ROAD RIGHT-OF-WAY EASEMENT

Description (N. Side of Flat Rock Road):

A tract of land in the Northeast Quarter of Section 7, Township 6 South Range 7 East of the Sixth Principal Meridian, Riley County, Kansas described as follows:

Beginning at a point that is S 00°00'00" E 2029.69 feet and S 90°00'00" W 1960.44 feet from the Northeast Corner of the Northeast Quarter of said Section 7; thence

N 66°15'29" W 58.49 feet; thence

N 23°44'29" E 25.00 feet; thence

S 66°15'29" E 58.49 feet; thence

S 23°44'31" W 25.00 feet to the point of beginning, containing 1,462 square feet.

Subject to easements and restrictions of record.

And

Attachment: Permanent Easement - Bergsten_Signed_072623 (13618 : Flat Rock Rd. Culvert Replacement Project- Easements)

Description (S. Side of Flat Rock Road):

A tract of land in the Northeast Quarter of Section 7, Township 6 South Range 7 East of the Sixth Principal Meridian, Riley County, Kansas described as follows:

**Beginning at a point that is S 00°00'00" E 2066.31 feet and S 90°00'00" W 1976.55 feet from the Northeast Corner of the Northeast Quarter of said Section 7; thence
S 23°44'31" W 25.00 feet; thence
N 66°15'28" W 58.49 feet; thence
N 23°44'32" E 25.00 feet; thence
S 66°15'28" E 58.49 feet to the point of beginning, containing 1,462 square feet.**

Subject to easements and restrictions of record.

SAID PERMANENT RIGHT OF WAY EASEMENT, HEREBY GRANTED AND RIGHTS HEREIN SET FORTH to continue so long as said property is used as a Public Road Right of Way or in connection therewith, subject to all the provisions of the law relating thereto.

THIS AGREEMENT, will become binding only after both Parties have signed this document.

IN WITNESS WHEREOF: The Said Parties have hereunto subscribed their names.

Party of the First Part


Edward A. Bergsten, Trustee
Edward A. Bergsten Trust
Dated May 27, 2003

Dated: 7-26-23



Marcelyn M. Bergsten, Trustee
Marcelyn M. Bergsten Trust
Dated May 27, 2003

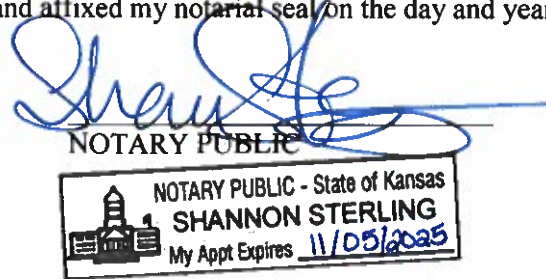
Dated: 7/26/23

STATE OF Kansas)
COUNTY OF Riley) SS

BE IT REMEMBERED, That on this 21st day of July, 2023, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Edward Bergsten, who is personally known to me to be the same person, who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF: I have hereunto set my hand and affixed my notarial seal on the day and year last above written.

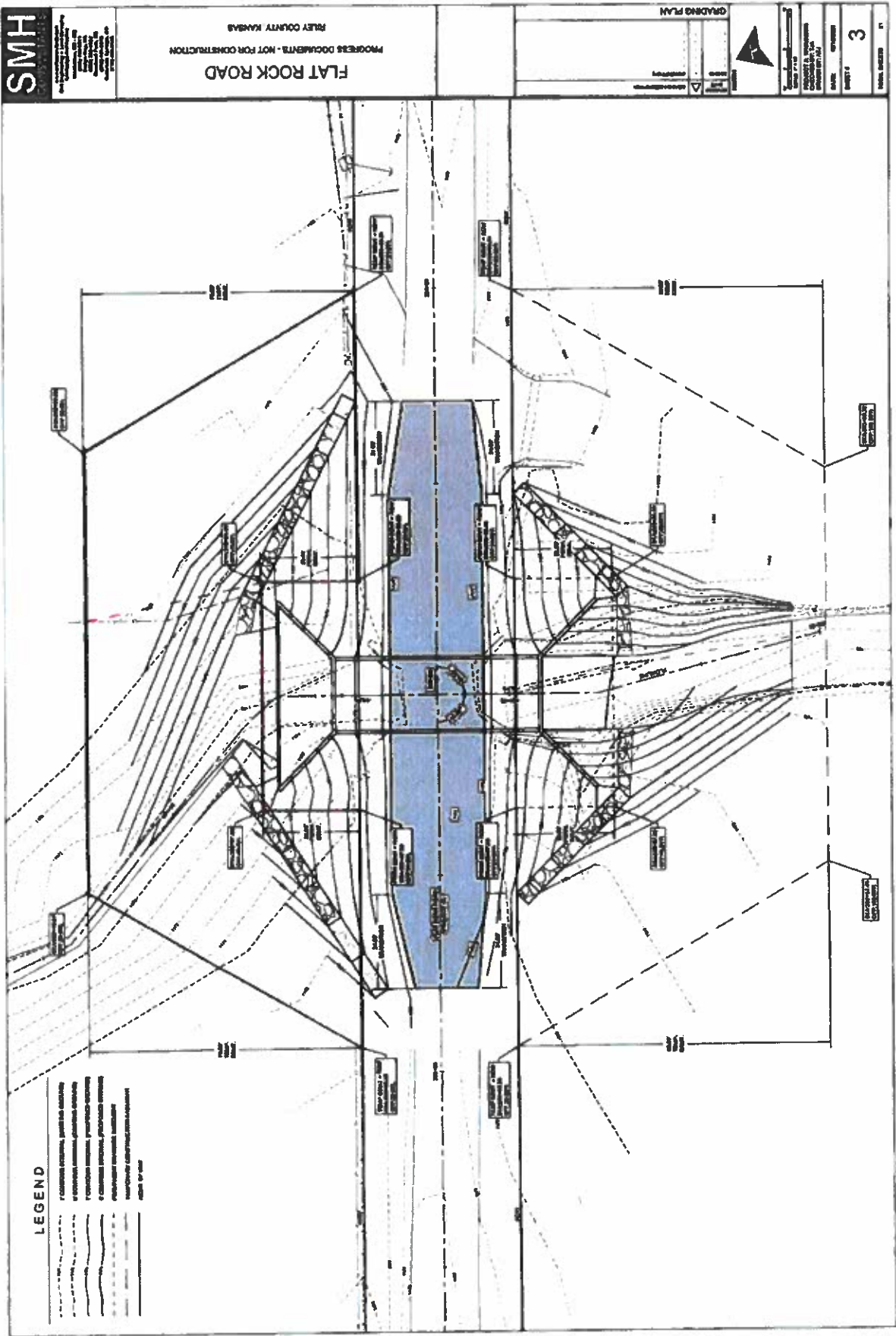
My appointment expires: 11/05/2025

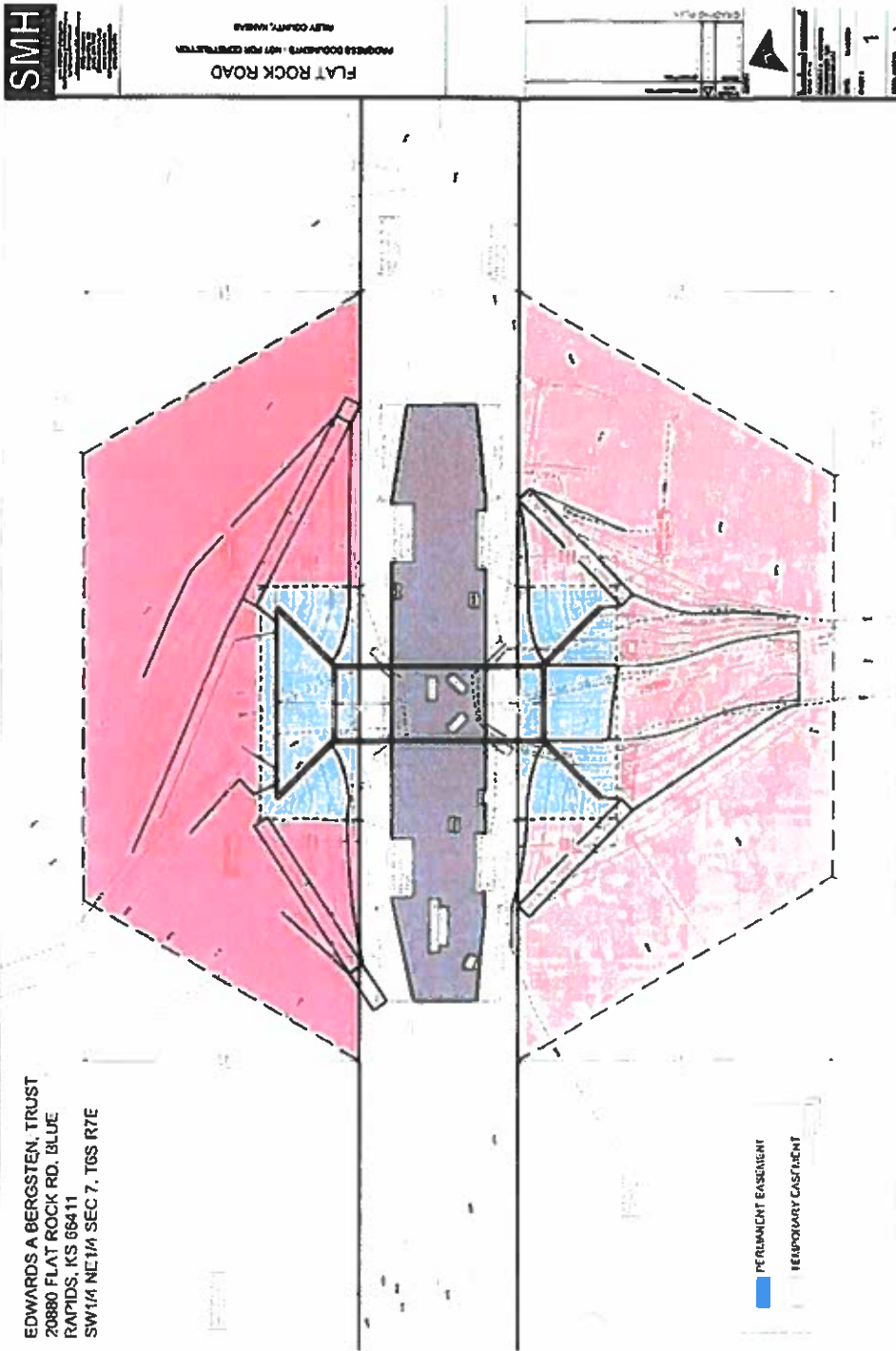


Party of the Second Part

Dated: _____

Kathryn Focke, Chairperson
Riley County Board of Commissioners





TEMPORARY CONSTRUCTION EASEMENT

This agreement, made and entered into this _____ day of _____, 2023. By and between the **Edward A. Bergsten Trust and the Marcelyn M Bergsten Trust**, hereinafter called Party of the First Part; and the BOARD OF COMMISSIONERS OF RILEY COUNTY, KANSAS, Party of the Second Part.

WITNESSETH: The WHEREAS, it has been found necessary by the Second Party to lay out, relocate, widen, or alter a certain public road known as:

Flat Rock Road

NOW, THEREFORE, in consideration of the sum of:

Temporary Easement- 0.4486 acre ~ \$200.00

The party of the First Part does HEREBY AGREE TO GRANT, to the party of the Second Part, TEMPORARY EASEMENTS, solely for the purpose of constructing a road and/or Bridge Project, described as follows:

TEMPORARY CONSTRUCTION EASEMENT

Description (N. Side of Flat Rock Road):

A tract of land in the Northeast Quarter of Section 7, Township 6 South Range 7 East of the Sixth Principal Meridian, Riley County, Kansas described as follows:

Beginning at a point that is S 00°00'00" E 2059.49 feet and S 90°00'00" W 1892.70 feet from the Northeast Corner of the Northeast Quarter of said Section 7; thence

N 66°15'29" W 74.01 feet; thence

N 23°44'31" E 25.00 feet; thence

N 66°15'29" W 58.49 feet; thence

S 23°44'29" W 25.00 feet; thence

N 66°15'29" W 60.75 feet; thence

N 53°44'31" E 80.83 feet; thence

S 66°15'29" E 112.43 feet; thence

S 06°15'29" E 80.83 feet to the point of beginning, containing 9,236 square feet.

Subject to easements and restrictions of record.

And

Attachment: Temporary Easement - Bergsten_Signed_072623 (13618 : Flat Rock Rd. Culvert Replacement Project- Easements)

Description (S. Side of Flat Rock Road):

A tract of land in the Northeast Quarter of Section 7, Township 6 South Range 7 East of the Sixth Principal Meridian, Riley County, Kansas described as follows:

Beginning at a point that is S 00°00'00" E 2096.10 feet and S 90°00'00" W 1908.80 feet from the Northeast Corner of the Northeast Quarter of said Section 7; thence
 S 53°44'31" W 92.38 feet; thence
 N 66°15'29" W 100.88 feet; thence
 N 06°15'29" W 92.38 feet; thence
 S 66°15'29" E 60.75 feet; thence
 S 23°44'32" W 25.00 feet; thence
 S 66°15'28" E 58.49 feet; thence
 N 23°44'31" E 25.00 feet; thence
 S 66°15'29" E 74.01 feet to the point of beginning, containing 10,303 square feet.

Subject to easements and restrictions of record.

SAID TEMPORARY EASEMENT, HEREBY GRANTED AND RIGHTS HEREIN SET FORTH to continue so long as said property is used for the construction of, or in connection therewith, said project subject to all the provisions of the law relating thereto.

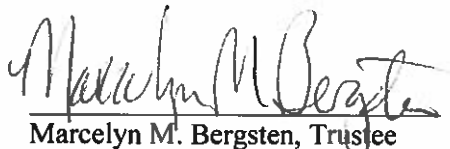
THIS AGREEMENT, will become binding only after both Parties have signed this document.

IN WITNESS WHEREOF: The Said Parties have hereunto subscribed their names.

Party of the First Part


Edward A. Bergsten, Trustee
 Edward A. Bergsten Trust
 Dated May 27, 2003

Dated: 7-26-23



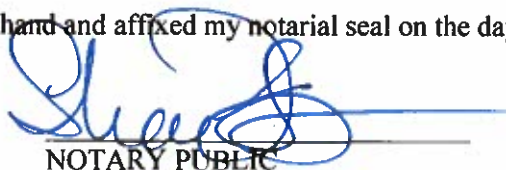
Marcelyn M. Bergsten, Trustee
 Marcelyn M. Bergsten Trust
 Dated May 27, 2003

Dated: 7/26/23

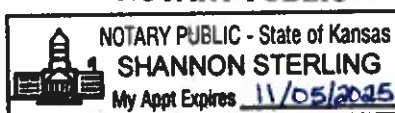
STATE OF Kansas)
COUNTY OF Riley) SS

BE IT REMEMBERED, That on this 26th day of July, 2023, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Edward Bergsten, who is personally known to me to be the same person, who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF: I have hereunto set my hand and affixed my notarial seal on the day and year last above written.


NOTARY PUBLIC

My appointment expires: 11/05/2025



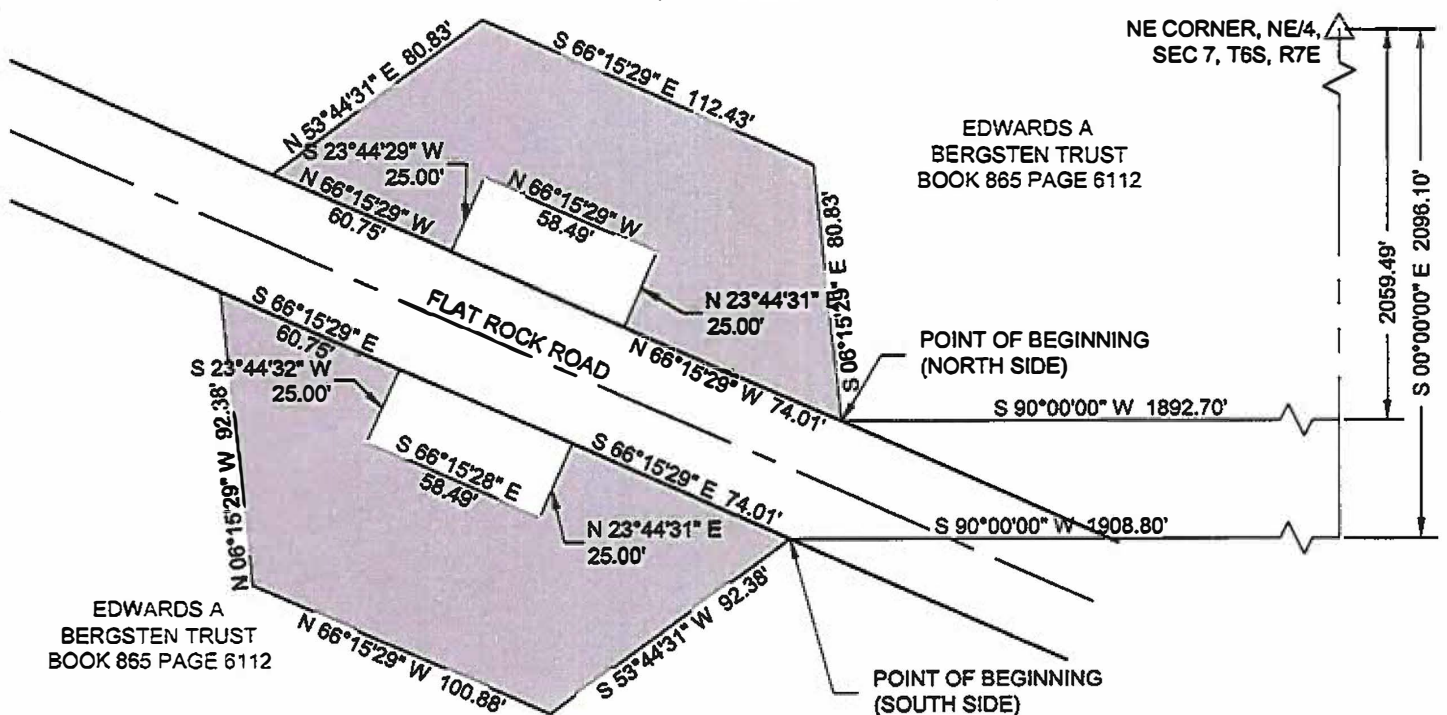
Party of the Second Part

Dated: _____

Kathryn Focke, Chairperson
Riley County Board of Commissioners

TEMPORARY CONSTRUCTION EASEMENT EXHIBIT

FLAT ROCK ROAD, RILEY COUNTY, KANSAS



LEGEND

△ Section Corner, NOTE: All section corner monument origins are unknown unless otherwise noted.

 Temporary Construction Easement Hatch



60' 30' 0' 60'
SCALE: 1" = 60'

DESCRIPTION (N. SIDE OF FLAT ROCK ROAD):

A tract of land in the Northeast Quarter of Section 7, Township 6 South Range 7 East of the Sixth Principal Meridian, Riley County, Kansas described as follows:

Beginning at a point that is S 00°00'00" E 2059.49 feet and S 90°00'00" W 1892.70 feet from the Northeast Corner of the Northeast Quarter of said Section 7; thence N 66°15'29" W 74.01 feet; thence N 23°44'31" E 25.00 feet; thence N 66°15'29" W 58.49 feet; thence S 23°44'29" W 25.00 feet; thence N 66°15'29" W 60.75 feet; thence N 53°44'31" E 80.83 feet; thence S 66°15'29" E 112.43 feet; thence S 06°15'29" E 80.83 feet to the point of beginning, containing 9,236 square feet.
Tim Sloan, PLS-783, January 13, 2022.

Subject to easements and restrictions of record.

DESCRIPTION (S. SIDE OF FLAT ROCK ROAD):

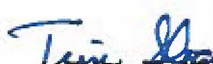
A tract of land in the Northeast Quarter of Section 7, Township 6 South Range 7 East of the Sixth Principal Meridian, Riley County, Kansas described as follows:

Beginning at a point that is S 00°00'00" E 2096.10 feet and S 90°00'00" W 1908.80 feet from the Northeast Corner of the Northeast Quarter of said Section 7; thence S 53°44'31" W 92.38 feet; thence N 66°15'29" W 100.88 feet; thence N 06°15'29" W 92.38 feet; thence S 66°15'29" E 60.75 feet; thence S 23°44'32" W 25.00 feet; thence S 66°15'28" E 58.49 feet; thence N 23°44'31" E 25.00 feet; thence S 66°15'29" E 74.01 feet to the point of beginning, containing 10,303 square feet.
Tim Sloan, PLS-783, January 13, 2022.

Subject to easements and restrictions of record.

