

# EXHIBIT 1 TO ORDINANCE

## AGREEMENT FOR PROFESSIONAL ARCHITECTURAL SERVICES FOR DESIGN SERVICES FOR TWO (2) NEW FIRE STATIONS; FIRE STATION 4 AND FIRE STATION 5\_(RFQ NO. 2021-031)

**THIS AGREEMENT** made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the City of Lee's Summit, Missouri (hereinafter "City"), and GLMV Architecture, Inc. (hereinafter "Architect").

### WITNESSETH:

**WHEREAS**, City intends to have architectural services for professional services associated with design of two new prototypical fire stations on two separate sites and identified as Fire Station No. 4 and Fire Station No. 5 (hereinafter "Project"); and

**WHEREAS**, Architect has submitted a proposal for the Project and an estimate of costs to perform 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 perform 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 to City ("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 prevail.

### ARTICLE II OPTIONAL SERVICES TO BE PROVIDED BY ARCHITECT

The Architect shall furnish optional professional services identified in Exhibit A, if needed by City, upon receipt of written authorization by the City ("Optional Services").

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## ARTICLE III SCOPE OF SERVICES TO BE PROVIDED BY CITY

City shall provide services to Architect as identified in Exhibit A.

## ARTICLE IV 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 in the sum of Six Hundred Sixty-five Thousand Nine Hundred Eighty and no/100 Dollars (\$665,980.00), according to the following provisions:

- A. The cost of all Basic Services covered under Article I shall be billed hourly at the rates set forth in Exhibit B 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 Six Hundred Forty-seven Thousand Three Hundred Thirty and no/100 Dollars (\$647,330.00).
- B. The cost of all Optional Services identified as of the date of this Agreement covered under Article II shall be billed hourly at the rates set forth in Exhibit A or negotiated in a lump sum as indicated in Exhibit A for each particular service. Expenses incurred to provide the Optional Services shall be billed as set forth in Exhibit A. The total fees for the Optional Services shall not exceed the total sum of Eighteen Thousand Six Hundred Fifty and no/100 Dollars (\$18,650.00).
- C. The City will make payment monthly for Basic Services and Optional Services that have been satisfactorily completed. The City shall make payment to Architect within a period not to exceed thirty (30) days from the date an invoice is received by City. All invoices shall contain the following information:
  1. Project Name/Task Name/RFP Number/Description of Agreement.
  2. Invoice Number and Date.
  3. Purchase Order Number issued by City.
  4. 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. Description of monthly progress detailing the amount of the services completed to date and projected completion time.

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6. 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.

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 V COMPLETION TIME

The Basic Services 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 Director of Public Works 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 Director of Public Works and accepted by Architect at the time said Optional Services are authorized.

### ARTICLE VI 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

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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

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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

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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 SE 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

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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 VII MISCELLANEOUS PROVISIONS

The following miscellaneous 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 as aforesaid in Article IV 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

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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 City shall indemnify and hold harmless, to the extent allowed by the Constitution and Laws of the State of Missouri, Architect from all claims, damages, losses, expenses, including 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 Engineer, with the consent of 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 IV 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 Engineer and the City Manager.

In the event an emergency change in services is authorized by the City Engineer and 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 by not limited to damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.



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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, etc. 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 him/her.
- 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 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, 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

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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 Engineer pursuant to Article IV 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 annexed 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 contractor's(s') 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.

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- 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. if Agreement exceeds five thousand dollars (\$5,000.00), 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

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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 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

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attached to ensure delivery and deposited in the United States Mail, first class, with notices to City addressed to:

City of Lee's Summit  
Fire Department  
ATTN: Chief Mike Snider  
207 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.

**ARTICLE VIII  
ALL OTHER TERMS REMAIN IN EFFECT**

Reserved.

THIS AGREEMENT shall be binding on the parties thereto only after it has been duly executed and approved by City and Architect.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed on the \_\_\_\_ day of \_\_\_\_\_, 2021.

