



CAMDENCOUNTY

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**BOARD
OF
COMMISSIONERS**

May 15, 2017

6:00 PM Closed Session

7:00 PM Open Session

Special Meeting

Historic Courtroom

Courthouse Complex

This agenda is only a tentative schedule of matters the Commissioners may address at their meeting and all items found on it may be deleted, amended or deferred. The Commissioners may also, in their absolute discretion, consider matters not shown on this agenda.

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Please turn Cell Phone ringers off during the meeting.

Agenda

**Camden County Board of Commissioners
BOC - Special Meeting
May 15, 2017
6:00 PM Closed Session
7:00 PM Open Session
Historic Courtroom, Courthouse Complex**

Call to Order

6PM Closed Session

1. Motion to go into closed session.
 - A. Economic Development
 - B. Purchase of Real Property
2. Motion to come out of closed session.
3. Motion to Recess BOC until 7PM Open Session

7PM Open Session - Reconvene BOC

Motion to Reconvene BOC

Welcome, Invocation, & Pledge of Allegiance

Commissioner Garry Meiggs

ITEM 1. Public Comments

It is requested that comments be limited to (2-3) minutes. The length and number of comments may be limited upon the Chairman's discretion due to scheduling and other issues.

ITEM 2. Consideration of Agenda (For discussion and possible action)

ITEM 3. Public Hearings

- A. Public Hearing - Ordinance 2017-05-01 Solar Farm OrdinancePg 4 - 18

- ITEM 4. New Business (For discussion and possible action)**
 - A. Contract for Architectural Design Services for New PublicPg 19 - 51
Services Bldg
 - B. Contract for Construction Manager at Risk for New Public.....Pg 52 - 73
Services Bldg

- ITEM 5. Board Appointments (For discussion and possible action)**
 - 1. EIC Board Re-AppointmentPg 74 - 74

- ITEM 6. Commissioners' Report**

- ITEM 7. County Manager's Report**

- ITEM 8. Information, Reports & Minutes From Other Agencies**
 - A. Register of Deeds Monthly Report - April 2017Pg 75 - 76

- ITEM 9. Other Matters (For discussion and possible action)**

- ITEM 10. Adjourn**



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Board of Commissioners AGENDA ITEM SUMMARY SHEET

Public Hearings

Item Number: 3.A
Meeting Date: May 15, 2017

Submitted By: Amy Barnett, Planning Clerk
Administration
Prepared by: Amy Barnett

Item Title **Public Hearing - Solar Farm Ordinance**

Attachments: Solar Farm Ordinance Documents for PH 5-15-17
(PDF)
Advertising Proof Public Hearing 5-15-17 (PDF)

Summary:

On March 20, 2017 the Camden County Board of Commissioners adopted an ordinance placing a 60-day moratorium on Solar Farms and directed Planning Staff to do a comprehensive study on their effects and bring back any proposed amendments. Attached is the study with ordinance on proposed changes to UDO Article 151.347(V) design standards for solar farms.

Recommendation:

1. Hold Public Hearing.
2. Amend agenda to add Ordinance 2017-05-01 to New Business as Item 4.C.

Ordinance No. 2017-05-01**An Ordinance
Amending the Camden County
Code of Ordinances****Camden County, North Carolina**

BE IT ORDAINED BY THE CAMDEN COUNTY BOARD OF COMMISSIONERS as follows:

Article I: Purpose

The purpose of this Ordinance is to amend Chapter 151 of the Camden County Code of Ordinances of Camden County, North Carolina, which was originally adopted by the County Commissioners on December 15, 1997, and subsequently amended and as otherwise incorporated into the Camden County Code.

Article II. Construction

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Ordinance language and ~~strikethrough words~~ (~~strikethrough~~) shall be considered deletions to existing language. New language of proposed ordinance shall be shown in italics (*italics*) and underlined.

Article III. Amend Chapter 151 as amended of the Camden County Code which shall read as follows:

CHAPTER 151: UNIFIED DEVELOPMENT**§ 151.334 TABLE OF PERMISSABLE USES.**

	Description	R-1	R-2	R-3	CCD	NC	HC	MC	GUD	I-1	I-2
17.400	Solar farms (3 or more) - Refer to § 151.347(V)	S	S	S	S	S	S	S	S	S	S

§ 151.347 SPECIFIC STANDARDS.

Delete existing language and replace with the following:

(V) The following standards shall apply to all solar farms located in Camden County:

- (1) The minimum lot size for all solar farms shall be five acres.*
- (2) There shall be no solar farms located within the core villages of South Mills, Courthouse or Shiloh or within a one mile buffer of each core village as*

indicated on county's GIS maps. If the outer ring of the one mile buffer encompasses any portion of the property on which the solar farm is located, no solar facilities (including the fence, panels, inverters, transformers, or other structures) shall be located within the one mile buffer boundary.

- (3) All structures shall meet a minimum 100 foot setback as measured from all property lines.
- (4) There shall be 50 foot buffer prior to the perimeter fence that shields solar farm from routine view from public rights of way or adjacent residentially zoned property.
- (5) The buffer shall consist of 2 canopy trees, 4 understory trees, and 25 shrubs for every 100 feet.
- (6) Solar farms located within FEMA's 100 year flood shall elevate all electrical connections one foot above the base flood elevation (BFE).
- (7) All collectors shall be surrounded by a lockable minimum height six foot fence.
- (8) Solar power electric generation structures shall not exceed a height of 20 feet.
- (9) The solar farm shall conform to the NAICS 22119 description of a ground mounted solar powered energy system.
- (10) A proposed decommissioning plan to be signed by party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted at permit application. Decommissioning shall include:
 - a. Removal of solar panels, buildings, cabling, electrical components, roads, and any other associated facilities down to 36 inches below grade.
 - b. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
 - c. Description of any agreement (e.g. lease) with landowner regarding decommissioning.
 - d. List the type of panels and material specifications being utilized at the site.
 - e. The identification of the party currently responsible for decommissioning.
 - f. Estimated cost of removal prepared by a third party engineer
 - g. Prior to issuance of the Building Permit, approved decommissioning plan shall be recorded in the Camden County Registry of Deeds.
 - h. Decommissioning plan and estimated cost of removal shall be updated every 5 years or upon change of ownership and re-recorded in the County's Registry of Deeds.
- (11) Prior to approval of building permits applicant shall provide an automatically renewable guarantee in the form of a bond, cash escrow deposite, or an irrevocable letter of credit issued by a Federally chartered bank with a branch office in northeastern North Carolina, in favor of the county, which shall be drawn and paid in full in immediately available funds

- for an amount equal to the estimated removal cost of the solar facility in the event the owner fails to decommission the solar facility pursuant to the requirements of this section. The institution issuing the guarantee shall provide to the county a notice no less than 90 days in advance of any renewal, cancellation, termination or expiration of the guarantee..
- (12)The county shall periodically request proof of the continuous operation of the solar farm from the applicant/owner. The nature of required evidence shall be determined as a condition of the special use permit.
- (13)The solar farm shall have 12 months to complete decommissioning of the solar facility if no electricity is generated for a continuous period of 12 months. For purposes of this section, this 12-month period shall not include delay resulting from force majeure.