COPY

SMH Consultants
By: Tim Sloan


Tim Sloan, P.S.
Vice-President



SMH
CONSULTANTS

Civil Engineering • Land Surveying • Landscape Architecture
www.smhconsultants.com

Manhattan, KS - HQ P: (785) 776-0541 • Dodge City, KS P: (620) 255-1952
Overland Park, KS P: (913) 444-9615 • Colorado Springs, CO P: (719) 465-2145

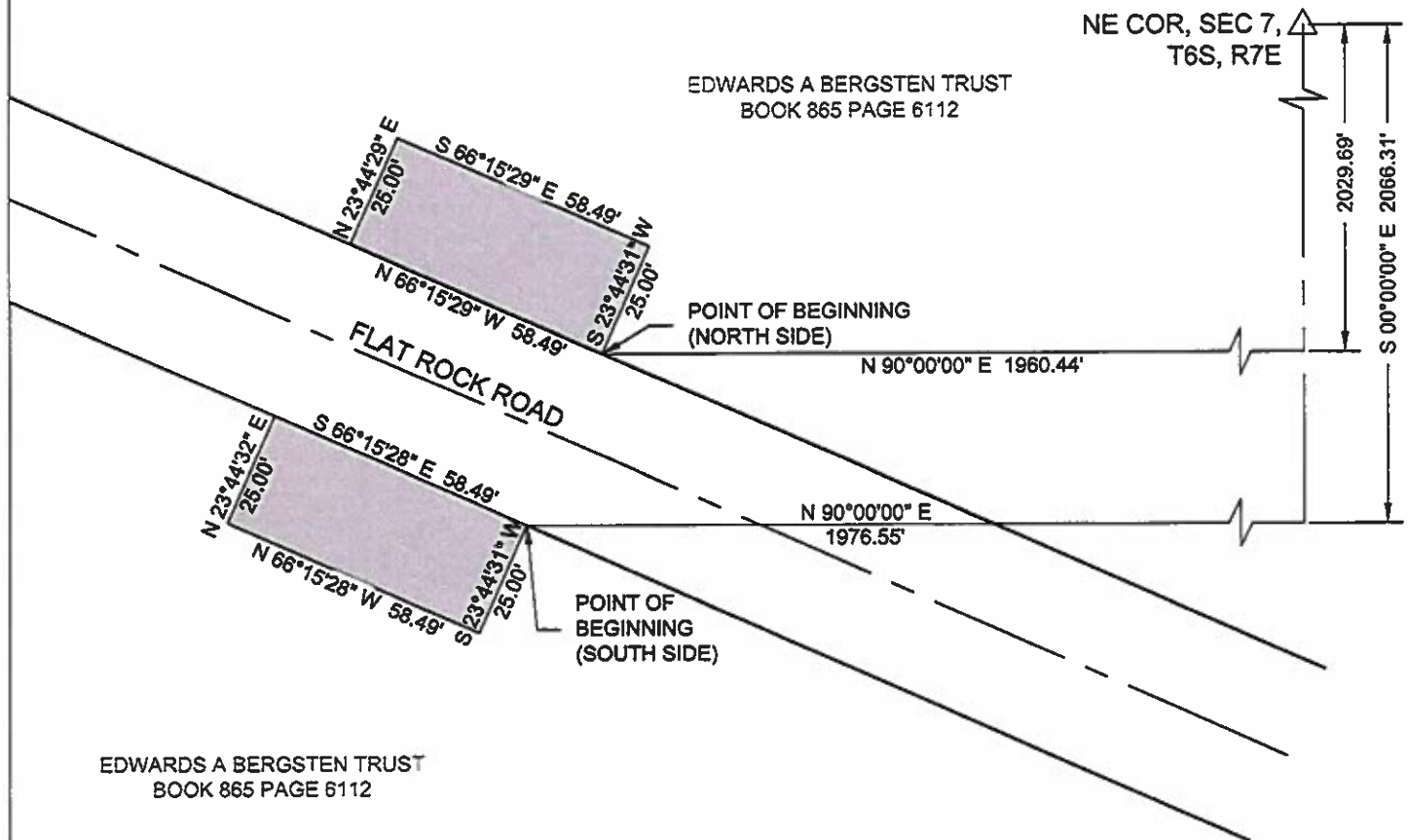
Drawn By: ATJ Project 1912MN6005 DD TDS 80

SHEET 1 OF 1

Packet Pg. 12

PERMANENT DRAINAGE EASEMENT EXHIBIT

FLAT ROCK ROAD, RILEY COUNTY, KANSAS



LEGEND



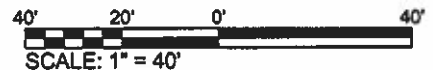
Section Corner, NOTE: All section corner monument origins are unknown unless otherwise noted.



Permanent Drainage Easement Hatch



NORTH



DESCRIPTION (N. SIDE OF FLAT ROCK ROAD):

A tract of land in the Northeast Quarter of Section 7, Township 6 South Range 7 East of the Sixth Principal Meridian, Riley County, Kansas described as follows:

Beginning at a point that is S 00°00'00" E 2029.69 feet and S 90°00'00" W 1960.44 feet from the Northeast Corner of the Northeast Quarter of said Section 7; thence N 66°15'29" W 58.49 feet; thence N 23°44'30" E 25.00 feet; thence S 66°15'29" E 58.49 feet; thence S 23°44'31" W 25.00 feet to the point of beginning, containing 1,462 square feet.

Tim Sloan, PLS-783, January 13, 2022.

Subject to easements and restrictions of record.

DESCRIPTION (S. SIDE OF FLAT ROCK ROAD):

A tract of land in the Northeast Quarter of Section 7, Township 6 South Range 7 East of the Sixth Principal Meridian, Riley County, Kansas described as follows:

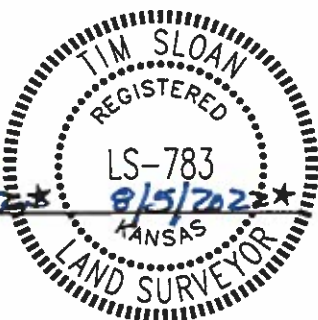
Beginning at a point that is S 00°00'00" E 2066.31 feet and S 90°00'00" W 1976.55 feet from the Northeast Corner of the Northeast Quarter of said Section 7; thence S 23°44'31" W 25.00 feet; thence N 66°15'28" W 58.49 feet; thence N 23°44'32" E 25.00 feet; thence S 66°15'29" E 58.49 feet to the point of beginning, containing 1,462 square feet.

Tim Sloan, PLS-783, January 13, 2022.

Subject to easements and restrictions of record.

SMH Consultants
By: Tim Sloan

Tim Sloan
Tim Sloan, P.S.
Vice-President



COPY

SMH
CONSULTANTS

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Overland Park, KS P: (913) 444-9615 • Colorado Springs, CO P: (719) 465-2145

Drawn By: ATJ Project: 1912MN6005 DD:TDS 80

SHEET 1 OF 1



PUBLIC WORKS
Contract

John Ellermann
Public Works
Director/County Engineer
6215 Tuttle Creek Blvd
Manhattan, KS 66503
Phone: 785-537-6330

COMMISSION AGENDA REPORT

FROM: Shannon Sterling, Administrative Assistant II

MEETING: July 31, 2023

SUBJECT: 2023 Riley County Trash Service Contract (Julie Winter - Zoom)

PRESENTER: Evan McMillan, Assistant Public Works Director

BACKGROUND

On July 13, 2023, the 2023 Riley County Trash Services Contract was awarded to Howie's Trash Service. Attached for your approval is the contract with Howie's Trash Service to provide services in the amount of \$26,734.80 per year; with the option to extend the contract annually up to four (4) additional years.

DISCUSSION

FISCAL IMPACT

RECOMMENDATION(S)

Staff recommends approval of contract as to Form.

POSSIBLE MOTION(S)

Move to approve

Move to deny

Move to modify

Move to table

No action required.

The Board agreed by consensus (To be determined in the meeting)

Enclosures:

- Contract Agreement_2023 Trash Services (PDF)

AGREEMENT BETWEEN RILEY COUNTY AND CONTRACTOR

THIS AGREEMENT is made this ____ day of _____, 20____, between Riley County, Kansas acting through its properly authorized Board of County Commissioners ("OWNER") and Howie's Enterprises LLC. ("CONTRACTOR").

RECITALS

Owner has prepared contract documents in connection with the following project: Riley County Contract Trash Services - 2023. The required work is to be performed in accordance with the provisions contained in the contract documents. The contract documents are: this Agreement, the Instructions to Bidders, the Services Specification and Special Provisions, the Proposal and the Contractual Provisions Attachment.

Contractor has submitted to the owner in the manner and at the time specified, a sealed bid conforming to the terms of the advertisement requesting bids. Owner, in the manner prescribed by law, publicly opened, examined, and canvassed the bids submitted, and determined Contractor submitted the lowest and best bidder for the work. Owner has accepted Contractor's bid and has awarded Contractor a contract for such work for the sum or sums set forth in the Proposal being attached hereto and made a part of this agreement.

In consideration of the compensation to be paid to Contractor and of the mutual covenants contained herein and in the contract documents, Owner and Contractor agree as follows:

ARTICLE I RESPONSIBILITIES OF PARTIES

Section 1. Contractor's Responsibilities: Contractor shall (a) furnish all tools, equipment, supplies, superintendence, transportation, and other facilities; (b) furnish all materials, supplies and equipment specified and required to be incorporated in and from a permanent part of the completed work; (c) provide and perform all necessary labor; (d) execute and timely complete all work included in and covered by the Owner's official award of this contract to the Contractor.

Section 2. Owner's Responsibilities: Owner shall pay the Contractor, subject to adjustments as provided by the contract documents, the sum of Twenty-six Thousand Seven Hundred Thirty-four Dollars and Eighty Cents (\$26,734.80) to be paid in monthly installments of Two Thousand Two Hundred Twenty-seven Dollars and Ninety Cents (\$2,227.90). Payment shall be for all work covered by and included in the contract documents, with payment to be made by Riley County warrant within thirty (30) days of the dated invoice unless otherwise provided for in the contract documents.

Section 3. Incorporation Clause: All terms and conditions of the "Invitation to Bid for Project # 060123"; the associated "Introduction to Bidders"; the associated "Service Specifications and Special Provisions"; and the associated "Proposal", are incorporated herein and made a part of this agreement by reference.

**ARTICLE II
COMMENCEMENT OF WORK**

Contractor shall start work on August 1, 2023 with the work to be performed hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this contract on the date set forth above.

RILEY COUNTY, KANSAS

Owner

By: _____

Kathryn Focke, Chairperson

Date _____

Howie's Enterprises, LLC.

By: _____

Printed Name: Greg H. Wilson

Date _____

ATTEST _____

County Clerk

* * * * *

The contract and bond are in due form according to law and are hereby approved.

County Counselor

Attachment: Contract Agreement_2023 Trash Services (13620 : 2023 Trash Service Contract)

INSTRUCTIONS TO BIDDERS

BIDS. Each bid shall be legibly written or printed in ink on the form provided in the bid documents. No alterations in bids, or in the printed forms by erasures, interpolations, or otherwise will be accepted unless each such alteration is signed or initialed by the bidder. No alteration in any bid, or in the form on which it is submitted, shall be made after the bid has been submitted. All addenda to the contract documents, properly signed by the bidder, shall accompany the bid when submitted. Each proposal submitted shall be enclosed in a sealed envelope, addressed to Riley County Clerk, 110 Courthouse Plaza, Manhattan, Kansas 66502, and identified on the outside with the words, Riley County Trash Services - 2023. All bidders must be on the Plan Holders List to be eligible.

No bidder may submit more than one bid. Multiple bids under different names will not be accepted from one person, partnership, corporation, firm or association.

WITHDRAWAL OF BID. No bidder may withdraw a bid for 30 days after the date and hour set for the opening. A bidder may withdraw a bid any time prior to expiration of the period during which bids may be submitted by a written request signed in the same manner and by the same person who signed the Proposal and delivered to the office of the Riley County Clerk before the date and time specified in the Invitation to Bid.

ACCEPTANCE AND REJECTION OF BIDS. The Riley County Board of Commissioners (hereinafter "Owner") reserves the right to reject any and all Bids, to waive formalities in considering Bids and to accept the Bid which, in the Board's opinion, is in the best interest of Riley County. Bids received after the specified time or closing will be returned unopened.

SIGNATURE OF BIDDER. Each bidder shall sign the Proposal and give the bidder's full business address and telephone number. Bids by proprietorships shall be signed by the proprietor or by a person with a certified Power of Attorney to represent the proprietor. Bids by the partnerships shall be signed with the partnership named followed by the signature and designation of one of the partners or other authorized representative. Bids by corporations shall bear the corporate seal and shall be signed with the name of the corporation followed by the signature and designation of the president, secretary, or other person authorized to bind the corporation. The names of all persons signing should also be typed or printed below the signature. A bid by a person who affixed to his signature the word 'president,' 'secretary,' 'agent,' or other designated without disclosing his principal may be held to be the bid of the individual signing. When requested by the Owner, evidence of the authority of the person signing shall be furnished.

INTERPRETATION OF CONTRACT DOCUMENTS. If any person who contemplates submitting a bid is in doubt as to the true meaning of any part of the drawings, specifications, or other proposed contract documents, he may submit to the Owner a written request for an interpretation thereof. The person submitting the request shall be responsible for its prompt delivery. Interpretation of the proposed contract documents will be made only by addendum. A copy of each addendum will be mailed or delivered to each person on the bid holders list. The Owner will not be responsible for any other explanations or interpretations of the proposed contract documents.

LOCAL CONDITIONS AFFECTING WORK. Each bidder shall visit the site of the work and shall become completely informed as to the procedures, labor, and all other conditions and factors, local and otherwise, which would affect prosecution and completion of the work and its cost. Such consideration shall include the arrangement and condition of existing structures and facilities, the procedure necessary for maintenance of uninterrupted operation of existing facilities, the availability and cost of labor, and facilities for transportation, handling, and storage of materials and equipment. All such factors shall be properly investigated and considered in the preparation of the bid. There will be no subsequent financial adjustment for lack of such prior information.

BONDS. The bidder to whom a contract is awarded will be required to furnish a Performance Bond to the Owner, in an amount equal to one hundred (100) percent of the contract price.

The bonds shall be executed on the forms included in the contract documents by a surety company authorized to do business in the State of Kansas and acceptable as Surety to Owner.

Accompanying the bond shall be a 'Power of Attorney' authorizing the attorney-in-fact to bind the surety company and certified to include the dates of the bond.

CONTRACT DOCUMENTS. No pages shall be removed from the contract documents. The copy of contract documents filed with each proposal shall be complete and shall include all items listed in the Table of Contents and all addenda.

WORKMANSHIP. The bidder agrees, if his proposal is accepted, to guarantee workmanship, and to provide free of charge any services that fail to meet this guarantee.

DURATION OF CONTRACT. This Contract shall begin on August 1, 2023 and expires on July 31, 2024. Riley County reserves the right to extend, at Riley County's option, this contract for one year, per option, for up to 4 years after the initial year. If Riley County exercises all options this contract shall expire completely on July 31, 2028.

KANSAS LEGAL REQUIREMENTS. If the successful bidder is a corporation or other covered entity organized outside the State of Kansas, it will be necessary to register with the Secretary of State of Kansas to do business within the State (K.S.A. 17-7931 et seq.).

PRICES. Prices bid in this contract will be the prices Riley County pays for the services bid during 2023. If the annual options are exercised, the option prices may be negotiated upon written request of the contractor. Written request of negotiated option prices must be received by the County no later than ninety (90) days prior to the expiration of the existing contract or annual option in place.

SERVICE SPECIFICATION AND SPECIAL PROVISIONS

SCOPE. To provide dumpster, trash pick-up, hauling, and disposal as required for the Riley County departments named below. The following specifications are to be considered as minimum requirements.

DUMPSTERS. The bidder shall supply dumpsters for each location. Placement of dumpsters shall be determined by the department head at each location. The dumpsters shall be maintained by the bidder. General condition of the dumpster, including paint, caster wheels, hinges, lids, etc., shall be acceptable to Riley County and replaced or repaired by the bidder when determined by the bidder or Riley County to be unacceptable. The bidder shall be responsible for all expenses incurred from damage caused to dumpsters by any person. The bidder shall purchase and own dumpsters. Compensation for use of dumpsters by Riley County shall be included in the rate bid per month.

Additionally, the bidder will be responsible for the repair of damage to Riley County dumpster enclosures incurred by the bidder while in the performance of the contract at no additional cost to Riley County.

TRASH PICK-UP. Frequency of pick-up at each location shall be as indicated below. Additional pick-up shall be made when requested by Riley County. Compensation for additional pick-up shall be as bid.

HAULING. The bidder shall pay all costs for hauling.

DISPOSAL. All municipal solid waste collected as a part of this contract shall be disposed of at the Riley County Solid Waste Facility, 1881 Henton Road, Manhattan, Kansas as a part of the contractual performance.

CHARGES. In accordance with dumpster size, the bid submitted shall reflect the price per month and per year bid for each location. Riley County is not subject to federal excise tax or city and state sales tax.

BILLING. The monthly statement shall be sent to Riley County Public Works Department, 6215 Tuttle Creek Blvd., Manhattan, Kansas 66503.

REQUIREMENT. In conjunction with the corresponding information, requirements and stipulation, trash service shall be provided for the following Riley County departments.

1. Riley County Public Works Department
Contact: Julie Winter, PW Admin Services Manager
6215 Tuttle Creek Blvd
Manhattan, KS 66503 Phone: 785-537-6330

Frequency of Pickup:	1 time per week
Size of Dumpsters:	2 cubic yards
Number of Dumpsters:	1
Location:	South of the Traffic Shop at 6215 Tuttle Creek Blvd.

Frequency of Pickup: 1 time per week
 Size of Dumpsters: 6 cubic yards
 Number of Dumpsters: 1
 Location: West of main Fleet Shop at 6215 Tuttle Creek Blvd

Frequency of Pickup: 1 time per week
 Size of Dumpsters: 2 cubic yards
 Number of Dumpsters: 1
 Location: By fuel station at 6215 Tuttle Creek Blvd

2. Riley County Public Works / Parks Division

Contact: David Willis, Parks Manager

6215 Tuttle Creek Blvd

Manhattan, KS 66503

Phone: 785-539-2981

Frequency of pickup: 1 time per week
 Size of Dumpsters: 2 cubic yards
 Number of Dumpsters: 1
 Location: South of Park Shop at 6215 Tuttle Creek Blvd

Frequency of pickup: 1 time per week – (Wednesday)
 Size of Dumpsters: 4 cubic yards
 Number of Dumpsters: 1
 Location: Northeast end of Keats Park parking lot

Frequency of pickup: 1 time per week – (Wednesday)
 Size of Dumpsters: 2 cubic yards
 Number of Dumpsters: 1
 Location: East end of Noon Street in Fairmont Park

3. Riley County Weed Dept. and Household Hazardous Waste

Contact: Michael Boller, Director

6245 Tuttle Creek Blvd

Manhattan, KS 66502

Phone: 539-3202

Frequency of Pickup: 1 time per week
 Size of Dumpsters: 6 cubic yards
 Number of Dumpsters: 1
 Location: Next to buildings at 6245 Tuttle Ck Blvd.

4. Riley County Courthouse Plaza**Contact: Julie Winter, PW Administrative Services Manager****110 Courthouse Plaza****Manhattan, KS 66502****Phone: 537-6330****Frequency of Pickup: 5 times per week - (Monday thru Friday)****Size of Dumpsters: 2 cubic yards****Number of Dumpsters: 2****Location: Adjacent to the northeast corner of the Courthouse located at 100 Courthouse Plaza.****5. Riley County Museum****Contact: Katherine Hensler****2309 Claflin****Manhattan, KS 66502****Phone: 785-565-6490****Frequency of Pickup: 1 time per week****Size of Dumpsters: 96 gallon receptacle****Number of Dumpsters: 1****Location: 2309 Claflin****6. Riley County Emergency Medical Service****Contact: David Adams, Director****2011 Claflin Road****Manhattan, KS 66502****Phone 785-539-3535****Frequency of Pickup: 1 time per week****Size of Dumpsters: 2 cubic yards****Number of Dumpsters: 1****Location: Adjacent to Emergency Medical Service facility at 2011 Claflin****7. Riley County Fair Board****Contact: Gary Fike, Extension Director****110 Courthouse Plaza****Manhattan, KS 66502****Phone: 537-6350****Frequency of Pickup: 2 times per week - (Tuesday & Friday)****Size of Dumpsters: 8 cubic yards (with side doors)****Number of Dumpsters: 1****Location: Adjacent to Pottorf Hall in CiCo Park at 1710 Avery Avenue**

Frequency of Pickup: 2 times per week - (Tuesday & Friday)
 Size of Dumpsters: 6 cubic yards
 Number of Dumpsters: 1
 Location: Adjacent to Hurlbert Hall in CiCo Park at 1710 Avery Avenue

8. Riley County Health Department

Contact: Jeremy Noll, Custodial Manager
 110 Courthouse Plaza
 Manhattan, Kansas 66502 Phone: 537-6330

Frequency of Pickup: 3 times per week - (Monday, Wednesday, Friday)
 Size of Dumpsters: 2 Yard
 Number of Dumpsters: 1
 Location: Health Department - 2030 Tecumseh Road

Frequency of Pickup: 3 times per week - (Monday, Wednesday, Friday)
 Size of Dumpsters: 1.5 yard
 Number of Dumpsters: 1
 Location: Family Child Resource Center – 2101 Claflin Road

INSURANCE. The Contractor shall indemnify and save Riley County harmless from and against all liability for damages, costs and expenses arising out of any claim, suit, action or otherwise for injuries and/or damages sustained to person or property by reason of the work performed by the Contractor, its subcontractors, agents or employees under this Contract.

The Contractor shall carry liability insurance to protect the public from injuries by reason of carrying on the contract work and to protect Riley County from all liability for injuries to the employees of the contractor, as provided by law, and to protect Riley County from all liabilities to any person from damages sustained by reason of carrying on the work described in the Contract.

The Contractor shall file with Riley County, prior to the time of execution of the Contract, "Certificates of Insurance" showing the Contractor carries "Worker's Compensation and Employer's Liability" insurance as recognized by the Kansas Insurance Commissioner, "General Liability" that includes; Comprehensive Form, Premises-Operation, Underground Hazard, Products/Completed Operations Hazard, Contractual Insurance, Broad Form Property Damage, Independent Contractors and Personal Injury with a minimum combined single limits of \$1,000,000.00 for Bodily Injury and Property Damage and "Automobile Liability" that includes; Comprehensive Form, Owned, Hired and Non-Owned with minimum combined single limits of \$1,000,000.00 for Bodily Injury and Property Damage. Insurance as herein required shall be maintained in force until Riley County releases the Contractor from all obligations under the Contract, but said insurance contract shall cover claims for such length of time as said claims are permitted by law.

If any part of the work is sublet, then the Contractor shall provide identical insurance on behalf of the subcontractors to cover their operations. Such insurance shall cover all hired or rented equipment and operations thereof.

