

CITY COMMISSION MEETING AGENDA

City Hall Commission Chambers

806 N. 2nd Avenue

Monday, February 19, 2024

7:00 p.m.

MEETING # 5273

Public is welcome although seats are limited for social distancing; or you can view as follows:

1. Watch live on our Facebook page at www.facebook.com/cityofdodgecity

2. Or watch it on our Vimeo page at www.vimeo.com/cityofdodgecity.

The meeting will be archived on both sites to be viewed after the live video has ended.

CALL TO ORDER

ROLL CALL

INVOCATION BY

PLEDGE OF ALLEGIENCE

APPROVAL OF AGENDA

PETITIONS & PROCLAMATIONS

VISITORS (Limit of five minutes per individual and fifteen minutes per topic. Final action may be deferred until the next City Commission meeting unless an emergency situation does exist).

CONSENT CALENDAR

1. Approval of City Commission Meeting Minutes, February 5, 2024.
2. Appropriation, Ordinance No. 4, February 19, 2024.
3. Cereal Malt Beverage License:
 - a. Yardley Dodge City, 2524 E Wyatt Earp Blvd.
 - b. Corner Market #117, 2615 East Trail Street.
 - c. Corner Market #118, 609 S 2nd Avenue.

ORDINANCES & RESOLUTIONS

UNFINISHED BUSINESS

NEW BUSINESS

1. Approval to Purchase four (4) Dodge Durango's for Dodge City Police Department. Report by Director of Administration. Ryan Reid.
2. Approve the Design Agreement/Scope of Services for the North Bound 14th Avenue Bridge, Waterline and Force Main Relocates. Report by Ray Slattery, Director of Engineering.
3. Approval of Professional Services Contract for Wright Park Action Plan Design. Report by Daniel Cecil, Parks & Recreation Director.
4. Approval of Funding for the Dodge City Roundup, Inc. Grandstand Improvements. Report by Nick Hernandez, City Manager.

OTHER BUSINESS

STAFF REPORTS

ADJOURNMENT

CITY COMMISSION MEETING MINUTES

City Hall Commission Chambers

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CALL TO ORDER

ROLL CALL Mayor Chuck Taylor, Commissioners Jeff Reinert, Rick Sowers, Michael Burns, Daniel Pogue.

INVOCATION BY

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mayor Chuck Taylor moved to remove Ordinance No. 3808 and change Ordinance No. 3809 to Ordinance No 3808, also add an executive session to the agenda. Commissioner Michael Burns made a motion to accept the changes to the agenda, Commissioner Daniel Pogue seconded the motion. The motion carried 5 – 0.

PETITIONS & PROCLAMATIONS

VISITORS (Limit of five minutes per individual and fifteen minutes per topic. Final action may be deferred until the next City Commission meeting unless an emergency situation does exist).

CONSENT CALENDAR

1. Approval of City Commission Meeting Minutes, 2024.
2. Appropriation, Ordinance No. 3, February 5, 2024.
3. Cereal Malt Beverage License:
 - a. Taco City, 100 Frontview
4. Contract with W.I.T Athletics, LLC for Water Service at 11150 Kliesen St.
5. Contract with W.I.T. Athletics, LLC for Sewer Service at 11150 Kliesen St.
6. Approval of Advisory Board and Commission appointments.

Commissioner Michael Burns moved to approve the consent calendar as presented. Commissioner Jeff Reinert seconded the motion. The motion carried 5 - 0.

ORDINANCES & RESOLUTIONS

Ordinance No. 3808: An Ordinance authorizing the execution of a loan agreement between Dodge City, Kansas and the State of Kansas, acting by and through the Kansas Department of Health and Environment for the purpose of obtaining a loan from the Kansas Water Pollution Control Revolving Fund for the purpose of financing a Wastewater Treatment Project; establishing a dedicated source of revenue for repayment of such loan; authorizing and approving certain documents in connection therewith; and authorizing certain other actions in connection with the loan agreement was approved on a motion by Commissioner Michael Burns. Commissioner Rick Sowers seconded the motion. The motion carried 5 - 0.

Resolution No. 2024-02: A Resolution approving the issuance by the Board of County Commissioners of Ford County, Kansas of its Industrial Revenue Bonds to pay the costs of the acquisition, construction, renovating and equipping of an addition and other improvements to an existing Beef Processing Facility to be leased to Cargill Meat Solutions Corporation, which facility is partially located within the corporate limits of the City of Dodge City, Kansas and the remainder of the facility is within three miles of the corporate limits of the City of Dodge City, Kansas was approved on a motion by Commissioner Rick Sowers. Commissioner Michael Burns seconded the motion. The motion carried 5 - 0.

UNFINISHED BUSINESS

NEW BUSINESS

1. Commissioner Daniel Pogue moved to approve to purchase 624 Trash Karts for the Sanitation Department from Toter in the amount of \$37,998. Commissioner Jeff Reinert seconded the motion. The motion carried 5 - 0.
2. Commissioner Michael Burns moved to approve change order #7 for the extra work required for the sub-base at the primary and Hilmar lift stations in the amount of \$125,974. be funded from contingency. Commissioner Daniel Pogue seconded the motion. The motion carried 5 - 0.
3. Commissioner Jeff Reinert moved to approve change order #8 for the installation of a 60 mil HDPE Liner on the side slopes of the facultative ponds #5 and #6 in the amount of \$1, 089,825. Commissioner Rick Sowers seconded the motion. The motion carried 5 - 0.
4. Commissioner Michael Burns moved to approve change order #2 for 2023 Asphalt Street reconstruction project. In the amount of \$70,612.50. Commissioner seconded the motion. The motion carried 5 - 0.
5. Commissioner Rick Sowers moved to approve to allow staff to submit comments recommending SkyWest/United Express for Essential Air Service (EAS) for a 3-year term with a total subsidy of \$6,880,125 for Dodge City Regional Airport. Commissioner seconded the motion. The motion carried 5 - 0.

6. Commissioner moved to approve the Design Services Agreement with Williamson Architecture in the amount of \$60,000 for the remodel of the Dodge City Police Department Detectives Bureau Offices. Commissioner Daniel Pogue seconded the motion. The motion carried 5 - 0.
7. Commissioner Rick Sowers moved to approve of the 2024 Dodge City Legislative Policy. Commissioner Daniel Pogue seconded the motion. The motion carried 5 - 0.
8. Commissioner Rick Sowers moved to approve of 2024 Southwest Kansas Coalition Legislative Policy. Commissioner Jeff Reinert seconded the motion. The motion carried 5 - 0.
9. Commissioner Jeff Reinert moved to approve the bid from Fremar Corporation in the amount of \$57,015 for the Youth Complex Infield Renovation Project. Commissioner Daniel Pogue seconded the motion. The motion carried 5 - 0.
10. Commissioner Rick Sowers moved to approve of the City Attorney Services Contract. Commissioner Jeff Reinert seconded the motion. The motion carried 5 - 0.

OTHER BUSINESS

STAFF REPORTS

EXECUTIVE SESSION

At 8:00 p.m. Commissioner Michael Burns made a motion that the City Commission recess into executive session pursuant to the “privileged consultation with the City’s Attorney” exception found in K.S.A. 75-4319(b)(2) The justification for closing the meeting is to discuss legal advice from counsel regarding potential litigations. The open meeting will resume in the City Commission Chambers in 10 minutes at 8:10 p.m. The meeting will include the City Commissioners, Nick Hernandez, City Manager, City Attorney, Paige Gilmore. The Commission will take no action upon returning to open session and prior to adjournment. Commissioner Rick Sowers seconded the motion. The motion carried 5 - 0.

ADJOURNMENT

Commissioner Jeff Reinert moved to adjourn the meeting. Commissioner Michael Burns seconded the motion. The motion carried 5 – 0.

ATTEST:

Mayor

City Clerk



Memorandum

To: City Commission
From: Ryan Reid, Director of Administrative Services
Date: 2024 02 07
Subject: Bids for New Patrol Vehicles
Agenda Item: New Business

Purpose: To maintain Police Patrol fleet

Recommendation: Approve purchase of four (4) Police SUVs from Lopp Motors for \$56,919 each (total \$227,676). These would be 2024 Dodge Durango Pursuit vehicles.

Background: Staff opened bids and received two bids for police SUVs with accessories installed. We received two bids. Lopp is the lower bid and they are a local business that we have bought police vehicles from in the past.

The vehicles are used by Patrol to fulfill their mission. The vehicles serve as communication, rapid transportation and response, and gear storage for the officers. They will replace vehicles that have around 90,000 miles on them that are aging out. The replaced vehicles will be repurposed in the City or sold at auction.