Adopted by the Board of Commissioners for the County of Camden this day of May, 2017.

County of Camden

Clayton Riggs, Chairman
Board of Commissioners

ATTEST:

Amy Barnett
Assistant Clerk to the Board

Solar Farms Report

The Camden county Board of Commissioners requested that the Planning Department prepare a report regarding the impact of developing solar farms in the county along with recommendations for any amendments to the current regulations of solar farms. The following report addresses issues that have been specifically mentioned by the public in meetings held by the Utility Commission related to 2 solar farms in the Shiloh area of the county, as well as general concerns.

The Camden County Unified Development Ordinance does have regulations about solar farms. This report will review the impacts and issues of solar farm development and evaluate the existing laws to determine if revisions are needed.

The debate about solar farms falls into 2 general categories: big industrywide issues, and local regulatory issues. The industrywide issues are of little concern locally and include: hazardous materials, carbon foot print, comparative production efficiency, reasonableness of federal and state subsidies for alternative energy, leasing and contract issues, and loss of forest, habitat, and farms.

The majority of land use impacts cited relate to the clearing and grading of large acreages and results in soil compaction, potential alteration of drainage channels, and increased runoff and erosion. These concerns are not present locally since solar farms are typically built as a conversion of land already cleared for farm use. Engineering methods and local land development regulations are already used to mitigate these impacts. Loss of farm land is only a minor concern locally as Camden has over 60,000 acres in crop production and most is beyond the economical reach of connections to transmission and/or distribution lines.

The use of hazardous materials in solar panels and the possibility of environmental contamination is an oft noted concern. Research shows that the primary environmental concerns about solar panels relate to the actual construction of the panels, and the mining of materials used in the construction. Even these concerns are being minimized as new materials and construction techniques are being used. One study noted that *“one of the carcinogenic’ s used was cadmium (CdTe). More than 63% of the CdTe found in our bodies are attributed to the fertilizers used for plants.”*

Another scientific study showed that

“the only pathways by which people might be exposed to PV compound from a finished module are by accidentally ingesting flakes or dust particles, or inhaling dust and fumes.

....the potential of Cd leaching out by rain from broken or degraded CdTe modules at the... concluded the releases are unlikely to occur during accidental breakage. The only scenario of potential exposure is if a fire consumes the PV module and releases cadmium from the material into the air."

The same study concluded that the temperature at which CdTe would be released are so extreme that the glass surrounding the material would melt and encapsulate any hazardous material.

The need for an environmental impact study was addressed in the following statement:

"The failure to undertake basic environmental due diligence could lead to project delays or unexpected surprises later in the project development process., it is possible that a party to a lease for a solar project could become responsible at the end of the lease term for environmental conditions on the site even if the lessee did not cause or contribute to the environmental issue. (Practice Note, Environmental Law: Overview: Environmental Liability in Transactions and Environmental Diligence (<http://us.practicallaw.com/2-500-4092>))."

The reality of solar farms development is that debates will continue as to whether or not solar energy is an efficient use energy production method worthy of state and federal subsidies; whether or not alternative energy development is profitable without subsidies; and how and where rare minerals should be mined and disposed.

More importantly, developers are interested in building solar farms in Camden County and this type of development can and will affect our future development and quality of life. The important local issues are: economic development (jobs and taxes); compatibility with Comprehensive Plans, compatibility with surrounding land uses (location, visibility, and construction); and decommissioning.

Economic Development

Solar farm development produces a moderate number of temporary jobs during the construction period and only a few long term jobs. The projects will generate several temporary construction jobs, however long term jobs might be filled locally but are limited to 2 or 3 for maintenance activities.

The primary local economic benefit is an increase in taxes. Typically a solar farm site is farm land. Construction of a solar plant usually results in the land changing from a farm use value to a commercial value. This can amount to significant increase in land value (and resulting

property taxes) , and the change in use also triggers the recapture of the commercial values for the three prior years. The Camden Schedule of values uses a range of \$740 to \$1200 per acre for farm use value, and \$6,000 to \$8,000 per acre for commercial solar properties.

The solar panels and other equipment is taxed as personal property equipment with an 18 year depreciation schedule. However North Carolina discounts the market value by 80%.

5 Megawatt Solar Farm			
Acres	Farm value class 2	Commercial	Increased value
50	\$ 990	\$ 6,000	
	\$ 49,500	\$ 300,000	\$ 250,500
Equipment	\$ 8,000,000		
1st year	94%	\$ 7,520,000	
Discount	80%		\$ 1,504,000
			\$ 1,754,500
Tax revenue			\$ 10,527

Compatibility with Comprehensive Plan

The Camden County 2035 Comprehensive Plan is focused around the concept of supporting housing and commercial development in and around the core village areas, and maintaining the rural character of outlying working lands. The Objectives and Action Strategies of the Plan support the following goals:

Goal: Camden County's land use pattern will be primarily rural in character with high quality and economically productive development in targeted locations in the core village areas and along main road corridors, which are served by public utilities.

Goal: Camden County will enhance its pastoral character by ensuring that new development within targeted development areas is designed to fit the context of core village areas in the manner of an American rural village. Development in areas outside of targeted development locations will continue to be developed at a rural scale and provide opportunities for low and very low density residential development, small-scale rural crossroads commercial development, and working lands operations.

Goal: Camden County will preserve and protect natural resources and working lands to maintain the function of natural systems, to continue to provide viable opportunities for agricultural and forestry operations, to provide opportunities for residents and visitors to commune with nature, and provide new economic development opportunities related to eco-tourism, outdoor recreation, and renewable energy sources.