"Certificates of Insurance" shall not be accepted unless the insurer is authorized by the Kansas Insurance Commissioner to do business in Kansas.

SUBLETTING OF CONTRACT. The Contractor shall not sublet, sell, transfer, assign, or otherwise dispose of the contract or contracts or any portion thereof, or of the Contractor's right, title, or interest therein, without advance written consent of Riley County. In case such consent is given, the Contractor shall be permitted to sublet a portion thereof, but shall perform, with its own organization, work amounting to not less than 30 percent of the total contract price. No subcontract, or transfer of contract, shall in any case release the Contractor of his/her liability under the contract and bonds applicable thereto.

BREACH OF CONTRACT. If the Contractor:

- (a) refuses to perform the work under contract,
- (b) fails to perform the work with sufficient workers and equipment to assure the prompt completion of said work;
- (c) performs the work unsuitably or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable or unsuitable;
- (d) discontinues the prosecution of work;
- (e) fails to resume work, which has been discontinued, within a reasonable time after notice to do so;
- (f) becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency;
- (g) allows any final judgment of a court of law to stand against the Contractor unsatisfied for a period of ten days;
- (h) makes an assignment for the benefit of creditors;
- (i) for any other cause whatsoever, fails to carry on the work in an acceptable manner; the Board of County Commissioners may give notice in writing to the Contractor and the Contractor's surety of such delay, neglect or default specifying the same. If the Contractor, or surety, within a period of ten days after such notice, does not proceed in accordance therewith, then Riley County shall, upon notification of the fact of such delay, neglect or default and the Contractor's failure to comply with such notice, have full power and authority, without violating the contract, to take the prosecution of the work out of the hands of the Contractor. Riley County may appropriate or use any or all materials and equipment on the ground as may be suitable and acceptable, and may enter into an agreement for the completion of said contract according to the terms and provisions thereof; or use such other methods as, in the opinion of Riley County, shall be required for the completion of said contract in an acceptable manner.

All costs and charges incurred by Riley County, together with the costs of completing the work under contract, shall be deducted from any monies otherwise due or which may become due to the Contractor.

In case the expense so incurred by Riley County shall be less than the sums which would have been payable under the contract if it had been completed by Contractor, then the Contractor shall be entitled to receive the difference, and in case such expense shall exceed the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay Riley County the amount of said excess.

If Riley County elects to take prosecution of the work out of the hands of the Contractor, for the reasons and in the manner herein provided, Riley County may, without violating the contract, instead of completing the contract in the manner herein provided, demand of the Contractor's surety that the surety proceed in place of the Contractor in such case and gives its consent that the completion of the contract shall be undertaken and performed by the surety and the surety shall complete said contract according to the terms and provisions thereof.

A waiver on the part of Riley County of any breach of any part of the contract shall not be construed as a waiver of any other subsequent breach.

CANCELLATION OF CONTRACT. The Board of County Commissioners may, by written order, defer or cancel the contract or any portion thereof after determining that for reasons beyond the Contractor's control, the Contractor is prevented from proceeding with or completing the work as originally contracted for, and that deferment or cancellation would therefore be in the public's best interest. Such reasons for deferment or cancellation may include, but not need be necessarily limited to restraining orders or injunctions issued by any court of competent jurisdiction, where the issuance of such order or injunction is primarily caused by acts or omissions or persons or agencies other than the Contractor.

CANCELLATION: When the contract, or any portion thereof, is canceled, and the Contractor is released before all items of work included in his contract have been completed, payment shall be made for the actual items of work completed at the contract unit prices, or at the agreed prices when no unit prices are included in the contract. No claim for loss of anticipated profits shall be considered.

Cancellation of the contract or portion thereof shall not relieve the Contractor of any contractual responsibilities for the work completed, nor shall it relieve the surety of its obligation for any just claim arising out of the work performed.

PROPOSAL

TO THE BOARD OF COUNTY COMMISSIONERS, RILEY COUNTY, KANSAS; THE UNDERSIGNED BIDDER, having examined the contract documents, specifications, and all addenda thereto; and being acquainted with and fully understanding the extent and character of the work covered by this Proposal:

HEREBY PROPOSES to furnish RILEY COUNTY PROJECT NO. 060123 RILEY COUNTY TRASH SERVICES – 2023 for the period ending July 31, 2024 and having carefully examined the bidding requirements and Contract Documents for the above captioned project, as well as all conditions and addenda affecting the work, the undersigned agrees to furnish work for and in consideration of the following prices:

Item #	Department	Dumpster	Location	Pick-up	Price/Month	Price/Year	Price/Extra PU
1.	Courthouse Plaza	2 - 2yd	Courthouse	5/wk M-F	\$ 513.00	\$ 6156.00	\$ 50.00 each
2.	Emergency Medical Service	1 - 2yd	Claflin	1/wk	\$ 79.20	\$ 950.40	\$ 50.00 each
3.	Fair Board	1 - 6yd	Huribert Hall	2/wk Tue & F	\$ 256.50	\$ 3078.00	\$ 50.00 each
		1 - 8yd	Pottorf Hall	2/wk Tue & F	\$ 289.80	\$ 3477.60	\$ 50.00 each
4.	Noxious Weed/HHW	1 - 6yd	Tuttle Creek Blvd	1/wk	\$ 151.20	\$ 1814.40	\$ 50.00 each
5.	Museum	1 - 96 gal.	Claflin	1/wk	\$ 22.00	\$ 264.00	\$ 50.00 each
6.	Parks	1 - 2yd	Park Shop	1/wk	\$ 79.20	\$ 950.40	\$ 50.00 each
		1 - 4yd	Keats Park	1/wk Wed	\$ 118.80	\$ 1425.60	\$ 50.00 each
		1 - 2yd	Noon Street	1/wk Wed	\$ 79.20	\$ 950.40	\$ 50.00 each
7.	Public Works	1 - 2yd	Traffic Shop	1/wk	\$ 79.20	\$ 950.40	\$ 50.00 each
		1 - 6yd	Fleet Shop	1/wk	\$ 151.20	\$ 1814.40	\$ 50.00 each
		1 - 2yd	Fuel Pumps	1/wk	\$ 79.20	\$ 950.40	\$ 50.00 each
8.	Health Department	1 - 2yd	Health Department	3/wk M-W-F	\$ 164.70	\$ 1976.40	\$ 50.00 each
		1 - 1.5yd	Family Child Resource Center	3/wk M-W-F	\$ 164.70	\$ 1976.40	\$ 50.00 each
Bid Totals:					\$ 2227.90	\$ 26734.80	

In submitting this bid, it is understood that the right is reserved by the Board of County Commissioners to reject any and all bids, and it is understood that this bid may not be withdrawn during a period of 30 days after the scheduled time for the receipt of bids. The undersigned bidder hereby certifies (a) that this bid is genuine and is not made in the interest of, or in behalf of, any undisclosed person, firm or corporation, and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; (b) that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid; (c) that the bidder has not solicited or induced any person, firm, or corporation to refrain from bidding; and (d) that the bidder has not sought by collusion to obtain any advantage over any other bidder or over the Board of County Commissioners.

The undersigned bidder acknowledges receipt of the following addenda:

No. _____ Dated _____

No. _____ Dated _____

Dated in _____ this _____ day
of _____, 20____.

SIGNATURE OF BIDDER

If an Individual: _____, doing
business as _____

If a Partnership: _____
by _____, partner

If a Corporation: By *Howie's Enterprises LLC*
by *Howie's Enterprises LLC*
Title *President*

Business Address of Bidder: *625 S 10th*
Manhattan KS 66502

Telephone Number *785-776-8352*

FAX Number *785-776-5937*

Corporate Seal:

Attachment to "Contract" Between Riley County (hereinafter "County"), and
Howie's Enterprises, LLC. (hereinafter "Contractor").

CONTRACTUAL PROVISIONS ATTACHMENT

The undersigned parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof.

1. **TERMS HEREIN CONTROLLING PROVISIONS.** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in the contract and any other document relating to and a part of the contract in which this attachment is incorporated. All terms hereof survive termination of the contract.
2. **AGREEMENT WITH KANSAS LAW.** It is agreed by and between the undersigned that all disputes and matters whatsoever arising under, in connection with or incident to the contract shall be litigated, if at all, in and before a state Court located in the State of Kansas, County of Riley, or if in Federal Court, at a Federal Court located in Topeka, Kansas, to the exclusion of the Courts of any other states or country. All contractual promises shall be subject to, governed by, and construed according to the laws of the State of Kansas, without reference to its conflict of laws principles. Both parties submit to venue and jurisdiction in these courts. In the event an action or claim arises outside of the exclusive jurisdiction specified herein which names County as a party, Contractor agrees to initiate, consent to and/or cooperate with any and all efforts to remove the matter to the exclusive jurisdiction named herein and otherwise to take any and all reasonable actions to achieve County's objectives of this provision.
3. **COMPLIANCE WITH APPLICABLE LAWS, SERVICE STANDARDS AND REQUIRED PROCEDURES.**
 - 3.1. **Service Standards and Procedures.** Contractor shall perform the services set forth in the Contract in compliance with applicable standards and procedures specified in the Contract.
 - 3.2. **Compliance With Law.** Contractor shall comply with all applicable local, state and federal laws and regulations, in carrying out the Contract, regardless of whether those legal requirements are specifically referenced in the Contract.
4. **CASH BASIS AND BUDGET LAWS.** The right of the County to enter into the Contract is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. The Contract shall be construed and interpreted so as to ensure that the County shall at all times stay in conformity with such laws, and as a condition of the Contract the County reserves the right to unilaterally terminate the Contract at any time if, in the opinion of its legal counsel, the Contract may be deemed to violate the terms of such laws. Any Contract for a term of more than one year shall be interpreted by the parties to provide County the sole option to renew that Contract before the end of each one-year term.
5. **TERMINATION DUE TO LACK OF FUNDING APPROPRIATION.** If, in the judgment of the Riley County Commissioners, after consultation with their Budget and Finance Officer or other county officials, sufficient funds are not appropriated to continue the function performed in the contract and for the payment of the charges hereunder, County may terminate the contract at the end of its current

fiscal year. Termination shall be effective 30 days after County mails written notice to Contractor. In the event of such termination, County agrees to give written notice of termination to contractor. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the County or the Contractor.

6. ANTI-DISCRIMINATION CLAUSE.

- 6.1. In carrying out the Contract, Contractor shall comply with K.S.A. 44-1001 *et seq.*
- 6.2. Contractor shall observe the provisions of the Kansas act against discrimination and the Kansas age discrimination in employment act, and shall not discriminate against any person in the performance of work under the Contract because of race, religion, color, sex, disability, national origin, ancestry, or age.
- 6.3. In all solicitations or advertisements for employees, Contractor shall include the phrase "equal opportunity employer" or a similar phrase to be approved by the Kansas Human Rights Commission.
- 6.4. If Contractor fails to comply with the provisions of K.S.A. 44-1031, requiring reports to be submitted to the Kansas Human Rights Commission when requested by that Commission, Contractor shall be deemed to have breached the Contract and it may be canceled, terminated or suspended, in whole or in part, by County.
- 6.5. If Contractor is found guilty of a violation of the Kansas act against discrimination under a decision or order of the Kansas Human Rights Commission which has become final, Contractor shall be deemed to have breached the Contract and it may be canceled, terminated or suspended, in whole or in part by County.
- 6.6. Contractor shall include the provisions of paragraphs 6.1 through 6.5 inclusively of this section in every subcontract or purchase order so that such provisions will be binding upon such subcontractor of Contractor.
- 6.7. Parties to the contract understand that this paragraph number 6 is not applicable if Contractor employs fewer than four employees or if Contractor's contracts with the County cumulatively total \$5,000 or less during the County's fiscal year.

7. **ACCEPTANCE OF CONTRACT.** The contract shall not be considered accepted, approved or otherwise effective until the required approvals and certifications have been given and this Contractual Provisions Attachment is signed by the Board of County Commissioners of Riley County, Kansas.

8. **ARBITRATION, DAMAGES, WARRANTIES.** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the County does not agree to pay attorney fees and late payment charges; and no provisions will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.

9. **REPRESENTATIVE'S AUTHORITY TO CONTRACT/REQUIRED DOCUMENTATION.** By signing the Contract, the representative of Contractor thereby represents that such person is duly authorized by Contractor to execute the document on behalf of Contractor and Contractor agrees to be bound by the provisions thereof. Contractor shall furnish evidence of authority to transact business in Kansas, in the form of a certificate signed by the Kansas Secretary of State.
10. **RESPONSIBILITY FOR TAXES.** The County shall not be responsible for, nor indemnify Contractor for, any federal, state or local taxes that may be imposed or levied upon the subject matter of the contract.
11. **NO INSURANCE PROVIDED BY COUNTY.** The County shall not be required to purchase, any insurance against loss or damage to any personal property to which the contract relates, nor shall the contract require the County to establish a "self-insurance" fund to protect against any such loss or damage. Subject to any applicable provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), Contractor shall bear the risk of any loss or damage to any personal property to which Contractor holds title.
12. **TERM AND TERMINATION.**
- 12.1. **Term.** This Contractual Provisions Attachment shall be effective as of its date of execution by the parties and shall remain in effect during the term of the Contract, or until terminated either for convenience, breach or default, as set out herein. Thirty (30) days written notice to the breaching party is required.
- 12.2. **Termination for Cause.** If Contractor shall fail to fulfill in a timely and proper manner its obligations under the Contract, or if Contractor shall violate any of the terms, covenants, conditions, or stipulations of the Contract, County shall thereupon have the right to terminate the Contract by promptly giving written notice to Contractor of such termination and specifying the reasons for the termination and the effective date thereof. A breach shall include, but not be limited to, failure to comply with any or all items contained in the Contract and any appendices, exhibits or amendments thereto, if any.
- 12.3. Notwithstanding the above, Contractor shall not be relieved of liability to County by virtue of any breach of the Contract by Contractor.
- 12.4. **Termination for Convenience.** County may terminate the Contract in whole or in part, upon thirty (30) days written notice to Contractor, stating the effective date of the termination for convenience.
- 12.5. **Payment Calculation Upon Termination.** In the event of termination under the Contract by either party, any amount owed Contractor will be calculated based solely upon payment for fair value of acceptable services provided by Contractor to the point of termination, which fair value is not the subject of a good faith dispute. That determination of fair value of acceptable services shall be made solely by County.
13. **INDEPENDENT CONTRACTOR RELATIONSHIP.** It is agreed that the legal relationship between Contractor and County is of a contractual nature. Both parties assert and believe that Contractor is acting as an independent contractor in providing the services and performing the duties required by County hereunder. Contractor is at all times acting as an independent contractor and not as an officer,

agent, or employee of County. As an independent contractor, Contractor, and employees of Contractor, will not be within the protection or coverage of County's worker's compensation insurance, nor shall Contractor, and employees of Contractor, be entitled to any current or future benefits provided to employees of County. Further, County shall not be responsible for withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by County to Contractor. Contractor shall supply all labor, equipment, supplies and materials necessary to complete the required services, at Contractor's sole expense.

14. **PERSONNEL.**

- 14.1. **Qualified Personnel.** Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under the Contract. Such personnel shall not be employees of or have any other contractual relationship with County. All personnel engaged in the work shall be fully qualified according to the laws of the State of Kansas and the provisions of this Contract.
- 14.2. **Minimum Wages.** Contractor will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act.
- 14.3. **Employee Conflict of Interest.** Contractor shall establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

15. **PROHIBITION OF CONFLICTS OF INTEREST.**

- 15.1. **Interest of Public Officials and Others.** No officer or employee of Riley County, no member of its governing body, and no other public official who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the Contract shall participate in any decision relating to the Contract which affects such person's personal interest or the interest of any corporation, partnership, or association in which such person is directly or indirectly interested; nor shall any officer or employee of Riley County or any member of its governing body or other public official have any interest, direct or indirect, in the Contract or the proceeds thereof.
- 15.2. **Interest of Contractor.** Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under the Contract.
- 15.3. **Notice to Bidders.** Requests for proposal or invitations for bid issued by Contractor to implement the Contract will provide notice to prospective bidders that Riley County's conflict of interest provision is applicable and that prospective bidders who develop or draft specifications, requirements, statements of work and/or RFPs for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement.

16. **ASSIGNMENT.** Neither the Contract nor any rights or obligations hereunder shall be assigned or otherwise transferred by either party without the prior written consent of the other.
17. **SUBCONTRACTING.** None of the work or services covered by the Contract shall be subcontracted without the prior written approval of County. All approved subcontracts must conform to all terms set forth in the Contract and the Contractual Provisions Attachment.
18. **RECORDS, REPORTS AND INSPECTION.**
- 18.1. **Documentation of Costs.** All costs incurred by Contractor for which Contractor purports to be entitled to reimbursement under the express terms of the Contract shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the Contract shall be clearly identified and readily accessible to both parties to the Contract.
- 18.2. **Maintenance of Records.** Except as otherwise authorized by County, Contractor shall retain such documentation for a period of three (3) years after receipt of any applicable final expenditure report under the Contract, unless action, including but not limited to litigation or audit resolution proceedings, necessitate maintenance of records beyond this three (3) year period.
- 18.3. **Reports.** During the term of this contract, Contractor shall furnish to County, in such form, as County may require, such statements, records, reports, data and information as County requests pertaining to matters covered by this contract. Payments to Contractor will be withheld by County if Contractor fails to provide all required reports in a timely and accurate manner, until such time as all reports are furnished to County. Incomplete reports may be considered a breach of this contract.
- 18.4. **Audit.** Contractor shall provide for an annual independent audit of its financial records which apply to this Contract only and shall provide a copy of said audit to County, if requested.
- 18.5. **Availability of Records.** Contractor agrees to make any and all of its records, books, papers, documents and data available to County, or the authorized representative of a State agency with statutory oversight authority, for the purpose of assisting in litigation or pending litigation, or making audits, examinations, excerpts, copies and transcriptions at any time during the terms of this contract and for a three (3) year period following final payment under the terms of this contract.
- 18.6. **Confidentiality.** Both parties will comply with the provisions of State and federal regulations in regard to confidentiality of eligible participant records.
- 18.7. **Contractor's Purchasing Procedure.** Contractor certifies that it does not practice any form of discrimination based on race, ethnic origin, gender or religion or disability in its purchasing procedures. Contractor agrees to make available a written description of its purchasing procedures if requested by County.

19. **METHOD OF BILLING AND PAYMENT.**

- 19.1. **Billing Procedures.** Contractor agrees that billings and payments under the Contract shall be processed in accordance with established budgeting, purchasing and accounting procedures of Riley County, Kansas. Subject to the maximum amount of compensation prescribed herein, payment shall be made after receipt of billing, and the amount of payment shall not exceed the maximum amount allowed by the Contract.
- 19.2. **Support Documentation.** Billing shall be supported with documentation required by County including, but not necessarily limited to, that documentation described in paragraph 18, above.
- 19.3. **Reimbursement Restrictions.** Payments shall be made to Contractor only for items and services provided to support the Contract purpose when such items and services are specifically authorized by the Contract. County reserves the right to disallow reimbursement for any item or service billed by Contractor if County believes that such item or service was not provided to support the Contract purpose, or was not authorized by the Contract.
- 19.4. **Pre-disbursement Requirements.** Contractor must provide to County the documentation required pursuant to the Contract prior to any disbursements being made by County to Contractor.
- 19.5. **Mailing Address.** Payments shall be mailed to Contractor's address as set forth herein.
20. **LICENSES AND PERMITS.** Contractor shall maintain all licenses, permits, certifications, bonds, and insurance required by federal, state or local authority for carrying out the Contract. Contractor shall notify County immediately if any required license, permit, bond or insurance is canceled, suspended or is otherwise ineffective. Such cancellation, suspension, or other ineffectiveness may form the basis for immediate revocation or cancellation of the Contract by County, in County's sole discretion.
21. **PUBLIC DOCUMENTS.** It is agreed that the Contract, and all subsequent agreed amendments or addenda thereto are public documents which will be filed with the Riley County Clerk, and will be open to public inspection.
22. **LIMITATION OF LIABILITY.** It is agreed that notwithstanding any language in the Contract to the contrary, County waives no defense, immunity or limitation of liability otherwise available to County under the terms of the Kansas Tort Claims Act or other applicable law.
23. **MERGER/SALE/TRANSFER OF CONTRACTOR ASSETS.** Contractor will notify County in writing at least thirty (30) calendar days in advance of Contractor's merger with any other business entity, or of any sale or other transfer of Contractor's assets to any other business entity. In the event of any such merger, sale or other transfer of Contractor assets, Contractor will reasonably cooperate with County in assuring that provision of all products and services under this Contract are not disrupted before, during and after such merger, sale or other transfer of Contractor assets. After such merger, sale or other transfer of Contractor assets, Contractor will reasonably cooperate with County in providing any documents or information necessary to establish any prior payments made by County to Contractor under this Contract.

24. **LIABILITY INSURANCE.** Contractor agrees to maintain the minimum limits of insurance coverage throughout the term of the agreement, as outlined in the Request for Proposal. Liability insurance coverage must be considered as primary and not as excess insurance. Contractor shall furnish a certificate evidencing such coverage, with County named as an additional insured, which shall be delivered to the Office of the Riley County Counselor for approval. Such certificate shall contain a provision that coverage afforded under the policies will not be canceled, reduced, modified, limited, or restricted until thirty (30) days after County receives notice of such change by registered mail.
25. **REMOVAL OF REPRESENTATIVE.** Should County reasonably object to an individual employed or engaged by Vendor to perform the services hereunder, Vendor agrees to promptly replace that person with an individual approved by County.
26. **MODIFICATION.** This agreement may not be modified except in writing signed by the parties hereto.
27. **SURVIVABILITY.** All terms of this Contractual Provisions Attachment shall survive termination of the Contract.