**CITY OF LEE'S SUMMIT**

\_\_\_\_\_  
Stephen A. Arbo, City Manager

ATTEST:

\_\_\_\_\_  
City Clerk Trisha Fowler Arcuri

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APPROVED AS TO FORM:

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Nancy K. Yendes,  
Chief Counsel of Infrastructure and Planning  
Office of City Attorney

**ARCHITECT:**



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Paul J. Michell  
Managing Vice President, Kansas City

ATTEST:



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Steven Wise  
Director of Federal Architecture



# EXHIBIT A

TO

## THE AGREEMENT FOR PROFESSIONAL ARCHITECTURAL SERVICES FOR DESIGN SERVICES FOR TWO (2) NEW FIRE STATIONS; FIRE STATION 4 AND FIRE STATION 5

### SCOPE OF SERVICES

This Exhibit is intended to describe in list form the project scope and additional information as well as materials or documents that shall be prepared by the Architect for the City's consideration in each phase under the scope of the Architect's Basic 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.

#### **Project Understanding**

The known scope of the Project as of the date of the Agreement is design and construction phase services for a two new prototypical, two-story, three-bay fire stations that will be delivered under the Construction Manager at Risk (also defined by AIA as Construction Manager as Constructor) delivery method. The key items the City desires to accommodate are as follows:

- Target 10,000 to 12,000 square foot fire stations.
- Target the Cost of the Work at \$4.5 million per station.
- Twenty-four hour living facilities for 8 personnel.
- Office facilities for one (1) company officer and one (1) common/shared office space.
- Housing for one fire apparatus, one ambulance, and support apparatus (anticipated design for up to 3 bays approximately 70-75' deep).
- Classroom for training.
- Wellness facility / area.
- Exterior storage facility, covered trash enclosure, and other requirements to meet local building standards.
- Diesel exhaust filtration system.
- Affordable, LEED-based principles (not seeking LEED certification).
- Decontamination areas.
- Security/access control and special systems compatible with existing facilities.
- Integral workspace.

Fire Station No. 4 is understood to be located at 5031 NE Lakewood Way, Lee's Summit, MO 64064. The site for Fire Station No. 5 is not under the City's control as of the date of this agreement and therefore has not been disclosed. For the Agreement, it is assumed that the site for Fire Station No. 5 will be of similar

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City of Lee's Summit – Fire Station No. 4 and Fire Station No. 5  
Exhibit A – Scope of Services  
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size and characteristics. Should the final site for Fire Station No. 5 differ significantly from the site for Fire Station No. 4, additional compensation and adjustments to schedule may be required.

It is understood that the two new stations shall be prototypical in nature and shall be as identical as possible in design and construction for continuity of operations and to achieve potential financial savings. It is anticipated that an identical facility design shall be prepared for each Fire Station with separate site development designs unique to each Project site. Some minor adjustments to the facility designs are anticipated to account for minor differences between Project sites.

The Scope of Services will include Schematic Design, Design Development, Construction Documents, Construction Phase Administration, Project Close-Out as outlined in the Basic Services sections of the Agreement and this Exhibit A. Additional value-added services are part of our Basic Services, and includes Construction Manager selection process consultation, Information Gathering and Program Verification, and presentation of Health and Wellness Fire Station Design concepts to Department/City leadership, as referenced herein under Pre-Design Services.

The Architect's Basic Services shall include the disciplines required to design and construct the facilities and develop the sites. This includes Architecture, Interior Design, Civil Engineering, Landscape Architecture, Structural Engineering, and Mechanical/Electrical/Plumbing/Fire Protection Engineering, and Technology/Audio-Visual/Security Design.

The Architect's Optional Services proposed as of the date of this Agreement include services that would typically be provided by the City but are offered for the City's consideration for efficient Project development. Those services include Geotechnical Engineering and Land Surveying. Other Optional Services could be any listed herein as Additional or Excluded services. Other Optional Services the City wants to consider shall be negotiated and incorporated into the Project with additional compensation and mutually agreed upon schedule adjustments.

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. The Architect and the Architect's subconsultants shall assign to the Project those personnel listed in the Architect's Qualification Statement submitted to the City on December 11, 2020. Architect and Architect's subconsultants cannot substitute other personnel without the approval of the City. Our team will also include additional support staff as necessary to complete your Project in a timely manner.