The County is currently updating and revising the Unified Development Ordinance to create new zoning districts in and around the core areas to support mixed use and moderately higher density housing in these core areas. Also two of the three core areas have existing and/or proposed sewer service to support the above development types.

As previously mentioned solar farms use a considerable amount of land. For example a 5 megawatt plant requires approximately 50 acres. Locating solar farms within or adjacent to the core village areas significantly reduces the amount of land for development and is not the highest and best use of the land and the County's investment in infrastructure.

The County's current regulations allow solar farms to be developed anywhere in the county with the issuance of a Special Use Permit.

Compatibility With Surrounding Land Uses

Ideally, the need for large land area results in solar farms choosing locations such as farm land that is away from developed areas. Surrounding uses are typically agriculture, forest, and minimum density areas.

Camden, however, does not have an agriculture zoning district and residential subdivisions can and do occur in predominantly agricultural lands. Additionally, Camden has many minor residential subdivisions along both arterial and connector roadways. It is therefore important to create buffer areas between the residential or commercial areas and solar farm development.

This report will recommend additional clarification of setbacks and buffers.

Another compatibility issue also arises from proximity to residential areas. Once developers receive approvals they proceed rapidly to build the project. They are not limited by the market forces of demand to phase development. The result is the potential for a 24/7 construction schedule.

The requirement for a Special Use Permit allows the county the opportunity to include conditions related to days and times allowed for construction activities tailored to the surrounding land uses.

Developer Location Consideration

Two key considerations when siting a solar farm facility are: 1) the demand for the power (load) to be generated and capacity of the utility's distribution/transmission grid; and 2) the ease and cost of connecting to the power being produced to the grid. Both of these elements are complicated and subject to existing conditions of the electric utility system. The load and

capacity element is subject to an analysis of the system required by the system and the regulators. The solar plant cannot produce more electricity than the system needs – without contracting with a specific end user that increases the demand on the system; nor can they connect where the systems physical facilities are inadequate. Smaller solar plants can connect to grid via the system’s 3 phase distribution lines located along major roadways, while larger output operations need to connect to the system’s transmission/transformer substations which must be large enough to handle the output. If either of these criteria are inadequate, the developer must either find another location or pay the cost of increasing the system’s capabilities. Decision making in Camden is further affected by the existence of two different electric utilities, each with different size distribution lines and each with different grid interconnections.

Solar farms look for locations where the cost of connecting to the grid is low. Since the utility companies' systems are located primarily along existing roads and near developed areas, the result is a potential conflict where the County’s plans for the future also include taking advantage and maximizing use of existing infrastructure. One might think locating power producing plants would benefit the areas around them, but this is only the case if the power being generated is directly connected to the surrounding development. Solar farms are typically supplying the power grid that transmits power anywhere in the system and depending on the system’s interconnections, to far away users. Little, if any, rate reduction benefits are accomplished locally.

Decommissioning

One point where the industrywide issues converge with local issues is related to abandonment of the solar farm. If and when the state and federal tax subsidies are eliminated, the projects may not remain profitable and become abandoned, leaving a scar on the county landscape. Abandonment is addressed by requiring a decommissioning plan and insuring that a viable person or entity is responsible and has adequate resources to remove the equipment and reclaim the land to the previous and usable condition.

Comparisons

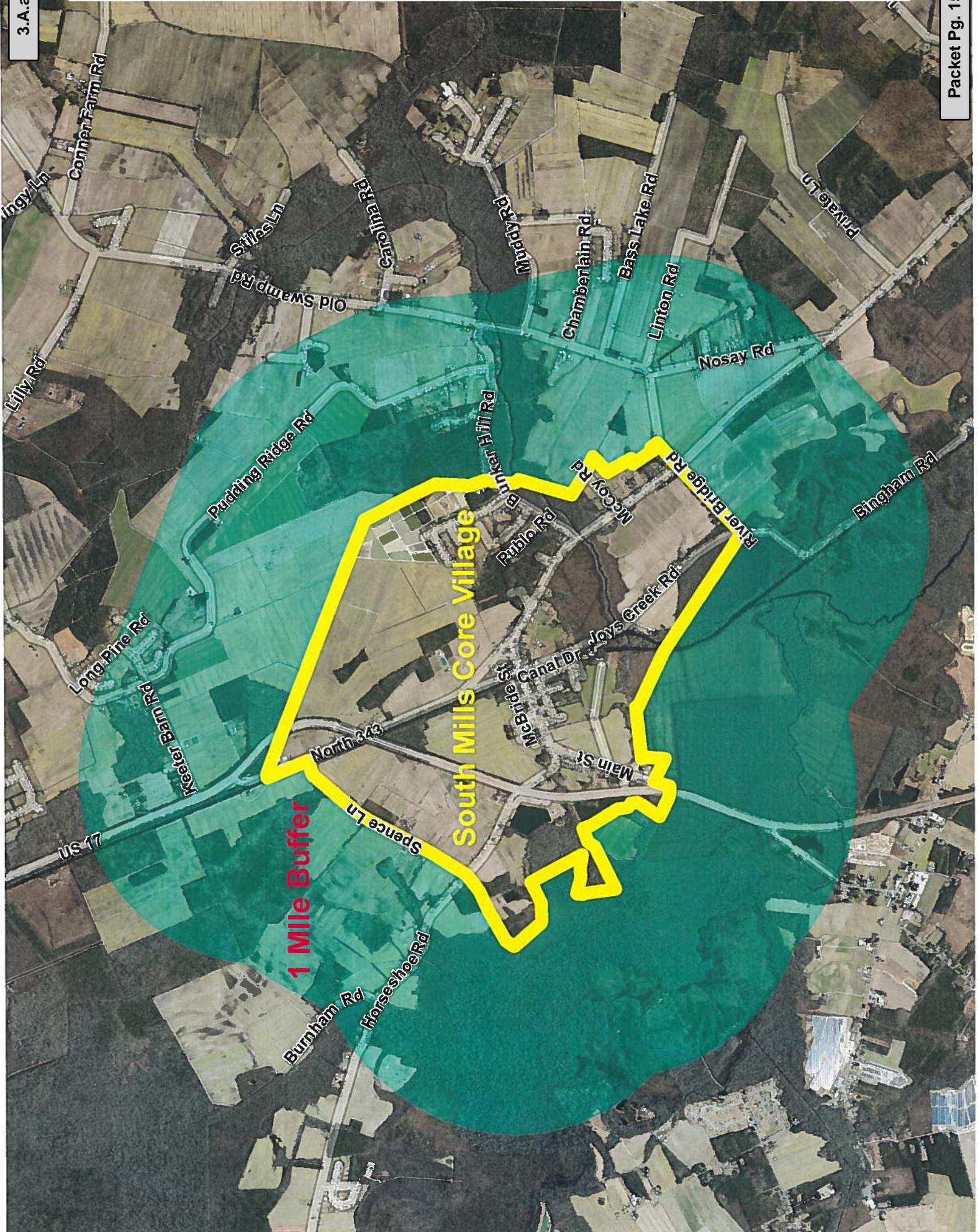
The table below show a comparison of regulations in Camden's neighboring counties and the current status of their experience and possible revisions.