County

RILEY COUNTY, KANSAS

Owner

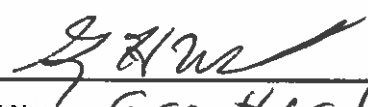
By: _____

Kathryn Focke, Chairperson

Date _____

Contractor

Howie's Enterprises, LLC.

By: Printed Name: Greg Holeman

Date _____

ATTEST:

(seal)

Rich Vargo, County Clerk

Approved as to Form

By: _____

Clancy Holeman
Riley County Counselor

Date _____



COUNTY CLERK & ELECTIONS
Personnel

Rich Vargo
County Clerk
110 Courthouse Plaza
Manhattan, KS 66502
Phone: 785-565-6200

COMMISSION AGENDA REPORT

FROM: Elizabeth Ward, Human Resources Director

MEETING: July 31, 2023

SUBJECT: Sign Riley County Employee Action Form(s)

PRESENTER: Elizabeth Ward, Human Resources Director

Enclosures:

- 2023-07 Counselor J Seaton EAF (DOCX)

RILEY COUNTY EMPLOYEE ACTION FORM

Company Code: 166733

Full Legal Name: Jill Seaton**Status Change Date:** 07/24/2023**Status Change:** Separation**Date of Hire:** 05/26/2000**Seniority:** 23 Years, 1 Month(s)**Position:** Office Manager-Co Counselor**Position Type:** Full-Time**Pay Range:** 4**Pay Type:** Hourly**Base Rate:** \$37.95**Annualized Pay:** \$78,936.00**Funds Codes:** 1- County General**Supervisor:** Clarence Holeman**Department Head:** Clarence Holeman

BoCC Chairman _____

Date: _____

BoCC Member _____

Date: _____

BoCC Member _____

Date: _____

Attachment: 2023-07 Counselor J Seaton EAF (13623 : Employee Action Form (Green Sheet))



**Board of Riley County
Commissioners
Regular Meeting
TENTATIVE Agenda
August 03, 2023**

115 North 4th Street
Manhattan, KS 66502
www.rileycountyks.gov

Cindy Kabriel
785-565-6200

Commission Chambers

8:30 AM

[District 2 – Greg McKinley, Member](#)

[District 3 – Kathryn Focke, Chair](#)

[District 1 – John Ford, Vice Chair](#)

8:30 AM

Call to Order

Pledge of Allegiance

Public Comment

Commission Comments

Business Meeting

Review Minutes

Review Tentative Agenda

Press Conference Topics

9:00 AM

Russel Stukey, Emergency Management Director

1. Staff update

9:15 AM

Michael Boller, Noxious Weed Director

2. Staff update

9:30 AM

Anna Burson, Appraiser

3. Staff update

9:45 AM

Kurt Moldrup, RCPD Assistant Director

4. Public Hearing for the FY2023 Edward Byrne Memorial Justice Assistance Grant (JAG)

10:15 AM

Clancy Holeman, Counselor/Director of Administrative Services

5. Administrative Work Session

11:00 AM

Vivienne Leyva, PIO and Shilo Heger, Treasurer

6. Customer and Employee Survey Results for Expanded Hours of Operation (4/10s)

Attachment: 08-03-23 tentative agenda (12858 : Tentative Agenda)

Adjournment

In order to comply with provisions of the Americans with Disabilities Act (ADA), Riley County will make reasonable efforts to accommodate the needs of persons with disabilities. Please contact the Division of Human Resources at (785) 537-6303 (voice and TTY) for assistance.



**Board of Riley County
Commissioners
Regular Meeting
TENTATIVE Agenda
August 07, 2023**

115 North 4th Street
Manhattan, KS 66502
www.rileycountyks.gov

Cindy Kabriel
785-565-6200

Commission Chambers

8:30 AM

[District 2 – Greg McKinley, Member](#)

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8:30 AM

Call to Order

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Public Comment

Commission Comments

Business Meeting

Review Minutes

Review Tentative Agenda

Press Conference Topics

9:00 AM

Clancy Holeman, Counselor/Director of Administrative Services

1. Administrative Work Session

9:30 AM

Press Conference

2. RCPD Update - Greg Steere (3-5 minutes)
3. Downtown Manhattan Update - Gina Snyder (3-5 minutes)

9:45 AM

Amanda Webb, Planning/Special Projects Director

4. Staff update

10:00 AM

Julie Gibbs, Health Department Director

5. Grant

Adjournment

Announcement

A commissioner will be on In Focus live at 9:05 a.m. Tuesday, August 8, 2023 (GM).

Attachment: 08-07-23 tentative agenda (12858 : Tentative Agenda)

In order to comply with provisions of the Americans with Disabilities Act (ADA), Riley County will make reasonable efforts to accommodate the needs of persons with disabilities. Please contact the Division of Human Resources at (785) 537-6303 (voice and TTY) for assistance.



**COUNTY
COUNSELOR/ADMINISTRATIVE
SERVICES**
Staff Update

Clancy Holeman
Counselor/Director of
Administrative Services
115 North 4th Street
Manhattan, KS 66502
Phone: 785-565-6844

STAFF REPORT

FROM: Clancy Holeman, Riley County Counselor

MEETING: July 31, 2023

SUBJECT: Pending County Projects County Counselor

PRESENTER: Clancy Holeman

Enclosures:

- FINAL Commission List 07.31.2023 (DOCX)

PENDING COUNTY PROJECTS ▪ February, 2023 and through July 26, 2023 Submitted by Clancy Holeman, Riley County Counselor

NOTE: The below lists are not intended to be a comprehensive list of all “pending” Commission or other County Department projects underway. Instead, the below lists represent an ongoing “snapshot” of the current status of selected pending projects which have either consumed significant staff time or involve county issues of widespread significance. Additional entries show selected project work for individual county departments. The sequence of entries below is not intended to reflect the priority assigned to any work described. All entries more than 6 months old have been removed (with the exception of some entries when historical information may be useful). *Bold type entries are the most recent.*

COMMISSION LIST

I. Projects By Category:

American Rescue Plan: Discussion with staff about possibly engaging consultant to assist County with federal/state requirements in future use of County’s \$14M allocation of ARPA funds. Similar concept to staff’s use of consultant with prior CARES funding. Unlike CARES funding, a primary focus of ARPA funding is infrastructure. (8-31-21)

Board of Riley County Commissioners: Attend and participate in BOCC public meetings. (2-2-23;2-6-23) Forward KORA request to this department’s staff for response. (2-6-23) Work on reimbursement agreements for small cities. (2-7-23) Review and route incoming litigation documents to relevant parties, including our insurer and insurer-provided counsel. Prepare CAR and discuss with Budget and Planning Committee, for approval of form of small cities’ sales tax reimbursement agreement. (2-8-23) Review and approve as to form upcoming resolution for G.O. bond issuance on Public Works road project. (2-21-23) Work on hiring process for Deputy Position at retirement of incumbent scheduled for 9-30-23. (2-16-23;2-21-23; 2-22-23) Prepare for BOCC public meeting scheduled for 2-23-23. (2-21-23;2-22-23) Attend and participate in BOCC public meetings of February 23rd, February 27th, March 2nd, March 6th, 2023, March 9, 2023. Legal research on issues related to upcoming scheduled Township Officer Meeting. (2-23-23;2-24-23;2-27-23;2-28-23) Mail to counsel for respective small cities sales tax loss reimbursement agreements. (3-3-23) Prepare for annual township officers meeting scheduled for 3-8-23. (3-7-23) Return call from member of Tatarax Homeowners Association regarding Lot 70. (3-7-23) Schedule executive session for March 9, 2023 meeting. (3-7-23) Attend and participate in annual Township Officers’ meeting. (3-8-23) Conversation with after phone call from City of Ogden. Discuss timeframe for return of the agreement to Riley County. (3-13-23) Work on environmental issue. (3-13-23;3-14-23) Voicemail left with bond counsel on short term financing question different project. (3-14-23) Work to schedule 2 agenda items for Thursday, March 16th public meeting. (3-14-23). Assist Departments and counsel with pending litigation claim. (3-14-23; 3-15-23) Exchange of information on pending litigation with outside counsel. (3-16-23;3-17-23) Staffing with multiple county office representatives on real property ownership issue.(3-17-23) Meeting with township official as result of Township Officers Meeting Contract discussion.(3-17-23) Prepare for BOCC public meeting scheduled 3-20-23 (3-19-23) Attend and participate in BOCC public meetings 3-16-23; 3-20-23) At request of county staff deponent in pending litigation matter, arrange to attend deposition preparation meeting. (3-22-23) At request of architect, review and approve as to form draft construction agreement for North County ambulance station in Leonardville. (3-22-23) Work on defense of appeal to District Court by Prairiewood Holdings, LLC. (3-26-23) Attend and participate in BOCC regular public meeting. (3-23-23; 3-27-23) Sit in on deposition preparation of county witness, at request of county witness, conducted by county’s insurance-provided outside counsel on pending litigation. (3-27-23) Communication from insurance-provided outside counsel on different pending litigation. (3-28-23) Discuss with Deputy Counselor last week’s City/County/County meeting. (3-28-23) Attend and participate in BOCC evening public meeting at City of Riley. (3-30-23) Work

on hiring of Deputy Counselor to fill vacancy to be created by Fall retirement of incumbent. Discuss with HR staff. (3-30-23; 3-31-23) Prepare for 4-3-23 public meeting (4-2-23) Attend and participate in BOCC public meeting of 4-3-23. Attend and participate in BOCC public meetings. (4-6-23; 4-10-23) Review matter before Planning Board. (4-10-23) Draft CAR and Place “Interlocal Service Agreement” signed by City of Leonardville on BOCC agenda for signature during 4-13-23 public meeting (small city reimbursement agreement for sunset of county “road and bridge” sales tax 12-31-22). (4-11-23) Legal research on animal control services and RCPD. Memo prepared. (4-9-23; 4-10-23; 4-11-23; 4-12-23) Attend and participate in BOCC public meetings (4-13-23; 4-17-23) Attend Law Board Meeting discussion of Animal Control and RCPD. (4-17-23) Draft and file Local Disaster Emergency Declaration as requested by Department and authorized by Chairwoman of BOCC. (4-18-23)) Attend and participate in City/County/County meeting on animal control and RCPD. (4-20-23) Discuss with Treasurer upcoming scheduled Teams meeting with representatives of City of Ogden on proposed “Interlocal Services Agreement” (Small Cities Sales Tax Reimbursement Agreement). (4-26-23) Attend and participate in previously described “Teams” meeting discussion with representatives of City of Ogden and County Treasurer. Plan by Ogden representatives is to present agreement to Ogden City Council for review and possible signature during its public meeting next week. (4-26-23) Discuss with Cindy Kabriel and soil conservation contact addition of locations to agenda of upcoming ‘field trip’ by BOCC on May 4, 2023. (4-26-23; 4-27-23) Prepare for public hearing on special use authorization on BOCC agenda 5-1-23. (4-30-23) Attend and participate in 5-1-23 BOCC public meeting. (5-1-23) Return 5-2-23 call from citizen requesting a “fence view.” Leave voicemail. (5-3-23) Discuss with citizen their return call requesting a “fence view.” I’ll send packet for citizen to complete and return, cautioning this matter may not be subject to fence view process. Citizen says they understand that is a possibility. (5-3-23) Attend and participate in BOCC public meeting. (5-4-23) New request for fence view. Advise packet will be mailed to them. (5-4-23) Prepare for BOCC public meeting of 5-8-23. (5-6-23; 5-7-23) Attend and participate in regular BOCC public meeting. (5-18-23; 5-22-23; 6-1-23) Work on county budget preparation information. (5-18-23; 5-19-23) Review information from a department on township legal issue. (5-21-23) Work on scheduling future executive session. (5-22-23) Preparation for presentation to BOCC during its June 1, 2023 meeting of City of Ogden “Interlocal Service Agreement”—fourth of those agreements presented to our 4 “small cities”. Prepare correspondence to City of Ogden attorney. (5-30-23) Attend and participate in BOCC meetings. (6-1-23; 6-5-23) Mail City of Ogden attorney fully executed originals of “Interlocal Service Agreement—sales tax reimbursement. (6-5-23) Review request for letter of support from BOCC. (6-6-23) Work on county budget preparation information. (6-6-23) Work on fence view scheduling and notice. (6-5-23; 6-6-23-6-7-23) Prepare requested letters of support for telecommunications providers’ applications for state of Kansas LINC grant program. (6-9-23). Email completed letter of support to contact for one provider, as requested by Cox Communications. (6-12-23) Work on 2 fence view applications. Attend and participate in BOCC public meetings. (6-8-23; 6-12-23) Conversation with opposing counsel on pending litigation in Riley County District Court. (6-14-23) Provide TVT BOCC-signed letter of support. (6-14-23) Work on scheduling fence views. Notices out to applicants and adjoining landowners served by the fence. (6-15-23) Teams meeting with Bond Counsel and Craig, Shelley and Rich about route for financing two pending county projects. I review and approve authorizing resolution and send it on to Bond Counsel for review. (6-21-23) Attend and participate in BOCC meetings. (6-22-23; 6-26-23; 6-29-23) Attend delinquent tax sale. (6-23-23) Work on scheduling of fence view. (6-22-23; 6-23-23; 6-26-23; 6-27-23) **Work on and provide letter of support from BOCC for City of Ogden grant application federal program. (6-28-23; 6-29-23; 7-1-23) Work on District Court appeal by Prairiewood of BOCC approval of preliminary and final development plans for Liquid Art Winery. (6-29-23; 7-1-23) Work on county budget analysis for BOCC. (7-2-23; 7-3-23; 7-4-23) Prepare for BOCC public meeting of July 6, 2023. (7-5-23) Communicate with counsel for fence view applicant Hopkins. Request property access address detail. (7-5-23) Attend and participate in BOCC meetings. (7-6-23; 7-10-23) Register for upcoming KAC zoom on LAVTR. (7-11-23) Work on fence view scheduled for 7-13-23. (7-11-23) Work on scheduling of different upcoming fence view for end of July, 2023. (7-7-23; 7-8-23; 7-9-23; 7-11-23) Work on Bala Township “county property” issue. (7-10-23; 7-11-23) Work on fence view scheduled for 7-13-23. (7-10-23; 7-12-23) Legal analysis of appropriation question involving outside agency. (7-12-23) Attend and participate in BOCC meetings. (7-13-23; 7-17-23) Attend**

and participate in Hopkins/Pralle fence views. (7-13-23) Final additional notices of Nelson fence view to occur July 24, 2023 prepared and mailed to both parties. (7-14-23) Prepare for 7-24-23 BOCC meeting. Attend and participate in BOCC meetings. (7-20-23;7-24-23) Attend and participate in Nelson and Rhoton fence view. (7-24-23)

“Constitutional Protection of County Home Rule”:

County Counselors Association of Kansas:

County Jail Inmate Medical Care: Schedule staff discussion of contract development. (5-21-23)

Countywide Emergency Radio Communications System Upgrade: The upgrade is complete. But now the “program” phase has been completed, additional work from this department will be provided, as necessary, during the “maintenance” and “warranty” periods now underway. Discussion with contract administrator for vendor (L3Harris) scheduled for August 27, 2021. Discussion held with vendor contract administrator. Discussion with EM Director (8-30-21). Working toward final documents of “program” phase. Conversation with EM Director. (9-24-21) Conversation with L3Harris contract administrator, moving this matter toward likely resolution by the BOCC on 9-30-21. (9-24-21) Review appropriately continues among EM, KSU and Emergency Dispatch personnel regarding close out of this phase of the project. (9-24-21) Draw Commission Agenda Report and place on 9-30-21 agenda for BOCC review and approval of contract documents. (9-28-21) Discuss final contract documents for agenda separately with EM Director and L3Harris Contract Administrator. (9-29-21) Obtain BOCC approval of Amendment 1 to Master Service Agreement. (9-30-21)

“Dark Store”:

District Court: Discuss potential creation of “resolution docket” to reduce or eliminate COVID-caused backlog of identified criminal cases. (4-27-23; 4-28-23)

Federal Rules on Vaccination Mandate:

First Christian Church: Now this property is “listed” as a “historic site,” there are state law restrictions applicable whenever a “project” is undertaken involving potential repair, damage or destruction of the site or its structure. Discuss text of journal entry proposed by counsel for Respondents. (12-9-22; 12-11-22) Request transcript of Court’s ruling. Arrange for generation of check based on invoice from court reporter. (12-20-22) Work on pending appeal by neighboring property owner. (12-27-22; 12-28-22; 12-29-22) Review transcript and notify opposing counsel I will provide revised version of her proposed journal entry—in order to conform the journal entry to the text of the transcript. (1-4-23) Provide opposing counsel proposed revised journal entry. (1-29-23) Following exchange of respective journal entries in February, 2023, counsel review proposed changes and agree on final version for filing with court. (2-28-23; 3-3-23; 3-5-23) Prepare notice of appeal, following legal research. (4-3-23; 4-4-23; 4-5-23) File Notice of Appeal in District Court. (4-5-23) Finalize notice of appeal, given appointment of Lyon County District Judge at outset of appeal. Discuss with staff of Lyon County District Court Judge and with Riley County District Court Clerk staff member. Provide copy of notice of appeal to Lyon County District Court Judge who was assigned and heard appeal. (4-6-23) Work on appeal. (5-24-23; 5-30-23; 5-31-23; 6-1-23) Legal research on appeal. (6-2-23; 6-5-23) Work on appeal. (6-13-23; 6-14-23; 6-15-23.) *Work with opposing counsel on Court of Appeals request for additional document from me. We are in agreement its equivalent is already part of the Record on Appeal. I will file response with Court of Appeals stating that fact. (7-17-23; 7-19-23) Communication with opposing counsel on immediately preceding issue. (7-21-23; 7-22-23; 7-24-23-7-25-23) Work on immediately preceding response and file with Court of Appeals. (7-21-23; 7-22-23; 7-23-23; 7-24-23; 7-25-23)*

Indigent Legal Services: Attorney contracts for 2022 were created and emailed to current attorneys under

Attachment: FINAL Commission List 07.31.2023 (13622 : Clancy's Commission List)

contract. (11-3-21) Notice to Riley County Bar Association of at least one attorney vacancy effective January 1, 2022. (11-4-21) Proposed 2022 contracts have been provided to all current lawyers under contracts. None returned as of 11-23-21. No indigent legal service contracts are in place for calendar year 2022. Work on various issues related to this service. (2-10-23; 2-13-23; 2-14-23; 2-15-23; 2-16-23; 2-19-23; 2-20-23; 2-21-23; 2-22-23; 2-24-23; 2-26-23; 2-27-23; 2-28-23; 3-1-23; 3-2-23; 3-3-23; 3-4-23; 3-6-23; 3-7-23; 3-8-23) Work on various issues related to this service. (3-19-23) Work at staff level on compensation for this service. (3-28-23) schedule next staff level discussion of compensation for this service. Discuss with Deputy Counselor compensation for this service. (3-29-23) Work on project. (6-1-23) Work on project. (6-8-23) Draw up final version of CAR; RFP; and Contract. (6-19-23; 6-20-23) Obtain BOCC approval of form RFP and Contract. (6-22-23) Finalize RFP and contract and distribute to local Bar Association membership with encouragement to apply well before August 4, 2023 deadline for proposals because they will be considered as they are submitted. (6-29-23; 6-30-23) **Create documents for publication in newspaper and placement on county website for this service. (7-7-23; 7-10-23; 7-11-23; 7-12-23) Deadline for proposals to arrive in Clerk's office 5 p.m. August 4.**