City Commission Options:

1. Approve
2. Disapprove
3. Table for further discussion

Financial Considerations:

Amount \$:227,676

Fund: 14021100-441009

Budgeted Expense Grant Bonds Other

Legal Considerations: None

Mission/Values: Ongoing Improvement, Working Towards Excellence

Attachments: Bid tab

Approved for the Agenda by:

Ryan T. Reid, Director of Administrative Services

Bid Opening: 2024 02 02

Bid Tab

Four (4) Police Patrol Vehicles

<u>Bidder</u>		<u>Cost Each</u>		<u>Total \$</u>	<u>Notes</u>
JR Audio	\$	57,625.00	\$	230,500.00	Expect delivery in 90 days and 90 days to install accessories
Lopp Motors	\$	56,919.00		\$227,676	Local vendor. Purchased from Lopp before. Low bid.



2024 Dodge Durango Pursuit



Memorandum

To: Nick Hernandez, City Manager and City Commissioners
From: Ray Slattery, PE, Director of Engineering
Date: February 19, 2024
Subject: Approval of Design Agreement for North Bound 14th Ave. Bridge and Waterline and Force Main Relocate, ST 2306
Agenda Item: New Business

Purpose: Provide design documents for the replacement of the North Bound 14th Ave. Bridge and waterline and force main relocates.

Recommendation: Approve the Design Agreement/Scope of Services for the North Bound 14th Ave. Bridge and Waterline and Force Main Relocate with PEC Consultants for \$915,975.00.

Background: In May of 2023 the City applied to KDOT for the replacement of the Northbound Bridge over the Arkansas River on 14th Ave. under the Kansas Local Bridge Improvement Program (KLBIP). The project will provide a new bridge with a widened sidewalk over the river where the current northbound bridge is located. The bridge is posted for load, it is considered functionally obsolete and structurally deficient. The bridge is 65 years old with an estimated life of 50 years.

In August of 2023, Governor Kelly made a trip to Dodge City to announce the Local Bridge projects. The Northbound 14th Ave. Bridge will receive \$7 Million dollars from KDOT through the KLBIP Program. This project has to be awarded by August of 2025. KDOT will be responsible for Participating Costs of Construction and Construction Engineering, not to exceed the forementioned \$7,000,000. The City will be responsible for funding the remainder of the project. It is estimated that the City's share will be approximately \$2,000,000.

In October of 2023, an RFQ was sent out for Design Services to reconstruct the bridge along with relocating the 16" waterline on this bridge, the 10" and 14" waterline on the 2nd Ave. bridge, and the South Dodge Force Main. The 16" waterline on the 14th Ave. Bridge needs to be relocated prior to the demo and reconstruction of the structure. It only made since to have the relocation of the two waterlines on 2nd Ave. and the South dodge Force Main done at the same time, since many of the same plans and permits are needed for each.

The City received two submittals to our RFQ, from PEC and Olsson. A selection committee of Engineering and Public Works staff reviewed the submittals and selected PEC to perform the necessary design for the bridge reconstruction and utility line relocation. Staff then negotiated the scope and fees with PEC.

City Commission Options:

1. Approve
2. Disapprove
3. Table for further discussion

Financial Considerations:

Amount \$: \$915,975.00 - \$786,450.00 for Bridge Design & \$129,525.00 For Utility Relocates

Fund: 2024 GOB and Utility Fund

Budgeted Expense Grant Bonds Other

Legal Considerations: The City will be entering into a contract with PEC Consultants and will be bound by the provisions of this agreement.

Mission/Values: This project aligns with the City's Core Value of Ongoing Improvements.

Attachments: Design Scope and Fees from PEC Consultants.

Approved for the Agenda by:



Ray Slattery, PE, Dir. of Engineering Services

February 13, 2024

Mr. Ray Slattery
Director of Engineering Services
City of Dodge City
100 Chaffin Rd
Dodge City, KS 67801

Reference: AGREEMENT for CODC 14th Ave Bridge Replacement
Dodge City, Kansas
PEC Project No. 035-230883-000-1009

Dear Mr. Slattery:

Professional Engineering Consultants, P.A. (“PEC”) is pleased to provide professional services to The City of Dodge City (“Client”) in connection with the referenced Project, and in accordance with this letter agreement (“Agreement”). The services to be performed by PEC (“the Services”) are described in Exhibit A and Exhibit B – Services, Schedule, and Payment (attached and incorporated by reference) and are subject to the following terms and conditions.

Performance. PEC will perform the Services with the level of care and skill ordinarily exercised by other consultants of the same profession under similar circumstances, at the same time, and in the same locality. PEC agrees to perform the Services in as timely a manner as is consistent with the professional standard of care and to comply with applicable laws, regulations, codes and standards that relate to the Services and that are in effect as of the date when the Services are provided.

Client Responsibilities. To enable PEC to perform the Services, Client shall, at its sole expense: (1) provide all information and documentation regarding Client requirements, the existing site, and planned improvements necessary for the orderly progress of the Services; (2) designate a person to act as Client representative with authority to transmit instructions, receive instructions and information, and interpret and define Client requirements and requests regarding the Services; (3) provide access to, and make all provisions for PEC to enter the project site as required to perform the Services, including those provisions required to perform subsurface investigations such as, but not limited to, clearing of trees and vegetation, removal of fences or other obstructions, and leveling the site; (4) site restoration and repair, as needed following field investigations; (5) establish and periodically update a project budget, which shall include a contingency to cover additional services as may be required by changes in the design or Services; and (6) timely respond to requests for information and timely review and approve all design deliverables. PEC shall be entitled to rely on all information and services provided by Client. Client recognizes field investigations may damage existing property. PEC will take reasonable precautions to minimize property damage whenever field investigations are included in the Services.

Payment. Invoices will be submitted periodically and are due and payable net 30 days from invoice date. Unpaid balances past due shall be subject to an interest charge at the rate of 1.5 % per month from the date of the invoice, and any related attorneys’ fees and collection costs. PEC reserves the right to suspend the Services and withhold deliverables if the Client fails to make payment when due. In such an event, PEC shall have no liability for any delay or damage resulting from such suspension.

Work Product. PEC is the author and owner of all reports, drawings, specifications, test data, techniques, photographs, letters, notes, and all other work product, including in electronic form, created by PEC in connection with the Project (the “Work Product”). PEC retains all common law, statutory, and other reserved rights in the Work Product, including copyrights. The Work Product may not be reproduced or used by the Client or anyone claiming by, through or under the Client, for any purpose other than the purpose for which it was prepared, including, but not limited to, use on other projects or future modifications to the Project, without the prior written consent of PEC. Any unauthorized use of the Work Product shall be at the user’s sole risk and Client shall indemnify PEC for any liability or legal exposure arising from such unauthorized use. To the extent PEC terminates this Agreement due to non-payment by Client shall not be entitled to use the Work Product for any purpose without the prior written consent of PEC.

Unless otherwise agreed by Client and PEC, Client may rely upon Work Product only in paper copy (“hard copy”) or unalterable digital files, with either wet or digital signature meeting the requirements of the governing licensing authority having jurisdiction over the Project. In all instances, the original hard copy of the Work Product takes precedence over electronic files. All electronic files furnished by PEC are furnished only for convenience, not reliance by Client, and any reliance on such electronic files will be at the Client sole risk.

Insurance. PEC and Client agree to each maintain statutory Worker’s Compensation, Employer’s Liability Insurance, General Liability Insurance, and Automobile Insurance coverage for the duration of this Agreement. Additionally, PEC will maintain Professional Liability Insurance for PEC’s negligent acts, errors, or omissions in providing Services pursuant to this Agreement.

Supplemental Agreements. Changes in the Services may be accomplished after execution of this Agreement only by a written Supplemental Agreement signed by PEC and Client. For any change that increases PEC’s cost of, or time required for performance of any part of the Services, PEC’s compensation and time for performance will be equitably increased.

Differing, Concealed, or Unknown Conditions. If PEC encounters conditions at the Project site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the information provided to PEC or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities provided for in this Agreement, PEC will, if practicable, promptly notify Client before conditions are disturbed. Subsurface condition identification is limited to only those points where samples are taken. The nature and extent of subsurface condition variations across the site may not become evident until construction. PEC assumes no liability for site variations differing from those sampled or changed conditions discovered during construction. If the differing, concealed, or unknown conditions cause an increase in PEC’s cost of, or time required for performance of any part of the Services, PEC’s compensation and time for performance will be equitably increased.