The Architect identifies the following subconsultants for the Project:

Fire Station Design Architect    LeMay Erickson Willcox Architects, PC  
11250 Roger Bacon Drive  
Reston, VA 20190



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Civil Engineering	GLMV Architecture, Inc. 9229 Ward Parkway, Suite 210 Kansas City, MO 64114
Landscape Architecture	GLMV Architecture, Inc. 9229 Ward Parkway, Suite 210 Kansas City, MO 64114
Structural Engineering	Leigh & O'Kane, LLC 250 NE Mulberry Street, Suite 201 Lee's Summit, MO 64086
MEPF Engineering	Hoss & Brown Engineers, Inc. 15902 Midland Drive Shawnee, KS 66217
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	J&J Survey, LLC 6500 NW Tower Drive, Suite 102 Kansas City, MO 64151

## **Architect's Responsibilities**

1. The Architect shall provide the professional services as set forth in this Agreement.
2. The Architect shall provide its services in conjunction with the services of a Construction Manager. The Architect shall not be responsible for actions taken by the Construction Manager.
3. 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.
4. The Architect shall manage the Architect's services, consult with the City and the Construction Manager, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the City.
5. The Architect shall coordinate its services with those services provided by the City, the Construction Manager, 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.
6. The Architect shall coordinate their Interior Design services with the City's selection of furniture, fixtures and equipment (FF&E) for the Project. This includes providing accommodations for space needs and utility provisions for proper installation and operation. The Architect shall consult with and advise the City regarding finish selections for FF&E items and coordination with building finishes to provide for a cohesive interior design.

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7. The Architect shall not be responsible for the City's directive or substitution, or for the City's acceptance of non-conforming work, made without the Architect's approval.
8. 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.
9. The Architect shall, at appropriate times, in coordination with the Construction Manager, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such entities.
10. The Architect shall assist the City and Construction Manager in connection with the City's responsibility for filing documents required for the approval of the City.
11. Evaluation of the Construction Manager's Guaranteed Maximum Price Proposal:
  - a. Prior to the City's acceptance of the Guaranteed Maximum Price proposal or Control Estimate, as applicable, the Architect shall (i) review and approve or deny (after consulting with the City) in writing the Construction Manager's requests for substitutions and, (ii) upon written request of the Construction Manager, provide written clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the City on all communications related thereto.
  - b. During one of the design phases, the City will receive a Guaranteed Maximum Price proposal or Control Estimate, as appropriate, from the Construction Manager. The Architect shall assist the City in reviewing the Construction Manager's proposal or estimate. The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. If the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the City and Construction Manager.
  - c. Upon authorization by the City, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.
12. Presentation to the Governing Body: If requested by the City, the Architect shall participate in a presentation of the design and probable costs to the City Council. The City shall require that the Construction Manager also participate in the presentation.

## **Architect's Scope of Services/Basic Services**

1. Pre-Design Phase Services:
  - a. Construction Manager Selection Process Assistance:
    - i. The Architect shall review submissions of firms who have submitted qualifications statements to the City and score them according to the City's established criteria.
    - ii. The Architect shall participate in interviews of Construction Management firms who are shortlisted.

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- iii. The Architect shall participate in an interview follow-up meeting with the City. The Architect shall not be a voting member of the selection committee but shall offer their professional judgement and opinions regarding the interviews and the performance of the firms presenting.
- iv. The Architect covenants no director, officer, employee, or agent of the Architect shall have a financial interest, direct or indirect, in the selection of the Construction Management firm, and any violation of this provision renders the Agreement void. The Architect further covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Services to be performed under the Agreement or this Scope of Services. The Architect further covenants that in the performance of this Agreement no person having such interest shall be employed.

b. Information Gathering & Program Verification:

- i. The City shall provide programming and documents previously completed for the Project, if any.
- ii. 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.
- iii. 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 as needed.
- iv. The Architect shall meet with City specified key parties in a collaborative one initial one-day on-site information gathering work session 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:
  - Fire Department
  - Public Works
  - Facilities Maintenance & Operations
  - Information Technology
  - City Manager's Office
  - Building Codes Administration
- v. The Architect shall consider the user groups routine operations to understand optimal department functions and interactions.
- vi. The Architect shall discuss general level of quality and future building design aesthetic goals of the City as it relates to design concepts and any possible impact on cost estimates prepared by the Construction Manager.
- vii. The Architect shall provide a presentation of health and well-being design strategies to Fire Department shift leaders and administrative staff and other interested City personnel to allow for a better understanding of planning and design direction that may be proposed by the Architect.