Legislation: Invitations out to state delegation for December 12, 2022 legislative conference, along with copy of agenda. (12-1-22) Reminders out to legislative delegation of 12-12-22 legislative conference. (12-8-22) Preparation for legislative conference. (12-11-22) Attend and participate in legislative conference. (12-12-22) Discuss legislative issue with County Appraiser. Review information and advise. (12-27-22) Discuss with 2 other county's county counselors possibility of linking up both our respective legislative delegations and lobbyists for cooperative action on potential "nuisance abatement" statute during 2023 legislative session. (12-29-22) Discuss with County Clerk and legislative delegation member the RNR statute. (1-3-23) Drive to Topeka and pick up lobbyist badge for 2023 state legislative session. (1-3-23) Week of January 23, 2023: Work on "vacant lot" house bill (HB 2083) and discuss with our legislative delegation; Work on RNR statute modification bill (HB 2002) and provide BOCC written testimony in support. Review legislative issues identified by contract lobbyist. (1-27-23.) Work on Nuisance Abatement legislation proposal on Riley County platform. (1-25-23; 1-26-23; 1-27-23) Work on SB 90 and HB 2148—Treasurers' Association auto tag fee bill. (1-26-23; 1-27-23) Review proposed schedule for temporary financing of High Plains Road project. (1-28-23) Review testimony from County Clerk's association on HB & HB involving election matters. (2-6-23) Work on SB 162 (nuisance abatement) (2-9-23; 2-10-23) Complete testimony in support and deliver required 75 paper copies to lobbyist for routing to Senate Local Government committee secretary. (2-10-23) Provide Riley County state legislative delegation, contract lobbyist, and KAC Riley County's testimony in support of SB 162. (2-10-23) Route to Rep. Mike Dodson County Appraiser's input on: HB2232 (Appraiser Qualifications); HB 2319 (tax exemption on business property in competition with property owned or operated by government); HB 2201 (requiring 5 years valuations listed on CVNs); HB 2200 (exemption on homestead, retired, military); HB 2220 (5yr property tax exemption on startups); HB 2231 (tax exemptions for daycare); HB2056, HB 2057, HB 2237 (no position from appraisers' association or Appraiser). Provide BOCC testimony and our SB 162 to another county at that other county's request—they are struggling with a number of "nuisance" real properties. (2-10-23) Work on SB 1623 and prepare for upcoming legislative hearing. (2-13-23) Attend and participate in legislative hearing on SB 162 before Senate Local Government Committee. (2-14-23) Zoom with Treasurer and County Clerk on SB 248. (3-1-23) Work on SB 248 & 252 analysis for relay to KAC and legislative delegation. (3-2-23; 3-3-23; 3-7-23; 3-8-23) Work on analyzing SB 228 (amendment of multiple statutory provisions on jail administration) in response to legislative delegation member's question; after requesting and receiving impact opinion from RCPD on any change county might support for reimbursement of jail inmate medical costs. Communicate with legislator. (3-8-23; 3-13-23; 3-14-23) Communicate with contract lobbyist to work on scheduling "virtual" follow up legislative conference with delegation. Work with Cindy K. (3-15-23). Analyze and prepare for discussion of potential litigation in upcoming executive session. (3-15-23) Discuss legislative matter with member of delegation. (3-15-23) Communicate with legislative delegation to schedule virtual follow up legislative conference either April 10, 2023, or April 17, 2023. (3-16-23) Communicate with contract lobbyists. (3-17-23) Communicate with responding delegation members about their preferred dates. (3-18-23; 3-19-23) Review communication from

delegation member on pending bills. (3-19-23) Communicate with County Appraiser on proposed SCR freezing real property tax values at no more than 3% increase annually. (3-19-23) Work with PIO and County Appraiser on public statement regarding legislative item. (3-20-23; 3-21-23) Respond to staff communication on apparent status of SB 248 (exemption for “food” in existing and future local sales taxes) and HB 2002 (RNR notice costs paid by the state). (3-22-23) Work at county staff level on SB 248; SB 252. (3-1-23; 3-2-23; 3-3-23) Prepare for discussion with BOCC I’ll suggest at tonight’s public meeting in City of Riley. (3-30-2023) SB 323—requiring election of all county appraisers statewide. (3-30-23) Work on H Sub SB 42. Discuss with contract lobbyist. (4-2-23; 4-3-23) Work with PIO and County Appraiser on possible press release regarding SCR 1610. (3-21-23; 3-22-23) Prepare for March 27, 2023 Intergovernmental Luncheon and legislative update to present. (3-26-23) Attend and participate in Intergovernmental Luncheon—statutory update. (3-27-23) Work with PIO and County Appraiser on possible press release regarding SCR 1610. (3-27-23) Email delegation invitation to virtual follow up legislative conference scheduled for April 10, 2023, 10:30-11:30 a.m. (4-3-23) Review amended HB 2002—eliminating that portion of existing locally voter approved sales taxes generated by food sales; SCR 1611—4% ceiling on annual property valuations. (4-6-23) Draft agenda for 4-10-23 virtual legislative conference. Invitations out to contract lobbyist and KAC lobbyist. (4-7-23) Discussion with county’s contract lobbyist on status of various legislative items following legislature’s 4:30 a.m. adjournment Friday morning. (4-7-23) Draft agenda for virtual legislative conference. (4-7-23) Assist BOCC with conducting virtual legislative conference. (4-10-23) Review portions of 127-page Conference Committee Report on SB 8 “competition” and a host of other legislative issues. (4-27-23)

Leonardville North County EMS Station: Follow up call to City of Leonardville attorney. (4-11-23) Set up phone appointment with City of Leonardville Attorney—to discuss having city begin process of opening the easement as an alley for access to the site. (5-3-23) Phone discussion with City of Leonardville attorney and arrange for teams meeting next Tuesday (5-9-23) with him, Craig and me to discuss details of City legally “opening” alley to site of ambulance and performing tree trimming along that alley. (5-3-23)

National Opioid Litigation Settlement: Notice of Deadline to “opt in” to latest round of national opioid class action litigation settlements is April 18, 2023. (3-27-23) Prepare and submit CAR for BOCC 4-10-23 public meeting; with my recommendation to BOCC regarding “opt in” to latest round of national opioid class action litigation settlements—5 new defendants settling. Discuss with Assistant Attorney General managing this matter state-wide. (4-6-23) Submit electronically our “opt in” to latest round of national opioid class action settlements, as previously authorized by BOCC. Confirmation from settlement administrator that “opt in” accomplished. (4-14-23)

NG-911 Committee (Road naming): Attend and participate in committee meeting. (2-14-23)

Proposed Construction of EMS/EM/RCFD Emergency Services Headquarters: Schedule work session for discussion of design issue related to facility. (1-27-23)

Riley County Annual Legislative Conference: Discussion with County Register of Deeds to schedule meeting week of December 5th to review documentation of long-term revenue loss to Riley County caused by legislature’s past elimination of the mortgage registration fee. (12-1-22) Work preparing for 12-12-22 legislative conference. (12-8-22; 12-11-22) Discuss legislative conference information with County Appraiser. (12-8-22) Discuss legislative conference information in meeting with County Register of Deeds. (12-9-22)

Riley County District Court: Discussion regarding BOCC consideration of funding potential “resolution docket” to assist with case backlog. (4-27-23)

Rural Economic Development Advisory Board:

Staff Budget and Planning Committee:

White Canyon Benefit District: White Canyon benefit district's residents' request, made during this date's public commission meeting, asking whether Riley County willing to supplement the cost of the benefit district's proposed private road improvement project. No dollar figure provided by benefit district residents. County staff instructed to provide BOCC at upcoming meeting most recent Riley County Public Works' "estimate" of "northern route" as an option to current benefit district project proposed. (8-30-21)

II. Projects by Department:

Administrative Services/County Counselor: Work on matters related to departmental transition. (1-25-2023; 1-26-2023; 1-27-2023) Interviews of applicants for Deputy County Counselor position in transition scheduled to take place 9-29-23.-23. (3-2-23; 3-3-23)

Riley County Appraiser's Office: Assist with legal issue. (12-1-22) Discuss with County Appraiser separate legal issue. (12-2-22) Assist Department Head with legal issue and prepare for executive session on same. (12-1-22; 12-7-22) Discuss legislative conference matter with Department Head. (12-7-22) Department Head notifies of property taxpayer verbally abusive to staff. Advisee. (12-13-22) Discuss legislative issue with Department Head. (12-28-22) Discuss real property issue with Department Head and setting up staff meeting to discuss further. (12-29-22) Discuss KORA issue with Department Head and advise. (1-3-23) Review info from County Appraiser on upcoming property tax appeal. Provide additional background information to Appraiser. (1-28-23) Advise on exemption matters. (2-8-23) Meet with County Appraiser on exemption issue. (3-6-23) Meet with County Appraiser and taxpayer representatives on same exemption issue. (3-7-23) Discuss with different taxpayer representative different exemption issue. 3-7-23) Review different pending exemption request material, at request of Department Head. (3-13-23) Advise Department Head on assessment issues. (3-20-23) Discussion with Department Head of legal issue. (4-27-23) Discuss separate exemption through bond issue. (5-3-23) Analyze IRB issue and advise Department Head. (5-5-23) Advise on legal question. (5-19-23) Assist Dept. Head with legal issue. (5-30-23) Advise on separate legal issue different from immediately preceding first two issues. (5-30-23) Discussion with Department Head. (6-13-23) Return call from Department Head. Discussion with Department Head of legal issue. (6-14-23) Meeting with County Appraisal and legal staff on nuisance property issue. (6-14-23) Communicate with Department Head on legal issue. (6-20-23) ***Assist and advise Dept. Head on BOTA issue. (7-18-23;7-19-23) Advise Department Head on BOTA issue. (7-20-23)***

Riley County Attorney: Work on contract for services. (2-22-23) Work on immediately preceding contract with Department Head. (2-27-23;2-28-23;3-1-23;3-2-23) Respond to Department head update on pending discussion to schedule with counsel on our BOTA cases. (4-7-23) Discuss with Department Head legislative issue. (4-7-23)

Riley County Clerk: Review form of license application and its requirements at request of Clerk's staff. (12-7-22) Review revised license application provided today by Clerk's Office staff. Approve "as to form." (12-8-22) Review and respond to bond counsel question on term sheet for short term financing. (2-6-23) Advise on release of information issue. (4-19-23) Advise and assist departmental staff on release of information issue raised by state agency. (4-21-23) Assist with KORA issue. (5-3-23) Assist with same KORA issue through communication with outside requester; communication with I.T. based on prior provision of similar information requested in 2021. (5-4-23) Work on request for electronic data. (5-22-23; 5-23-23; 5-26-23) Discuss contract issue. (6-2-23) Discuss contract issue. (6-13-23; 6-14-23) Work on same contract issue. (6-14-23) Teams meeting with Clerk and Election Supervisor on contract issue. (6-15-23) Confirm with County Clerk and Election Supervisor vendor has agreed to contractual provisions attachment; advise to place on BOCC agenda of public meeting on 6-22-23. (6-19-23) Work on separate proposed contract. Schedule Teams Meeting with Department Head and Election Supervisor for 6-21-23. (6-20-23) Teams meeting with

Department Head and Election Supervisor on contract issue. Discuss. (6-21-23) **Work with staff and advise on open records act issue. (7-24-23;7-25-23;7-26-23)**

Riley County Community Corrections:

Riley County Emergency Management: Contacted by EM regarding a 911 service issue. Discuss with EM Director. I called resident and left message with adult in home. (12-1-22) Return 12-5-22 call from resident. I describe to resident options as I understand and staff (EM and 911) work to this point and 911's referral of issue to state's 911 coordinating council—in hopes they can obtain solution for resident from A T & T landline provider (resident reports no cell service available his location). Encourage resident to try a number available to reach 911 as short-term solution while 911's involvement with state coordinating council. Encourage resident to call me with result of his use of that landline number to reach 911. Make arrangements to speak with resident by end of this week with any results of my conversations with 911. Talk with 911 and Tyler brings me up to speed on where this is with 911 coordinating council. (12-6-22) Call back resident and inform Tyler of 911 has been told should hear back “soon” from 911 coordinating council. I relay that information by phone to resident. He verifies his test of direct line call to 911 did work today. Understands that is an interim solution while coordinating council effort plays out. Encouraged him to call me back and check on progress of state coordinating council effort, within next 2 weeks, or whenever he wants to do so. (12-6-22) Contacted by PIO for information. Provide. Review info. (12-6-22) Follow up from 911 and PIO on interim solution is working based on test by resident. (12-7-22) Meet with Department Head on proposed EM personnel policies and Standard Operating Guidelines. (12-9-22) New information provided by Department Head on foregoing resident's report of continued issue with 911 contact, based on info he received from his land line provider. (1-4-23) Department Head inquires about process for development of SOGs. Consult with HR who advises Department Head. (1-4-23) Request for contract assistance. (1-30-23) Information provided on scheduling training opportunity on FLSA. (1-30-23) Information provided on CPE building security. (1-30-23) Discuss litigation matter with Department Head. (2-8-23) Discuss pending legal matter with Department Head. (4-5-23) Prepare Declaration of Local Disaster Emergency; Obtain signatures of Vice-Chairman & County Clerk; File with County Clerk; Deliver to Baldwin Fisher for transmittal to KDEM. (3-20-23) Discussion with Department Head and confirm he wants existing Declaration of Local Disaster Emergency to expire by its terms this Monday, March 27, 2023 at 12:01 a.m. (3-22-23) Advise BOCC during public meeting of March 26, 2023 of immediately foregoing decision on Declaration of Local Disaster Emergency. (3-26-23)

Riley County Emergency Medical Services: City Commission has asked counsel for both entities to develop a document allowing County use and potential improvements to alley providing access to lot purchased by County for North County ambulance station. I send email to counsel for City of Leonardville advising of this and inviting him to call me to discuss. (12-7-22) City Attorney responds and confirms parties understand what's necessary. Consultation with Craig. (12-8-22) Discuss with Department Head arrangement for site visit on 12-21-22. (12-20-22) Site visit with Department Head and Deputy County Counselor to be rescheduled. (12-21-22) Work on North County ambulance station design project. Discuss with Department Head. (1-29-23) Respond to communication from outside counsel on pending matter. (3-19-23) Prepare for teams meeting tomorrow morning on opening of alley easement for estimated September, 2023 completion of Leonardville North County Ambulance station. (5-8-23)

Riley County Extension: Work on annual authorization for controlled beer sales during rodeo at county fair. (5-31-23) **Work with Director on parking issue at fair site. Contact USD 383. (7-20-23; 7-21-23)**

Riley County Fire District No. 1: Schedule conversation with Department Head for 4-21-23 on Ashland Bottoms and University Park fire station projects—recently rejected bids—next steps. (4-17-23) Attend staff meeting on open burning issues with: Riley County Attorney; RCPD; Fire District Chief. (4-19-23) Meeting with Fire Chief on issues related to construction of two fire stations. (4-21-23) Review material on land swap proposed between Fire District and University Park, for construction of new fire station. (4-27-23) Leave

Attachment: FINAL Commission List 07.31.2023 (13622 : Clancy's Commission List)

message for Department Head in response to call earlier today. (4-27-23) Discussion with Department Head regarding University Park's agreement to contract terms for land swap as relayed previously by Department Head to University Park Advisory Board members. (4-27-23)

Riley County GIS: Assist with provision of "shapefile" requested by company. Communicate with company representative and GIS staff. (6-5-23; 6-6-23)

Riley County Health Department: Work with department staff member on question about insurance coverage for staff. I ask County's insurance broker for information. (12-12-22) Follow up on question I previously asked county's insurance provider December 12. (12-28-22) Discussion with insurance agent on insurance coverage from a department's staff. Recontact staff member and advise agent will be contacting them for more detail—encourage staff member to check back with me next week if necessary. (12-28-22) Advise Department Head on issue involving small city. (6-19-23)

Riley County Historical Museum:

Riley County Human Resources: (1-4-23) Discuss with HR Manager and advise on personnel issue. (2-6-23) Assist with contract matter involving a different department. (2-21-23) Review contract and approve as to form. (3-18-23) Schedule discussion on two HR issues. (3-22-23) Discuss with HR Manager solicitation on county property by local business. (3-29-23) Communication from outside counsel on pending discovery matter in litigation. Communicate with HR manager and outside counsel. (4-5-23) Work with HR and Department Head on personnel matter. (4-5-23) Respond to inquiry from staff working group on building environmental concern. Meet with staff working group. (4-7-23) Communicate with HR and Department Head regarding inquiry on a court interpretation of FMLA issue. (4-7-23) Discussion with staff working group on environmental issue. (4-11-23) Communicate with Department and schedule meeting on FMLA issue. (4-14-23; 4-17-23) Assist HR with personnel matter. (4-19-23) Assist HR with two personnel matters. (4-20-23) Discussion with HR on personnel matter. (4-25-23) Assist HR staff with contractual issue. (4-25-23) Assist HR with benefits issue for a department's workforce. (4-25-23) Review and analyze different contractual issue. (4-25-23) Assist HR with discussion of new personnel issue. (4-26-23) Work on contract issue for HR and advise. (4-27-23) Work on personnel issue with HR and a Department. (4-28-23) Advise personnel issue involving unemployment insurance. (5-3-23) Work with HR and Department Head on personnel issue. (5-4-23) Discuss with staff "COVID" working group (Ambulance; RCHD; HR; Clerk) end of the public health emergency and benefits question raised. ((5-4-23) Communicate with HR and Department Head on personnel issue. (5-4-23) Discussion with Deputy County Counselor Woodard regarding legal issues surrounding immediately preceding legal issue. (5-4-23) Work on immediately preceding issue. Communicate with HR and Department Head. Schedule meeting with HR and Department for 5-5-23 (5-4-23) Meet with HR and assist with unrelated personnel issue. (5-4-23) Meet with Department Head and Deputy Counselor Woodard on issue scheduled on 5-4-23. (5-5-23) Teams meeting with HR and department leadership on personnel issue. Follow up with HR on same personnel issue. (5-8-23) Conversation with HR on different personnel issue. (5-8-23) Discuss personnel issue with HR Director. (5-19-23) Work on personnel issue. (5-22-23) Communicate with HR on pending litigation matter. (5-22-23) Assist HR with personnel issue. (5-31-23) Assist HR with personnel issues. (6-6-23) Assist HR with contractual issue. (6-7-23) Assist HR and county department with personnel issue. (6-12-23) Exchange communications with HR and department about personnel issue discussion rescheduling. (6-16-23) Communication from Dept. on personnel issue. Analyze. (6-15-23) Work on legal issue for Department. (6-25-23) Assist Department with legal issue. (6-26-23) **Assist Director and a Department Head with HR matter. (7-11-23; 7-12-23) Discuss 3 different personnel law issues with Director. (7-18-23) Advise Department on 2 unrelated personnel law issues. (7-21-23)**

Riley County Information Technology/GIS: Participate in staff working group discussion of network security improvement. (12-19-22) Follow up on "shapefile" request from company. (6-5-23)

Riley County Museum: Advise Director on question raised on behalf of Historical Society. (5-3-23)

Riley County Noxious Weeds/Hazardous Household Waste: Discuss with department head upcoming potential property leases of county ground. (5-3-23) Request Department Head provide copy of deed on one of leased properties—to review restrictions on all the leased properties. (5-4-23) Schedule discussion with Department Head on real property issue. (5-22-23)

Riley County Planning & Development: Discuss issue with after phone call from County Sanitarian. (12-5-22) Discuss immediately preceding issue with Department Head (12-6-22) Phone conference with Department Head and County Sanitarian on previous issue. Possible solution reached based on input from Department Head and Sanitarian. County Sanitarian will speak with property owner. (12-7-22) Review new form proposed by P & D staff for land use regulations. Route issue to Craig for his review. (12-8-22) Discuss benefit district issue with Department Head and Deputy County Counselor. (12-20-22) Review information on preceding provided by Department Head. Further discussion on same issue. (12-20-22) Attend pretrial in District Court on Prairiewood appeal. (2-6-23) Approve draft pretrial order presented by opposing counsel; advise county staff witnesses of revised trial date. (2-7-23) Meeting with staff member to prepare for Prairiewood appeal. (2-28-23) Participate in zoom meeting with staff regarding upcoming Keats public meeting scheduled for 3-9-23, 7 p.m. (2-23-23) Analyze potential Memorandum of Understanding. (3-15-23) Discuss with Department Head benefit district question. (3-15-23) Work on Prairiewood District Court Appeal. (3-17-23) Communicate with Department Head and Craig about meeting next week to discuss issue relating to transition of EHS. (3-18-23) Discuss with Planning and Development Director possible contract for assistance with soil testing, given current lack of EHS. Meet with Director and Deputy Counselor on this subject in conference room, later same day. (3-22-23) Discuss potential contract development for soil inspections with temporary EHS assistance. Work toward potential contract (3-28-23) Work toward same potential contract. Discuss with Department Head. (3-29-23) Work on appellate argument in Prairiewood appeal to District Court. (3-29-23) Work on appellate argument in Prairiewood appeal to District Court. (3-30-23; 3-31-23) File appellate brief in Prairiewood appeal to District Court. (3-31-23) Advise Department Head on contract matter. (4-6-23) Discuss with Department Head contract matter. Draft contract for EHS assistance and provide to Department Head (4-10-23) Communicate with Department Head on their proposed revisions to EHS draft contract. Work on those revisions/additions. Complete revision/additions and forward to Department Head for review. (4-11-23) Answer staff question about planning board hearing. (4-11-23) Conversation with Department Head on pending contract issue. (4-25-23) Conversation with Department Head on pending public hearing matter. (4-25-23) Meet with GIS on upcoming public hearing on land use issue. (4-25-23) Assist department staff by updating them and Department head on results of immediately preceding meeting with GIS. (4-25-23) Discuss with insurance agent coverage issue related to above contract for EHS assistance. (4-27-23) Discuss with Department Head movement of Prairiewood appeal to later hearing date. (4-30-23) Prepare for District Court hearing on Prairiewood; discussion with county witness. Relay information obtained to Planning & Development. (5-3-23) Assist Dept. Head with road renumbering issue. (5-30-23) Draw up agreed order withdrawing my motion finding requests for admission provided appellant are admitted. File approved order electronically. (6-5-23; 6-6-23) Schedule meeting with Department Head and staff on nuisance property. (6-9-23) Work on benefit district project and its authorization. (6-12-23; 6-13-23) Communicate with staff on nuisance property. (6-14-23) *Work on county's Prairiewood appeal to District Court. (7-25-23; 7-26-23)*

Riley County Public Information Officer: Work with PIO scheduling my review of 2 proposed policies. (4-5-23) Respond to PIO question to staff working group about possible informational program for county employees. (5-8-23) Further communication with PIO and working group about same informational program. (5-8-23) *Communication from PIO requesting legal advice. (7-24-23)*

