

**AGREEMENT FOR PROFESSIONAL ARCHITECTURAL DESIGN SERVICES
FOR THE DOWNTOWN MARKET PLAZA PROJECT**

THIS AGREEMENT made and entered into this 3rd day of January, 2022, by and between the City of Lee's Summit, Missouri (hereinafter "**City**"), and GLMV Architecture, Inc. (hereinafter "**Architect**").

WITNESSETH:

WHEREAS, the City has engaged in planning and preparation efforts to proceed with the Conceptual Master Planning and Public components for the Downtown Lee's Summit Market Center Project (the "**Project**") which is generally planned to be located in an area bounded by 2nd Street on the north, 3rd Street on the South, Green Street on the west and Johnson Street on the east, and extending across Green Street into the area that currently serves as the Civic Plaza for City Hall (collectively the "**Redevelopment Area**"); and

WHEREAS, the City intends to have professional architectural services associated with the overall design of the Project; and

WHEREAS, the City and Lane4 Property Group, Inc. (the "**Developer**"), along with Biederman Redevelopment Ventures (the "**Manager**") have entered into the Amended and Restated Development Structure Agreement dated January 3rd, 2022, to coordinate their work on the Project; and

WHEREAS, a selection committee comprised of representatives from the City and Developer conducted a solicitation process for a master architect for the Project, and selected Architect as the most qualified company to perform the professional architectural services for the Project; and

WHEREAS, the City Manager is authorized and empowered by City to execute contracts providing for professional architectural services; and

WHEREAS, City desires to enter into an agreement with Architect to provide the architect services for the Project; and

WHEREAS, Architect represents that the firm is equipped, competent, and able to undertake such an assignment.

NOW THEREFORE, in consideration of the mutual covenants and considerations herein contained, **IT IS HEREBY AGREED** by the parties hereto as follows:

ARTICLE I
SCOPE OF BASIC SERVICES TO BE PROVIDED BY ARCHITECT

Architect shall provide professional architectural services, including all subconsultants necessary, to City for Conceptual Master Planning of the Project (“**Basic Services**”) as identified in **Exhibit A**, attached hereto and incorporated by reference. If any of the terms in **Exhibit A** contradict or conflict with the terms of this Agreement, the terms of this Agreement shall control.

ARTICLE II
OPTIONAL SERVICES TO BE PROVIDED BY ARCHITECT

The Architect shall furnish optional professional services (“**Optional Services**”) as identified in **Exhibit B**, if needed by City, upon receipt of written authorization by the City.

ARTICLE III
DESIGN SERVICES FOR THE PUBLIC COMPONENTS

Architect shall provide professional architectural services, including all subconsultants necessary, to the City for the Design of the Public Components of the Project (“**Public Components**”) which may be identified in a future final **Exhibit C** document. The scope of these services is to be determined after services in **Exhibit A** are completed, and **Exhibit C** may be included as part of a future amendment to this Agreement as mutually agreed by the parties.

ARTICLE IV
SCOPE OF SERVICES TO BE PROVIDED BY CITY

City shall provide services to Architect as identified in **Exhibit A and B** and as indicated in any future amendments to this Agreement.

ARTICLE V
DESIGNATION OF CITY’S REPRESENTATIVE

A. The City designates the following representative in accordance with part B of this Article IV:

Jennifer Gerlach
LANE4 Property Group, Inc.
4705 Central Street
Kansas City, MO 64112
(816) 268-9103
jgerlach@lane4group.com

- B. The City's representative designated in Part A of this Article V is authorized to act on the City's behalf with respect to the Project. The City 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. The authority of the Owner's Representative to make decisions on behalf of the Owner shall be limited to those decisions customarily allowed in the capacity of the representative's position as the Developer of the Project. Certain decisions of the City may require approval by other staff, commissions, or the City Council of the City. The Owner's Representative shall not be required to make decisions on matters which the representative is not authorized to make.

**ARTICLE VI
PAYMENTS TO THE ARCHITECT**

For the services performed by Architect pursuant to this Agreement, and as full compensation therefore, and for all expenditures made and all expenses incurred by Architect in connection with this Agreement, except as otherwise expressly provided herein, subject to and in conformance with all provisions of this Agreement, City will pay Architect a maximum fee for Basic Services and Optional Services the sum of Two Hundred Seventy-four Thousand Six Hundred Fifty and no/100 Dollars (\$274,650.00), according to the following provisions:

- A. The cost of all Basic Services for the **Basic Services** covered under Article I shall be billed hourly at the rates set forth in **Exhibit D** attached hereto and incorporated herein by reference. Expenses incurred to provide the **Basic Services** shall be billed as set forth in **Exhibit A**. The total fees (hourly fees and expenses) for the Basic Services shall not exceed the total sum of Two Hundred Fourteen Thousand Nine Hundred and no/100 Dollars (\$214,900.00).
- B. The cost of all **Optional Services** identified as of the date of this Agreement covered under Article II shall be billed as a lump sum as indicated in **Exhibit B** for each particular service at the time that such services are completed, attached hereto and incorporated herein by reference. Expenses incurred to provide the **Optional Services** are included as part of the indicated compensation. The total fees for the Optional Services shall not exceed the total sum of Fifty-nine Thousand Seven Hundred Fifty and no/100 Dollars (\$59,750).
- C. The cost of all professional architectural services, including subconsultants necessary, for the Design of the Public Components of the Project "**Public Components**" covered under Article III shall be billed at hourly rates set forth in **Exhibit D** or negotiated in a lump sum as indicated in **Exhibit C**. The total fees for the "**Public Components**" of the Project shall be mutually agreed upon after the completion of services under Article I.

- D. The City will make payment monthly for all services that have been satisfactorily completed. The City shall make payment to Architect within a period not to exceed forty-five (45) days from the date an invoice is received by City. All invoices shall contain the following information:
1. Project Name, Task Name, RFP Number for Developer, Description of Agreement.
 2. Invoice Number and Date.
 3. Purchase Order Number issued by City.
 4. For services provided on an hourly basis, an itemized statement for the previous month of Labor (including Personnel Description, Title, or classification for each person on the Project, Hours Worked, Hourly Rate, and Amount), Itemized Reimbursable Expenses, and Invoice Total.
 5. For services provided on a lump sum basis, an itemization of overall percentage of work complete, with net compensation due relative to previous invoiced amounts, Itemized Reimbursable Expenses, and Invoice Total.
 6. Description of monthly progress detailing the amount of the services completed to date and projected completion time.
 7. Project Billing Summary containing the Contract or Agreed Maximum Fee Amount, Cumulative Amount Previously Billed, Billing Amount this Invoice, Contract or Agreed Amount Remaining, and Percent of Maximum Fee Billed to Date.
- E. All moneys not paid when due as provided herein shall bear interest at a per annum rate equal to one percent (1%) plus the average *Consumer Price Index for All Urban Consumers (CPI-U)-U.S. City Average* for the time period in which payment is past due; provided, however, that in no event will the amount of interest to be paid by the City exceed 9% per annum.

ARTICLE VII COMPLETION TIME

The Basic Services, Optional Services and Public Components shall be completed in accordance with the schedule mutually agreed to after consultation with the Architect and the Construction Manager. Refer to **Exhibit A** for preliminary schedule information proposed.

The City Manager or Designee may, with the mutual consent of the parties, amend the deadlines contained in this Article by written authorization upon a showing of cause for amendment by Architect.

The Optional Services shall be completed in accordance with the deadlines set by the City Manager or Designee and accepted by Architect at the time said Optional Services are authorized.

ARTICLE VIII INSURANCE

A. General.

1. Insurer Qualifications. Without limiting any obligations or liabilities of Architect, Architect shall purchase and maintain, at its own expense, the minimum insurance set forth in this Section with insurance companies authorized to do business in the State of Missouri, with an AM Best, Inc. rating of A or above, and with policies and forms satisfactory to the City. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option.
2. No Representation of Coverage Adequacy. The City reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement, but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Architect from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.
3. Additional Insured. All insurance coverage, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name and endorse, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials, and employees as Additional Insured as specified under the respective coverage sections of this Agreement.
4. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed, and formally accepted by the City, unless specified otherwise in this Agreement.
5. Primary Insurance. Architect's insurance shall be endorsed to indicate its primary, non-contributory insurance with respect to performance of this Agreement and in the protection of the City as an Additional Insured. Such coverage shall be at least as broad as ISO CG 20 01 04 13.
6. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for six (6) years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the six-year period.