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- viii. The Architect shall prepare and submit written minutes and conformed/refined City's space program, incorporating client review comments before final submission.
  - ix. 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.
  - x. The Architect shall meet with the City's team to review the final deliverables and discuss next steps for the Project.
2. Schematic Design Phase Services:
- a. The Architect shall consult and discuss with the City and Construction Manager alternative approaches to design and construction of the Project, including the feasibility of incorporating sustainable design approaches, and consideration of the implementation of the City's sustainable objectives. The Architect shall reach an understanding with the City regarding the requirements of the Project.
  - b. Based on the Project requirements agreed upon with the City, the Architect shall prepare and present to the City and Construction Manager, for the City's approval, a preliminary design illustrating the scale and relationship of the Project components.
  - c. Based on the City's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the City's approval and the Construction Manager's review. The Schematic Design Documents shall consist of drawings and other documents including a site plan and preliminary building plans, sections, and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.
  - d. The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, implications of sustainable code requirements enacted in the relevant jurisdiction, if any, in developing a design that is consistent with the City's program, schedule and budget for the Cost of the Work.
  - e. If available at the time of Schematic Design, the Architect shall consider initial FF&E selections by the City in the design of the project and shall indicate such within the design documents prepared by the Architect.
  - f. The Architect shall consider with the City and the Construction Manager the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics in developing a design for the Project that is consistent with the City's schedule and budget for the Cost of the Work.
  - g. The Architect shall submit the Schematic Design Documents to the City and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.
  - h. Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall identify agreed upon adjustments to the Project's size, quality, or budget, and request the City's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the City's budget for the Cost of the Work at the conclusion of the

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Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

- i. In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the City.
3. Design Development Phase Services:
    - a. Based on the City's approval of the Schematic Design Documents, and on the City's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the City's approval and Construction Manager's review. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include preliminary specification information (outline style or specification index as appropriate) that identifies major finishes, materials and systems and establish in general their quality levels.
    - b. The Architect shall continue to coordinate with the Owner's FF&E package for the Projects and shall coordinate with the Owner regarding finishes for FF&E items relative to the interior design finish selections being proposed for the Project.
    - c. Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the City and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents.
    - d. Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall identify agreed upon adjustments to the Project's size, quality, or budget, and request the City's approval of the Design Development Documents.
  4. Construction Documents Phase Services:
    - a. Based on the City's approval of the Design Development Documents, and on the City's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the City's approval and the Construction Manager's review. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of finishes, materials and systems and other requirements for the construction of the Work. The City and Architect acknowledge that to construct the Work, the Construction Manager will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with the scope of Construction Phase services identified herein.

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- b. The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.
  - c. During the development of the Construction Documents, if requested by the City, the Architect shall assist the City, the City's attorney, and the Construction Manager in the development and preparation and assembly of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications and may include sample forms. The Architect shall include final Conditions of the Contract for Construction as part of the Project Manual.
  - d. Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the City and the Construction Manager. The Architect shall meet with the City and Construction Manager to review the Construction Documents.
  - e. Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall identify agreed upon adjustments to the Project's size, quality, or budget, and obtain the City's approval of the Construction Documents.
  - f. The Architect shall submit the Construction Documents to the City, and if determined to be required, any other authorities having jurisdiction over the Project, for the purpose of approval and issuance of building permits. The Architect shall receive, and review comments made by the City and shall offer clarifications and make any adjustments to the Construction Documents necessary to achieve approval.
5. Construction Phase Services:
- a. The Architect shall provide administration of the Contract between the City and the Construction Manager as set forth below and in the Contract for Construction. If the City and Construction Manager modify the Contract for Construction, those modifications shall not affect the Architect's services under this Agreement unless the City and the Architect amend this Agreement.
  - b. The Architect's responsibility to provide Construction Phase Services commences upon the City's acceptance of the Construction Manager's Guaranteed Maximum Price proposal. The Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.
  - c. The Architect shall advise and consult with the City and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the City only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Construction Manager's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts, directives, errors, or omissions, but shall not have control over or charge of, and shall not be responsible for, acts, directives, errors, or omissions of the Construction Manager or of any other persons or entities performing portions of the Work that are not under the control of the Architect.