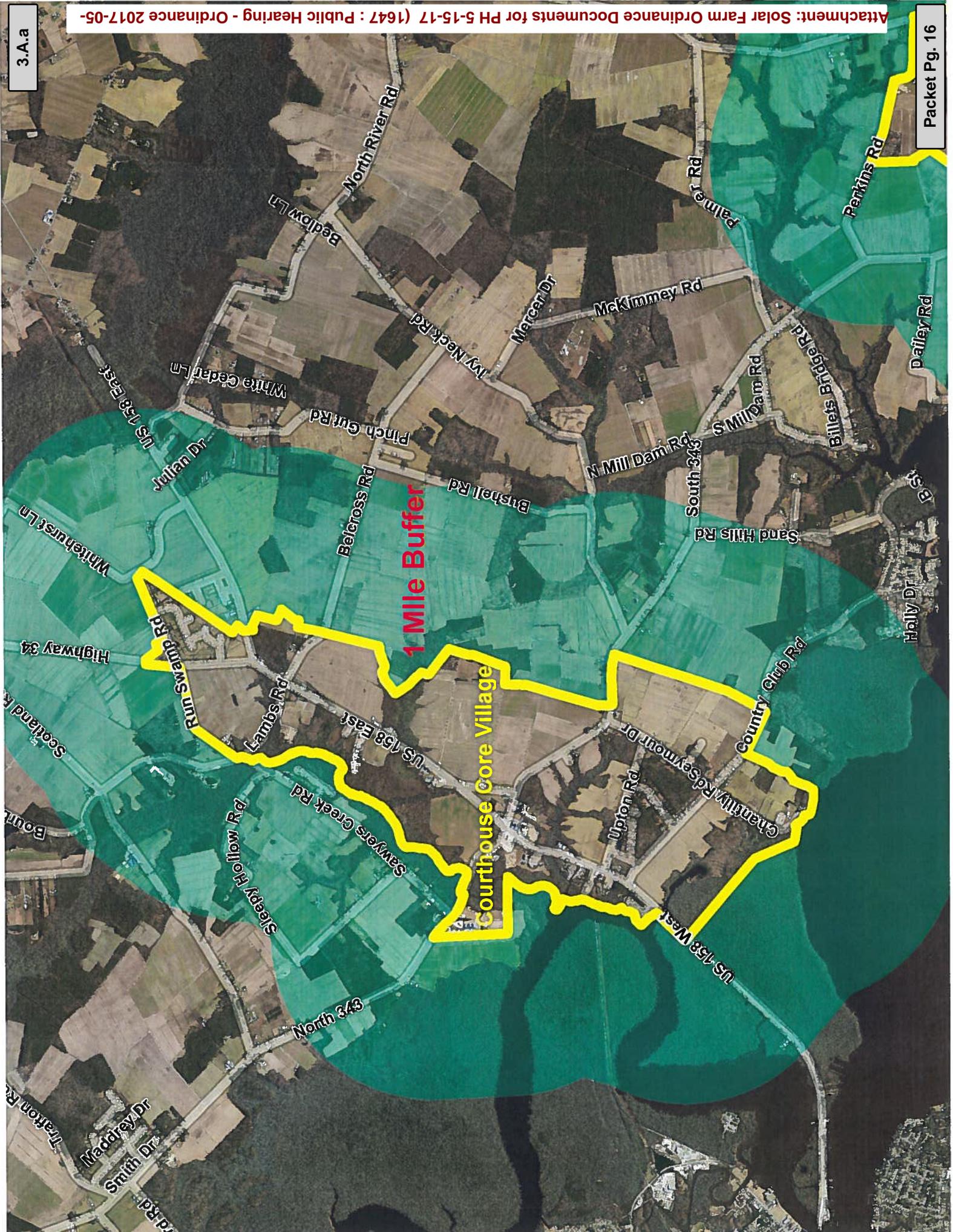
County	Z District	Setback	Setback	Buffer	Height	Landscaping	Bond
Currituck <i>Recently Banned</i>	Ag only	300 ft all property lines	100 ft ROW		15	c	115% decom cost - cash
Pasquotank <i>Under Study</i>	Comm/Ind/Ag	150 Roads & Res	30 if buffered	Trees & shrubs 10 ft center 15 ft min at maturity	25	Trees & shrubs 10 ft center 15 ft min at maturity	Decom minus salvage – Bond Min \$50K
Gates Min 19 acres Over 15 KW	Ind/Ag	100 ft all property lines to fence	100 ft inside fence 150 f/wetlands	Natural forest or			125% Decom or \$50K - Cash
Perquimans <i>120 day Moratorium</i>	Ag/Ind	Zoning or 20 ft whichever greater					none
Camden <i>60 day moratorium</i>	All districts	50 ft all boundaries					
NC Model	All districts	R 50' all round, AG/Comm – 30 F, 15 S, 25 R	100' from any dwelling	By zoning districts	20'	Opacity .2 to .4 R .6 to .8 C	No bond; Remediate through CEA possible tax lein

Recommendations

Staff recommendations are included in the attached proposed amendments to the Unified Development Ordinance, The schedule for review and public hearing on the proposed amendments are:

- Planning Board April 19
- Board of Commissioners Public Hearing May 15





Trafton Rd
 Madorey Dr
 Smith Dr
 North 343

Bount
 Scotland Rd
 Highway 34
 Run Swamp Rd

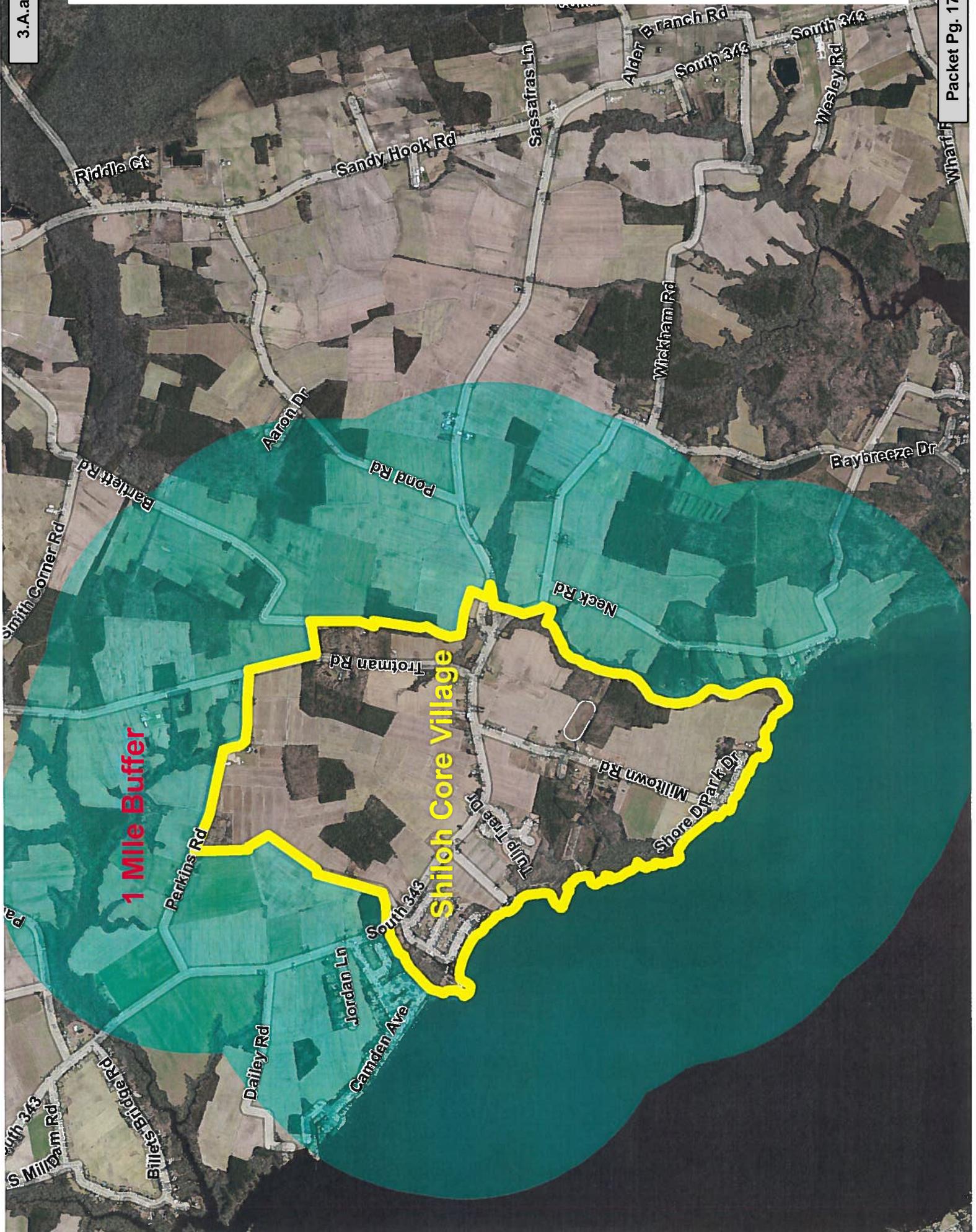
Whitehurst Ln
 US 158 East

White Cedar Ln
 Pinch Gut Rd
 Belcross Rd
 Jufan Dr
 US 158 East
 North River Rd
 Bedlow Ln
 Ivy Neck Rd
 Mercer Dr
 McKimney Rd

Courthouse Core Village
 1 Mile Buffer
 US 158 East
 Sawyers Creek Rd
 Sleepy Hollow Rd
 Lambs Rd
 Upton Rd
 Ghently/Rd Seymour Dr
 Country Club Rd
 US 158 West

N Mill Dam Rd
 South 343
 S Mill Dam Rd
 Sand Hills Rd
 Holly Dr
 B St
 Billetts Bridge Rd
 Bailey Rd
 Perkins Rd

Palmer Rd



1 Mile Buffer

Shiloh Core Village

Cooke

COMMUNICATIONS

NORTH CAROLINA LLC

The Daily Reflector - The Daily Advance - The Rocky Mount Telegram
 Bertie Ledger - Chowan Herald - Duplin Times - Farmville Enterprise - Perquimans Weekly - Standard Laconic
 Tarboro Weekly - Times Leader - Williamston Enterprise
 PO Box 1967, Greenville NC 27835

Date: April 24, 2017

AD PROOF

Pursuant to Article 151.583 of the Camden County Code, please be advised, the Camden County Board of Commissioners will hold a public hearing on Monday, May 15, 2017 at 7:00 PM in the upstairs courtroom of the Historic Camden County Courthouse on Ordinance No. 2017-05-01, proposed amendments to Chapter 151 (Unified Development) of the Camden County Code of Ordinances Article 151.347 (V) Specific Standards for Solar Farms.

The public is invited to attend and make comments to the board. A copy of the proposed amendments may be reviewed in the Camden County Planning Office.
 05/05,05/12

- LEGAL AD PROOF -

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AD INFORMATION

Ad ID: 173738
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 Ordered By:
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 Email: sharris@dailyadvance.com

Publications	Start Date	End Date	# of Insertions
Daily Advance	05/05/17	05/12/17	2
DailyAdvance.com	05/05/17	05/12/17	2



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Board of Commissioners AGENDA ITEM SUMMARY SHEET

New Business

Item Number: 4.A

Meeting Date: May 15, 2017

Submitted By: Michael Brillhart, County Manager
Administration
Prepared by: Amy Barnett

Item Title **Contract for Architectural Design Services for New Public Services Bldg**

Attachments: Architect Contract - B133-2014 - Working Draft - 002
(PDF)
Exhibit A - 2017.04.05-CamdenCoAdminComplex-
Scope+FeeLetter-DRAFT-
revised (DOCX)
Exhibit B - Hourly Rates (PDF)

Summary:

Contract for Architectural Design Services for New Public Services Building. Subject matter discussed at Public Workshop / Special Meeting held on April 19, 2017.