7. Waiver. To the fullest extent permitted by law, all policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the City, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Architect. Architect shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement.
8. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the City. Architect shall be solely responsible for any such deductible or self-insured retention amount.
9. The limits of liability for each policy coverage amount stated above shall be automatically adjusted upward as necessary to remain at all times not less than the maximum amount of liability set forth in Chapter 537.610 RSMo. Applicable to political subdivisions pursuant to 537.600; provided that nothing herein or in any such policy shall be deemed to waive the City's sovereign immunity. The statutory waiver of sovereign immunity for 2019 is \$2,865,330 for all claims arising out of a single accident or occurrence.
10. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Architect shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City and Architect. Architect shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.
11. Notice of Claim. Architect shall upon receipt of notice of any claim in connection with this Agreement promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability. Architect shall also promptly notify the City of any reduction in limits of protection afforded under any policy listed in the certificate(s) of insurance in an amount such that the policy aggregate becomes less than the current statutory waiver of sovereign immunity regardless of whether such impairment is a result of this Agreement. A breach of this provision is material breach of the contract.
12. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Architect will provide the City with suitable evidence of insurance in the form of certificates of insurance and, if requested by the City, a copy of the declaration page(s) of the insurance policies (redacting policy premiums and other personal information) as

required by these requirements, issued by Architect's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in these requirements and that such coverage and provisions are in full force and effect. The City shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way these insurance requirements or obligations.

13. If any of the policies required by these requirements expire during the life of the Agreement, it shall be Architect's responsibility to forward renewal certificates and declaration page(s) to the City 30 days prior to the expiration date. All certificates of insurance and declarations (if requested) shall be identified by referencing the Agreement; certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

- a. The City, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:
 - i. Commercial General Liability – Under Insurance Services Office, Inc., (“ISO”) Form CG 20 10 04/13 and CG 20 37 04/13 or their equivalents.
 - ii. Auto Liability – Under ISO Form CA 20 48 or equivalent.
 - iii. Excess Liability – Follow Form to underlying insurance.
- b. Architect's insurance shall be primary, non-contributory insurance with respect to performance of the Agreement.
- c. All policies, except for Professional Liability, including Workers' Compensation, waive rights of recovery (subrogation) against City, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Architect under this Agreement.
- d. ACORD certificate of insurance form 25 (2014/01) is preferred.

14. All Certificates of Insurance shall name the City of Lee's Summit as the certificate holder. Send the certificate and any endorsements to:

City of Lee's Summit
Director of Public Works

220 Green Street
Lee's Summit, MO 64063-2358

B. Required Insurance Coverage.

1. Commercial General Liability. Architect shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limits of not less than \$3,000,000 for each occurrence, \$3,000,000 Products and Completed Operations Annual Aggregate and a \$3,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, bodily injury, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 01 93 or equivalent thereof, including but not limited to, separation of insured's clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, officials and employees shall be endorsed as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement forms CG 20 10 04/13 and CG 20 37 04/13, or their equivalents. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.
2. Vehicle Liability. Architect shall maintain Business Automobile Liability insurance with an unimpaired limit of at least \$3,000,000 each occurrence on Architect's owned, hired and non-owned vehicles assigned to or used in the performance of the Architect's work or services under this Agreement. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees shall be endorsed as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.
3. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Architect engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Architect shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Architect, or anyone employed by the Architect, or anyone for whose negligent acts, mistakes, errors and omissions the Architect is legally liable, with an unimpaired liability insurance limit of at least \$3,000,000 each claim and \$3,000,000 annual aggregate. If any Excess insurance is utilized to fulfill the requirements of this

subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

4. Workers’ Compensation Insurance. If Architect employs anyone who is required by law to be covered by workers’ compensation insurance, Architect shall maintain Workers’ Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Architect’s employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.
 5. Umbrella Liability Insurance. The Architect may provide the City with an excess umbrella to provide additional coverage to satisfy the requirements noted herein when the Architect’s current policy limits do not satisfy such requirements.
- C. Cancellation and Expiration Notice. Insurance required herein shall not expire or be canceled without thirty (30) days’ prior written notice to the City, and ten (10) days’ notice of cancellation due to non-payment of premium.

ARTICLE IX ADDITIONAL CONTRACTUAL PROVISIONS

The following additional provisions are agreed to by both parties to this Agreement:

- A. **COVENANT AGAINST CONTINGENT FEES:** Architect warrants that Architect has not employed or retained, and will not employ or retain for the duration of this Agreement, any company or person, other than a bona fide employee working for the Architect, to solicit or secure this Agreement, and that Architect has not paid or agreed to pay any company or person, other than bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee. Architect further covenants that in the performance of this Agreement no person having such interest shall be employed.
- B. **OWNERSHIP OF ARCHITECTURAL DOCUMENTS:** Payment by City to Architect under this Agreement shall vest in City an irrevocable license to all drawings, sketches, studies, analyses, reports, models, and other paper documents, computer files, and material produced by Architect exclusively for the services performed pursuant to this Agreement up to the time of such payments, and the right to use the same without other or further compensation, provided that any use for another purpose shall be without liability to the Architect. Any reuse without

written verification or adaptation by Architect for the specific purpose intended will be at City's risk and without liability or exposure to Architect, and the City shall hold harmless, to the extent allowed by the Constitution and Laws of the State of Missouri, Architect from all claims, damages, losses, including reasonable attorneys' fees arising out of or resulting therefrom.

- C. MODIFICATIONS TO SCOPE OF WORK: In the event of any changes in the scope of services contained in this Agreement, prior to commencing the services City and Architect shall enter into a modification of this Agreement describing the changes in the services to be provided by Architect and City, providing for compensation for any additional services to be performed by Architect, and providing completion times for said services.
- D. EMERGENCY CHANGES IN SERVICES: The City Manager is authorized to execute on behalf of the City modification agreements as provided for in subsection C above where there is an emergency and the overall compensation authorized in Article VI above, and any supplements or modifications thereto, is not increased. For purposes of this subsection, an "emergency" shall mean those unforeseen circumstances that present an immediate threat to public health, welfare, or safety; or when immediate response is necessary to prevent further damage to public property, machinery, or equipment; or when delay would result in significant financial impacts to the City as determined by the City Manager.

In the event an emergency change in services is authorized by the City Manager pursuant to this provision, the modification agreement shall be submitted to the City Council for ratification at its next available meeting.

- E. TERMINATION: In the event of termination by City, if there are any services hereunder in progress but not completed as of the date of termination, then said Agreement may be extended upon written approval of the City until said services are completed and accepted.
 - 1. Termination for Convenience: The services called for by this Agreement or any supplements thereto may be terminated upon request and for the convenience of City upon thirty (30) days advance written notice. City shall pay Architect for all services rendered up to the date of termination.
 - 2. Termination for Cause: This Agreement may also be terminated for cause by City or Architect. Termination for cause shall be preceded by a fourteen-(14) day correction period effective upon delivery of written notice. City shall pay Architect for all services rendered up to the date of termination. In the event of termination for cause by City, compensation for services rendered by Architect up to the date of termination shall be offset by City's cost to mitigate or correct the effects of such termination, including but not limited to damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