Riley County Public Works: Contacted by PW staff about new owner of county park real property and continued county lease of parking space. Provide my contact information to new owner. (12-6-22) Follow

up with Department Staff about proposed meeting in their conference room this Friday. (12-7-22) Meeting with Head of Department and Assistant County Engineer to prepare for upcoming discussion with transfer station operator. (12-9-22) Learn of potential grant opportunity for road projects. Provide information to Department. (12-11-22) Discuss former with Department staff member. (12-12-22) Meeting with Department Head and Assistant County Engineer to prepare for upcoming discussion with transfer station operator. (12-13-22) Work on immediately preceding item on information from provided by operator. (12-14-22) Work with Department Head on Construction Management at Risk selection process. (12-14-22) Participate in transfer station contract negotiation with Department Head, Assistant County Engineer, Operator and Operator's counsel and principals. (12-16-22) Staff discussion of issue related to preceding negotiation. (12-19-22) Teams meeting with Budget and Finance, Department Head and Assistant County Engineer regarding contract issue. (12-28-22) Continue work toward transfer station operation agreement. (1-29-23) Advise Dept. Head after review of MOU related to bridge project. (1-29-23) Refer to Department Head City of Ogden question about sharing bridge maintenance responsibility. Referred for Department Head response back to me. (2-22-23) Meeting with outside counsel at their request regarding overflow channel maintenance proposal (2-23-23) Work toward meeting to renew transfer station operation agreement. (3-6-23;3-7-23;3-8-23) Work on Public Safety Headquarters Building project. (3-7-23) Provide counsel for transfer station operator County's position on remaining issues for putting agreement in place. Repeat offer of dates/times to zoom or teams meeting on subject for week of 3-13-23. (3-10-23) Counsel for operator advises week of 3-13-23 won't work for operator of transfer station. Proposes following weekdays and times. I commit will check on "county side" of negotiation and get back to counsel for operator. I relay proposed days/times week of 3-20-23 to Director and Assistant County Engineer, along with my availability. (3-13-23) Discuss contract matter question as result of Township Officers' annual meeting. (3-15-23) Work on scheduling next zoom with staff and transfer station operator—contract negotiation. Discussion with staff. (3-17-23) Work on Transfer Station agreement renewal issues. (3-18-23) Zoom negotiation with transfer station operator and department head. Separate conversation with county insurer afterward (3-21-23) Schedule 3-23 conversation with county insurer and department head on transfer station contract negotiation. (3-22-23) Conversation with attorney for transfer station operator about COLA in the proposed agreement and how it should work. (3-22-23) Conversation with City of Ogden Counsel about Cimmaron Bridge inspection and maintenance of overflow channel. (3-22-23) Discuss with our insurer transfer station insurance issue relevant to our negotiation for renewed contract with operator. (3-22-23) Discuss with insurer and Department Head insurance issue relevant to negotiation for renewed contract with operator. (3-26-23) Discussion with Department Head another Department Head and Division leader regarding scheduling of initial discussion at such staff level about environmental status of building. (3-28-23) Discuss with Department staff question on approval of contract for agenda. Confirm already provided to staff working group on contract's project. Relay confirmation. (3-30-23) Work with Department Head on Cimmaron Bridge inspection and City of Ogden's request. Speak with counsel for City of Ogden. (4-4-23) Work with Department Head on short term financing issues related to University Park and Lagoon Project. (4-4-23). Approve "as to form" contract extension with Howie's. (4-3-23) Respond to Craig's concept of potential new grant or loan opportunity for benefit district project. (4-5-23) Review University Park EPA consent order and work with Department Head on its use in possible project funding application. (4-5-23) Discuss contract issue with Department. (4-6-23) Analyze contract matter for Department. (4-6-23) Field question from bond counsel regarding the U.P. lagoon project ordered by EPA. Discuss with Department Head. Department head provides me answer to bond counsel question. (4-7-23) Relay Department Head's answer to bond counsel question about UP lagoon project. (4-9-23) Different project within Department—ongoing contract issue question forwarded by Julie Winter. (4-7-23) Discuss with Department Head and Assistant County Engineer in team meeting potential renewal of transfer station operation agreement. (4-10-23) Relay update to staff member my provision of U.P. lagoon project info to bond counsel. (4-11-23) Discuss scheduling a meeting on contract development issue. (4-17-23) Leave voicemail about scheduling meeting on contract development issue. (4-18-23) Teams meeting with Department Head and contractor on construction project issue. (4-21-23) Call from attorney for transfer station operator. Discuss upcoming potential meeting. (4-27-23) Relay information to Department Head and Assistant County Engineer. (4-27-23) Voicemail left with insurance agency on status of coverage issue on

potential transfer station contract. (4-27-23) Discuss with Assistant County Engineer separate contract issues on Transfer Station and County Complex waste pickup. (4-28-23) Discuss with Department Head and Assistant County Engineer transfer station operation. (5-2-23) Work toward potential agreement on parking lot. (5-3-23) Work toward potential agreement on parking lot. (5-4-23) Discuss potential contract and bid documents on culvert replacement. Advise Assistant County Engineer. (5-5-23) Communicate with Staff on completion of review of contract issue. (5-19-23) Analyze contract issue on separate project at request of Department Head. Discuss with Department Head. (5-19-23) Teams meeting with Department Head on lease issue; and on township issue. (5-23-23) Communicate with landowner. (5-24-23) Continue work on lease issue. (5-24-23; 6-6-23) Work on same lease issue. (6-11-23; 6-12-23) Discuss transfer station operation with Department Head and Assistant County Engineer (6-12-23; 6-13-23; 6-14-23) Work on benefit district project and its authorization (6-12-23; 6-13-23) Discuss transfer station issue with Department Head and Assistant County Engineer. (6-14-23) Communicate with Department Head and Assistant County Engineer about opportunity to Teams Meet with Operator and his counsel 6-23-23. (6-19-23) Send invitations for Teams Meeting to Operator, his counsel, Department Head and Assistant County Engineer. (6-20-23) Work on parking lot lease project. (6-19-23; 6-20-23; 6-21-23; 6-22-23; 6-26-23) ***Work on contract for transfer station. Communicate with Department Head and Assistant County Engineer. (7-1-23) Communication from KDOT on City of Ogden bridge inspection. (7-1-23) Work on contract for transfer station. (7-1-23; 7-2-23; 7-5-23) Review and approve "as to form" term sheets and associated bond counsel documents for financing of two distinct scheduled construction projects. (7-20-23) Work with bond counsel on financing for two distinct scheduled projects. (7-24-23; 7-25-23)***

Riley County Register of Deeds: Discuss legislative conference issue with Department Head. (12-6-22; 12-7-22) Advise on legal issue. (2-12-23) Communicate with Department head on deed issue. (3-17-23) Discuss with Deputy Counselor correction deed prepared for filing. (3-28-23)

Riley County Treasurer: Discuss with Department Head process for Opioid Settlement Fund payments routed from Attorney General's Office. Discuss with Assistant Attorney General supervising such distributions. (12-21-22)

RILEY COUNTY POLICE DEPARTMENT—Administered by Law Enforcement Agency ("Law Board"): Conversation with jail staff about medical care legal obligation regarding former inmate. Advise. Schedule Team Meetings for later this p.m. to discuss with jail staff and Budget and Finance Officer. Meeting held: advise regarding liability/no liability for medical care on specific facts. (3-22-23)

III. Projects by Professional Association, Internal and External Committees/working groups, CLE, & Other Administrative Matters:

Ad Hoc Staff Committees/Work Groups on Multiple Subjects: Staff committee discussion of issue in recent tax sale. Clerk and staff, Treasurer, Appraiser and staff (3-6-23)

Administrative Matters: Work on annual performance reviews. (12-1-22; 12-2-22; 12-3-22; 12-4-22; 12-5-22; 12-6-22; 12-7-22) Work with Clerk staff to reschedule administrative time on upcoming BOCC agenda. (12-7-22) Register for free webinar during lunch hour December 14, 2022; "Practical Law" updates from Westlaw—our computerized legal research provider. (12-7-22) Forward to Office Manager Clerk's Office info on end-of-year vendor payments by check. (12-8-22) Discuss with Craig any updates to contact info. (12-13-22) Advise staff I'll be into office after attending 8:30 a.m. meeting at Public Works. (12-13-22) Discuss with Craig teams meeting later this a.m. with Department Heads of Appraiser's office and Planning and Development. (12-13-22) Review and Approve A/P and Accounts Payable documents. (1-30-23) Advise on chairs mistakenly moved out of CPE by CASA. (2-6-23) Work on arranging for office space for any attorney hired for vacancy of incumbent Deputy. Work on temporary location of conference room table for same purpose. Work with IT on technology need in space for same purpose. (3-15-23) Review and delete

spam emails quarantined (3-19-23) Review communication from Federal District Court on amendments to local rules. (3-19-23) Approve staff request. (3-30-23) Order business cards for incoming Deputy County Counselor as of May 1, 2023. (4-5-23) Assist staff with follow up on minor structural repair of desk (donated by Treasurer) moved into office for incoming Deputy Counselor. (4-7-23) Repair of desk by Public Works staff accomplished. (4-11-23) Advise staff of information provided by Clerk's office on address to use with P-Card purchases. (4-25-23) Approve annual leave request from staff. (4-26-23) Work with staff development of departmental 2024 budget request. (4-26-23) Work with office's staff on Departmental 2024 budget request. (4-21-23; 4-26-23) Prepare memo in support of office's 2024 budget request. (4-26-23) Complete departmental 2024 budget memo. Submit memo and 2024 budget request to Budget and Finance (4-27-23) Discuss with HR CAR I'll prepare for transition of Counselor position based upon my scheduled 2025 retirement. (5-19-23) Work on transition of Deputy position given incumbent's scheduled retirement. (5-22-23; 5-23-23) Discuss and decide with staff on renewal of "Hawver" subscription. (5-30-23) Register for June 20 webinar on Title VI requirements under ARPA; to be conducted by Officer of Recovery. (6-5-23) **Information to Office Manager on invoice for Westlaw. (7-5-23) Partners' Meeting. (7-21-23)**

Continuing Legal Education: Attend online CLE program. (6-11-23) Attend CCAK CLE program. (6-16-23)

County Counselor Association of Kansas: Contact presenter and confirm presenter availability for mid-year zoom CLE meeting of membership. Advise KAC general counsel presenter on employment law developments will attend. (February, 2023) Discuss with membership possible hypothetical for CLE presenter's use during upcoming presentation during mid-year membership meeting on ethical issue. (4-26-23) Confirm with Jay Hall presenter's availability to present during June 16th "virtual" mid-year association CLE. (4-28-23)

Department Head Committee: Attend and participate in department Head Committee Meeting. Remind Department Heads of next Monday's Legislative Conference, that they are all invited; and it is an opportunity to interact for the first time with new members of our delegation. Also described I will be inviting all delegation members to contact Department Heads throughout the legislative session when they have any questions about this county's daily operation or of counties generally. (12-7-22) Attend and participate in Committee Meeting. (12-21-22) Attend and participate in committee meeting. (2-15-23) Attend and participate in committee meeting. (3-1-23) Attend and participate in committee meeting. (4-5-23) Attend and participate in committee meeting. (4-19-23) **Attend and participate in committee meeting. (7-5-23) Attend and participate in meeting. (7-19-23)**

Intergovernmental Luncheon: Attend meeting. (2-27-23)

Joint Task Force on Possible Fair and Rodeo Relocation: **Attend 2nd meeting of group at Chamber offices. (7-14-23)**

Kansas Association of Counties:

Staff Budget and Planning Committee: Work with B & P on development of contracts for transfers to small cities for loss of funds as countywide ½ cent sales tax sunsets 12/31/22. (11-15-22) Review material for BOCC presentation to be made by Budget and Planning during the next BOCC public meeting. (11-28-22) Attend and participate in Committee meeting. (11-29-22) Ask Shilo for her opinion on draft of agreement. (2-7-23)

Staff Riley County Employee Recognition Day Planning Committee: Discuss future scheduling of committee meetings with members. (2-21-23) Attend and participate in committee meeting. (2-21-23) Discussion with County Appraiser regarding current property tax exemption status of potential venue. (2-22-

23) Discussion with County Appraiser staff regarding contact information for same potential venue. (2-22-23) Discuss with venue representative potential use of facility for event. (3-6-23). Discuss with different venue's representative potential use of facility for event. (3-7-23) Messages left at possible venue with my contact information. (3-17-23;3-18-23) Communicate with possible venue and contact person. Advise will not be using facility and why. (3-20-23) Attend and participate in committee meeting. (3-21-23) Discussion with committee members about concept for employee day, proposed by committee member. (4-26-23) Attend and participate in committee work planning Employee Recognition Day. (6-20-23) **Analyze proposed venue contract. Conversation with County's insurer. Voicemail left with PIO. (7-5-23) Attend and participate in Committee meeting (7-18-23)**

Staff Road Renaming Committee: Respond to committee member's relay of landowner's proposed rename of private road. (12-7-22)

Attachment: FINAL Commission List 07.31.2023 (13622 : Clancy's Commission List)



**COUNTY
COUNSELOR/ADMINISTRATIVE
SERVICES**
Personnel

Clancy Holeman
Counselor/Director of
Administrative Services
115 North 4th Street
Manhattan, KS 66502
Phone: 785-565-6844

COMMISSION AGENDA REPORT

FROM: Clancy Holeman, Riley County Counselor

MEETING: July 31, 2023

SUBJECT: Request to Fill Counselor Office Manager Position

PRESENTER: Clancy Holeman

BACKGROUND

The incumbent in this position submitted a resignation, with an effective date of August 31, 2023.

This position provides the County Counselor and Assistant County Counselor with technical and administrative skills, oversees the office procedures and assists with resolutions, written opinions, contracts, briefs, memoranda, pleadings and office operations.

The position is vital to County operations.

FISCAL IMPACT

This is a budgeted position; however, the fiscal impact will be determined by the current recruitment market and is expected to have a smaller impact on the current and future budget based on tenure.

RECOMMENDATION(S)

Recommendation is to open the position of Office Manager for internal recruitment.

POSSIBLE MOTION(S)

Move to approve recruiting to fill the position of Office Manager for internal recruitment.

Enclosures:

- Office Manager Co Counselor PAF (DOCX)
- Counselor Office Manager Position Description 2023 (DOC)

RILEY COUNTY POSITION ACTION FORM

Requisition Approval Process

Submitted by Ashley Martinek on 07/27/2023 at 01:48 PM

Internal Position Details (not displayed on job posting)

Company Riley County, KS	Position Template Office Manager Co Counselor [OFFMGRCS]	Work Location Office Building
Job ID 1856858	Salary \$30.51-\$33.31	Supervisor Position No
Pay Grade RANGE 16 [RANGE 16]	EEO Class Administrative Support Workers [5]	Workers Compensation 8820 [8820]
Cost Center 1 County General [1]	Cost Center 2 Counselor [4]	Cost Center 3 --
1 Job Slot OFFICE -1		

Supervisor: Clarence Holeman

Department Head: Clarence Holeman

☒ No changes to Position or Budget

☒ Position Description attached

Total annual hours: 2080

☒ Budgeted

☐ New or updated position description

☐ New request for budget (details attached)

Salary: \$69,284.80

Budget for Benefits: \$27,367.50

Total proposed annual budget: \$96,652.30

Additional Position Comments: _____

BoCC Chairwoman _____

Date: _____

BoCC Member _____

Date: _____

BoCC Member _____

Date: _____

Attachment: Office Manager Co Counselor PAF (13619 : REquest to Fill - Office Manager Position)

RILEY COUNTY, KANSAS JOB DESCRIPTION

Job Title:	OFFICE MANAGER	
Department:	Administrative Services	Division: County Counselor
Reports To:	County Counselor	
Pay Grade:	16	Status: Full-time
FLSA Status:	Exempt	

Purpose: The Office Manager provides the County Counselor and the Deputy County Counselor with technical office skills to coordinate and oversee office procedures and to assist in the preparation from draft form of resolutions, written opinions, contracts, briefs, memoranda, and pleadings for use in both the District and Appellate Courts.

Essential Functions:

- Supervise and assist support staff daily with questions and inquiries to ensure their tasks are being performed in accordance with policy.
- Open cases by preparing documents and correspondence for Counselor's review, filing original pleadings, briefs, and memoranda with Clerk of the District Court; researching and generating all background information needed, and assigned by the County Counselor.
- Maintain calendar of court appearances, meetings, deadlines, and reminders for Counselors and enter court appearances and deadlines into computer.
- Maintain secure, accurate computer-based and paper-based filing system.
- Assemble documentation to support regular "Statement of Compliance" certifications provided by Rural Fire District #1 prior to review and signature by the county counselor.
- Work independently and within a team projects, which may include planning and coordinating multiple projects, researching, and disseminating information, and preparing mailings.
- At direction of the County Counselor, prepare resolutions, written opinions and legal pleadings and briefs for District Court and Court of Appeal proceedings.
- Answer telephone & assist the public with questions or concerns concerning functions of the County Counselor or Administrative Services received via the website, telephone or in-person.
- Manage office: review and finalize bi-weekly timecards, generate required forms for hiring personnel, prepare invoices for accounts payable, maintain expense records for budget evaluations, supervise and maintain office inventory control, assist in preparation of department's annual budget, prepare quarterly budget reports.
- Maintain office purchase cards. Reconcile and maintain reports as required. Maintain petty cash fund, reconcile and reimburse fund as needed.
- Confer with Counselor to determine witnesses needed for court appearances, follow necessary procedures to secure witnesses.
- Work with PIO to update department webpage regarding office updates or projects. Develop information and documents for tax foreclosure sales or other miscellaneous information.
- Maintain library of legal publications, statutes and ensure updates are properly performed.
- Assist County Counselors with Tax Foreclosure Proceedings, property tax collections, maintain databases, forms preparation and filing documents with the Riley County District Court as needed. Coordinate team to keep team moving forward on these projects.
- Assist with bankruptcy claims preparation.
- Act as liaison between the County Counselor and other departments, agencies, officials and committees as directed by County Counselor.
- Foster cooperative work environment.
- Coordinate legislative conferences with Board of County Commissioners, staff and legislative delegation for Riley County; prepare agendas and attachments as required. Track bills in the

Updated 2023

- House and Senate as pertinent to Riley County and by request of the County Counselor.
- Assist Board of County Commissioners with correspondence and scheduling of meetings with staff on various projects.
- Other duties as assigned by County Counselors.

POSITION REQUIREMENTS:

Education: High school graduate or equivalent. One year of post high school training or experience with significant office management responsibilities. Any combination of experience, education or training which provides the following knowledge, skills and ability:

Knowledge, Skills and Experience: knowledge of (or ability to learn quickly) civil legal system; knowledge of (or ability to learn quickly) procedures in the District Court System and as they relate to the Riley County Counselor's Office; knowledge of required language for court documents; knowledge of (or ability to learn quickly) Kansas Statutes and case law; knowledge of (or ability to learn quickly) legal terminology; ability to use discretion regarding confidential material and to understand the legal code of ethics; ability to establish and maintain effective working relationships with associates and the public; knowledge of personal computers including word processing, spreadsheets, and other computer software. Basic bookkeeping skills. Ability to communicate effectively, orally and in writing. Ability to defuse high pressure, conflicting situations and maintain order. Ability to draft letters and legal documents. Ability to organize and prioritize multiple complex projects with shifting deadlines.

Supervisory Control: Duties are performed regularly exercising discretion and independent judgement. County Counselor or Deputy County Counselor provides general direction. Priorities and deadlines are determined by policies, statutes, or in consultation with the Counselors. Documents are reviewed by Counselors for completeness and accuracy. Employee may develop own work sequences within established procedures, methods and policies.

Supervisory Responsibility: Supervises, trains, schedules, and reviews the work of the Legal Assistant. Monitors the general operation of the department. This position is responsible for evaluation of work performance of Legal Assistant.

Guidelines: Guidelines consists of Riley County Personnel Policies and Procedures, Kansas statutes, case law, rules of the Riley County District Court and its policies and procedures; Kansas Court of Appeals rules, policies, and procedures; and established internal policies and procedures.

Complexity: Work is of a standardized nature that may involve a variety of duties. Analytical thought becomes more important at this level due to increased data, responsibilities, and changing situations. Tasks usually have several steps, some of which may not be directly related. Alternatives may exist for processes or methods to be used in solving problems. Employee must exercise a moderate amount of independent judgment. Work is controlled by routine review and reporting to or consultation with Counselors. When guidelines exist at this level, they tend to be more complicated or technical in nature requiring careful interpretation. Deadlines assigned for ongoing projects may shift with little or no advance notice.

Scope and Effect of Work: The position contributes to the overall smooth function of the County Counselor's office and its mission. Critical job functions by other staff may not be completed satisfactorily without the effective performance of this position. Ineffective performance will negatively affect the quality of service provided by the office.

Personal Contacts: This position's primary personal contact will be with the County Counselor's primary client, the Board of the County Commissioners. Additional significant personal contact will occur with the general public and elected or appointed officials and their staff.

Significant contact will occur with Human Resources, and Information Systems/GIS. Additional person contact will occur with Township Officials, members of all County advisory boards, Judges and staff of the District Court, attorneys, District Court Administrator, the Clerk of the District Court and that office's staff, Public Information Officer, civic organizations, members of the media, and vendors.

Purpose of Contacts: The purpose of contacts is to obtain, clarify, give, or screen established information, regardless of the type (i.e., easily understood or technical).

Physical Demands: The physical demands described represent those required to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Employee is required to stand; walk; sit; use hands to finger, handle, or feel; reach with hands and arms; talk or hear. The employee must regularly lift and/or move up to 10 pounds. Specific vision abilities required by this job include close vision, color vision.

Work Environment: The work environment characteristics represent those encountered while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Employee is exposed to a moderate noise level in the work environment. There is moderate risk involved as the employee is potentially subject to verbal abuse from disgruntled individuals.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if work is similar, related or a logical assignment of the position.

The job description does not constitute an employment agreement between the employer and the employee and is subject to change by the employer as the needs of the employer and requirements of the job change.



PUBLIC WORKS
Agreement

John Ellermann
Public Works
Director/County Engineer
6215 Tuttle Creek Blvd
Manhattan, KS 66503
Phone: 785-537-6330

COMMISSION AGENDA REPORT

FROM: John Ellermann, PE, Public Works Director

MEETING: July 31, 2023

SUBJECT: Public Safety Headquarters - Construction Manager at Risk Agreement

PRESENTER: John Ellermann

BACKGROUND

The Board of County Commissioners approved using a Construction Manager at Risk (CMAR) method of delivery for the new EMS Headquarters Station. BHS Construction was selected to serve as the CMAR. Attached is the CMAR Agreement along with appendices and the County's Contract Provisions for your signature.

DISCUSSION

Discussion of the CMAR process and agreement.

FISCAL IMPACT

The CMAR agreement spells out fees for Pre Construction services, Construction manager fee, general conditions and the Guaranteed Maximum Price (GMP).

The Pre Construction Fee is \$15,000. An hourly rate will be charged for these services after August.

The construction manager fee is 2.5% of the GMP. The GMP will come later as an amendment as we get closer with the final design.

General conditions is \$459,025.

Costs for this project will come from funds available from the ARPA.

RECOMMENDATION(S)

Staff recommends the Commission sign the agreement and contract provisions with BHS for the CMAR services.

POSSIBLE MOTION(S)

Move to approve the agreement for Construction Manager at Risk services with BHS Construction.