Recommendation:

Consider Contract for Approval.

DRAFT AIA® Document B133™ – 2014

Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition

AGREEMENT made as of the «7» day of «April» in the year «2017»
(In words, indicate day, month and year.)

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

«County of Camden, NC»« »
«PO Box 190
330 East Highway 158
Camden, North Carolina, 27921 »
« »
«ATTN: Michael Brillhart, County Manager

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

«VIA design architects, pc
150 Randolph Street
Norfolk, VA 23510»« »
«Telephone Number: 757.627.1489»
«Fax Number: 757.627.1692

Donna M. Phaneuf, AIA, President
dphaneuf@viadesignarchitects.com»

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

«Camden County Public Services Building»
«The site is in the vicinity of the intersection of N.C. HWY 343 and US 158 West.»
« »

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

«M.B. Kahn Construction Co., Inc.»« »
«101 Flintlake Road, P.O. Box 1179 (29202)»
«Columbia, SC 29223 »
«Telephone Number: 803.736.2950
Fax Number: 803.736.9501

William W. Cram, Executive Vice President bgram@mbkahn.com »

he Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

This document is intended to be used in conjunction with AIA Documents A201™-2007, General Conditions of the Contract for Construction; A133™-2009 Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134™-2009 Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price. AIA Document A201™-2007 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 ARCHITECT’S RESPONSIBILITIES
- 3 SCOPE OF ARCHITECT’S BASIC SERVICES
- 4 ADDITIONAL SERVICES
- 5 OWNER’S RESPONSIBILITIES
- 6 COST OF THE WORK
- 7 COPYRIGHTS AND LICENSES
- 8 CLAIMS AND DISPUTES
- 9 TERMINATION OR SUSPENSION
- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION
- 12 SPECIAL TERMS AND CONDITIONS
- 13 SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner’s program for the Project:

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

«Owner provided document by The Wooten Company - see Exhibit D. Additional documentation will be provided by Owner for a new library. »

§ 1.1.2 The Project’s physical characteristics:

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

«See page 19 or Exhibit D»

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

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

«Building	\$4,500,000
Site	\$ 100,000
CMR Fee	\$ 200,000

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User Notes:

FF&E	\$ 100,000	
Technology	\$ 50,000	
Contingency	\$ 245,000	\$4,800,000
»		

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

.1 Design phase milestone dates, if any:

«May 2017 - March 2018»

.2 Commencement of construction:

«May 2018»

.3 Substantial Completion date or milestone dates:

«June 2019 »

.4 Other:

«N/A »

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement:
(Indicate agreement type.)

[«X»] AIA Document A133–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

[«»] AIA Document A134–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

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

«N/A»

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere, such as the Owner’s sustainable objective, if any, or historic preservation requirements.)

«N/A »

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5:
(List name, address and other information.)

« Michael Brillhart, County Manager
Camden County
P.O. Box 190
Camden, NC 27921

Phone: 252.338.1919\»

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

(List name, address and other information.)

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User Notes:

Attachment: Architect Contract - B133-2014 - Working Draft - 002 (1662) : Contract for Architectural Design Services for New Public Services

«William W. Cram, Executive Vice President
M.B. Kahn Construction Co., Inc.
101 Flintlake Road, P.O. Box 1179 (29202)
Columbia, SC 29223
Phone: 803.736.2950»

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

- .1 Construction Manager:
(The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1)

William W. Cram, Executive Vice President
M.B. Kahn Construction Co., Inc.
101 Flintlake Road, P.O. Box 1179 (29202)
Columbia, SC 29223
Phone: 803.736.2950

- .2 Cost Consultant (if in addition to the Construction Manager):
(If a Cost Consultant is retained, appropriate references to the Cost Consultant should be inserted in Sections 3.3.6, 3.3.7, 3.4.2, 3.4.3, 3.5.4, 3.5.5, 5.4, 6.3, 6.3.1, 6.4 and 11.6.)

«N/A »« »

- .3 Land Surveyor:

Eastern Carolina Engineering, PC
P.O. Box 128
Camden, NC 27921
Kimberly Hamby, PE

- .4 Geotechnical Engineer:

«GET Solutions, Inc.
106 Capital Trace, Unit E
Elizabeth City, NC 27909
Gerald W. Stalls, Jr. PE»« »

- .5 Civil Engineer:

«N/A - by architect»« »
« »
« »
« »
« »

- .6 Other consultants:

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

«N/A »

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

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User Notes:

Attachment: Architect Contract - B133-2014 - Working Draft - 002 (1662) : Contract for Architectural Design Services for New Public Services

(List name, address and other information.)

Donna M. Phaneuf, AIA
150 Randolph Street, Norfolk VA 23510
757.627.1489 Ph 757.627.1692 Fax dphaneuf@viadesignarchitects.com

Andrew J. McKinley, AIA
150 Randolph Street, Norfolk VA 23510
757.627.1489 Ph 757.627.1692 Fax amckinley@viadesignarchitects.com

Scott A. Campbell, AIA
150 Randolph Street, Norfolk VA 23510
757.627.1489 Ph 757.627.1692 Fax scampbell@viadesignarchitects.com

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

§ 1.1.12.1 Consultants retained under Basic Services:

.1 Structural Engineer:

«Speight Marshall & Francis, P.C.
2125 McComas Way, Suite 103
Virginia Beach, VA 23456
Ph: 757.427.1020 Fax: 757.427.5919
Jonathan Walesczyk, P.E. Director of Operations»« »

2 Mechanical Engineer:

«Thompson Consulting Engineers
22 Enterprise Parkway, Suite 200
Hampton, VA 23666
Ph: 757.599.4415 Fax: 757.599.4113
Kevin D. Allen, P.E. »« »

3 Electrical Engineer:

Thompson Consulting Engineers
22 Enterprise Parkway, Suite 200
Hampton, VA 23666
Ph: 757.599.4415 Fax: 757.599.4113
Kevin D. Allen, P.E.

§ 1.1.12.2 Consultants retained under Additional Services:

Eastern Carolina Engineering, PC
P.O. Box 128
Camden, NC 27921
Kimberly Hamby, PE

InSites Landscape Architecture
208 Plume Street, Suite 206
Norfolk, VA 23510
Ph. 757.622.6446
Keith Oliver, Principal

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

«N/A»

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

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

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

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for actions taken by the Construction Manager.