3. Termination Due to Unavailability of Funds in Succeeding Fiscal Years: When funds are not appropriated or otherwise made available to support continuation of the Project in a subsequent fiscal year, this Agreement shall be terminated, and Architect shall be reimbursed for the services rendered up to the date of termination plus the reasonable value of any nonrecurring costs incurred by Architect but not amortized in the price of the services delivered under this Agreement.
- F. **COMPLIANCE WITH LAWS**: Architect shall comply with all Federal, State, and local laws, ordinances, and regulations applicable to the services. Architect shall secure all licenses, permits and other required approvals from public and private sources necessary for the fulfillment of its obligations under this Agreement.
- G. **SUBLETTING ASSIGNMENT OR TRANSFER**: Architect shall not subcontract, sublet, assign, or transfer any interest in the services covered by this Agreement, except as provided for herein and except with the prior written and signed consent of City. The use of subcontractors shall in no way relieve Architect of his/her primary responsibility for the services. No approval will be necessary for non-professional services such as reproductions, printing, materials, and other services normally performed or provided by others.
- H. **CONFERENCES, VISITS TO SITE, INSPECTION OF SERVICES**: Upon reasonable advance notice and during normal business hours at Architect's place of business, representatives of City shall have the privilege of inspecting and reviewing the services being performed by Architect and consulting with him/her at such time. Conferences are to be held at the request of City or Architect.
- I. **ARCHITECT'S ENDORSEMENT**: Architect shall endorse all plans, specifications, estimates, and architectural data furnished by the Architect.
- J. **INSPECTION OF DOCUMENTS**: Architect shall maintain all records pertaining to its services hereunder for inspection, upon reasonable advance notice and during normal business hours at Architect's place of business, by a City representative during the contract period and for three (3) years from the date of final payment for each individual project performed pursuant to this Agreement.
- K. **INDEMNIFICATION AND HOLD HARMLESS**: Architect shall indemnify, and hold harmless City and its officers, employees, elected officials, and attorneys, each in their official and individual capacities (the City and any such person being herein called an "**Indemnified Party**"), for, from and against any and all suits, judgments, damages, claims, fines, penalties, losses, costs, and expenses (including reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever (collectively "**Claims**"), to the extent such Claims are caused by the intentional, reckless, or negligent acts, directives, errors, omissions, or willful misconduct, by Architect in the performance of Architect's duties and services under this Agreement, or

any supplements or amendments thereto, of Architect, or its employees, officers, agents, or any tier of subconsultant or person for which Architect may be legally liable in the performance of this Agreement.

- L. **LIMITATION OF LIABILITY:** In no event will either Party be liable to other Party for indirect or consequential damages, and in no event will City's liability under this Agreement exceed the amount to be paid to the Architect pursuant to Article VI of this Agreement.
- M. **PROFESSIONAL RESPONSIBILITY:** Architect agrees the Services rendered will conform to the requirements of this Agreement and will be performed with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.
- N. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the parties with respect to its subject matter, and any prior agreements, understandings, or other matters, whether oral or written, are of no further force or effect. This Agreement may be amended, changed, or supplemented only by written agreement executed by both of the parties hereto.
- O. **CONFLICT:** In the event of any conflict, ambiguity, or inconsistency between this Agreement and any other document that may be amended hereto, the terms of this Agreement shall govern.
- P. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri, and any suit pertaining to this Agreement may be brought only in courts in eastern Jackson County, Missouri. The Parties expressly and irrevocably consent to the exclusive jurisdiction and venue of such courts and expressly waive the right to transfer or remove any such action.
- Q. **OPINION OF PROBABLE CONSTRUCTION COST AND SCHEDULE:** Since Architect has no control over the cost of labor, materials, or equipment, or over contractors' methods of determining prices, or over competitive bidding or market conditions, the estimate of construction cost and schedule provided for herein is to be made on the basis of Architect's experience and qualifications and represents Architect's best judgment as a professional Architect familiar with the construction industry, but Architect cannot and does not guarantee that the bids or the Project construction cost or schedule will not vary from the opinion of probable construction cost and schedule prepared by Architect.
- R. **TAX EXEMPT:** City and its agencies are exempt from State and local sales taxes. Sites of all transactions derived from this Agreement shall be deemed to have been accomplished within the State of Missouri.
- S. **SAFETY:** In the performance of its services, Architect shall comply with the applicable provisions of the Federal Occupational Safety and Health Act, as well as any pertinent Federal, State and/or local safety or environmental laws and regulations.

- T. ANTI-DISCRIMINATION CLAUSE: Architect and its agents, employees, or subcontractors shall not in any way, directly or indirectly, discriminate against any person because of age, race, color, handicap, sex, national origin, or religious creed.
- U. DELAY IN PERFORMANCE: Neither City nor Architect shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions, floods, earthquakes, fire, epidemics, war, riots, and other civil disturbances, strikes, lockouts, work slowdowns, and other labor disturbances, sabotage, judicial restraint, and delay in or inability to procure permits, licenses, or authorizations from any local, State, or Federal agency for any of the supplies, materials, accesses, or services required to be provided by either City or Architect under this Agreement. Architect and City shall be granted a reasonable extension of time for any delay in its performance caused by any such circumstances. Should such circumstances occur, the nonperforming party shall within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of the Agreement.
- V. NON-EXCLUSIVE AGREEMENT. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.
- W. TIME OF THE ESSENCE. Time is of the essence in this Agreement. Unless otherwise specifically provided, any consent to delay in Architect's performance of its obligation is applicable only to the particular transaction to which it relates, and is not applicable to any other obligation or transaction unless the delay of performance is the result of the actions or omissions of a third party or act of God.
- X. SIGNATORY AUTHORITY. Each person signing this Agreement represents that such person has the requisite authority to execute this Agreement on behalf of the entity the person represents and that all necessary formalities have been met.
- Y. IMMIGRATION REQUIREMENTS. Pursuant to Section 258.530, RSMo, Architect warrants and affirms to the City that (i) Architect is enrolled and participates in a federal work authorization program with respect to the employees working in connection with the contracted services and (ii) Architect does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

Architect shall swear to and sign an affidavit declaring such affirmation, and provide the City with supporting documentation of its enrollment and participation in a federal work authorization program with respect to the employees working in connection with this Agreement. The required documentation must be from the federal work authorization

program provider (e.g. the electronic signature page from the E-Verify program's Memorandum of Understanding); a letter from Architect reciting compliance is not sufficient.

Z. RIGHTS AND REMEDIES. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the City to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the City's acceptance of and payment for services, shall not release the Architect from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.

AA. NO THIRD-PARTY RIGHTS: The services provided for in this Agreement are for the sole use and benefit of City and Architect. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and Architect.

BB. CONFIDENTIALITY OF RECORDS. The Architect shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Architect's duties under this Agreement. Persons requesting such information from Architect or Developer should be referred to the City. Architect also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Architect as needed for the performance of duties under this Agreement.

CC. ANTI-DISCRIMINATION AGAINST ISRAEL ACT. If this Contract has a total potential value of \$100,000 or more and Contractor has 10 or more employees, the following applies. Pursuant to Section 34.600, RSMo. and to the fullest extent permitted by law, Contractor certifies that Contractor is not engaged in a boycott of Israel as of the Effective Date of this Agreement, and agrees for the duration of this Agreement to not engage in a boycott of Israel as defined in Section 34.600, RSMo.

DD. PROVISIONS REQUIRED BY LAW. Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either Party, the Agreement will promptly be physically amended to make such insertion or correction.

EE. SEVERABILITY. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.

FF. NOTICE: Whenever any notice is required by this Agreement to be made, given or transmitted to any party, it shall be enclosed in an envelope with sufficient postage attached to ensure delivery and deposited in the United States Mail, first class, with notices to City addressed to:

City of Lee's Summit
Administration Department
ATTN: City Manager
220 SE Douglas
Lee's Summit, MO 64063-2358

and notices to Architect shall be addressed to:

GLMV Architecture, Inc.
ATTN: Paul J. Michell
9229 Ward Parkway, Suite 210
Kansas City, MO 64114

or such place as either party shall designate by written notice to the other. Said notices may also be personally hand delivered by each party to the other, at the respective addresses listed above. If hand delivered, the date of actual completion of delivery shall be considered the date of receipt. If mailed, the notice shall be considered received the third day after the date of postage.

[Remainder of this page intentionally left blank, signature pages to follow]

THIS AGREEMENT shall be binding on the parties thereto only after it has been duly executed and approved by City and Architect. This Agreement is comprised of the following documents identified below:

1. Agreement For Professional Architectural Design Services for The Downtown Market Plaza Project.
2. Scope of Services for Basic Services, attached as Exhibit A
3. Scope of Services for Optional Services, attached as Exhibit B
4. Scope of Services for Public Components, to be finalized and included as part of a future amendment to this Agreement.
5. Hourly Rates, attached as Exhibit D.
6. Insurance Certificate, attached as Exhibit E.
7. Affidavit and E-Verify MOU, attached as Exhibit F.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date stated on Page 1.