Additionally, Client (1) waives all claims against PEC and (2) agrees to indemnify and hold harmless PEC as well as its respective officers, directors and employees, from and against liability for claims, losses, damages, and expenses, including reasonable attorneys’ fees from all third-party claims resulting from differing, concealed, or unknown conditions.

Fast-Track, Phased or Accelerated Schedule. Accelerated, phased or fast-track scheduling increases the risk of incurring unanticipated costs and expenses including costs for PEC to coordinate and redesign portions of the Project affected by the procuring or installing elements of the Project prior to the completion of all relevant construction documents, and costs for the contractor to remove and replace previously installed work. If Client selects accelerated, phased or fast-track scheduling, Client agrees to include a contingency in the Project budget sufficient to cover such costs.

Force Majeure. PEC will not be liable to Client for delays in performing the Services or for any costs or damages that may result from: labor strikes; riots; war; acts of terrorism; acts or omissions of governmental authorities, the Project Client or third parties; extraordinary weather conditions or other natural catastrophes; acts of God; unanticipated site conditions; or other acts or circumstances beyond the control of PEC. In the event performance of the Services is delayed by circumstances beyond PEC's control, PEC's compensation and time for performance will be equitably increased.

Construction Means; Safety. PEC shall have no control over and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for construction safety precautions and programs. PEC shall not be responsible for the acts or omissions of any contractor, subcontractor or any other person performing any work (other than the Services), or for the failure of any of them to carry out their work in accordance with all applicable laws, regulations, codes and standards, or the construction documents.

Cost Estimates. Upon request, PEC may furnish estimates of probable cost, but cannot and does not guarantee the accuracy of such estimates. All estimates, including estimates of construction costs, financial evaluations, feasibility studies, and economic analyses of alternate solutions, will be made on the basis of PEC's experience and qualifications and will represent PEC's judgment as a design professional familiar with the construction industry. However, PEC has no control over (1) the cost of labor, material or equipment furnished by others, (2) market conditions, (3) contractors' methods of determining prices or performing work, or (4) competitive bidding practices. Accordingly, PEC will have no liability for bids or actual costs that differ from PEC's estimates.

Termination. Both the Client and PEC have the right to terminate this Agreement for convenience upon fifteen calendar days' written notice to the other party. In the event the Client terminates this Agreement without cause, PEC shall be entitled to payment for all Services performed and expenses incurred up to the time of such termination, plus fees for any required transition services, and reimbursement of all costs incurred which are directly attributable to such termination.

Environmental Hazards. Client acknowledges that the Services do not include the detection, investigation, evaluation, or abatement of environmental conditions that PEC may encounter, such as mold, lead, asbestos, PCBs, hazardous substances (as defined by Federal, State or local laws or regulations), contaminants, or toxic materials that may be present at the Project site. Client agrees to defend, indemnify, and hold PEC harmless from any claims relating to the actual or alleged existence or discharge of such materials through no fault of PEC. PEC may suspend the Services, without liability for any damages, if it has reason to believe that its employees may be exposed to hazardous materials.

Betterment. PEC will not be responsible for any cost or expense that provides betterment, upgrade, or enhancement of the Project.

Dispute Resolution. The Client and PEC will endeavor to resolve claims, disputes and other matters in issue arising out of this Agreement, the Project or the Services through a meet and confer session. The meeting will be attended by senior representatives of Client and PEC who have full authority to

resolve the claim. The meeting will take place within thirty (30) days after a request by either party, unless the parties mutually agree otherwise. Prior to the meeting, the parties will exchange relevant information that will assist in resolving the claim.

If the parties resolve the claim, they will prepare appropriate documentation memorializing the resolution.

If the parties are unable to resolve the claim, PEC and Client agree to submit the claim to mediation prior to the initiation of any binding dispute resolution proceedings (except for PEC claims for nonpayment). The mediation will be held in Wichita, Kansas, and the parties will share the mediator's fees and expenses equally.

Jurisdiction; Venue; Governing Law. To the fullest extent permitted by law, PEC and Client stipulate that the Eighteenth Judicial District, District Court, Sedgwick County, Kansas is the court of exclusive jurisdiction and venue to determine any dispute arising out of or relating to this Agreement, the Project or the Services. PEC and Client further agree that this Agreement shall be construed, interpreted and governed in accordance with the laws of the State of Kansas without regard to its conflict of laws principles.

Indemnity. To the fullest extent permitted by law, Client and PEC each agree to indemnify and hold harmless the other, as well as their respective officers, directors and employees, from and against liability for claims, losses, damages, and expenses, including reasonable attorneys' fees, provided such claim, loss, damage, or expense is attributable to bodily injury, sickness, disease, death, or property damage, but only to the extent caused by the negligent acts or omissions of the indemnifying party, or anyone for whose acts they may be liable.

Agreed Remedy. To the fullest extent permitted by law, the total liability, in the aggregate, of PEC and PEC's officers, directors, employees, agents, and consultants to Client and anyone claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages, including, without limitation, attorneys' fees, arising out of or in any way related to this Agreement, the Services, or the Project, from any cause and under any theory of liability, shall not exceed PEC's total fee under this Agreement. In no event will PEC be liable for any indirect, incidental, special or consequential damages, including, without limitation, loss of use or lost profits, incurred by Client or anyone claiming by, through or under Client.

Assignment. Client will not assign any rights, duties, or interests accruing from this Agreement without the prior written consent of PEC. This Agreement will be binding upon the Client, its successors and assigns.

No Third-Party Beneficiaries. This Agreement is solely for the benefit of PEC and Client. Nothing herein is intended in any way to benefit any third party or otherwise create any duty or obligation on behalf of PEC or Client in favor of such third parties. Further, PEC assumes no obligations or duties other than the obligations to Client specifically set forth in this Agreement. PEC shall not be responsible for Client obligations under any separate agreement with any third-party.

Entire Agreement. This Agreement represents the entire and integrated agreement between PEC and Client and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may only be amended by a writing signed by PEC and Client.

Mr. Slattery, P.E.
City of Dodge City
CODC 14th Ave Bridge Replacement
February 13, 2024
Page 5

Severability. If any provisions of this Agreement is determined to be unenforceable, in whole or in part, the remainder shall not be affected thereby and each remaining provision or portion thereof shall continue to be valid and effective and shall be enforceable to the fullest extent permitted by law.

Thank you for engaging PEC; we look forward to working with you. If this Agreement is acceptable, please sign below and return an executed copy to me. Once received, a copy of the Agreement will be executed and returned.

TCK:sjc

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

By: _____, Signatory

Printed Name: Ryan W. Glessner, P.E.

Title: VP | Civil Municipal and Water/Wastewater Engineering

Date: _____

ACCEPTED:

CITY OF DODGE CITY,

By: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT A

14th Street Bridge Replacement

A. Project Description:

1. The Project shall consist of the replacement of the northbound 14th Street Bridge over the Arkansas River as well as improvements to the adjacent roadway and waterline as found to be required for the bridge project. The project shall also include the addition of a multi-use path and lighting across the bridge. See attached Exhibits A-1 for preliminary concept plan/approximate project limits.
2. The Project delivery method is design-bid-build.

B. Anticipated Project Schedule:

1. PEC shall commence its services on the Project within 14 days after receiving CLIENT's notice to proceed.
2. PEC and CLIENT anticipate that construction of the Project will commence no later than Spring 2025.
3. CLIENT acknowledges that directed changes, unforeseen conditions, and other delays may affect the completion of PEC's services. Project deliverable schedules will be impacted by untimely receipt of information necessary to complete design. PEC will not have control over or responsibility for any CLIENT, contractor, or vendor's performance schedule.

C. Project Deliverables:

1. This Project Deliverables shall consist of the following sealed by an Engineer licensed in the State of Kansas where applicable:
 - a) Floodplain Impact Study & No-Rise Certification Report.
 - b) Geotechnical Report based on the below scope of services.
 - c) Preliminary Plans (and supplemental specifications if necessary) and associated engineer's opinion of probable cost in portable document format (PDF).
 - d) Written legal descriptions and associated map exhibits for acquisition of easement and right-of-way determined necessary to be acquired by the CLIENT in order to construct the PROJECT.
 - e) Final Plans (and supplemental specifications if necessary) and associated engineer's opinion of probable cost in PDF format.

D. Scope of Services:

1. Field Survey Services:
 - a) Survey Services will be conducted per the Kansas DOT Bridge Survey requirements including:
 - i. Set inter-visible control points in area of construction. Obtain reference ties.
 - ii. Set benchmark within building area for construction.