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

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

§ 2.6 Insurance. The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost as set forth in Section 11.8.3.

§ 2.6.1 Commercial General Liability with policy limits of not less than « » (\$ « ») for each occurrence and « » (\$ «\$2,000,000 ») in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering vehicles owned by the Architect and non-owned vehicles used by the Architect with policy limits of not less than « » (\$ « ») per claim and « » (\$ «\$1,000,000 ») in the aggregate for bodily injury and property damage along with any other statutorily required automobile coverage.

§ 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections 2.6.1 and 2.6.2.

§ 2.6.4 Workers' Compensation at statutory limits and Employers Liability with policy limits of not less than « » (\$ «\$1,000,000 »).

§ 2.6.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than « » (\$ «\$2,000,000 ») per claim and « » (\$ «\$3,000,000 ») in the aggregate.

§ 2.6.6 The Owner shall be an additional insured on the Architect's primary and excess insurance policies for Commercial General Liability and Automobile Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations.

§ 2.6.7 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.6. The certificates will show the Owner as additional insureds on the Commercial General Liability, Automobile Liability, and any excess policies.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

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

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

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

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Construction Manager a schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review, (2) for the Construction Manager's review, (3) for the performance of the Construction Manager's Preconstruction Phase services, (4) for the performance of the Owner's consultants, and (5) for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect's services.

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

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

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

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

§ 3.2 Evaluation of the Construction Manager's Guaranteed Maximum Price Proposal or Control Estimate

§ 3.2.1 Prior to the Owner's acceptance of the Guaranteed Maximum Price proposal or Control Estimate, as applicable, the Architect shall consider the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner on all communications related to substitution requests, clarifications, and interpretations.

§ 3.2.2 During one of the design phases, the Owner will receive a Guaranteed Maximum Price proposal or Control Estimate, as appropriate, from the Construction Manager. The Architect shall assist the Owner 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. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

§ 3.2.3 Upon authorization by the Owner, and subject to Section 4.3.1.15, 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.

§ 3.3 Schematic Design Phase Services

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

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

§ 3.3.3 The Architect shall present its preliminary evaluation to the Owner and Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project, including the feasibility of incorporating sustainable design approaches, and consideration of the implementation of the Owner's sustainable objective, if any. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

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

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

§ 3.3.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, implications of sustainable code requirements enacted in the relevant jurisdiction, if any, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other sustainable design services under Article 4.

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

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

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

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

§ 3.4 Design Development Phase Services

§ 3.4.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work pursuant to Section 5.4, the Architect shall prepare Design Development Documents for the Owner'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 outline specifications that identify major materials and systems and establish in general their quality levels.

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

§ 3.4.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.

§ 3.5 Construction Documents Phase Services

§ 3.5.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval and the Construction Manager's review. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work 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 Section 3.6.4.

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

§ 3.5.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and Construction Manager in the development and preparation 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.

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

§ 3.5.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7 and obtain the Owner's approval of the Construction Documents.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction. If the Owner and Construction Manager modify AIA Document A201-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's

approval of the Construction Manager's Control Estimate, or the Owner's issuance of a Notice to Proceed to the Construction Manager. Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.3 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. 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 or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager or of any other persons or entities performing portions of the Work.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not 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.

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

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and 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.

§ 3.6.2.5 Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Construction Manager as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Construction Manager

§ 3.6.3.1 The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the 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.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner 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.

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

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the 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.

§ 3.6.4.2 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.

§ 3.6.4.3 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 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.

§ 3.6.4.4 Subject to the provisions of Section 4.3, 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.

§ 3.6.4.5 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.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Construction Manager and forward to the Owner, for the Owner'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.

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

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner 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.

§ 3.6.6.4 The Architect shall forward to the Owner 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 Owner against liens; and (3) any other documentation required of the Construction Manager under the Contract Documents.

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

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

N/A

Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Assistance with selection of the Construction Manager	«Owner »	See A133-2009
4.1.2 Programming (B202™-2009)	Owner	Exhibit D
§ 4.1.3 Multiple preliminary designs	N/A	-
§ 4.1.4 Measured drawings	N/A	-
§ 4.1.5 Existing facilities surveys	N/A	-
§ 4.1.6 Conceptual Site Masterplan	Architect	Exhibit A
§ 4.1.7 Building Information Modeling (E203™-2013)	Architect	Exhibit A
§ 4.1.8 Civil engineering	Architect	Exhibit A
§ 4.1.9 Landscape design	Architect	Exhibit A
§ 4.1.10 Architectural Interior Design	Architect	Exhibit A
§ 4.1.11 Value Analysis (B204™-2007)	N/A	-
§ 4.1.12 Detailed cost estimating	N/A	-
§ 4.1.13 On-site project representation (B207™-2008)	N/A	-

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User Notes:

§ 4.1.14	Conformed construction documents		
4.1.15	As-Designed Record drawings	N/A	-
§ 4.1.16	As-Constructed Record drawings	Architect	Exhibit A - Optional
§ 4.1.17	Post occupancy evaluation - 1 Year Warranty Inspection	Architect	Exhibit A - Optional
§ 4.1.18	Facility Support Services (B210™-2007)	N/A	-
§ 4.1.19	Tenant-related services	N/A	-
§ 4.1.20	Coordination of Owner's IT/Security consultant	Architect	Exhibit A
§ 4.1.21	Telecommunications/data design	N/A	-
§ 4.1.22	Security Evaluation and Planning (B206™-2007)	N/A	-
§ 4.1.23	Commissioning (B211™-2007)	N/A	-
§ 4.1.24	Extensive sustainable design services	N/A	-
§ 4.1.25	LEED® Certification (B214™-2012)	N/A	-
§ 4.1.26	Historic Preservation (B205™-2007)	N/A	-
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	Architect	Exhibit A
4.1.28	Interpretive Signage Design	Architect	Exhibit A
4.1.29	Special Inspections - Agent 1	Architect	Exhibit A
4.1.30	Special Inspections - Agent 2	Owner	-
4.1.31	Topographic Survey, Easement Plats, Subsurface Utility Exploration	Owner	-
4.1.32	Emergency Shelter Design	N/A	-
4.1.33	Lightening Protection	N/A	-
4.1.34	Geotechnical Exploration	Owner	-

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

«See Exhibit A»

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

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or bid packages in addition to those listed in Section 1.1.6;

- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;
- .3 Services necessitated by the Owner's request for extensive sustainable design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .4 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations, or official interpretations;
- .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .6 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .9 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .10 Evaluation of the qualifications of bidders or persons providing proposals;
- .11 Consultation concerning replacement of Work resulting from fire or other cause during construction;
- .12 Assistance to the Initial Decision Maker, if other than the Architect;
- .13 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method;
- .14 Services necessitated by the Owner's delay in engaging the Construction Manager; and
- .15 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.