ATTEST:

Stacy Lombardo
Trisha Fowler Arcuri, City Clerk *Deputy*

CITY OF LEE'S SUMMIT

Stephen A. Arbo
Stephen A. Arbo, City Manager

APPROVED AS TO FORM:

David Bushek
David Bushek,
Chief Counsel of Economic Development and Planning
Office of City Attorney

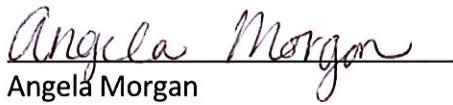
ARCHITECT:



Paul J. Michell

Managing Vice President, Kansas City

ATTEST:



Angela Morgan

Associate Vice President and Director
of Engineering Services



EXHIBIT A “BASIC SERVICES”

TO THE AGREEMENT FOR PROFESSIONAL ARCHITECTURAL DESIGN SERVICES FOR THE DOWNTOWN MARKET PLAZA PROJECT

SCOPE OF SERVICES FOR MASTER PLANNING

This Exhibit is intended to describe in list form the scope and additional information as well as materials or documents that shall be prepared by the Architect for the City’s consideration under the scope of the Architect’s Master Planning Services as well as the work of or by others that may be integrated as needed. Deliverables not specifically identified below shall be deemed excluded from the scope of services in the Agreement. Selected examples of exclusions are also indicated below along with selected examples of additional services that may be provided by the Architect upon request of the City and with additional compensation to the Architect. Optional Services identified as of the date of the Agreement are included in Exhibit B attached to the Agreement and incorporated by reference herein.

Project Understanding

The Downtown Market Plaza Project is a mixed-use public/private project located in Lee’s Summit, Missouri that is currently understood to be bounded by 2nd Street on the north, 3rd Street on the South, Green Street on the west and Johnson Street on the east and extending across Green Street into the area that currently serves as the Civic Plaza for City Hall. Redevelopment of streetscape and right-of-way areas within proximity to the project area is also anticipated.

The known scope of the Project as of the date of the Agreement is Master Planning services for overall project and which will inform the future design of the Public Components of the Project that will be delivered under the Construction Manager at Risk (also defined by AIA as Construction Manager as Constructor) delivery method.

The key Public Components the City desires to accommodate are as follows:

- **Community Event Space:** The City envisions a space that can be used for various events and programs, both publicly hosted and privately, on a rental basis. This space should be designed to be used separately or in conjunction with the Farmer’s Market Pavilion.
- **Permanent Farmers Market Pavilion:** The new home of downtown Lee’s Summit’s popular farmers’ market. This structure will host farmers markets and similar events for at least three seasons of the year.
- **Outdoor Performance & Festival Area:** Moveable stage to be placed around Green Street and the City Hall Plaza, subject to availability of space.
- **Gateway/Courtyard:** Public Space designed to welcome the public to the Market Pavilion and Community Event Space.
- **Streetscape & Right of Way Improvements:** Improvements to streetscape, utilities, and public right-of-way areas immediately adjacent to the development to integrate into the larger development and provide needed infrastructure to support the overall development.
- **Civic Plaza:** Reconfiguration and reconstruction of the Civic Plaza in front of City Hall to integrate into the larger development and provide areas for programming/functions.

The project will also include private development projects that are not part of this agreement. Architectural design services for those projects will be handled under separate agreements with private developers. Those private projects potentially could include the following:

- Boutique Hotel
- Multi-Family
- Office
- Retail/Restaurant

The Architect will be responsible for implementing an overarching vision for the project, as well as providing professional services for the public components at the Project's core, as described above. The general scope of services will be outlined in the noted Exhibits and are summarized as follows:

- Envision and implement an overall scheme for the Project, including the scaling of various components described above, with an eye towards balance between public and private components
- Provide insight on site constraints, design options, and market feasibility
- Coordinate and consult with other architects, engineers, design professionals, contractors that maybe involved in various sub-components of the Project.
- Provide selected predesign and due diligence support services for the Project.
- Under a future phase of work, and to be further described in Exhibit C, provide comprehensive architectural services for the public components: the Community Event Space and the Farmer's Market Pavilion facilities and the Outdoor Performance & Festival and Gateway/Courtyard areas.

The Architect's Basic Services shall include the disciplines required for Master Planning services. This includes Architecture, Civil Engineering, and Landscape Architecture.

Architect's Project Team

The primary representatives for each Party shall be as enumerated in the Agreement for Professional Architectural Services. Our team will also include additional support staff as necessary to complete your Project in a timely manner.

The Architect shall include subconsultants for specific scope areas of the Project. The subconsultants may be involved in various phases of work throughout the duration of the Project. Refer to individual Exhibits for disciplines involved for each service category performed for the Project. The Architect identifies the following subconsultants for the Project:

Associate Architect	Collins Webb Architecture 307B SW Market Street Lee's Summit, MO 64063
Civil Engineering	The Olsson Studio 1814 Main Kansas City, MO 64108
Landscape Architecture	The Olsson Studio 1814 Main Kansas City, MO 64108

Structural Engineering	Leigh & O'Kane, LLC 250 NE Mulberry Street, Suite 201 Lee's Summit, MO 64086
MEPF Engineering	Henderson Engineers, Inc. 8345 Lenexa Drive, Suite 300 Lenexa, KS 66214
Technology/AV/Security	Henderson Engineers, Inc. 8345 Lenexa Drive, Suite 300 Lenexa, KS 66214
Geotechnical Engineering	Alpha-Omega Geotech, Inc. 1701 State Avenue Kansas City, KS 66102
Land Surveying	The Olsson Studio 1814 Main Kansas City, MO 64108
Traffic Studies	The Olsson Studio 1814 Main Kansas City, MO 64108
Water Testing	The Olsson Studio 1814 Main Kansas City, MO 64108
Historic Preservation	Rosin Preservation, LLC 1712 Holmes Street Kansas City, MO 64108

Architect's Responsibilities

1. The Architect shall provide the professional services as set forth in this Agreement, including any and all future executed amendments and supplemental exhibits once issued.
2. Except with the City'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.
3. The Architect shall manage the Architect's services, consult with the City and the Construction Manager (once engaged), research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the City.
4. The Architect shall coordinate its services with those services provided by the City, the Construction Manager (once engaged), and the City's consultants, if any. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the City, the Construction Manager, and the City's consultants. The Architect shall provide prompt written notice to the City if the Architect becomes aware of any error, omission or inconsistency in such services or information.
5. The City shall not be responsible for discovering deficiencies in the technical accuracy of Architect's services. Architect shall correct deficiencies in technical accuracy without additional compensation.

Architect's Scope of Services / Master Planning

1. The Architect will meet with the client to review scope, schedule, key milestones, and project roles throughout the project. The Architect will review relevant codes, and ordinances for the project site along with existing land uses.
2. Information Gathering & Program Verification:
 - a. The City shall provide programming and documents previously completed for the Project, if any.
 - b. The Architect shall review such previously completed preliminary programming documents to determine prior planning completed. If available, this will serve as a guide for information gathering discussions.
 - c. The Architect will research development criteria established by the City for the Project. This will include, but may not be limited to, code requirements, zoning ordinances, storm water requirements, existing utilities, easements and setbacks, signage regulations, and parking requirements. The Architect shall coordinate and communicate with the City and Developer as needed.
 - d. The Architect shall meet with the Developer and City specified key parties in up to four (4) collaborative information gathering processes/meetings for the purpose of Program Verification. These personnel may include, but may not necessarily be limited to, management and supervisory personnel from the following departments:
 - City Manager's Office
 - Public Works
 - Parks & Recreation
 - Facilities Maintenance & Operations
 - Information Technology
 - Building Codes Administration
 - Master Developer
 - Master Manager
 - Downtown Lee's Summit CID
 - Downtown Lee's Summit Main Street
 - Lee's Summit Economic Development Council
 - Farmer's Market Vendors
 - Other project stakeholders as identified.
 - e. The Architect shall consider the user groups routine operations to understand optimal functions and interactions.
 - f. The Architect shall discuss general level of quality and building design aesthetic goals of the City.
 - g. The Architect shall prepare and submit written minutes and conformed/refined City's space program, incorporating client review comments before final submission.
 - h. The Architect shall meet with the City's team to review the preliminary deliverables. Based upon City review and feedback, the Architect will refine the deliverables.
 - i. The Architect shall meet with the City's team to review the final deliverables and discuss next steps for the Project.
3. Master Planning Services:
 - a. Analysis and Review of Existing Conditions:

- i. The Architect will assemble a base map to prepare required plan documents, with the survey of the project site. The Architect will use existing GIS data provided by the city for review of existing utilities.
 - ii. The Architect will create site analysis maps to visually depict major site features, including topography, watershed areas, infrastructure utilities, et cetera. The Architect will provide a preliminary review of the existing utilities on site for future building and site services.
 - iii. The Architect will review activity programming recommendations provided by Master Operator. The Architect will reconcile Public Components requirements received during Information Gathering & Program Verification with the results of the activity programming recommendations for concept plan development.
 - b. Concept Plan:
 - i. The Architect will collaborate with the Developer to evaluate market feasibility and mix and sizing of private and public components for the project.
 - ii. The Architect will prepare a maximum of three (3) site master plan concepts for the project area. Master plans will incorporate approved final programming requirements. The Architect will work with the City and Developer on the design developing a collaborative design between building layout and site improvements.
 - iii. The Architect will meet with City and Developer to present master plan concepts. The City and Developer will provide feedback on the concepts and select a preferred direction.
 - iv. The Architect will revise one (1) master plan concept for the project area, per received comments.
 - v. The Architect will prepare an overall rendered final master plan with legend and site element descriptions. Master plan graphics will be hand-developed, color rendered plans.
 - vi. The Architect will meet with City and Developer to present the revised site master plan concept.
 - vii. The Architect shall make one (1) revision to the final site masterplan based on developer/city provided comments. These will be submitted to the client for approval.
 - c. The Architect shall develop a 3-Dimensional model of the provided site plan boundary. Model will include existing landforms, site and right-of-way improvements, paving and walkways, and proposed structures shown on the master plan. This 3-dimensional site data will be utilized in preparation of final production of masterplan and schematic design renderings and visualizations.
 - d. The Architect shall prepare final architectural visualizations of the Project Master Plan. This may include, but not necessarily be limited to, rendered site plan, 3-dimensional views of the development, and animation(s).
4. Private Project Coordination after completion of Basic Services:
 - a. The Architect shall collaborate and coordinate with any identified third-party development teams (developer, design team, and construction) that may be engaged on the Project's private project components.
 - b. The Architect's services associated with the private projects will be limited to ensuring that those private projects coordinate with and are consistent with the design direction and technical requirements of the overall project conceived during Master Planning.

- c. In the event that the Architect is engaged for any of the identified private projects, the Architect will not incur costs associated with these services for any such project.
5. Meetings:
 - a. One (1) Project Kickoff meeting
 - b. Sixteen (16) Design/Developer weekly meetings (1 hour virtual meeting)
 - c. Four (4) progress meetings with Developer/City
 - d. Two (2) Design Review Meetings with Developer/City
 - e. One (1) public engagement meeting with Master Operator
 - f. Four (4) Stakeholder information gathering processes/meetings
 - g. Two (2) Planning Commission meetings
 - h. Two (2) City Council meetings
 - i. One (1) Final Design Presentation Meeting
 - j. Sixteen (16) meetings with private project development teams.

City's Responsibilities

1. Unless otherwise provided for under this Agreement, the City shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program if available which shall set forth the City's objectives, schedule, constraints, and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems, and site requirements. Within 15 days after receipt of a written request from the Architect, the City shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.
2. The City shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the City shall furnish copies of the scope of services in the contracts between the City and the City's consultants. The City shall furnish the services of consultants other than those designated in this Agreement or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The City shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided.
3. The City 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 City's needs and interests.
4. The City shall provide the Architect access to the Project site.

Project Assumptions

Our Services are based on the following assumptions:

1. The Architect shall prepare for, attend, and present the Project up to two (2) times and consistent with routine Planning Commission procedures. We assume that all Public Components will appear on the same agenda for consideration by the Planning Commission.
2. Delivery of these Services do not constitute a sale of the Architect's intellectual property. It is not anticipated that the design and technical documentation of the Project shall be used for future City projects without the Architect's involvement.
3. We will use the version of the IBC currently adopted by the City for the governing code.

4. Off-site improvements such as utility extensions and similar outside the limits of the established project area are not included.
5. Specialty consultants not listed in this Agreement are not included in our Fee.
6. Deliverables will be furnished to the City in electronic/digital format.
7. Meeting participation by some or all parties may be in-person or virtual as deemed appropriate by project activities and with respect to public health concerns.

Compensation & Expenses

Total compensation for the requested Scope of Master Plan Services (“Basic Services”) is proposed on an hourly basis not to exceed Two Hundred Fourteen Thousand Nine Hundred and no/100 Dollars (\$214,900.00). The compensation for the Architect’s Basic Services is estimated to be divided by phase as follows:

Information Gathering	Twenty-five Percent	(25.0%)
Concept Plan	Fifty-three Percent	(53.0%)
<u>Private Project Coordination</u>	<u>Twenty-two Percent</u>	<u>(22.0%)</u>
Total Compensation	One Hundred Percent	(100.0%)

Should the Architect not expend the full value of any given task, they shall be allowed to utilize unused hours and fee on subsequent phases of work, providing the maximum compensation established herein is not exceeded.

Expenses are included in the compensation for Basic Services, and include expenses incurred by the Architect and the Architect’s subconsultants directly related to the Project, as follows:

1. Transportation, at the current mileage rate established by the IRS, and authorized out-of-town travel and subsistence.
2. Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets.
3. Printing, reproductions, plots, standard form documents.
4. Postage, handling and delivery, including courier services.
5. All taxes levied on professional services and on reimbursable expenses.
6. Other similar Project-related expenditures authorized by the City.

Proposed Project Schedule

The current anticipated completion date for the services covered by this Exhibit A is anticipated by April 2022. The final schedule will be developed collaboratively with the Developer and City.

The Architect shall coordinate with Developer and City and participate in developing and revising the Project schedule as it relates to the Architect’s services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the Architect’s services.

Once the City, Developer, and Architect agree to the time limits established by the Project schedule, the parties shall not exceed them, except for reasonable cause.

Additional Services

Services requested beyond the scope of Services described above and as incorporated in future amendments shall be considered Additional Services. Additional Services shall be provided if requested and authorized in writing by the City and will be performed on an hourly not-to-exceed amount to be mutually agreed to by both parties prior to beginning. Anticipated expenses devoted to an Additional Service shall be included in the not-to-exceed amount proposed and are subject to the terms for Project expenses outlined herein.

Optional Additional Services involve Project Services requested by the City when it is deemed useful for the Architect to assist with and/or resolve issues over the course of the Project. Selected examples of Optional Additional Services include:

1. Preparation of additional design schemes in excess of those included under Basic Services.
2. Attendance at meetings with the City's lobbyists, counsel, or consultants regarding project strategy.
3. Financial feasibility or other special studies.
4. Attendance at neighborhood meetings except if indicated herein.
5. Attendance at design review subcommittee meetings except if indicated herein.
6. Attendance at planning commission meetings except as indicated herein.
7. Attendance at city council meetings except as indicated herein.

Excluded Services

Cited exclusions are selective in nature and offered as a courtesy to assist the City in identifying typical exclusions. Excluded Services may be able to be added to the Project as Additional Services by the Architect or a consultant to the Architect if requested by the City. It is far from exhaustive and not intended to highlight every Project-related occurrence that may be excluded from our Services.

1. Environmental studies and reports.
2. Historic and archeological studies except as indicated herein.
3. Fire hydrant and domestic water flow testing and analysis.
4. Water pressure and quality testing.
5. Additional Storm water detention or design calculations due to existence of a master drainage plan.
6. Sanitary Sewer Studies and Capacity Analysis.
7. Stormwater Drainage Studies and Capacity Analysis.
8. Traffic impact studies.