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- d. Evaluations of the Work:
  - i. The Architect shall visit the site at intervals appropriate to the stage of construction or as requested by the City to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. Based on the site visits, the Architect shall keep the City reasonably informed about the progress and quality of the portion of the Work completed, and report to the City in writing (1) known deviations from the Contract Documents and from the most recent construction schedule, and (2) defects and deficiencies observed in the Work.
  - ii. The Architect has the authority to reject Work, with the prior approval of the City, that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect, with the City's prior approval, shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work that are not under the control of the Architect.
  - iii. The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the City or Construction Manager. The Architect's shall respond in writing within any time limits agreed upon or otherwise with reasonable promptness.
  - iv. Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both City and Construction Manager, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents, and as approved by the City.
  - v. Unless the City and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in the Contract, the Architect shall render initial decisions on Claims between the City and Construction Manager as provided in the Contract Documents.
- e. Certificates for Payment to Construction Manager:
  - i. The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect's certification for

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

- ii. The issuance of a Certificate for Payment shall not be a guarantee that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the City to substantiate the Construction Manager's right to payment, or (4) ascertained how or for what purpose the Construction Manager has used money previously paid on account of the Contract Sum.
- iii. The Architect shall maintain a record of the Applications and Certificates for Payment and provide a copy of such to the City upon request.

f. Submittals:

- i. The Architect shall review the Construction Manager's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.
- ii. In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Construction Manager's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Construction Manager's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.
- iii. If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the



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appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Construction Manager that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

- iv. The Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.
  - v. The Architect shall maintain a record of submittals and copies of submittals supplied by the Construction Manager in accordance with the requirements of the Contract Documents.
- g. Project Completion:
- i. The Architect shall conduct inspections to determine the date(s) of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Construction Manager and forward to the City, for the City's review and records, written warranties and related documents required by the Contract Documents and assembled by the Construction Manager; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.
  - ii. The Architect's inspections shall be conducted with the City to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Construction Manager of Work to be completed or corrected.
  - iii. When the Work is found to be substantially complete, the Architect shall inform the City about the balance of the Contract Sum remaining to be paid the Construction Manager, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.
  - iv. The Architect shall forward to the City the following information received from the Construction Manager: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the City against liens; and (3) any other documentation required of the Construction Manager under the Contract Documents.

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- v. The Architect shall maintain during the Construction Phase a conformed set of Construction Documents that reflects design adjustments made as the construction of the Project progresses. At Project Completion, the Architect shall furnish the City with a copy of the updated Construction Documents and a copy of the digital drawing files for their use. This transmittal will be included with the Construction Manager's record drawings, submittals, delegated design documents, coordination drawings, and other Project documents required by the Contract.
- vi. Upon request of the City, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the City to review the facility operations and performance.

## **Architect's Optional Services**

For the City's consideration, the Architect proposes to include the following Optional Services in their Scope of Work with compensation for such noted herein. Other Optional Services may be provided to the City at the City's preference and may include services such as those noted under Additional Services and Excluded Services herein. If such services are desired by the City, the City shall notify the Architect in writing and the Architect shall provide the City with a proposal outlining the scope, compensation, and schedule. The Architect shall not provide any other Optional Services without prior approval from the City in writing.