Move to deny the agreement for Construction Manager at Risk services with BHS Construction.

Move to modify the agreement for Construction Manager at Risk services with BHS Construction

Move to table

No action required.

The Board agreed by consensus to

Enclosures:

- Riley Co EMS Contract A133_bhssigned (PDF)
- BHS CPA Clean_bhssigned(PDF)
- Exhibit G - GC Cost Responsibility Matrix_RYCO (PDF)
- Exhibit L - Labor Rates Nov 2023-April 2024 (PDF)
- A133ExhibitA-2019 - Working Draft - 001 (PDF)
- A133ExhibitB-2019 - Working Draft - 001 (PDF)



AIA® Document A133® – 2019

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the ____ day of July in the year 2023
(In words, indicate day, month, and year.)

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

Riley County, Kansas
110 Courthouse Plaza
Manhattan, KS 66502

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

BHS Construction Inc, Subchapter S Corporation
301 S 4th St
Suite 210
Manhattan, KS 66502
Telephone Number (785) 537-2068
Fax Number (785) 537-1624

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

Riley County Public Safety Headquarters
to be located on county-owned property, south of the existing Family and Child Resource
Center, street address has not yet been assigned

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

Archimages, Inc.
14205 W 95th Street
Lenexa, KS 66215

The Owner and Construction Manager 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.

AIA Document A201™–2017, General Conditions of the Contract for Construction, 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
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EXHIBIT A	GUARANTEED MAXIMUM PRICE AMENDMENT
EXHIBIT B	INSURANCE AND BONDS
EXHIBIT C	ATTACHMENT TO CONTRACT BETWEEN RILEY COUNTY, KS AND BHS
EXHIBIT G	GENERAL CONDITIONS COST RESPONSIBILITY MATRIX
EXHIBIT R	RILEY COUNTY PUBLIC SAFETY HEADQUARTERS FACILITY CMAR RFP
EXHIBIT L	LABOR RATES

ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

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

Per Exhibit R – Riley County Public Safety Headquarters Facility CMAR RFP.

§ 1.1.2 The Project's physical characteristics:

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

Per Exhibit R – Riley County Public Safety Headquarters Facility CMAR RFP.

Init.

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

The budget will be established with input from the Construction Manager during the design process.

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

.1 Design phase milestone dates, if any:

To be determined

.2 Construction commencement date:

To be determined

.3 Substantial Completion date or dates:

To be determined

.4 Other milestone dates:

To be determined

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

Not applicable

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

Not applicable

(Paragraph deleted)

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

Not applicable

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

John Ellermann, Director of Public Works
Public Works Department
6215 Tuttle Creek Blvd
Manhattan, KS 66503

Telephone: (785) 537-6330
Email: jellermann@rileycountyks.gov

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

Init.

A building committee including the County Clerk, Director of Public Works, Emergency Management Director, and EMS/Ambulance Director.

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

.1 Geotechnical Engineer and 3rd party inspection:

(Paragraphs deleted) Terracon, Inc.

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Kile R. Morrison
Managing Director
Archimages, Inc.
14205 W 95th Street
Lenexa, KS 66215

Telephone: (913) 378-9533
Email: kmorrison@archimages-stl.com

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Patrick J. Shutter
BHS Construction, Inc.
301 S 4th St #210
Manhattan, KS 66502

Telephone: (785) 537-2068
Email: Pschutter@bhsconstruction.net

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

Construction Manager's primary point of contact, Project Manager, and lead estimator: Andrew Gerth (Project Manager, Adam Crowl (Lead Estimator).

Pricing will be provided at design phases following SD, DD, & CD documents.

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

Open and transparent bidding in which the Owner has the opportunity to review provide input on bids received. If the Construction Manager wishes to bid any scope, they will provide a sealed bid at least 24-hours in advance of bid day to the Architect.

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

Per Exhibit R, Riley County Public Safety Headquarters Facility CMAR RFP.

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, within 14 days, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201–2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant

or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

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

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

(Paragraph deleted)

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

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

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

(Paragraph deleted)

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

Per Exhibit G – General Conditions Cost Responsibility Matrix

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

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User Notes:

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information within 14 days of written request from Construction Manager, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner increases by five percent (5%) or decreases by ten percent (10%), or more, the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 **Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services within 14 days after receiving the Construction Manager's written request for such information or services. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work within 14 days after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing 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 other 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.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include 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.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

(Paragraph deleted)

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly within 14 days, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 **Legal Requirements.** 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.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™-2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

Preconstruction services will be billed as a Lump Sum of \$15,000. If preconstruction services are required beyond August 30, 2023, this amount will be adjusted by mutual agreement between the Parties using the rates listed in 5.1.2.

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.

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

Individual or Position	Rate
Project Executive	\$140.00
Preconstruction Manager	\$125.00
Cost Estimator	\$92.00

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions,

assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within eight (8) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

8 % Eight percent per annum

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

2.5% of the Guaranteed Maximum Price as indicated at the signing of the A133 2019 Exhibit A.

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

Lump sum fee shall decrease if the overall project cost decreases more than 10% and then will start adjusting by the rate of fee in Section 6.1.2. If the cost of the project increases by more than 5% then the fee will adjust up by the fee listed in 6.1.2.

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

Ten percent (10%)

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent (100 %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

\$500 per calendar day. Liquidated damages will not be charged if substantial completion is not achieved due to supply chain delays, COVID 19 delays and/or alternates accepted after the contract date.

§ 6.1.7 Other:

(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

100% of savings from the Guaranteed Maximum Price will revert back to the Owner.

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the

Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

General Conditions to be charged at a Lump Sum of \$459,025 as identified in Exhibit G – General Conditions Cost Responsibility Matrix.

Init.

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

Init.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

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§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

7.8.2.1 S&S Contracting is owned by the brother of the Construction Manager's president. They are a subcontractor and used for hired labor from time to time. Their cost of labor would be at or less than what BHS charges per Exhibit L – Labor Rates.

§ 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or

equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

Applications for Payment shall be submitted for review on or before the fifth of every month with payment due within 25 calendar days.

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the fifth day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 30th day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

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§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five percent (5%)

§ 11.1.8.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

Bonds and Builders Risk Insurance

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

No modification of retainage prior to Substantial Completion of the Work.

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

After Substantial Completion, the amount of retainage for all completed portions of the Work will be reduced to two- and one-half percent (2 ½ %). However, the Owner may continue to withhold the full amount of retainage for any portion or portions of the Work which the Owner finds to be too incomplete to reduce retainage.

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and

.3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201-2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201-2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment.

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

8 % Eight percent.

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201-2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

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§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- ☐ Arbitration pursuant to Article 15 of AIA Document A201–2017
- ☒ Litigation in a court of competent jurisdiction
- ☐ Other: (Specify)

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

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not

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otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)

The termination fee shall be the lesser of \$150,000 or 50% of any remaining Contractor Fee on Guaranteed Maximum Price plus 50% of any remaining lump sum General Conditions established from the itemized statement of guaranteed maximum price.

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document

Init.

A201–2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than one million dollars (\$ 1,000,000.00) for each occurrence and two million dollars (\$ 2,000,000.00) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars (\$ 1,000,000.00) each accident, one million dollars (\$ 1,000,000.00) each employee, and one million dollars (\$ 1,000,000.00) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than two million dollars (\$ 2,000,000.00) per claim and two million dollars (\$ 2,000,000.00) in the aggregate.

§ 14.3.1.6 Other Insurance

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage

Limits

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

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™-2019 Exhibit B, and elsewhere in the Contract Documents.

(Paragraphs deleted)

§ 14.5 Other provisions:

Information & Media Release: Permission is granted to BHS Construction, Inc. to photograph, record, and/or display any words and/or property for any business purposes, training, or publication in any manner. Owner understands that the information and media gathered by BHS Construction, Inc. or portions thereof, may be used for public viewing or presentations. This provision releases BHS Construction, Inc from any future claims arising from the use of the photographs/recordings/interviews for business purposes and/or public viewing.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager 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 Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™-2019, Exhibit B, Insurance and Bonds
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction

(Paragraphs deleted)

- .5 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Exhibit A – Guaranteed Maximum Price Amendment

Exhibit B – Insurance and Bonds

Exhibit C - Additional Provisions Attachment

Exhibit G – General Conditions Cost Responsibility Matrix

Exhibit L – BHS 2023 Labor Rates

Exhibit R – Riley County Safety Headquarters CMAR RFP

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

OWNER (Signature)

(Printed name and title)


CONSTRUCTION MANAGER (Signature)

Patrick J. Schutter President
(Printed name and title)

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Additions and Deletions Report for

AIA® Document A133® – 2019

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.

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PAGE 1

AGREEMENT made as of the _____ day of July in the year 2023

...

Riley County, Kansas
110 Courthouse Plaza
Manhattan, KS 66502

...

BHS Construction Inc, Subchapter S Corporation
301 S 4th St
Suite 210
Manhattan, KS 66502
Telephone Number (785) 537-2068
Fax Number (785) 537-1624

...

Riley County Public Safety Headquarters
to be located on county-owned property, south of the existing Family and Child Resource Center, street address has not yet been assigned

...

Archimages, Inc.
14205 W 95th Street
Lenexa, KS 66215

PAGE 2

EXHIBIT B INSURANCE AND BONDS

EXHIBIT C ATTACHMENT TO CONTRACT BETWEEN RILEY COUNTY, KS AND BHS

EXHIBIT G GENERAL CONDITIONS COST RESPONSIBILITY MATRIX

EXHIBIT R RILEY COUNTY PUBLIC SAFETY HEADQUARTERS FACILITY CMAR RFP

EXHIBIT L LABOR RATES

...

Per Exhibit R – Riley County Public Safety Headquarters Facility CMAR RFP.

...

Per Exhibit R – Riley County Public Safety Headquarters Facility CMAR RFP.

PAGE 3

The budget will be established with input from the Construction Manger during the design process.

...

To be determined

...

To be determined

...

To be determined

...

To be determined

...

Not applicable

...

Not applicable

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234 2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234 2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

...

Not applicable

...

John Ellermann, Director of Public Works
Public Works Department
6215 Tuttle Creek Blvd
Manhattan, KS 66503

...

Telephone: (785) 537-6330
Email: jellermann@rileycountyks.gov

...

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who ~~are~~ may be required to review the Construction Manager's submittals to the Owner are as follows:

PAGE 4

A building committee including the County Clerk, Director of Public Works, Emergency Management Director, and EMS/Ambulance Director.

...

.1 ~~Geotechnical Engineer:~~ Engineer and 3rd party inspection:

~~.2 Civil Engineer:~~

Terracon, Inc.

...

~~.3 Other, if any:~~
(List any other consultants retained by the Owner, such as a Project or Program Manager.)

...

Kile R. Morrison
Managing Director
Archimages, Inc.
14205 W 95th Street
Lenexa, KS 66215

Telephone: (913) 378-9533
Email: kmorrison@archimages-stl.com

...

Patrick J. Shutter
BHS Construction, Inc.
301 S 4th St #210
Manhattan, KS 66502

...

Telephone: (785) 537-2068
Email: Pschutter@bhsconstruction.net

...

Construction Manager's primary point of contact, Project Manager, and lead estimator: Andrew Gerth (Project Manager, Adam Crowl (Lead Estimator).

Pricing will be provided at design phases following SD, DD, & CD documents.

...

Open and transparent bidding in which the Owner has the opportunity to review provide input on bids received. If the Construction Manager wishes to bid any scope, they will provide a sealed bid at least 24-hours in advance of bid day to the Architect.

PAGE 5

Per Exhibit R, Riley County Public Safety Headquarters Facility CMAR RFP.

...

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, ~~in a timely manner, within 14 days,~~ information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

PAGE 6

~~§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.~~

PAGE 7

~~§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.~~

...

Per Exhibit G – General Conditions Cost Responsibility Matrix

PAGE 9

~~§ 4.1.1 The Owner shall provide information with reasonable promptness, within 14 days of written request from Construction Manager, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.~~

...

~~§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases increases by five percent (5%) or decreases by ten percent (10%), or more, the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.~~

~~§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness, within 14 days after receiving the~~

Construction Manager's written request for such information or services. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness within 14 days after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

PAGE 10

~~§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.~~

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, within 14 days, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

...

Preconstruction services will be billed as a Lump Sum of \$15,000. If preconstruction services are required beyond August 30, 2023, this amount will be adjusted by mutual agreement between the Parties using the rates listed in 5.1.2.

...

<u>Project Executive</u>	<u>\$140.00</u>
<u>Preconstruction Manager</u>	<u>\$125.00</u>
<u>Cost Estimator</u>	<u>\$92.00</u>

PAGE 11

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within eight (8) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

...

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

...

8 % Eight percent per annum

...

2.5% of the Guaranteed Maximum Price as indicated at the signing of the A133 2019 Exhibit A.

...

Lump sum fee shall decrease if the overall project cost decreases more than 10% and then will start adjusting by the rate of fee in Section 6.1.2. If the cost of the project increases by more than 5% then the fee will adjust up by the fee listed in 6.1.2.

...

Ten percent (10%)

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent (100 %) of the standard rental rate paid at the place of the Project.

...

\$500 per calendar day. Liquidated damages will not be charged if substantial completion is not achieved due to supply chain delays, COVID 19 delays and/or alternates accepted after the contract date.

...

100% of savings from the Guaranteed Maximum Price will revert back to the Owner.

PAGE 12

General Conditions to be charged at a Lump Sum of \$459,025 as identified in Exhibit G – General Conditions Cost Responsibility Matrix.

PAGE 15

7.8.2.1 S&S Contracting is owned by the brother of the Construction Manager's president. They are a subcontractor and used for hired labor from time to time. Their cost of labor would be at or less than what BHS charges per Exhibit L – Labor Rates.

PAGE 16

Applications for Payment shall be submitted for review on or before the fifth of every month with payment due within 25 calendar days.

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the fifth day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 30th day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than fourty-five (45) days after the Architect receives the Application for Payment.

PAGE 18

Five percent (5%)

...

Bonds and Builders Risk Insurance

...

No modification of retainage prior to Substantial Completion of the Work.

...

After Substantial Completion, the amount of retainage for all completed portions of the Work will be reduced to two-and-one-half percent (2 ½ %). However, the Owner may continue to withhold the full amount of retainage for any portion or portions of the Work which the Owner finds to be too incomplete to reduce retainage.

PAGE 19

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for ~~Payment, or as follows:~~ Payment.

...

8 % Eight percent.

PAGE 20

[☒] Litigation in a court of competent jurisdiction

PAGE 21

The termination fee shall be the lessor of \$150,000 or 50% of any remaining Contractor Fee on Guaranteed Maximum Price plus 50% of any remaining lump sum General Conditions established from the itemized statement of guaranteed maximum price.

PAGE 22

§ 14.3.1.1 Commercial General Liability with policy limits of not less than one million dollars (\$ 1,000,000.00) for each occurrence and two million dollars (\$ 2,000,000.00) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

...

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars (\$ 1,000,000.00) each accident, one million dollars (\$ 1,000,000.00) each employee, and one million dollars (\$ 1,000,000.00) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than two million dollars (\$ 2,000,000.00) per claim and two million dollars (\$ 2,000,000.00) in the aggregate.

PAGE 23

~~§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:~~

~~(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)~~

Information & Media Release: Permission is granted to BHS Construction, Inc. to photograph, record, and/or display any words and/or property for any business purposes, training, or publication in any manner. Owner understands that the information and media gathered by BHS Construction, Inc. or portions thereof, may be used for public viewing or presentations. This provision releases BHS Construction, Inc. from any future claims arising from the use of the photographs/recordings/interviews for business purposes and/or public viewing.

...

~~.5—AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~

~~(Insert the date of the E203-2013 incorporated into this Agreement.)~~

~~.6—Other Exhibits:~~

~~(Check all boxes that apply.)~~

☐ ~~AIA Document E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:
(Insert the date of the E234 2019 incorporated into this Agreement.)~~

☐ ~~Supplementary and other Conditions of the Contract:~~

Document	Title	Date	Pages
<u>7</u>			
<u>5</u>	Other documents, if any, listed below:		

...

Exhibit A – Guaranteed Maximum Price Amendment
Exhibit B – Insurance and Bonds
Exhibit C - Additional Provisions Attachment
Exhibit G – General Conditions Cost Responsibility Matrix
Exhibit L – BHS 2023 Labor Rates
Exhibit R – Riley County Safety Headquarters CMAR RFP

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 11:23:28 CT on 07/19/2023 under Order No. 4104240378 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, other than those additions and deletions shown in the associated Additions and Deletions Report.


(Signed)

President
(Title)

7-25-2023
(Dated)

Attachment to “Contract” Between Riley County, KS (hereinafter “County”), and BHS (hereinafter “Contractor”).

The undersigned parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof.

1. **TERMS HEREIN CONTROLLING PROVISIONS.** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in the contract and any other document relating to and a part of the contract in which this attachment is incorporated. All terms hereof survive termination of the contract.

2. **AGREEMENT WITH KANSAS LAW.** It is agreed by and between the undersigned that all disputes and matters whatsoever arising under, in connection with or incident to the contract shall be litigated, if at all, in and before a state Court located in the State of Kansas, County of Riley, or if in Federal Court, at a Federal Court located in Topeka, Kansas, to the exclusion of the Courts of any other states or country. All contractual promises shall be subject to, governed by, and construed according to the laws of the State of Kansas, without reference to its conflict of laws principles. Both parties submit to venue and jurisdiction in these courts. In the event an action or claim arises outside of the exclusive jurisdiction specified herein which names County as a party, Contractor agrees to initiate, consent to and/or cooperate with any and all efforts to remove the matter to the exclusive jurisdiction named herein and otherwise to take any and all reasonable actions to achieve County’s objectives of this provision.

3. **COMPLIANCE WITH APPLICABLE LAWS, SERVICE STANDARDS AND REQUIRED PROCEDURES.**

- 3.1. **Service Standards and Procedures.** Contractor shall perform the services set forth in the Contract in compliance with applicable standards and procedures specified in the Contract.
- 3.2. **Compliance with Law.** Contractor shall comply with all applicable local, state and federal laws and regulations, in carrying out the Contract, regardless of whether those legal requirements are specifically referenced in the Contract.

4. **CASH BASIS AND BUDGET LAWS.** The right of the County to enter into the Contract is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. Any Contract for a term of more than one year shall be interpreted by the parties to provide County the sole option to renew that Contract before the end of each one-year term.

5. **TERMINATION DUE TO LACK OF FUNDING APPROPRIATION.** If, in the judgment of the Riley County Commissioners, after consultation with their Budget and Finance Officer or other county officials, sufficient funds are not appropriated to continue the function performed in the contract and for the payment of the charges hereunder, County may terminate the contract at the end of its current fiscal year. Termination shall be effective 30 days after

County mails written notice to Contractor. In the event of such termination, County agrees to give written notice of termination to Contractor. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the County or the Contractor.

6. **ANTI-DISCRIMINATION CLAUSE.**

- 6.1. In carrying out the Contract, Contractor shall comply with K.S.A. 44-1001 *et seq.*
- 6.2. Contractor shall observe the provisions of the Kansas act against discrimination and the Kansas age discrimination in employment act, and shall not discriminate against any person in the performance of work under the Contract because of race, religion, color, sex, disability, national origin, ancestry, or age.
- 6.3. In all solicitations or advertisements for employees, Contractor shall include the phrase "equal opportunity employer" or a similar phrase to be approved by the Kansas Human Rights Commission.
- 6.4. If Contractor fails to comply with the provisions of K.S.A. 44-1031, requiring reports to be submitted to the Kansas Human Rights Commission when requested by that Commission, Contractor shall be deemed to have breached the Contract and it may be canceled, terminated or suspended, in whole or in part, by County.
- 6.5. If Contractor is found guilty of a violation of the Kansas act against discrimination under a decision or order of the Kansas Human Rights Commission which has become final, Contractor shall be deemed to have breached the Contract and it may be canceled, terminated or suspended, in whole or in part by County.
- 6.6. Contractor shall include the provisions of paragraphs 6.1 through 6.5 inclusively of this section in every subcontract or purchase order so that such provisions will be binding upon such subcontractor of Contractor.
- 6.7. Parties to the contract understand that this paragraph number 6 is not applicable if Contractor employs fewer than four employees or if Contractor's contracts with the County cumulatively total \$5,000 or less during the County's fiscal year.

7. **ACCEPTANCE OF CONTRACT.** The contract shall not be considered accepted, approved or otherwise effective until the required approvals and certifications have been given and this Contractual Provisions Attachment is signed by the Board of County Commissioners of Riley County, Kansas.

8. **ARBITRATION, DAMAGES, WARRANTIES.** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the County does not agree to pay attorney fees and late payment charges; and no provisions will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.

9. **REPRESENTATIVE'S AUTHORITY TO CONTRACT/REQUIRED DOCUMENTATION.** By signing the Contract, the representative of Contractor thereby represents that such person is duly authorized by Contractor to execute the document on behalf

of Contractor and Contractor agrees to be bound by the provisions thereof. Contractor shall furnish evidence of authority to transact business in Kansas, in the form of a certificate signed by the Kansas Secretary of State.

10. **RESPONSIBILITY FOR TAXES.** The County shall not be responsible for, nor indemnify Contractor for, any federal, state or local taxes that may be imposed or levied upon the subject matter of the contract.

11. **NO INSURANCE PROVIDED BY COUNTY.** The County shall not be required to purchase, any insurance against loss or damage to any personal property to which the contract relates, nor shall the contract require the County to establish a "self-insurance" fund to protect against any such loss or damage. Subject to any applicable provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), Contractor shall bear the risk of any loss or damage to any personal property to which Contractor holds title.