EXHIBIT B “OPTIONAL SERVICES”

TO THE AGREEMENT FOR PROFESSIONAL ARCHITECTURAL DESIGN SERVICES FOR THE DOWNTOWN MARKET PLAZA PROJECT

SCOPE OF SERVICES FOR OPTIONAL SERVICES

This Exhibit is intended to describe in list form the scope and additional information as well as materials or documents that shall be prepared by the Architect for the City’s consideration under the scope of the Architect’s Optional Services as well as the work of or by others that may be integrated as needed. Deliverables not specifically identified below shall be deemed excluded from the scope of services in the Agreement. Selected examples of additional services and exclusions, if any, are also indicated below that may be provided by the Architect upon request of the City and with additional compensation to the Architect.

Project Understanding

Refer to Exhibit A for a general summary of the project and scope. The Scope of Services for Optional Services relates to due-diligence and predesign services necessary to support the master planning and future design and construction of the Project.

The Architect’s Optional Services shall include the disciplines required to perform said services. This includes Architecture, Civil Engineering, Landscape Architecture, Geotechnical Engineering, Land Surveying, Environmental Assessment, Structural Assessment, Historic Preservation Assessment, and Private Project Parcel Legal Descriptions.

The City and Architect may rely on this initial information and project understanding. Both parties, however, recognize that such information may materially change, and in that event, the City and the Architect shall appropriately adjust the schedule, the Architect’s services, and the Architect’s compensation.

Architect’s Project Team

The primary representatives for each Party shall be as enumerated in the Agreement for Professional Architectural Services. Refer to Exhibit A for subconsultants identified for this Project that will be utilized for specific disciplines and/or services enumerated herein.

Architect’s Responsibilities

Refer to Exhibit A for responsibilities of the Architect.

Architect’s Scope of Services / Optional Services

1. Geotechnical Engineering:
 - a. The Architect shall furnish services of geotechnical engineers to assess the Project area.

- b. The services of the geotechnical engineer may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions.
 - c. The geotechnical engineer will provide written reports and appropriate recommendations.
 - d. Additional borings can be provided for \$500 per mobilization plus \$500 per boring during each mobilization. These costs include engineering and report of findings.
2. Land Surveying:
- a. Boundary/ALTA Survey:
 - i. The Architect furnish the services of a Land Surveyor perform a boundary survey of Project area bounded by SE 2nd Street on the north, SE Johnson Street on the east, SE 3rd Street on the south, and the east face of City Hall on the west side.
 - ii. Ownership informational reports shall be ordered through a local title company and available record documents shall be plotted, including existing right-of-way, recorded plats, Ownership lines, and plottable existing easements for base map planning and design. Informational reports and copies of Schedule B II documents shall be provided by City, or if ordered by the Architect, paid for by City as a reimbursable expense.
 - b. Topographic Design Survey:
 - i. The Architect shall furnish the services of a Land Surveyor to provide a topographic design survey for approximately nine (9) acres, as described above.
 - ii. Survey shall depict observed utilities, dimensions of existing buildings exterior walls, spot elevations at exterior doorways, existing contours at one (1)-foot intervals, existing feature locations, including pavement, buildings, trees, tree mass lines, storm and sanitary sewer structures, pipe sizes, flow lines, and materials.
 - iii. Utility companies shall be contacted through the Missouri One Call System and marked utilities shall be shown on topographic survey. Private utility maps not located through Missouri One Call System that are provided, shall be plotted in accordance with above ground structures.
 - iv. The Surveyor shall provide three (3) horizontal control points tied to NAD Missouri Coordinate System 1983 West Zone; and three (3) benchmarks tied to NAVD 1988 elevation datum.
 - v. Utility location and mapping is for horizontal location of above ground and underground utilities only. Utility depths shall not be obtained or indicated on topographic survey.
 - vi. Survey of utilities shall be based on tracing and marking by Missouri One Call System utility locator if within this Scope of Services. The City understands and acknowledges that utility mapping is not exact, and it is possible that not all utility lines will be located. The Architect is not responsible for miss-marked or unmarked utilities.

City's Responsibilities

Refer to Exhibit A for responsibilities of the City.

Compensation & Expenses

Total compensation for the requested Scope of Master Plan Services is proposed on a lump sum basis of Fifty-nine Thousand Seven Hundred Fifty and no/100 Dollars (\$59,750.00). The compensation for the Architect's Optional Services is divided by task as follows:

Geotechnical Engineering	\$ 20,900.00
Land Surveying.....	27,500.00
Structural Assessment.....	1,450.00
Historic Preservation Assessment.....	5,950.00
<u>Private Project Legal Descriptions</u>	<u>3,950.00</u>
Total Optional Compensation	\$ 59,750.00

Expenses are included in the compensation for Optional Services, and include expenses incurred by the Architect and the Architect's subconsultants directly related to the Project. Refer to Exhibit A for enumeration of allowed reimbursable expenses.

Proposed Project Schedule

The current anticipated completion date for the services covered by this Exhibit A is anticipated by April 2022. The final schedule will be developed collaboratively with the Developer and City.

The Architect shall coordinate with Developer and City and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the Architect's services.

Once the City, Developer, and Architect agree to the time limits established by the Project schedule, the parties shall not exceed them, except for reasonable cause.

Additional Services & Exclusions

Refer to Exhibit A for potential additional services and standard exclusions for the Project.



GLMV Architecture

GLMV Standard Billing Rates

Effective January 1, 2021

Service Category	Title	Billing Rate/Hour
Principal	Executive Management	\$270
	Principal-in-Charge	\$200
Project Management	Project Manager V	\$180
	Project Manager IV	\$175
	Project Manager III	\$155
	Project Manager II	\$145
	Project Manager I	\$125
Architecture	Architect V	\$175
	Architect IV	\$160
	Architect III	\$150
	Architect II	\$130
	Architect I	\$110
	Intern Architect III	\$105
	Intern Architect II	\$100
	Intern Architect I	\$90
Landscape Architecture	Landscape Architect IV	\$145
	Landscape Architect III	\$140
	Intern Landscape Architect II	\$105
	Intern Landscape Architect I	\$90
Interior Design	Interior Designer IV	\$125
	Interior Designer III	\$110
	Interior Designer II	\$105
	Intern Interior Designer	\$85
Engineering	Director of Engineering	\$200
	Professional Engineer II	\$165
	Professional Engineer I	\$155
	Civil Designer	\$145
	Engineer in Training III	\$145
	Engineer in Training II	\$130
Illustration	Architectural Illustrator IV	\$165
	Architectural Illustrator III	\$155
	Architectural Illustrator II	\$145
	Architectural Illustrator I	\$125

Service Category	Title	Billing Rate/Hour
Construction Administration	Cost Estimator IV	\$150
	Construction Administrator I	\$120
Conservation	Conservationist	\$130
Production Technicians	BIM Manager	\$160
	BIM Technician III	\$115
	BIM Technician II	\$95
	BIM Technician I	\$75
Administration	Project Administrator	\$115
	Administrative Supervisor	\$95
	Administrative Assistant II	\$85
	Administrative Assistant I	\$75



Description	Range
Principal	\$129-\$388
Project Manager	\$120-\$233
Project Professional	\$98-\$217
Assistant Professional	\$67-\$155
Designer	\$90-\$188
CAD Operator	\$54-\$119
Survey	\$52-\$166
Construction Services	\$43-\$233
Administrative/Clerical	\$41-\$159

Note:

1. Special Services not included in above categories will be provided on a Special Labor Rate Schedule.
2. Rates subject to change based upon updates to Billing Rates for upcoming year.



Hourly Fee Rates	Architectural
Principals/Directors	\$185
Project Managers	\$135
Professional Staff	\$125
Clerical/Admin/Technician	\$60



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/26/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement.

PRODUCER: RSC Insurance Brokerage, Inc. CONTACT NAME: Ambrosia Patton. INSURED: GLMV Architecture, Inc. INSURER(S) AFFORDING COVERAGE: Hartford Underwriters Insurance Company, Berkley Insurance Company.