- iii. Recover sufficient monumentation as required to enable drafting of 14th St right of way and adjoining parcel lines of properties where title work was requested.
- iv. Recover, locate and Section corner reports for Section 34 and 35 of Township 26 South, Range 25W in Ford County.
- v. Procure 4 Ownership and Encumbrance Report(s) for subject parcel(s) and last deed of properties within the study area.
- vi. Collect topographic survey data, including surface locations sufficient to provide 1' contours per the survey limits sketch (Exhibit B).
- vii. Locate all above and below grade utility improvements. PEC will not be responsible for searching for utilities beyond utilizing the One Call system.
- viii. Compare record information received from utility providers to actual utilities flagged in the field. Notify locating service of any discrepancies and make a reasonable effort to resolve in the field. Utilities identified in record information that cannot be resolved in the field will be drafted in the general alignment shown in the record information and will be specifically identified as "RECORD" on the deliverable drawing. PEC is not responsible for the accuracy of utility information not physically identified on-site.
- ix. Locate all sanitary and storm sewer structures, such as area inlets, curb inlets, junction boxes, manholes, etc., the top of structure information will be collected as well as all flowlines in and out, and pipe size/material.
- x. Locate all buildings and substantial features, including parking stripes, sidewalks, paving limits/type, playground areas/equipment, landscape areas, etc.
- xi. Tree limits, groups of trees and specimen trees will be identified and shown in the drawing.
- xii. The coordinate base will be Kansas Regional Coordinate System Zone – 14 Dodge City and the elevations will be referenced to the NAVD 88 datum.

2. Geotechnical Engineering Services:

- a) PEC will use an appropriate One-Call utility locate system prior to arriving onsite.
- b) (10) subsurface borings to depths 80 feet below existing grade
- c) (2) subsurface borings to depths 10 feet below existing grade
- d) SPT sampling at the following intervals:
 - i. 1.5, 3.0, 6.0, 8.5, and at 5.0 intervals thereafter
- e) Relatively undisturbed soil samples (Shelby Tubes) will also be obtained.
- f) Grab/bulk samples from auger cuttings will be obtained depending on site conditions.
- g) Laboratory testing will be performed to determine the following index and engineering properties:
 - i. Moisture Content
 - ii. Density
 - iii. Atterberg Limits
 - iv. Percent Passing #200 sieve
 - v. Swell/Consolidation
 - vi. Unconfined compressive strength
- h) Geotechnical report, including boring logs, soil descriptions and classifications, groundwater elevations at the time of drilling, and laboratory test results
- i) Geotechnical recommendations for pavement design parameters, earthwork,

- excavation, soil stabilization, and controlled fill.
 - j) Boreholes will be plugged with sodium bentonite, auger cuttings (spoils) and capped with similar materials.
 - k) General cleanup of the site
 - l) Seepage Analysis performed to comply with USACE Levee requirements.
- 3. Project Management Services:
 - a) Provide project correspondence and consultation with CLIENT.
 - b) Provide quality control review prior to submission of project deliverables.
 - c) Attend and assist in facilitating a pre-design kickoff meeting with CLIENT to formalize the design criteria and PROJECT boundaries, lines of communication and overall project procedures.
 - d) Attend and assist in facilitating a design review meeting with the CLIENT to review the plans.
- 4. Hydrologic and Hydraulic Analysis:
 - a) Existing Conditions
 - i. Obtain a copy of the effective Federal Emergency Management Agency (FEMA) hydraulic HEC-RAS 1D model for Arkansas River.
 - ii. Review the model to ensure the model extents and details are adequate to quantify the hydraulic impacts of proposed improvements to the 14th Street bridge.
 - i. Update the existing conditions as appropriate to create a Corrected Effective model for which proposed improvements will be compared, as required by FEMA for permitting requirements.
 - b) Proposed Conditions
 - ii. Quantify the hydraulic impacts of proposed conditions for up to two (2) iterations of the 14th Street bridge improvements for the effective FEMA HEC-RAS 1D model to include the 2-, 5-, 10-, 25-, 50-, 100-, and 500-year design storm as derived from the FIS hydrologic study, as available. Hydraulic bridge sizing will be in accordance with the current version of the KDOT Bridge Design Manual, Volume 3.
 - iii. Develop proposed models in support of a No-Rise Certification.
 - iv. Conduct initial investigations related to scour potential associated with two selected improvements to support the identification of design improvements for scour mitigation.
 - v. Prepare a Hydraulic Assessment Checklist (HAC).
 - c) Mapping
 - i. Derive necessary water surface elevation information from the cross sections to quantify the hydraulic impacts of the proposed improvements in support of a No-Rise Certification.
 - d) Report
 - i. Document the results of the drainage analysis in a study report.
 - ii. Digital hydrology/hydraulic models will be provided to the CLIENT, if requested in writing.
 - iii. Prepare applications for a Kansas Department of Agriculture (KDA) Floodplain Permit and a United States Army Corps of Engineers (USACE) 404 Permit and 408 Permit. No other permits are anticipated at this time and

not included in this scope of work.

e) Permits

- i. Preparation of United States Army Corps of Engineers (USACE) required permits (404)(408) and fees associated with the permits.
- ii. Preparation of Kansas Department of Agriculture (KDA), Division of Water Resources (DWR) required permits and fees associated with the permits.
- iii. Assistance with preparation of local jurisdiction floodplain fill required permits and associated fees.
- iv. Preparation of Kansas Department of Health and Environment (KDHE) Notice of Intent (NOI) and associated permits and fees.

5. Civil Engineering Design Services:

- a) Prepare preliminary plans and supplemental specifications, if necessary, in accordance with the current design criteria of the CLIENT along with an engineer's opinion of probable cost. The anticipated plan sheets are as follows:
 - i. Title Sheet
 - ii. Key Map and General Notes
 - iii. Typical Sections
 - iv. Paving Plan
 - v. Bridge Plan
 - vi. Bridge Details
 - vii. Lighting Plan
 - viii. Lighting Support Details (Coordinate with Victory Electric for light poles and fixtures)
 - ix. Proposed Utility Attachments (By Victory Electric)
- b) Propose a construction sequence for orderly construction of the PROJECT, if determined necessary during design.
- c) Identify proposed easements and right-of-way that may be needed in order to construct the improvements, if determined necessary during design.
- d) Prepare legal descriptions and associated map exhibits for easement and right-of-way tracts determined necessary to be acquired by the CLIENT in order to construct the PROJECT.
- e) Provide utility coordination, including:
 - i. Compare record utility information/maps to surveyed utility information. Notify utility owners of any discrepancies and acquire updated utility information for location verification.
 - ii. Provide concept plans to utility companies for review.
 - iii. Facilitate utility coordination meeting.
 - iv. Identify potential utility conflicts with proposed project construction limits.
 - v. Provide preliminary utility plans (Field Check) and utility conflict list to utility companies for their review, comment and use in developing respective utility relocation plans.
 - vi. Review utility relocation plans as provided by individual utility owners.
 - vii. Provide final utility plans (Office Check) to utility companies.
 - viii. Request utility relocation completion from each utility owner by clear date/relocation deadline.
 - ix. Report cleared utilities to the CITY.
 - x. Record PROJECT related correspondence with the utility companies.
- f) A Storm Water Pollution Prevention Plan (SWPPP) will be prepared in

accordance with the City of Dodge City and Kansas Department of Health and Environment (KDHE) requirements. This plan will assist in the completion of the KDHE Notice of Intent Form. Submit application for KDHE NOI with City of Dodge City as the owner of the permit.

- g) Prepare final plans and supplemental specifications, if necessary, in accordance with the current design criteria of the CLIENT along with an engineer's opinion of probable cost.
6. Electrical Engineering Design Services:
- a) Provide site power distribution design, including main service entrance and distribution panel.
 - b) Site lighting calculations for lighting all traffic lanes on NB and SB bridges from light poles mounted on the proposed bridge piers. (Coordinate with Victory Electric for available light poles, fixtures, etc.)
 - c) Site lighting calculations for lighting the proposed shared use path across the proposed bridge.
 - d) Provide site lighting calculations for lighting layout in order to provide accurate conduit routing and pull boxes/stub up locations.
 - e) Prepare site lighting plans to include:
 - i. Lead sheet with notes and symbols.
 - ii. Site plan sheets as required to cover area.
 - a. Partial plan areas as required.
 - iii. Electrical one-line diagram and panel schedules.
 - iv. Details and control wiring diagrams for lighting control.
7. Bidding Services:
- a) Advertise PROJECT and distribute bid documents to prospective bidders.
 - b) Respond to bidder's requests for information during the bidding process.
 - c) Maintain bid document holders list.
 - d) Attend and assist in facilitating the pre-bid conference, if applicable.
 - e) Attend bid opening and prepare bid tabulation.
 - f) Provide bid tabulation and notice of award to CLIENT.