1. **Geotechnical Engineering:** The Architect shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.
2. **Land Surveying:** The Architect shall furnish surveys to describe physical characteristics, legal limitations, and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above- and below-grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

## **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.

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2. The City shall retain a Construction Manager to provide services, duties, and responsibilities as described in AIA Documents A133 and A201; provided that the City shall not be in breach of this term by amending AIA Documents A133 and A201, and any attachments to such documents, to meet the City's needs and requirements.
3. The City shall furnish the services of a Construction Manager who will be responsible for creating the Project schedule. The City shall adjust the schedule if the City, in its sole discretion, deems it necessary, as the Project proceeds.
4. The City shall establish and periodically update the City's budget for the Project, including (1) the budget for the Cost of the Work; (2) the City's other costs; and (3) reasonable contingencies related to all of these costs.
5. The City shall furnish the services of a Construction Manager that shall be responsible for preparing all estimates of the Cost of the Work. If the City significantly increases or decreases the City's budget for the Cost of the Work, the City shall notify the Architect. The City and the Architect shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.
6. The Cost of the Work established by the City shall be the total cost to the City to construct all elements of the Project designed or specified by the Architect and shall include the Construction Managers' general conditions costs, overhead, and profit. The Cost of the Work does not include the compensation of the Architect, the compensation of the Construction Manager for Preconstruction Phase services, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the City.
7. The City shall require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services.
8. The City acknowledges that accelerated, phased, or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the City incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Construction Manager to remove and replace previously installed Work. If the City selects accelerated, phased, or fast-track scheduling, the City agrees to include in the budget for the Project sufficient contingencies to cover such costs.
9. The City shall provide furniture, fixtures, and equipment (FF&E) selection and/or design services, whether provided by City staff directly, or in conjunction with the assistance of outside vendors. The City shall provide the Architect with documentation of all FF&E items for design coordination purposes.
10. Should the project needs dictate a code modification or variance, the City shall coordinate and lead the process of submitting and seeking approval of such. The Architect shall furnish the City with any design documents needed to support that effort.
11. 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

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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.

12. The City shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.
13. 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.
14. The City shall provide prompt written notice to the Architect and Construction Manager if the City becomes aware of any fault or defect in the Project, including errors, omissions, or inconsistencies in the Architect's drawings and specifications.
15. The City shall contemporaneously provide the Architect with any communications provided to the Construction Manager about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.
16. Before executing the Contract for Construction, the City shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The City shall provide the Architect a copy of the executed agreement between the City and Construction Manager, including the General Conditions of the Contract for Construction.
17. The City shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Construction Manager to provide the Architect access to the Work wherever it is in preparation or progress.

## **Project Assumptions**

Our Services are based on the following assumptions:

1. Both Fire Stations shall be prototypical in nature and shall be as identical as possible in design and construction for continuity of operations and to achieve potential financial savings.
2. It is anticipated that an identical facility design shall be prepared for each Fire Station with separate site development designs unique to each Project site. Some minor adjustments to the facility design is anticipated to account for minor differences between Project sites.
3. It is anticipated that the site for Fire Station No. 5 will be of similar size and characteristics as that for Fire Station No. 4. Should the site for Fire Station No. 5 differ significantly it is understood that the scope of work for pre-design exploration and design services will need to be equitably adjusted. This may include, but is not necessarily limited to, geotechnical engineering, land surveying, civil engineering, and landscape architecture. There may also be impacts based upon site differences to foundations, underground utilities, and architectural design.
4. The Project sites or portions thereof are not located in a floodplain or wetland, have major utilities provided within 100 feet of property boundaries, are sufficient for any stormwater detention or BMP's (IE: no below grade detention or mechanical treatment devices), and have moderate existing grade slopes ranging from 1% to 7%.