COVERAGES CERTIFICATE NUMBER: CL21121347594 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSD, SUBR WVD, POLICY NUMBER, POLICY EFF, POLICY EXP, LIMITS. Rows include Commercial General Liability, Automobile Liability, Umbrella Liability, Workers Compensation, and Professional Liability.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

City of Lee's Summit Director of Public Works. SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/13/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER RSC Insurance Brokerage, Inc. 160 Federal St. 4th Floor Boston MA 02110	CONTACT NAME: Ambrosia Patton PHONE (A/C, No, Ext): (678) 690-5995 E-MAIL ADDRESS:	FAX (A/C, No): (617) 439-3752
	INSURER(S) AFFORDING COVERAGE	
INSURED GLMV Architecture 1525 E. Douglas Wichita KS 67211	INSURER A: Berkley Insurance Company NAIC #: 32603	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES

CERTIFICATE NUMBER: CL21121347594


REVISION NUMBER:

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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability			AEC-9041500-04	12/31/2020	12/31/2021	Each Claim \$5,000,000 Annual Aggregate \$8,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

City of Lee's Summit Director of Public Works 220 Green St. Lee's Summit MO 64063-2358	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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CITY OF LEE'S SUMMIT, MISSOURI
WORK AUTHORIZATION AFFIDAVIT PURSUANT TO SECTION 285.530, RSMo
(FOR ALL BIDS IN EXCESS OF \$5,000.00)
Effective 1/1/2009

County of Jackson)
) ss.
State of Missouri)

My name is Paul J. Michell. I am an authorized agent of GLMV Architecture, Inc. ("Bidder"). Bidder is enrolled and participates in a federal work authorization program for all employees working in connection with services provided to the City of Lee's Summit, Missouri. Bidder does not knowingly employ any person who is an unauthorized alien in connection with the services being provided.

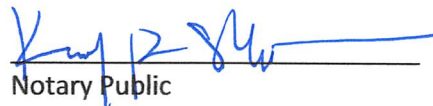
Bidder shall not knowingly employ or contract with an illegal alien to perform work for the City of Lee's Summit, Missouri or enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien.


Affiant

Paul J. Michell
Printed Name

Subscribed and sworn to before me this 13th day of December, 2021.

KIMBERLY RENEE SHAWHAN
Notary Public - Notary Seal
STATE OF MISSOURI
Jackson County
My Commission Expires Nov. 7, 2022
Commission # 06394908


Notary Public

SEAL



Company ID Number: 183035

To be accepted as a participant in E-Verify, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 888-464-4218.

Employer Gossen Livingston Associates, Inc.

Susan Smith

Name (Please Type or Print)

Title

Electronically Signed

Signature

01/21/2009

Date

Department of Homeland Security – Verification Division

USCIS Verification Division

Name (Please Type or Print)

Title

Electronically Signed

Signature

01/21/2009

Date



E-VERIFY IS A SERVICE OF DHS

Company ID Number: 183035

Information Required for the E-Verify Program

Information relating to your Company:

Company Name: Gossen Livingston Associates, Inc.

Company Facility Address: 420 S Emporia

Wichita, KS 67202

Company Alternate
Address:

County or Parish: SEDGWICK

Employer Identification

Number: 480798313

North American Industry
Classification Systems

Code: 541

Parent Company: Gossen Livingston Associates, Inc.

Number of Employees: 20 to 99

Number of Sites Verified

for: 3

Are you verifying for more than 1 site? If yes, please provide the number of sites verified for in each State:

- MISSOURI 1 site(s)

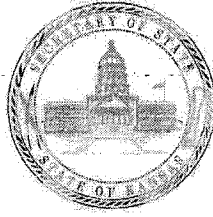
Company ID Number: 183035

- KANSAS 1 site(s)
- TEXAS 1 site(s)

Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:

Name:	Susan M Smith	Fax Number:	(316) 265 - 5646
Telephone Number:	(316) 265 - 9367 ext. 122		
E-mail Address:	ssmith@gossenlivingston.com		
Name:	Bronda R Boley	Fax Number:	(316) 265 - 5646
Telephone Number:	(316) 265 - 9367 ext. 106106		
E-mail Address:	bboley@gossenlivingston.com		
Name:	Kathy J Rickey	Fax Number:	(316) 265 - 5646
Telephone Number:	(316) 265 - 9367 ext. 103103		
E-mail Address:	krickey@gossenlivingston.com		

RON THORNBURGH
Secretary of State



Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785) 296-4564

STATE OF KANSAS

December 18, 2009

KATHLEEN R. LEAL
FOULSTON SIEFKIN LLP
1551 N WATERFRONT PKWY, STE 100
WICHITA KANSAS 67206 4466

RE: GLMV ARCHITECTURE, INC.

ID #: 30-544-1

To the Corporation

A certified copy of a merger that was recently filed in the Corporations Division of our office is enclosed.

Every corporation in Kansas is assigned an identification number. Use of this number in any correspondence with our office will give us immediate access to your file and enable us to offer you faster, more efficient service. Your identification number is at the top of this letter.

ch

168-426-5
30-544-1 (3)
N-C

Execution

**CERTIFICATE OF MERGER
MERCING
MCCLUGGAGE, VAN SICKLE & PERRY CORPORATION,
a Kansas corporation,
INTO
GOSSEN LIVINGSTON ASSOCIATES, INC.
a Kansas corporation**

SECRETARY OF STATE
KANSAS
RECEIVED
NOV 9 12

McCluggage, Van Sickle & Perry Corporation, a corporation organized and existing under the laws of the State of Kansas, and Gossen Livingston Associates, Inc., a corporation organized and existing under the laws of the State of Kansas,

DO HEREBY CERTIFY:

FIRST: That McCluggage, Van Sickle & Perry Corporation and Gossen Livingston Associates, Inc. (hereinafter sometimes referred to as the "Constituent Corporations") have entered into an Agreement and Plan of Merger (the "Agreement"), which sets forth the terms and conditions of a merger by and between the Constituent Corporations (the "Merger"), which has been approved, adopted, certified, and executed in accordance with K.S.A. 17-6701 and amendments thereto.

SECOND: That the surviving corporation of the Merger is Gossen Livingston Associates, Inc., which at the Effective Date of the Merger, as defined below, will change its name to "GLMV Architecture, Inc." (the "Surviving Corporation"), and that the Second Amended and Restated Articles of Incorporation attached hereto as Exhibit A will be the Articles of Incorporation of the Surviving Corporation.

THIRD: That the executed Agreement is on file at the principal place of business of the Surviving Corporation, which is located at 420 South Emporia, Wichita, Kansas 67202.

FOURTH: That upon the written request of any stockholder of a Constituent Corporation, a copy of the Agreement will be provided without cost to such stockholder by the Surviving Corporation.

FIFTH: The Merger will be effected by and be given effect at 12:01 a.m. C.S.T. January 1, 2010. Such date and time of filing is referred to in this Certificate of Merger as the "Effective Date."

Signatures are on the following page.]

12-18-2009 11:50:00
3946 01 \$75.00
053 007 AA 3
FILE#: 0305441 FILED BY KS SOS



02537434

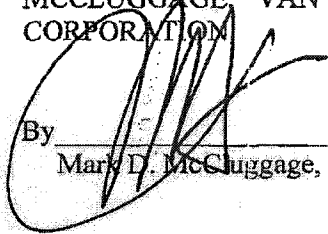
Execution

IN WITNESS WHEREOF, I have hereunto subscribed my name at Wichita, Kansas on this 16th day of December, 2009, and declare under penalty of perjury under the laws of the State of Kansas that the foregoing is true and correct.

GOSEN LIVINGSTON ASSOCIATES, INC.

By 
William B. Livingston, AIA, President/CEO

MCCLUGGAGE VAN SICKLE & PERRY CORPORATION

By 
Mark D. McCluggage, President

I hereby certify this to be a true and correct copy of the original on file.
Certified on this date: Dec 18, 2009
Ron Thornburgh, Secretary of State

Final

SECOND AMENDED AND RESTATED ARTICLES OF INCORPORATION**OF****GOSSEN LIVINGSTON ASSOCIATES, INC.**

(The Corporation was originally incorporated under the name "Gossen Livingston Associates, P.A." Its original Articles of Incorporation were filed with the Kansas Secretary of State on December 29, 1972.)