E. Additional Responsibilities of CLIENT:

The CLIENT agrees to provide the following pursuant to PEC accomplishing the Scope of Services outlined herein.

- 1. Drawings, studies, reports, and other information available pertaining to the needs of the PROJECT.
- 2. Attend all PROJECT progress meetings.
- 3. Provide access to the PROJECT area property.
- 4. Provide CLIENT utility locates within the PROJECT area.
- 5. Provide prompt review of the PROJECT plans and specifications. Comments shall be returned within 14 calendar days of the preliminary plan submittal.
- 6. Provide geotechnical investigation and report with recommendations for foundation and pavement design unless included in Scope.
- 7. Easement and right-of-way appraisal and acquisition, if necessary, for construction of the PROJECT.

F. Additional Services:

The following services can be provided by PEC at an additional cost by Supplemental Agreement:

1. Field Survey Services.
2. Production of record drawings, as-builts, or release of electronic files.
3. Additional services associated with an expansion of the PROJECT or increase in PROJECT size and construction cost.
4. Geotechnical investigations.
5. Geographic Information Systems (GIS) data collection and mapping services.
6. Additional manual or machine traffic counts of any driveway(s) or adjacent roadway(s).
7. Revisions to the traffic analysis or report due to major changes in the site plan e.g. building size or occupancy use, number and location of site access points, etc.
8. Design engineer construction site observations in excess of the number above will be performed on an hourly basis.
9. Meetings with local, State, or Federal agencies beyond those specifically identified in the above scope of services.
10. Attendance at public meetings beyond those specifically identified in the above scope of services.
11. Railroad/Railway Coordination.
12. Analysis of existing utility systems.
13. Vacuum excavation of existing utilities.
14. Design of “Additional Services or Extra Services” as defined by CASE unless specifically agreed to. Additional services typically consist of site structures, screen walls, shoring, preparation of shop drawings, and review of value engineering and substitutions.
15. Plan revisions, as necessary, to reduce the cost of construction after issue of CD’s. (Typically referred to “Value Engineering” or “VE”.)
16. Design of retaining walls.
17. Alternate designs not specifically listed in the Scope of Services.
18. Construction Phase Services: Includes Construction Administration, Construction Testing and Inspection, Construction Staking related to the project.
19. Utility Relocation/Extension Design: Includes any public utility design not included within the scope of services above.
20. Landscape Architecture Services: Includes landscape design and tree planting.

G. Exclusions:

The following shall be specifically excluded from the Scope of Services to be provided by PEC.

1. Additional services not included in the above scope of services.
2. Handling of contaminated soils.
3. Offsite Removal of Spoils.
4. Franchise Utility Design.
5. Railroad/Railway Design.
6. Environmental site assessments.
7. Appraisal and acquisition of easements and right-of-way.
8. Code mandated special structural inspections. The CLIENT shall establish and pay for a testing and inspection plan that includes all code mandated special structural inspections to be performed, if required.

H. PEC's Fees & Reimbursable Expenses:

1. PEC will invoice CLIENT one time per month for services rendered and Reimbursable Expenses incurred in the previous month. CLIENT agrees to pay each invoice within 30 days after receipt.
2. PEC's Fee for its Exhibit A Scope of Services will be on a lump sum basis in the amount of **\$786,450.00**. An estimated breakdown of the total aggregate fee for Exhibit A scope is outline below:

Services	Fees
Field Survey Services	\$ 57,000.00
Hydrologic and Hydraulic Analysis	\$ 45,500.00
Geotechnical Services	\$ 58,450.00
Civil Engineering Design Services	\$608,000.00
Electrical Design Services	\$ 7,500.00
Bidding Services	\$ 5,000.00
Permit Fees	\$ 5,000.00
TOTAL	\$786,450.00

3. PEC's Fee for its Exhibit B Scope of Services will be on a lump sum basis in the amount of **\$129,525.00**.
4. PEC's fee for its Exhibit A and Exhibit B Scope of Services combined will be on a lump sum basis in the amount of **\$915,975.00**.
5. Taxes are not included in PEC's Fees. CLIENT shall reimburse PEC for any sales, use, and value added taxes which apply to these services.

Exhibit A-1



EXHIBIT B

14th Ave Waterline, 2nd Ave Waterline, and South Dodge Lift Station FM

A. Project Description.

1. The Project shall consist of two 16” waterline relocations along 2nd Avenue and 14th Avenue, and an 8” force main relocation at the South Dodge Street Lift Station in Dodge City, Kansas. Reference the conceptual drawings included as Exhibit B-1.
2. The Project delivery method is design-bid-build.

B. Anticipated Project Schedule.

1. PEC shall commence its services on the Project within 7 days after receiving CLIENT’s notice to proceed.
2. PEC and CLIENT anticipate that the design duration to complete construction documents will be approximately 36 weeks after receiving Notice to Proceed.
3. CLIENT acknowledges that directed changes, unforeseen conditions, and other delays may affect the completion of PEC’s services. PEC will not have control over or responsibility for any contractor or vendor’s performance schedule.

C. Project Deliverables.

1. This Project Deliverables shall consist of the following sealed by an Engineer licensed in the State of Kansas where applicable:
 - a) Preliminary Plans and Specifications
 - b) Final Plans and Specifications

D. Scope of Services.

1. General Scope Items for Civil Services:
 - a) Conduct one pre-design site visit to assess existing conditions.
 - b) Participate in a kickoff meeting to discuss project improvements.
 - c) Attend up to two progress design meetings with CLIENT.
 - d) Provide bidding assistance including response to Contractor’s questions and preparation of items for inclusion in Addenda.
 - e) Provide Engineer’s opinion of probable construction cost.
2. Survey Services including:
 - a) Set inter-visible control points in area of construction. Obtain reference ties.
 - b) Set benchmark within building area for construction.
 - c) Recover sufficient monumentation as required to enable drafting of boundary information.
 - d) Procure Ownership and Encumbrance Report(s) for subject parcel(s).
 - e) Collect topographic survey data, including surface locations sufficient to provide 1’ contours per the survey limits sketch (Exhibit B-2).
 - f) Locate all above and below grade utility improvements. PEC will not be responsible for searching for utilities beyond utilizing the One Call system.

- g) Compare record information received from utility providers to actual utilities flagged in the field. Notify locating service of any discrepancies and make a reasonable effort to resolve in the field. Utilities identified in record information that cannot be resolved in the field will be drafted in the general alignment shown in the record information and will be specifically identified as “RECORD” on the deliverable drawing. PEC is not responsible for the accuracy of utility information not physically identified on-site.
 - h) Locate all sanitary and storm sewer structures, such as area inlets, curb inlets, junction boxes, manholes, etc., the top of structure information will be collected as well as all flowlines in and out, and pipe size/material.
 - i) The coordinate base will be Kansas State Plane NAD 83(2011) South Zone and the elevations will be referenced to the NAVD 88 datum.
 - j) Provide Aerial LiDAR scanning and images of area(s) defined in the attached Limits Map (Exhibit B-2).
3. Civil Design Services:
- a) Utilizing the Sanitary Sewer Master Plan (in progress), review recommended South Dodge Lift Station Force Main sizing to accommodate projected flows.
 - b) Utilizing the Water Distribution System Master Plan (in progress), review recommended waterline sizing to accommodate projected conditions.
 - c) Produce alternative design concept plans for review with City Staff.
 - d) Provide a complete set of construction drawings and details, including Cover Sheet, key map, plan/profiles, coordinate geometry data, erosion control plans, traffic control, and associated details.
 - e) Provide project specifications including front-end bidding/contract documents and technical specifications.
 - f) Summarize project quantities and estimate probable construction costs.
 - g) Identify all utilities within the project limits and coordinate resolution of potential conflicts with each company.
 - h) Develop a Storm Water Pollution Prevention Plan (SWPPP) and supporting documentation for the preparation of a Notice of Intent (NOI) permit application for submission by the City to the Kansas Department of Health and Environment (KDHE), if required.
 - i) Develop supporting documentation and preparation of a Division of Water Resources (DWR) General Permit for submission, if required.
 - j) Develop supporting documentation and preparation of an Army Corps of Engineers 408 Permit for submission, if required.
 - k) Submit drawings and specifications to the Kansas Department of Health and Environment (KDHE), with Waterline Extension and Sanitary Sewer Extension permit applications as applicable, for approval.
4. Civil Engineering Construction Administration Services including:
- a) Attend and assist in facilitating the preconstruction conference.
 - b) Issue contract documents and review bonds and insurance submitted by the PROJECT awarded contractor.
 - c) Review shop drawings for systems and elements designed by PEC. Review period will be 14 calendar days after received by PEC office unless other terms are agreed to by PEC and CLIENT.
 - d) Review Contractor's material test certifications for compliance with plans and specifications.
 - e) Respond to RFIs generated by the contracting team. Response will be provided in 7 working days after received by PEC office unless other terms are agreed to by PEC and CLIENT.