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5. The Construction Manager will conduct not more than two (2) final pricing/bid processes per Fire Station. It is assumed that the first will be an early works package consisting of site work, underground utilities and footings/foundations for each Fire Station and will occur at approximately 50% Construction Documents. The second final pricing/bid process will cover all remaining construction scope of work for each Fire Station.
6. Both Fire Stations shall be designed and constructed concurrently. Should the Fire Stations be constructed sequentially, additional time and compensation will be necessary.
7. The construction of both Fire stations shall utilize the same subcontractors to provide increased efficiency and coordination between the City, Architect, Construction Manager, and subcontractors.
8. The Construction Manager shall prepare, or shall assign preparation of, consolidated coordination drawings for each facility that will identify and coordinate the installation of all building systems. This will provide increased efficiency and coordination of installation so that each facility is constructed to be as identical as possible. This will also provide the City with more efficient and streamlined operation and maintenance of these prototypical projects.
9. If review is required by the Planning Commission, 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 both Fire Stations will be included on the same agenda for consideration by the Planning Commission.
10. The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the City:
  - a. Two (2) reviews, including the initial review and one resubmittal, of each Shop Drawing, Product Data item, sample, and similar submittals of the Construction Manager.
  - b. Twenty-four (24) visits to the sites by the Architect over the duration of the Project during construction. Visits to both project sites shall occur the same day and be considered one (1) Project site visit.
  - c. Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents.
  - d. Two (2) inspections for any portion of the Work to determine final completion.
11. Detailed Cost Estimating Services shall be provided by the Construction Manager and, therefore, are not included in the proposed Services.
12. 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.
13. We will use the version of the IBC currently adopted by the City for the governing code.
14. Off-site improvements such as utility extensions and similar outside the established property lines are not included.
15. Specialty consultants not listed in this Agreement are not included in our Fee.
16. Deliverables will be furnished to the City in electronic/digital format.
17. 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.

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**Compensation & Expenses**

**BASIC SERVICES:**

Total compensation for the requested Scope of Basic Services is proposed on an hourly basis not to exceed Six Hundred Forty-seven Thousand Three Hundred Thirty and no/100 Dollars (\$647,330.00). The compensation for the Architect’s Basic Services is estimated to be divided by phase as follows:

Pre-Design .....	Five Percent .....	(5%)
Schematic Design .....	Fifteen Percent .....	(15%)
Design Development .....	Twenty Percent .....	(20%)
Construction Documents .....	Thirty-five Percent .....	(35%)
Pricing & Procurement .....	Five Percent .....	(5%)
<u>Construction Phase</u>	<u>Twenty Percent</u>	<u>(20%)</u>
Total Basic Compensation	One Hundred Percent	(100%)

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

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

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.

**OPTIONAL SERVICES:**

Total Compensation for the proposed Scope of Optional services is proposed not to exceed the amount of Eighteen Thousand Six Hundred Fifty and no/100 Dollars (\$18,650.00). These services are enumerated as follows:

Geotechnical Engineering (lump sum) .....	7,150.00
<u>Land Surveying (lump sum)</u>	<u>11,500.00</u>
Total Optional Services Compensation	\$ 18,650.00

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## **Proposed Project Schedule**

Within ten (10) calendar days from the Notice to Proceed issued to the Construction Manager, the Architect shall submit to the City and the Construction Manager a schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager.

The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the City's review, (2) for the Construction Manager's review, (3) for the performance of the Construction Manager's Preconstruction Phase services, (4) for the performance of the City's consultants (if any), and (5) for approval of submissions by authorities having jurisdiction over the Project.

The Architect shall coordinate with Construction Manager 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, Construction Manager, and Architect agree to the time limits established by the Project schedule, the City and Architect shall not exceed them, except for reasonable cause.

The following preliminary schedule is proposed for review and refinement with the City and Construction Manager:

Notice to Proceed .....	March 9, 2021
Project Kickoff Meetings.....	week of March 15, 2021
Preliminary Design .....	April 15, 2021
Schematic Design Complete.....	May 13, 2021
75% Design Development.....	July 1, 2021
100% Design Development .....	July 23, 2021
50% Construction Documents / Early Works Package.....	September 30, 2021
Construction Commences .....	approx November 8, 2021
95% Construction Documents.....	November 18, 2021
Final Documents.....	December 16, 2021
Construction Complete.....	approx October 2022

## **Additional Services**

Services requested beyond the scope of Basic Services described above shall be considered Additional Services. Additional Services shall be provided if requested and authorized in writing by the City and will be performed on a 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.