12. **TERM AND TERMINATION.**

- 12.1. **Term.** This Contractual Provisions Attachment shall be effective as of its date of execution by the parties and shall remain in effect during the term of the Contract, or until terminated either for convenience, breach or default, as set out herein. Thirty (30) days written notice to the breaching party is required.
- 12.2. **Termination for Cause.** If Contractor shall fail to fulfill in a timely and proper manner its obligations under the Contract, or if Contractor shall violate any of the terms, covenants, conditions, or stipulations of the Contract, County shall thereupon have the right to terminate the Contract by promptly giving written notice to Contractor of such termination and specifying the reasons for the termination and the effective date thereof. A breach shall include, but not be limited to, failure to comply with any or all items contained in the Contract and any appendices, exhibits or amendments thereto, if any.
- 12.3. Notwithstanding the above, Contractor shall not be relieved of liability to County by virtue of any breach of the Contract by Contractor.
- 12.4. **Termination for Convenience.** County may terminate the Contract in whole or in part, upon thirty (30) days written notice to Contractor, stating the effective date of the termination for convenience. If the Owner terminates the Contract for convenience, then the Owner shall pay the Construction Manager a termination fee as follows: The termination fee shall not exceed the lesser of \$150,000 or 50% of any remaining Contractor Fee on the Guaranteed Maximum Price plus 50% and remaining lump sum General Conditions established from the itemized Statement of Guaranteed Maximum Price in the A133 Exhibit A Contract between BHS Construction, Inc and Riley County, KS.
- 12.5. **Payment Calculation upon Termination.** In the event of termination under the Contract by either party, any amount owed Contractor will be calculated based solely upon payment for fair value of acceptable services provided by Contractor to the point of termination, which fair value is not the subject of a good faith dispute.

13. **INDEPENDENT CONTRACTOR RELATIONSHIP.** It is agreed that the legal relationship between Contractor and County is of a contractual nature. Both parties assert and believe that Contractor is acting as an independent contractor in providing the services and performing the duties required by County hereunder. Contractor is at all times acting as an independent contractor and not as an officer, agent, or employee of County. As an independent contractor, Contractor, and employees of Contractor, will not be within the protection or coverage of County's worker's compensation insurance, nor shall Contractor, and employees of Contractor, be entitled to any current or future benefits provided to employees of County. Further, County shall not be responsible for withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by County to Contractor. Contractor shall supply all labor, equipment, supplies and materials necessary to complete the required services, at Contractor's sole expense.

14. **PERSONNEL.**

- 14.1. **Qualified Personnel.** Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under the Contract. Such personnel shall not be employees of or have any other contractual relationship with County. All personnel engaged in the work shall be fully qualified according to the laws of the State of Kansas and the provisions of this Contract.
- 14.2. **Minimum Wages.** Contractor will comply with the minimum wage and maximum hour's provisions of the Federal Fair Labor Standards Act.
- 14.3. **Employee Conflict of Interest.** Contractor shall establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

15. **PROHIBITION OF CONFLICTS OF INTEREST.**

- 15.1. **Interest of Public Officials and Others.** No officer or employee of Riley County, no member of its governing body, and no other public official who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the Contract shall participate in any decision relating to the Contract which affects such person's personal interest or the interest of any corporation, partnership, or association in which such person is directly or indirectly interested; nor shall any officer or employee of Riley County or any member of its governing body or other public official have any interest, direct or indirect, in the Contract or the proceeds thereof.
- 15.2. **Interest of Contractor.** Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under the Contract.
- 15.3. **Notice to Bidders.** Requests for proposal or invitations for bid issued by Contractor to implement the Contract will provide notice to prospective bidders that Riley County's conflict of interest provision is applicable and that

prospective bidders who develop or draft specifications, requirements, statements of work and/or RFPs for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement.

16. **ASSIGNMENT.** Neither the Contract nor any rights or obligations hereunder shall be assigned or otherwise transferred by either party without the prior written consent of the other.

17. **SUBCONTRACTING.** None of the work or services covered by the Contract shall be subcontracted without the prior written approval of County. All approved subcontracts must conform to all terms set forth in the Contract and the Contractual Provisions Attachment.

18. **RECORDS, REPORTS AND INSPECTION.**

18.1. **Documentation of Costs.** All costs incurred by Contractor for which Contractor purports to be entitled to reimbursement under the express terms of the Contract shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the Contract shall be clearly identified and readily accessible to both parties to the Contract.

18.2. **Maintenance of Records.** Except as otherwise authorized by County, Contractor shall retain such documentation for a period of three (3) years after receipt of any applicable final expenditure report under the Contract, unless action, including but not limited to litigation or audit resolution proceedings, necessitate maintenance of records beyond this three (3) year period.

18.3. **Reports.** During the term of this contract, Contractor shall furnish to County, in such form, as County may require, such statements, records, reports, data and information as County requests pertaining to matters covered by this contract. Payments to Contractor will be withheld by County if Contractor fails to provide all required reports in a timely and accurate manner, until such time as all reports are furnished to County. Incomplete reports may be considered a breach of this contract.

18.4. **Availability of Records.** Upon advance written notice Contractor agrees to make any and all of its records, books, papers, documents and data available to County, or the authorized representative of a State agency with statutory oversight authority, for the purpose of assisting in litigation or pending litigation, or making audits, examinations, excerpts, copies and transcriptions at any time during the terms of this contract and for a three (3) year period following final payment under the terms of this contract.

19. **METHOD OF BILLING AND PAYMENT.**

19.1. **Billing Procedures.** Contractor agrees that billings and payments under the Contract shall be processed in accordance with established budgeting, purchasing and accounting procedures of Riley County, Kansas. Subject to the maximum

amount of compensation prescribed herein, payment shall be made after receipt of billing, and the amount of payment shall not exceed the maximum amount allowed by the Contract.

- 19.2. **Support Documentation.** Billing shall be supported with documentation required by the County including, but not necessarily limited to, that documentation described in paragraph 18, above.
 - 19.3. **Reimbursement Restrictions.** Payments shall be made to Contractor only for items and services provided to support the Contract purpose when such items and services are specifically authorized by the Contract. County reserves the right to disallow reimbursement for any item or service billed by Contractor if County believes that such item or service was not provided to support the Contract purpose, or was not authorized by the Contract.
 - 19.4. **Pre-disbursement Requirements.** Contractor must provide to County the documentation required pursuant to the Contract prior to any disbursements being made by County to Contractor.
 - 19.5. **Mailing Address.** Payments shall be mailed to Contractor's address as set forth herein.
20. **LICENSES AND PERMITS.** Contractor shall maintain all licenses, permits, certifications, bonds, and insurance required by federal, state or local authority for carrying out the Contract. Contractor shall notify County immediately if any required license, permit, bond or insurance is canceled, suspended or is otherwise ineffective. Such cancellation, suspension, or other ineffectiveness may form the basis for immediate revocation or cancellation of the Contract by County, in County's sole discretion.
21. **PUBLIC DOCUMENTS.** It is agreed that the Contract, and all subsequent agreed amendments or addenda thereto are public documents which will be filed with the Riley County Clerk, and will be open to public inspection.
22. **LIMITATION OF LIABILITY.** It is agreed that notwithstanding any language in the Contract to the contrary, County waives no defense, immunity or limitation of liability otherwise available to County under the terms of the Kansas Tort Claims Act or other applicable law.
23. **MERGER/SALE/TRANSFER OF CONTRACTOR ASSETS.** Contractor will notify County in writing at least thirty (30) calendar days in advance of Contractor's merger with any other business entity, or of any sale or other transfer of Contractor's assets to any other business entity. In the event of any such merger, sale or other transfer of Contractor assets, Contractor will reasonably cooperate with County in assuring that provision of all products and services under this Contract are not disrupted before, during and after such merger, sale or other transfer of Contractor assets. After such merger, sale or other transfer of Contractor assets, Contractor will reasonably cooperate with County in providing any documents or information necessary to establish any prior payments made by County to Contractor under this Contract.
24. **LIABILITY INSURANCE.** Contractor agrees to maintain the minimum limits of insurance coverage throughout the term of the agreement, as outlined in the Request for Proposal and/or the contract or agreement to which this is attached. Liability insurance coverage must be

considered as primary and not as excess insurance (excluding Workers' Compensation and Professional Liability). Contractor shall furnish a certificate evidencing such coverage, with County named as an additional insured (excluding Workers' Compensation and Professional Liability), which shall be delivered to the Office of the Riley County Counselor for approval.

25. **REMOVAL OF REPRESENTATIVE.** Should County reasonably object to an individual employed or engaged by Contractor to perform the services hereunder, Contractor agrees to promptly replace that person with an individual approved by County.

26. **MODIFICATION.** This agreement may not be modified except in writing signed by the parties hereto.

27. **SURVIVABILITY.** All terms of this Contractual Provisions Attachment shall survive termination of the Contract.

BHS

By: Patrick J. Schutter
, Principal

BOARD OF COUNTY COMMISSIONERS OF
RILEY COUNTY, KANSAS

By: _____
Kathryn Focke, Chairwoman

Date: 7-25-2023

Date: _____

ATTEST:

(seal)

Rich Vargo, County Clerk

Approved as to Form

By: _____
Clancy Holeman
Riley County Counselor

Date: _____

Exhibit G - General Conditions Cost Responsibility Matrix					
Rilev County Public Safety Headquarters Facility				12/09/2022	
RESPONSIBILITY MATRIX		SCOPE OF WORK INCLUDING GENERAL CONDITIONS			
DESCRIPTION		INCLUDED IN CM FEE	GENERAL CONDITIONS	INCLUDED IN COST OF WORK	INCLUDED IN OWNER COST
OFFICE PERSONNEL					
Home Office Project Executive		X			
Project Manager			X		
MEP Coordinator				X	
Estimating		X			
Project Coordinator			X		
Project Cost Accountant			X		
Car Expense - PM			X		
Architectural Design & Civil Services					X
Structural Design					X
Contractor/Subcontractor Provided Design Services				X	
Field Inspections - Testing				X	
FIELD PERSONNEL					
General Superintendent		X			
Superintendent			X		
Assistant Superintendent			X		
Field Engineer				X	
Jobsite Foremans				X	
Vehicle Expenses			X		
TEMPORARY UTILITIES					
Electric Hook-Up				X	
Temporary Electric Usage Site Office				X	
Temporary Electric Usage for Construction				X	
Final Electric Charges/Costs				X	
Temporary Gas				X	
Final Gas				X	
Temporary Water				X	
Phone-Hookup			X		
Phone Charges			X		
Long Distance Charges			X		
Toilets				X	
Temporary Lighting				X	
Temporary Heat				X	
Concrete Blankets				X	
Fire Protection				X	
Generators				X	
TEMPORARY PROJECT REQUIREMENTS					
Barricades				X	
Traffic Control				X	
Fencing				X	
Interior Enclosures				X	
Safety Rails				X	
Covered Pedestreian Walkway				X	
Scaffolding				X	
Safety Nets				X	
Temporary Roads / Closures				X	
Temporary Parking / Closures				X	
Temporary Laydown / Staging				X	
Ladders / Stairs				X	
Equipment				X	
Weather Protection				X	
Pumping Expenses				X	
Rough Hardware				X	
Drayage				X	
Storage Trailers				X	
SMALL TOOLS					
Small Tools				X	

Exhibit G - General Conditions Cost Responsibility Matrix				
Rilev County Public Safetv Headquarters Facility				12/09/2022
RESPONSIBILITY MATRIX		SCOPE OF WORK INCLUDING GENERAL CONDITIONS		
DESCRIPTION	INCLUDED IN CM FEE	GENERAL CONDITIONS	INCLUDED IN COST OF WORK	INCLUDED IN OWNER COST
TEMPORARY PROJECT OFFICES				
Setup Trailers			X	
Office Trailers			X	
Fax Machine			X	
Copier			X	
Field Office Supplies			X	
Field Office Furniture			X	
Delivery/Postage Services			X	
PROJECT CLEAN-UP				
General Clean-up			X	
Site Clean-up			X	
Final Clean-up			X	
Dumpsters			X	
Dump Fees			X	
Trash Chute			X	
Snow Removal			X	
Clean Windows			X	
Street Sweeper			X	
PROJECT LAYOUT				
Layout Building			X	
Layout Site			X	
Layout Interior			X	
Licensed Professional Survey			X	
PROJECT HOISTING				
Mobile Crane In-Out			X	
Mobile Crane & Operator			X	
Boom Truck & Operator			X	
Snorkel Lift & Operator			X	
Forklift & Operator			X	
Oiler			X	
PROJECT TESTING & INSPECTIONS				
Concrete Mix Design			X	
Concrete Testing & Inspections				X
Concrete Test Cylinders				X
Soil Testing & Inspections				X
Asphalt Testing & Inspections				X
Steel Testing & Inspections				X
Misc. Testing & Inspectoins				X
Licensed Professional Testing Service				X
PROJECT SAFETY & SECURITY				
Safety Expense			X	
OSHA Expense	X			
Safety Engineer			X	
First Aid Expense			X	
Fire Extinguishers			X	
Drug Testing	X			
Hats & Goggles & Misc.			X	
Trench & Shoring Engineering			X	
PROJECT REQUIREMENTS MISC.				
Additional Blueprints			X	
"As Builts" Drawings			X	
Mylars			X	
Job Sign			X	
Progress Photographs		X		
Schedule Set Up		X		
Schedule Updates		X		
Scheduling Engineer		X		
As-built drawings		X		
PROJECT TRAVEL EXPENSES				
Hotel Expenses			X	
Rental Car			X	
Per Diem			X	
Air Travel			X	

Exhibit G - General Conditions Cost Responsibility Matrix					
Riley County Public Safety Headquarters Facility					12/09/2022
RESPONSIBILITY MATRIX		SCOPE OF WORK INCLUDING GENERAL CONDITIONS			
DESCRIPTION		INCLUDED IN CM FEE	GENERAL CONDITIONS	INCLUDED IN COST OF WORK	INCLUDED IN OWNER COST
PROJECT TAXES & PERMITS & INSURANCE					
	Performance Bond			X	
	Trade Contractor Bonds / Insurance			X	
	Liability Insurance			X	
	Builders Risk			X	
	Special Insurance			X	
	Sales Tax (If Applicable)			X	
	Building Permit			X	
	Special Permits & Fees			X	
	Street Closure Permit			X	
HOME OFFICE OVERHEAD					
	CEO	X			
	President	X			
	Marketing	X			
	Administrative Assistant	X			
	Director of Operations	X			
	CFO	X			
	Accounting Manager	X			
	Accounting Manager	X			
	Specific "Project" Accounting	X			



Exhibit L

Labor Rates

November 2023 Thru April 2024

Job Title	Normal Hourly Rate (M-F 7am to 6pm)
Quality Control	\$131
Preconstruction Services	\$131
Project Manager	\$97
Superintendent 1	\$79
Superintendent 2	\$91
Superintendent 3	\$96
Asst. Superintendent	\$71
Foreman	\$63
Project Administration	\$63
Laborer	\$37
Equipment Operator	\$51
Carpenter	\$52
Finish Carpenter	\$71

*Rates subject to review/change every 6 months.

**Overtime will be charged at 1.5x the Normal Hourly Rate.

DRAFT AIA® Document A133® – 2019

Exhibit A

Guaranteed Maximum Price Amendment

This Amendment dated the « » day of « » in the year « », is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the « » day of « » in the year « » (the “Agreement”)
(In words, indicate day, month, and year.)

for the following **PROJECT**:
(Name and address or location)

« »
« »

THE OWNER:
(Name, legal status, and address)

« »« »
« »

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

« »« »
« »

TABLE OF ARTICLES

- A.1 GUARANTEED MAXIMUM PRICE
- A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED
- A.4 CONSTRUCTION MANAGER’S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

ARTICLE A.1 GUARANTEED MAXIMUM PRICE

§ A.1.1 Guaranteed Maximum Price

Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager’s Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed « » (\$ « »), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories,

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User Notes:

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.

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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including allowances; the Construction Manager's contingency; alternates; the Construction Manager's Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.
(Provide itemized statement below or reference an attachment.)

<< >>

§ A.1.1.3 The Construction Manager's Fee is set forth in Section 6.1.2 of the Agreement.

§ A.1.1.4 The method of adjustment of the Construction Manager's Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

§ A.1.1.5 Alternates

§ A.1.1.5.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price

§ A.1.1.5.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ A.1.1.6 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)

ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ A.2.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

☐ The date of execution of this Amendment.

☐ Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

<< >>

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of execution of this Amendment.

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

§ A.2.3 Substantial Completion

§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

☐ Not later than << >> (<< >>) calendar days from the date of commencement of the Work.

☐ By the following date: << >>

§ **A.2.3.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date

§ **A.2.3.3** If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ **A.3.1** The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ **A.3.1.1** The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ **A.3.1.2** The following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)

« »

Section	Title	Date	Pages

§ **A.3.1.3** The following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)

« »

Number	Title	Date

§ **A.3.1.4** The Sustainability Plan, if any:
(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Construction Manager's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages

Other identifying information:

§ **A.3.1.5** Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

Item	Price

§ **A.3.1.6** Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:

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User Notes:

(Identify each assumption and clarification.)

« »

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)

« »

ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:

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

« »

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

OWNER (Signature)

« »« »

(Printed name and title)

CONSTRUCTION MANAGER (Signature)

« »« »

(Printed name and title)

DRAFT AIA® Document A133® – 2019

Exhibit B

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the « » day of « » in the year « »
(In words, indicate day, month and year.)

for the following **PROJECT**:
(Name and location or address)

« »
« »

THE OWNER:
(Name, legal status, and address)

« »
« »

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

« »
« »

TABLE OF ARTICLES

- B.1 GENERAL**
- B.2 OWNER'S INSURANCE**
- B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS**
- B.4 SPECIAL TERMS AND CONDITIONS**

ARTICLE B.1 GENERAL

The Owner and Construction Manager shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™-2017, General Conditions of the Contract for Construction.

ARTICLE B.2 OWNER'S INSURANCE

§ B.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article B.2 and, upon the Construction Manager's request, provide a copy of the property insurance policy or policies required by Section B.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ B.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

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.

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 Document A201™-2017, General Conditions of the Contract for Construction. Article 11 of A201™-2017 contains additional insurance provisions.

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§ B.2.3 Required Property Insurance

§ B.2.3.1 Unless this obligation is placed on the Construction Manager pursuant to Section B.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section B.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Construction Manager, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ B.2.3.1.1 **Causes of Loss.** The insurance required by this Section B.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

Cause of Loss	Sub-Limit

§ B.2.3.1.2 **Specific Required Coverages.** The insurance required by this Section B.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Construction Manager's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ B.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section B.2.3.1 or, if necessary, replace the insurance policy required under Section B.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ B.2.3.1.4 **Deductibles and Self-Insured Retentions.** If the insurance required by this Section B.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ B.2.3.2 **Occupancy or Use Prior to Substantial Completion.** The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section B.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Construction Manager shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ B.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section B.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ B.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

- [☐] **§ B.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

« »

- [☐] **§ B.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

« »

- [☐] **§ B.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

« »

- [☐] **§ B.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

« »

- [☐] **§ B.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

« »

- [☐] **§ B.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

« »

- [☐] **§ B.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

« »

§ B.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

- [« »] **§ B.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. *(Indicate applicable limits of coverage or other conditions in the fill point below.)*

« »

- [« »] **§ B.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage

Limits

ARTICLE B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS

§ B.3.1 General

§ B.3.1.1 Certificates of Insurance. The Construction Manager shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section B.3.2.1 and Section B.3.3.1. The certificates will show the Owner as an additional insured on the Construction Manager's Commercial General Liability and excess or umbrella liability policy or policies.

§ B.3.1.2 Deductibles and Self-Insured Retentions. The Construction Manager shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Construction Manager.

§ B.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Construction Manager's negligent acts or omissions during the Construction Manager's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ B.3.2 Construction Manager's Required Insurance Coverage

§ B.3.2.1 The Construction Manager shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below: *(If the Construction Manager is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)*

« »

§ B.3.2.2 Commercial General Liability

§ B.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than « » (\$ « ») each occurrence, « » (\$ « ») general aggregate, and « » (\$ « ») aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;

- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Construction Manager's indemnity obligations under Section 3.18 of the General Conditions.

§ B.3.2.2.2 The Construction Manager's Commercial General Liability policy under this Section B.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Construction Manager's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ B.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager, with policy limits of not less than « » (\$ « ») per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ B.3.2.4 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section B.3.2.2 and B.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ B.3.2.5 Workers' Compensation at statutory limits.

§ B.3.2.6 Employers' Liability with policy limits not less than « » (\$ « ») each accident, « » (\$ « ») each employee, and « » (\$ « ») policy limit.

§ B.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ B.3.2.8 If the Construction Manager is required to furnish professional services as part of the Work, the Construction Manager shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ B.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Construction Manager shall procure Pollution Liability insurance, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ B.3.2.10 Coverage under Sections B.3.2.8 and B.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ B.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ B.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ B.3.3 Construction Manager's Other Insurance Coverage

§ B.3.3.1 Insurance selected and described in this Section B.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Construction Manager is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

« »

§ B.3.3.2 The Construction Manager shall purchase and maintain the following types and limits of insurance in accordance with Section B.3.3.1.

(Select the types of insurance the Construction Manager is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

- [« »] § B.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section B.2.3, which, if selected in this Section B.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section B.2.3.1.3 and Section B.2.3.3. The Construction Manager shall comply with all obligations of the Owner under Section B.2.3 except to the extent provided below. The Construction Manager shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Construction Manager shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
- (Where the Construction Manager's obligation to provide property insurance differs from the Owner's obligations as described under Section B.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)*

« »

- [« »] § B.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate, for Work within fifty (50) feet of railroad property.
- [« »] § B.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.
- [« »] § B.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.
- [« »] § B.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the

Construction Manager and used on the Project, including scaffolding and other equipment.

[« »] **§ B.3.3.2.6 Other Insurance**

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage

Limits

§ B.3.4 Performance Bond and Payment Bond

The Construction Manager shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:

(Specify type and penal sum of bonds.)

Type

Penal Sum (\$0.00)

Payment Bond

Performance Bond

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

« »