- f) Consult with the Resident Inspector regarding interpretations or clarifications of the plans and specifications.
- g) Provide decisions in accordance with the Contract Documents on questions regarding this work.
- h) Prepare Change Orders covering modifications or revisions necessitated by field conditions.
- i) Make a maximum of two (2) visits to the PROJECT site to determine Contractor's progress and general character of the work, upon written request of CLIENT.
- j) Perform one final construction observation site visit following substantial completion and develop written punch list of remaining items required for final acceptance.
- k) Issue Notice of Acceptability when the PROJECT is recommended for final payment by the ENGINEER.

E. Additional Responsibilities of CLIENT:

The CLIENT agrees to provide the following pursuant to PEC accomplishing the Scope of Services outlined herein.

- 1. Drawings, studies, reports, and other information available pertaining to the existing site.
- 2. Provide right of entry for PEC's personnel for performing site visits, field surveys, and inspections.

F. Additional Services:

The following services can be provided by PEC at an additional cost by Supplemental Agreement:

- 1. Production of record drawings, as-builts, or release of electronic files.
- 2. Meetings in excess of the number above will be performed on an hourly basis.
- 3. Analysis of existing utility systems.
- 4. Plan revisions, as necessary, to reduce the cost of construction after issue of Construction Documents. (Typically referred to "Value Engineering" or "VE".)
- 5. Design of any water pump stations or sanitary sewer lift stations.
- 6. Telecommunications design and SCADA.
- 7. Geotechnical investigation and report with recommendations.
- 8. Landscape Design.
- 9. Platting and/or Zoning change processes.
- 10. Easement abandonments and dedications.
- 11. Construction Testing and Inspection, Construction Staking.
- 12. Alternate designs not specifically listed in the Scope of Services.

G. Exclusions:

The following shall be specifically excluded from the Scope of Services to be provided by PEC.

- 1. Filing Fees
- 2. Franchise Utility Design.
- 3. Environmental assessments.
- 4. Easement abandonments and dedications.
- 5. Tree Survey/Identification Service.
- 6. Additional easement or setback locations not specifically requested.

H. PEC's Fees & Reimbursable Expenses.

1. PEC will invoice CLIENT one time per month for services rendered and Reimbursable Expenses incurred in the previous month. CLIENT agrees to pay each invoice within 30 days after receipt.
2. PEC's Fee for its Exhibit B Scope of Services will be on a lump sum basis in the amount of **\$129,525.00**.

An estimated breakdown of the total aggregate fee for Exhibit B is outlined below:

	2nd Ave Water	14th Ave Water	S. Dodge Force Main
Design	\$27,900.00	\$24,125.00	\$19,200.00
Survey	\$24,000.00	N/A*	\$13,200.00
CA	\$ 8,500.00	\$ 7,350.00	\$ 5,250.00
TOTAL	\$60,400.00	\$31,475.00	\$37,650.00

*Survey included in Exhibit A scope.

3. PEC's fee for its Exhibit A Scope of Services will be on a lump sum basis in the amount of **\$786,450.00**.
4. PEC's fees for its Exhibit A and Exhibit B Scope of Services combined will be on a lump sum basis in the amount of **\$915,975.00**.
5. Taxes are not included in PEC's Fees. CLIENT shall reimburse PEC for any sales, use, and value added taxes which apply to these services.



Connect to existing
MH downstream of
parallel gravity lines.

Future parallel 30"
line planned

Relocate/Replace
Approximately 1,100
LF 8" Force Main

EXHIBIT B-1



EXHIBIT B-1



Pheasant St

Pheasant St

N 14th Ave

Cottonwood Av

Burlington Northern Santa Fe



Arkansas River

0 125 250 500 Feet

Replace/Relocate
approx. 1,000 LF of 16
Inch Waterline

Arkansas River

S 14th Ave

S 14th Ave

Maze St

Cimarron Valley

EXHIBIT B-1

Market St

EXHIBIT B-2



EXHIBIT B-2



Legal Considerations: The City Attorney has reviewed the design services contract from LK Architecture for the Wright Park Action Plan and has no concerns at this time.

Mission/Values: This project aligns with the City's core values of ongoing improvement, safety and working towards excellence for the community.

Attachments: Professional Services Contract from LK Architecture

Approved for the Agenda by:



Parks and Recreation Director

Name, Title



AIA® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 19th day of February in the year 2024
(In words, indicate day, month and year.)

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

City of Dodge City
806 N. 2nd Ave.
Dodge City, KS 67801

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

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

LK Architecture, Inc.
345 Riverview, Suite 200
Wichita, KS 67203

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

Wright Park Improvement Project
Dodge City, KS

The Owner and Architect agree as follows.

LK shall provide design services to the City of Dodge City as outlined in Exhibit "A" for improvements to Wright Park in Dodge City, Kansas. The final design will be based on the finalized master plan developed for the City during 2023 with refinements to the zoo, naturalized water feature and playground areas. It is anticipated that there will be multiple bid/construction packages produced as part of this contract. The scope of each bid package will be determined.

Init.

TABLE OF ARTICLES

1 INITIAL INFORMATION

2 ARCHITECT'S RESPONSIBILITIES

3 SCOPE OF ARCHITECT'S BASIC SERVICES

4 SUPPLEMENTAL AND ADDITIONAL SERVICES

5 OWNER'S RESPONSIBILITIES

6 COST OF THE WORK

7 COPYRIGHTS AND LICENSES

8 CLAIMS AND DISPUTES

9 TERMINATION OR SUSPENSION

10 MISCELLANEOUS PROVISIONS

11 COMPENSATION

12 SPECIAL TERMS AND CONDITIONS

13 SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project:

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

Owner's Program based on completed Park Master Plan.

§ 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.)

32 Acres +/- Existing Wright Park West of 2nd Ave., North of Arkansas River

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

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

Projected Project Budget \$15 Million

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

- .1 Design phase milestone dates, if any:

36-40 weeks

.2 Construction commencement date:

Undetermined

.3 Substantial Completion date or dates:

Undetermined

.4 Other milestone dates:

N/A

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Competitive bid, multiple bid packages.

§ 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.)

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™-2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204-2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204-2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Daniel Cecil
Parks Director
100 Chaffin Rd.
Dodge City, KS 67801

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

N/A

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

.1 Geotechnical Engineer:

Kaw Valley Engineering
1627 Sunflower Lane
Salina, KS 67401
\$12,125.00

.2 Civil Engineer:

N/A

.3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

N/A

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

Jeffrey A. Best, PLA, Director of Landscape Architecture, Associate Vice President
345 Riverview, Suite 200
Wichita, KS 67203

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

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

MKEC
411 N. Webb Rd.
Wichita, KS 67206

.2 ~~Mechanical~~ Civil Engineer:

Kaw Valley Engineering
1627 Sunflower Lane
Salina, KS 67401

.3 ~~Electrical Engineer~~ Zoo Consultant:

Felis Consulting
333 3rd Ave. N.
St. Petersburg, FL 33701

.4 Water Feature Consultant:

Hydro Dramatics
1228 S. 8th St.

Init.

§ 1.1.11.2 Consultants retained under Supplemental Services:

N/A

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

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

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use 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.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

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

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

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

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

§ 2.5.1 Commercial General Liability with policy limits of not less than One Million and No/100 Dollars (\$ 1,000,000.00) for each occurrence and Two Million and No/100 Dollars (\$ 2,000,000.00) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million and No/100 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.

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

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than One Million and No/100 Dollars (\$ 1,000,000.00) each accident, One Million and No/100 Dollars (\$ 1,000,000.00) each employee, and One Million and No/100 Dollars (\$ 1,000,000.00) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Two Million and No/100 Dollars (\$ 2,000,000.00) per claim and Four Million and No/100 Dollars (\$ 4,000,000.00) in the aggregate.