Contingent Additional Services are those Services beyond the Architect's control, necessitated by governmental authorities, unanticipated field conditions, changes to the original scope of Work, or to avoid delay in the construction phase. The Architect shall notify the City prior to commencing such Services. Selected examples of Contingent Additional Services include:

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1. Making revisions in Drawings, Specifications, and other documents resulting from substitutions included in the agreed to assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.
2. Services necessitated by the City's request for extensive sustainable design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification.
3. Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations, or official interpretations.
4. Services necessitated by decisions of the City or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the City or the City's consultants or contractors.
5. Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to another project delivery method.
6. Services necessitated by the City's delay in engaging the Construction Manager.
7. Review of the Construction Manager's submittals more than the quantities identified under Project Assumptions.
8. Conducting Substantial Completion and Final Completion inspections more than the quantities identified under Project Assumptions.
9. Preparing Change Orders, and Construction Change Directives that require the preparation or revision of Architect's Instruments of Service.
10. Evaluating substitutions proposed by the City or Construction Manager and making subsequent revisions to Instruments of Service resulting therefrom.
11. To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after the established date of Substantial Completion of the Work.
12. Custom engineering system evaluations and related assessments required by the City.
13. Traffic studies and coordination of such by outside consultants.
14. Subdivision/map processing and recordation requirements associated with a tentative and final site development plan.
15. Assistance to the City with bonding requirements.
16. Negotiated approvals with utility and site service companies (i.e. gas, electricity, water, mail, trash, phone, cable, satellite, low voltage, sewer, etc).
17. Coordination of environmental reviews required by the City.

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. Revisions to approved design and documentation directed by the City that are not the fault of the Architect, or resulting from changes during construction, value engineering processes or that differ from the initial information as referenced above or from programming process results.
2. Preparation of additional design schemes in excess of those included under Basic Services.
3. Attendance at contractor/construction manager meetings except for routine site visits as outlined under Project Assumptions.
4. Financial feasibility or other special studies.
5. Attendance at neighborhood meetings.
6. Attendance at planning commission meetings except as indicated herein.
7. Attendance at city council meetings except as indicated herein.
8. Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto.
9. Professionally rendered 3D drawings or perspectives.



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10. Professional presentation model (finish architectural models).
11. Marketing packages or brochures.
12. Retaining wall design.
13. Daylighting and energy analysis, modeling, and calculations.
14. Architectural specialty lighting design.
15. Acoustics consulting services.
16. Permit & fee cost assessments.
17. Material and quantity take-offs for detailed cost estimation purposes.
18. Additional site visits during construction beyond visits indicated under Project Assumptions.
19. LEED certification.
20. Furniture, Fixtures and Equipment design, specification, procurement, and installation services (FF&E)
21. Building and systems commissioning services.
22. Preparation of comprehensive record (as-built) drawings after construction is complete.
23. Post-occupancy services.

## **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. Services related to construction means and methods.
2. Permitting or other fees required by authorities having jurisdiction.
3. Hazardous materials testing and abatement.
4. Environmental studies and reports.
5. Historic and archeological studies.
6. Ecological studies and wetland delineation/permitting.
7. Fire hydrant and domestic water flow testing and analysis.
8. Soils stabilization and shoring engineering.
9. Additional storm water detention or design calculations due to existence of a master drainage plan.
10. Design for well water and septic tank service.
11. Traffic impact studies.
12. Documentation associated with vacation of streets or alleys, encroachment documents or for elimination of on-street parking.
13. Public improvement plans for street widening, intersection improvements, signalization, utility relocation and extensions, street lighting and traffic signals, infrastructure or utility extensions.
14. Title work, platting, replatting and/or acquisition of additional property, new right-of-way and/or easements.
15. Full time construction inspection and preparation of as-built drawings for public utilities that may be required by the City.
16. Construction staking.
17. Extraordinary services to investigate existing conditions or facilities, to take measured drawings thereof, or to explore existing sub-surface facilities including sewers, water mains, trenches, tanks, voids, etc.
18. Special Inspections and Engineering for Means and Methods during Construction.
19. Site services (IE: trash, emergency systems, site communications, postal delivery, recycling program).
20. City's network equipment and hardware/software.

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21. City's alert notification and communications systems.
22. Acoustic engineering and compliance.
23. Cost estimating services.
24. Seismic analysis or studies.
25. Field certifications outside architect's expertise.