IT IS HEREBY CERTIFIED that the following Second Amended and Restated Articles of Incorporation which restate, integrate, and further amend the Corporation's Amended and Restated Articles of Incorporation, as previously filed and as heretofore amended and supplemented, were duly set forth and attached to an Agreement and Plan of Merger between Gossen Livingston Associates, Inc. and McCluggage, Van Sickle & Perry Corporation (the "Constituent Corporations" and the "Merger," as applicable), dated December 16, 2009, and the same was proposed, approved, and declared advisable by a resolution duly adopted by the Constituent Corporations' Boards of Directors and was thereafter duly approved and adopted by the stockholders of the Constituent Corporations in accordance with the provisions of K.S.A. § 17-6701 and amendments thereto, and the General Corporation Code of the State of Kansas, and that these Second Amended and Restated Articles of Incorporation constitute all of the Articles of Incorporation of the Corporation and do hereby supersede the Corporation's Amended and Restated Articles of Incorporation previously filed as heretofore supplemented or amended.

IT IS FURTHER CERTIFIED that the capital of the Corporation will not be reduced under or by reason of said Amended and Restated Articles of Incorporation.

ARTICLE IName

The name of the Corporation is:

GLMV Architecture, Inc.

ARTICLE II

Registered Office and Resident Agent

The address of the Corporation's registered office in the State of Kansas is 420 South Emporia, Wichita, Sedgwick County, Kansas 67202. The name of its registered agent at such address is William B. Livingston. The Corporation will, however, be authorized and empowered to transact and engage in business in any and all other states, territories, and countries, without limitation, both within and without the United States of America.

ARTICLE III

Purpose

The Corporation is organized for profit, and the nature of the business and the purposes of the Corporation are to practice and provide architecture services and to engage in any act or activity for which corporations may be organized under the Kansas General Corporation Code, as now in effect and as hereafter amended or modified.

ARTICLE IV

Capital Stock

The total authorized capital of the Corporation is twenty million (20,000,000) shares of common stock having a par value of \$.001 per share. Each of such shares, as and when issued, will be fully paid and nonassessable.

ARTICLE V

Board of Directors

A. The business and affairs of the Corporation will be managed and conducted by a Board of Directors consisting of four or more members who need not be stockholders, the exact number to be fixed and determined by the Board of Directors, with full authority in the Board of Directors to vary said number at any time and from time to time. Until and unless the Board of Directors determine otherwise, the Board of Directors will consist of four members. The total number of directors will be divided into two classes with each class containing one-half of the total, as near as may be. The classes will have staggered two-year terms, except that the directors will be initially elected to the following terms to commence upon the consummation of the Merger:

Class 1: Initial term expires at the first annual stockholders meeting following the consummation of the Merger, consisting of Thomas R. Gossen and Mark D. McCluggage.

Class 2: Initial term expires at the second annual stockholders meeting following the consummation of the Merger, consisting of William B. Livingston and Jeffrey T. Van Sickle.

Following these initial terms all director terms will be for two years.

B. The Board of Directors will have full power and authority to manage the Corporation and any and all of its assets, properties, businesses, and affairs, including the right to elect such officers and assistant officers and to designate and appoint such agents and employees as the Board of Directors deems advisable and to allow them suitable compensation, and will have any and all additional powers and authority, not inconsistent with the express terms of these Articles of Incorporation, that are expressly or impliedly granted to or invested in the Board by the statutes or laws of the State of Kansas, as now in effect and as hereafter amended or modified. Unless otherwise provided in the bylaws of the Corporation, the election of directors by written ballot will be required only if requested by a stockholder entitled to vote at said election.

C. No director of the Corporation may be held personally liable to the Corporation or its stockholders for breach of fiduciary duty as a director except for liability (i) for any breach of a director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under the provisions of K.S.A. § 17-6424 and amendments thereto, or (iv) for any transaction from which the director derived an improper personal benefit. Any repeal or modification of this paragraph C must be prospective only and will not adversely affect any limitation on the personal liability of a director of the Corporation serving at the time of such repeal or modification.

ARTICLE VI

Compromise or Arrangement

Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them or between this Corporation and its stockholders or any class of them, any court of competent jurisdiction within the State of Kansas, on the application in a summary way of this Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this Corporation under the provisions of K.S.A. § 17-6901 and amendments thereto, or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions of K.S.A. § 17-6808 and amendments thereto, may order a meeting of the creditors or class of creditors, or of the stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in such manner as the court directs. If

a majority in number representing 3/4 in value of the creditors or class of creditors, or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as consequence of such compromise or arrangement and the reorganization, if sanctioned by the court to which the application has been made, will be binding on all the creditors or class of creditors, or on all the stockholders or class of stockholders, of this Corporation, as the case may be, and also on this Corporation.

ARTICLE VII

Bylaws

The power to adopt, alter, amend, or repeal the Corporation's bylaws, in whole or in part, at any time and from time to time, will be vested concurrently in the stockholders and in the Board of Directors of the Corporation, but the authority of the Board of Directors with respect to bylaws will at all times remain subject to the superior authority of the stockholders.

ARTICLE VIII

Perpetual Existence

The Corporation will have perpetual existence.

ARTICLE IX

Indemnification

A. The Corporation will indemnify, subject to the requirements set forth in subsection D of this Section, any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (collectively a "Proceeding") (other than a Proceeding by or in the right of the Corporation) by reason of the fact that such person is or was a director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, trustee, partner, or agent of another corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such Proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal Proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, will not, of itself, create a presumption that the

person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal Proceeding, had reasonable cause to believe that his conduct was unlawful.

B. The Corporation will indemnify, subject to the requirements set forth in subsection D of this Section, any person who was or is a party or is threatened to be made a party to any Proceeding by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee, or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee, trustee, partner, or agent of another corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such Proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification will be made in respect of any claim, issue, or matter as to which such person has been adjudged to be liable to the Corporation unless and only to the extent that the court in which such Proceeding was brought determines upon application that, despite the adjudication of liability and in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court deems proper.

C. To the extent that a director, officer, employee, or agent of the Corporation, or a person serving in any other enterprise at the request of the Corporation, has been successful on the merits or otherwise in defense of any Proceeding referred to in subsections A or B or this Section, or in defense of any claim, issue, or matter therein, the Corporation will indemnify him against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

D. Any indemnification under subsections A and B or this Section (unless order by a court) will be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent of the Corporation, or a person serving in any other enterprise at the request of the Corporation, is proper in the circumstances because he has met the applicable standard of conduct set forth in subsections A and B of this Section. Such determination will be made (1) by a majority vote of the directors who are not parties to such Proceeding, even though less than a quorum, or (2) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (3) by the stockholders of the Corporation.

E. Expenses incurred by a director, officer, employee, or agent of the Corporation, or a person serving in any other enterprise at the request of the Corporation, in defending a Proceeding may be paid by the Corporation in advance of the final disposition of such Proceeding as authorized by the Board of Directors upon receipt of an undertaking by or on behalf of the director, officer, employee, or agent to repay such amount if it is ultimately determined that he is not entitled to be indemnified by the Corporation as authorized by the Section.

F. The indemnification and advancement of expenses provided by or granted pursuant to, the other subsections of this Section will not limit the Corporation from providing any other indemnification or advancement of expenses permitted by law nor will it be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office.

G. The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or who is or was serving at the request of the Corporation as a director, officer, employee, trustee, partner, or agent of another corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Section.

H. The indemnification and advancement of expenses provided by, or granted pursuant to this Section will, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee, or agent of the Corporation, or a person serving in any other enterprise at the request of the Corporation and will inure to the benefit of the heirs, executors and administrators of such a person.

I. For the purposes of this Section, references to "the Corporation" will include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees, or agents, so that any person who is or was a director, officer, employee, or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee, trustee, partner, or agent of another corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, will stand in the same position under the provisions of this Section with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

J. This Section will be construed to give the Corporation the broadest power permissible by the Kansas General Corporation Code as now in effect and as hereafter amended. The rights conferred in subsections A and B of this Section will not be exclusive of any other right to indemnification which any person may have or hereafter acquire under any statute, bylaw, agreement, contract, resolution of the Board of Directors or stockholders of the Corporation, or otherwise.

ARTICLE X

Restrictions on Sale of Stock

If the Corporation adopts any bylaw or the Corporation and stockholders adopt any agreement abridging, limiting or restricting the right of stockholders, or any of them, to sell, assign, transfer, mortgage, pledge or hypothecate any or all of the stock of the Corporation, then all certificates of shares of stock subject to such restrictions or limitations will be surrendered and a legend will be placed on such certificates referring to such restrictions and limitations and the certificates will then be returned to the stockholders.