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

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

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

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

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

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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

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

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

§ 3.2 Schematic Design Phase Services

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

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

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

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

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

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

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

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

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

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

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

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

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

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

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

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

§ 3.5 Procurement Phase Services

§ 3.5.1 General

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

§ 3.5.2 Competitive Bidding

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

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

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

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

§ 3.5.3 Negotiated Proposals

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

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

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

- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

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

§ 3.6 Construction Phase Services

§ 3.6.1 General

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

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

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

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

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

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

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

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

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

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

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

§ 3.6.4 Submittals

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

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

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

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

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

§ 3.6.5 Changes in the Work

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

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

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

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

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

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

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

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

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

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

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	N/A
§ 4.1.1.2 Multiple preliminary designs	N/A

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.3 Measured drawings	N/A
§ 4.1.1.4 Existing facilities surveys	N/A
§ 4.1.1.5 Site evaluation and planning	N/A
§ 4.1.1.6 Building Information Model management responsibilities	N/A
§ 4.1.1.7 Development of Building Information Models for post construction use	N/A
§ 4.1.1.8 Civil engineering	N/A
§ 4.1.1.9 Landscape design	N/A
§ 4.1.1.10 Architectural interior design	N/A
§ 4.1.1.11 Value analysis	N/A
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	N/A
§ 4.1.1.13 On-site project representation	N/A
§ 4.1.1.14 Conformed documents for construction	N/A
§ 4.1.1.15 As-designed record drawings	N/A
§ 4.1.1.16 As-constructed record drawings	N/A
§ 4.1.1.17 Post-occupancy evaluation	N/A
§ 4.1.1.18 Facility support services	N/A
§ 4.1.1.19 Tenant-related services	N/A
§ 4.1.1.20 Architect's coordination of the Owner's consultants	N/A
§ 4.1.1.21 Telecommunications/data design	N/A
§ 4.1.1.22 Security evaluation and planning	N/A
§ 4.1.1.23 Commissioning	N/A
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	N/A
§ 4.1.1.25 Fast-track design services	N/A
§ 4.1.1.26 Multiple bid packages	N/A
§ 4.1.1.27 Historic preservation	N/A
§ 4.1.1.28 Furniture, furnishings, and equipment design	N/A
§ 4.1.1.29 Other services provided by specialty Consultants	N/A
§ 4.1.1.30 Other Supplemental Services	N/A

§ 4.1.2 Description of Supplemental Services

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

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

N/A

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

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

N/A

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

§ 4.2 Architect's Additional Services

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

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

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

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

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Nine (9) visits to the site by the Architect during construction
- .3 One (1) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 One (1) inspections for any portion of the Work to determine final completion.

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

§ 4.2.5 If the services covered by this Agreement have not been completed within Eighteen (18) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

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

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

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and 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.

§ 5.5 The Owner 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.

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

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

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

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

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

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

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

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

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

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

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

ARTICLE 6 COST OF THE WORK

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

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

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

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

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

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

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

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

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

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

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

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

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

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

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

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

§ 8.2 Mediation

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

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

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

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

(Check the appropriate box.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: *(Specify)*

Init.

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

§ 8.3 Arbitration

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

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

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

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

§ 8.3.4 Consolidation or Joinder

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

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

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

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

ARTICLE 9 TERMINATION OR SUSPENSION

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

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

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

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

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

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

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

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

.1 Termination Fee:

Zero

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

Zero

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

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

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

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

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute

Init.

all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

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

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

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

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

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

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

ARTICLE 11 COMPENSATION

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

.1 Stipulated Sum
(Insert amount)

One Million Fifty-Two Thousand Seven Hundred Fifty and No/100 Dollars (\$1,052,750.00).

.2 Percentage Basis
(Insert percentage value)

~~() % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.~~

.3 Other
~~_____ (Describe the method of compensation)~~

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Agreed lump sum.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Agreed upon lump sum or hourly rate.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Zero percent (0 %), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

Agreed upon lump sum

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

Schematic Design Phase		percent (%)
Design Development Phase		percent (%)
Construction Documents Phase		percent (%)
Procurement Phase		percent (%)
Construction Phase		percent (%)
Total Basic Compensation	one hundred	percent (100	%)
Schematic Design Phase	\$ 210,550.00	Twenty	percent (20 %)
Design Development Phase	\$ 157,912.50	Fifteen	percent (15 %)
Construction Documents Phase	\$ 600,067.50	Fifty-Seven	percent (57 %)
Procurement Phase	\$ 31,582.50	Three	percent (3 %)
Construction Phase	\$ 52,637.500	Five	percent (5 %)
Total Basic Compensation	\$1,052,750.00	one hundred	percent (100 %)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

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

See Exhibit "B".

Employee or Category

Rate (\$0.00)

§ 11.8 Compensation for Reimbursable Expenses

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

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

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

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

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

See Exhibit "C".

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

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

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of Zero (\$ 0) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Ninety (90) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

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

1.5 % Per Month

Init.

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

12.1 Limitation of Liability. To the fullest extent permitted by law, the total liability, in the aggregate, of Design Professional, Design Professional's officers, directors, partners, employees, agents, and subconsultants, to Client, and anyone claiming by, through, or under Client for any claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to this Project or Agreement from any cause or causes, including but not limited to negligence, professional errors and omissions, strict liability, breach of contract, or breach of warranty, shall not exceed the insurance proceeds available at the time of settlement.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
- .2 ~~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.)~~

- .3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)

_____ AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.) _____

Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

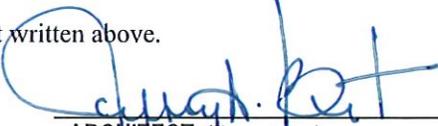
Exhibit "A" Project Scope

- .4 Other documents:
(List other documents, if any, forming part of the Agreement.)

Exhibit "B", Hourly Rates.
Exhibit "C", Certificate of Insurance.

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

OWNER (Signature)



ARCHITECT (Signature)

Init.

(Printed name and title)

Jeffrey A. Best, PLA, Director of Landscape
Architecture, Associate Vice President
(Printed name, title, and license number, if required)

Init.

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User Notes:

(1666282343)

Exhibit 'A'
Project Scope

Phase 1 Improvements

Phase 1 includes a new major playground, new parking lot, round-a-bout, naturalized water feature and zoo. Additionally, improvements include new park signage, maintenance, building and walkways. LK will work with staff and the zoo consultant to formalize all zoo exhibits and maintenance/zoo building. LK will work with city staff and steering committee to formalize the design of the naturalized water feature and playground.

Phase 2 Improvements

Phase 2 includes the area around Hoover Pavilion. This would include removal of the existing skatepark and design of additional parking, walkways, and wedding gazebo. Additionally, the grounds around Hoover Pavilion would be designed with additional walkways, raised decorative garden areas, park signage and bridge over drainage ditch. Finally, plans to rehabilitate the patio around Hoover Pavilion and extend the patio to the north are included.

Phase 3 Improvements

Phase 3 includes a second round-about, new parking lot and new multi-purpose, event building. Additional improvements include a nature playground, tot-lot play area, dog park areas and additional concrete walkways. LK will work with staff to formalize the nature playground design and pavilion design.

Scope of Services

LK Architecture has included the following services to complete the project.

- Architectural and Landscape Architectural Services
- Survey & Civil Engineering
- Electrical & Mechanical Engineering
- Structural Engineering
- Zoo Consultant
- Water Feature Consultant

Fee Breakdown

- Phase 1:

Architectural/Landscape Architectural Services:	\$267,000
Survey & Civil Engineering Services:	\$148,000
MEP Engineering Services:	\$18,000
Structural Engineer Services:	\$43,750
Zoo Consultant:	\$65,500
Water Feature Consultant:	\$14,000
Fee:	\$556,250

➤ Phase 2:

Architectural/Landscape Architectural Services:	\$46,500
Civil Engineering Services:	\$68,000
Electrical Engineering Services:	\$9,000
Structural Engineer Services:	\$12,750
Fee:	\$136,250

➤ Phase 3:

Architectural/Landscape Architectural Services:	\$217,000
Civil Engineering Services:	\$106,000
MEP Engineering Services:	\$9,000
Structural Engineer Services:	\$28,250
Fee:	\$360,250

Inclusions

Fees include the following construction administration services:

- Review of RFI's, Substitution Requests, Submittals, Shop Drawings, etc.
- Issuance of CCD's, Addenda, Revisions, etc.
- On-Site Construction Observations
 - Architectural & Landscape Architectural work only.
 - Limited to three (3) observation trips per phase.
 - Additional observations shall be billed separately.

Exclusions

LK Architecture has excluded soils investigations from our scope of services. However, a fee for this service has been provided for the city to contract separately. Fees for this service are \$12,125.00 through Kaw Valley Engineering.

Add Services

LK will provide additional services when directed and requested by the Owner in writing. Additional services will be provided in accordance with the attached hourly rate schedule or at a mutually agreed upon lump sum. When requested, a letter outlining the scope of additional services with the proposed services fee will be sent to the Owner for signature and approval prior to beginning the additional services work.



SCHEDULE OF FEES AND SERVICES*
(Effective January 1, 2024)

Hourly Rates by Responsibility:

Senior Principals	\$285	Engineering Department Director	\$185
Vice President	\$175	Engineering Technical Director	\$150
Associate Vice President	\$150	Senior Engineer 3	\$160
		Senior Engineer 2	\$150
Director of Design	\$225	Senior Engineer 1	\$140
Design Visualization Specialist 2	\$140	Engineer 3	\$130
Design Visualization Specialist 1	\$120	Engineer 2	\$115
		Engineer 1	\$100
Architectural Department Director	\$150	Engineering Designer 5	\$130
Senior Architect 3	\$140	Engineering Designer 4	\$115
Senior Architect 2	\$130	Engineering Designer 3	\$90
Senior Architect 1	\$120	Engineering Designer 2	\$75
Senior Architectural Project Manager 3	\$130	Engineering Designer 1	\$65
Senior Architectural Project Manager 2	\$120	Engineering BIM Designer	\$70
Senior Architectural Project Manager 1	\$110	Engineering Student Intern	\$60
Architect 2	\$110		
Architect 1	\$100	BIM Director	\$110
Architectural Project Manager 2	\$100	BIM Manager	\$95
Architectural Project Manager 1	\$90	Senior BIM Specialist 2	\$110
Job Captain 2	\$95	Senior BIM Specialist 1	\$100
Job Captain 1	\$85	BIM designer 2	\$90
Architectural Designer 2	\$90	BIM Designer 1	\$80
Architectural Designer 1	\$80		
		Accounting Specialist	\$75
Interior Design Department Director	\$185	Contract Administrator	\$70
Senior Interior Designer	\$130	Administrative / Clerical	\$65
Senior Designer	\$130		
Designer	\$90	Student Intern	\$60
Junior Designer	\$70		
Design Assistant / Design Intern	\$60		
Interior Design Coordinator	\$80		

Consultants: Actual Billing plus 10% processing charges.

Printing, Shipping and Courier Services: Actual Billing plus 10% processing charges.

Travel Out of Wichita:

When authorized by Owner or Agent of Owner:
 Time for services: Eight (8) hours per day x hourly rate
 Air fare, car rental, taxi, or other mode: Actual Billing
 Accommodations, meals, subsistence: Actual Billing

*The rates will be adjusted annually.

Architecture Engineering Interiors Landscape Architecture



Memorandum

To: City of Dodge City Commission

From: City Manager, Nickolaus J. Hernandez

Date: February 19, 2024

Subject: Approval of Funding for Dodge City Roundup, Inc. Grandstand Improvements

Agenda Item: New Business

Purpose: The purpose of this grant is to assist Roundup in replacing the wood with aluminum in their main grandstand. The existing wood is in poor condition and is causing safety issues. The total project cost is \$285,185 and the improvements will be implemented in time for the 2024 Dodge City Days Rodeo.

Roundup's Dodge City Days Rodeo is one of the most decorated events in Pro-Rodeo history. The Dodge City Days event is the second largest community event held in the entire state of Kansas. The Roundup Rodeo facility is 47 years old and will be celebrating their 50th anniversary in 2027.

Recommendation: Staff recommends approval of grant award to Dodge City Roundup, Inc. in amount not to exceed \$120,000. This includes a dollar per dollar for funding raised matching grant not to exceed \$60,000. Staff also recommends authorization for the City Manager to approve the memorandum of understanding with Roundup for the use of the funds.

Background:

Dodge City Roundup, Inc. is a not-for-profit corporation formed to promote Dodge City's Western Heritage. When Roundup was created in 1977, it was determined that there would be significant prize money, top stock, and the best contract personnel in the sport. Showcasing quality in every aspect of the production. This formula worked and Roundup has nine times been honored as a PRCA Rodeo Committee of the Year, and six of those awards came in the days when there was only one category covering all 600-plus PRCA-sanctioned rodeos. Today, Roundup continues to be consistently nominated as one of five nominees as PRCA Large Outdoor Rodeo.

The rodeo is annually the centerpiece of the Dodge City Days festival. It is the richest rodeo in the state of Kansas in contestant payout. Dodge City Roundup presents one of the top rodeos in the nation in partnership with many local, area, and national sponsors. The Dodge City Roundup Rodeo was selected by Time Magazine as one of the "50 Authentic American Experiences" in September 2008. This selection is limited to one "experience" for each of the fifty (50) United States. In July of 2012, Dodge City Roundup Rodeo was inducted into PRCA Pro Rodeo Hall of Fame, and in 2018 was voted "#1 Rodeo in North American" by USA Today's 10Best. In 2023, Dodge City Roundup Rodeo was listed in Rodeo News as the 19th rodeo in the US based on total payout with a payout of over \$468,000.

Roundup, Inc is also the host of Kansas High School and Junior High rodeo as well as KPRA Finals. In addition, the Miss Rodeo Kansas Queen and Teen Pageants call Dodge City Roundup their home.

City Commission Options:

1. Approve
2. Disapprove
3. Table for further discussion

Financial Considerations: Fund Roundup's request for a \$60,000 grant and provide a dollar for dollar matching grant for funds raised in an amount not to exceed \$60,000. Roundup is actively seeking sponsorships, donations, and grants to match the remaining costs.

If approved the grant amount not to exceed \$120,000 will be paid from the additional 2% Transient Guest Tax. There is funding available in this fund to cover the amount of this request.

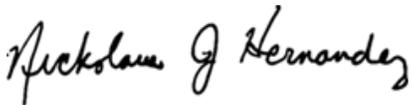
Legal Considerations: If approved the City Attorney will develop a memorandum of understanding for the use of the Roundup Grandstand Funds, which will be reviewed and approved by the City Manager.

Mission/Values: This request meets with the City's core purpose of "making Dodge City the best place to be" and the core value of safety.

Attachments:

Dodge City Roundup, Inc. Request for Funds

Approved for the Agenda by:



City Manager, Nickolaus J. Hernandez



Dodge City Roundup, Inc.

608 South 14th Avenue

Dodge City, KS 67801

(620) 225-2244 FAX (620) 225-2750

Dear Nick, Mayor Taylor, Vice Mayor Reinert, Commissioner Burns, Commissioner Sowers, and Commissioner Pogue,

Having been elected the new president of Dodge City Roundup, I would like to take a minute to thank you for all your support throughout the years and the many more ahead. Your support of our organization plays a large role in our success!

Aside from thanking you for your support, I would like to let you know that we are currently faced with a 47-year-old facility that we do our absolute best to continually maintain. Through the years, we have replaced the wood with aluminum in the north and south grandstands. We have been able to do these projects over a period of time through grants and various funding. We knew the main grandstand was our next undertaking and we hoped we could accomplish this in small steps. However, upon surveying the condition of the wood in our grandstands, it has been determined that this project cannot wait, and we must replace all the wood in the entire structure this year in order to provide safe seating.

Expenses for this project are as follows:

Aluminum	\$174,185.00
Demolition and installation	\$81,000.00
Delivery	\$7,000.00
Disposal of wood and Misc.	<u>\$23,000.00</u>
	\$285,185.00

We would like to ask for a \$60,000 grant with an additional matching funds grant of \$60,000. We feel this matching grant will help motivate others to get on board and help us complete this necessary task. In December 2023 we sent out 110 letters to our current sponsors requesting donations for this project, which resulted in \$12,500 in donations to date. We are currently looking at other grants and avenues to continue to raise the remaining funds as well as other businesses in southwest Kansas. We plan to recognize donors that helped make this project possible with a plaque on the back of the grandstands.

We are hoping you can help us keep our facility safe so that we can continue to bring the many rodeo fans to our great city and southwest Kansas. Feel free to call with any questions that you may have about this project.

Thank you for your time and generosity,

Stephen Deges, President

620-338-3765