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

- .1 Reviewing a Construction Manager's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Construction Manager's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Construction Manager from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Construction Manager-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders, and Construction Change Directives that require evaluation of the Construction Manager's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Construction Manager and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.

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

- .1 «2» («two») reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
- .2 «12» («twelve») visits to the site by the Architect over the duration of the Project during construction

- 3. «1» («one») 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
- «1» («one») inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within «26» («twenty-six») months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

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

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties, and responsibilities as described in the agreement selected in Section 1.1.5.

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

§ 5.4 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall furnish the services of a Construction Manager that shall be responsible for preparing all estimates of the Cost of the Work. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner 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.

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

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

§ 5.6 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.7 The Owner shall furnish services of geotechnical engineers, 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.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests

such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided.

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

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

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

§ 5.12 The Owner 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.

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

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

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the 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 Owner.

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

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

§ 6.3.1 If the Architect is providing detailed cost estimating services as an Additional Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect shall work cooperatively with the Construction Manager to conform the cost estimates to one another.

§ 6.3.2 Subject to Section 4.3, if the Owner engages a Cost Consultant and a discrepancy exists between the Construction Manager's estimate and the Cost Consultant's estimate, the Architect shall assist the Cost Consultant and Construction Manager as necessary to conform the estimates to one another.

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the

Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.5 If the Construction Manager's estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- 1 give written approval of an increase in the budget for the Cost of the Work;
- 2 in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- 3 implement any other mutually acceptable alternative.

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

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by the Construction Manager's subsequent cost estimates, the Guaranteed Maximum Price proposal, or Control Estimate that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

ARTICLE 7 COPYRIGHTS AND LICENSES

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

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

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

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

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

Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

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

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

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

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

§ 8.2 Mediation

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

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

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

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

[«»] Arbitration pursuant to Section 8.3 of this Agreement

[«X»] Litigation in a court of competent jurisdiction

[«»] Other: *(Specify)*

«»

ARTICLE 9 TERMINATION OR SUSPENSION

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

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

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

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

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

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

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

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located.,

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2007, General Conditions of the Contract for Construction, except as modified in this Agreement. The term “Contractor” as used in A201–2007 shall mean the Construction Manager.

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

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

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

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

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

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as “confidential” or “business proprietary,” the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

ARTICLE 11 COMPENSATION

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

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

<< >>

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

<< >>

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

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

<< >>

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User Notes:

Attachment: Architect Contract - B133-2014 - Working Draft - 002 (1662) : Contract for Architectural Design Services for New Public Services

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

« »

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

Schematic Design Phase	«\$ 40,897»	percent (« »)
Design Development Phase	\$ 68,352	percent (« »)
Construction Documents Phase	«\$ 140,594 »	percent (« »)
Construction Phase	«\$ 80,846 »	percent (« »)
« »		
Total Basic Compensation	\$330, one hundred	percent (100)

The Owner 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.

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the Owner-accepted Guaranteed Maximum Price Amendment or Control Estimate, as applicable, or (2) if the Guaranteed Maximum Price proposal or Control Estimate has not been accepted by the Owner, the most recent estimate of the Cost of the Work prepared by the Construction Manager for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

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

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

«See Exhibit B »

Employee or Category	Rate (\$0.00)
« »	

§ 11.8 Compensation for Reimbursable Expenses

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

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect’s consultants’ expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect’s consultants;

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- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus «fifteen» percent («15» %) of the expenses incurred.

§ 11.8.3 If the insurance requirements listed in Section 2.6 exceed the types and limits the Architect normally maintains and the Architect incurred additional costs to satisfy such requirements, the Owner shall reimburse the Architect for such costs as set forth below:

«N/A»

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

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

«To Be Negotiation»

§ 11.10 Payments to the Architect

§ 11.10.1 An initial payment of «0» (\$ «0.00») shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid «forty-five » («45 ») days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

«15 » % «fifteen»

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

«N/A»

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B133™-2014, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition
- .2 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or the following:

<>

3 Other documents:

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

Exhibit A: Architectural/Engineering Proposal for Professional Services

Exhibit B: Hourly Rates for Professional Services Exhibit C: Certificate of Insurance

Exhibit D: Space Needs Study

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

< >

OWNER (Signature)

< >< >

(Printed name and title)

< >

ARCHITECT (Signature)

Donna M. Phaneuf, AIA President

(Printed name and title)





Exhibit A

Camden County Public Services Building VIA Project # 16044

150 Randolph Street
Norfolk, Virginia 23510
Tel (757) 627-1489
Fax (757) 627-1692

~~March 15, 2017~~ **April 06, 2017**
Michael Brillhart, County Manager
County of Camden, NC
PO Box 190
330 East Highway 158
Camden, North Carolina, 27921

RE: Architectural/Engineering Proposal for Professional Services - revised

Dear Michael:

VIA design architects, pc is pleased to be selected for the new Camden County Public Services Building project. Our team will provide architectural and engineering services for the construction of a new 19,550 sf. administration and library building with a total project **construction** budget of ~~\$4,887,500~~ **\$4,600,000**. The site is in the vicinity of the intersection of N.C. HWY 343 and US 158 West. Site work will include water, sewer, parking, driveways, ~~geothermal wells~~, landscaping, fencing, and storm water management. ~~The facility will have "green" building features and pursue LEED V4 certification.~~ Our services will include, but are not limited to: ~~a feasibility planning study~~, site master planning, ~~soils testing, analysis and reports~~, architecture, interior design and FF+E, all engineering disciplines, preparation of construction documents, bidding and contract award recommendations, and construction contract administration.

Our core architectural/engineering design team members include:

Architectural: VIA design architects, pc (VIA)

Donna Phaneuf, AIA	Principal in Charge	dphaneuf@viadesignarchitects.com
Scott Campbell, AIA, LEED AP, BD+C	Project Manager	scampbell@viadesignarchitects.com
Casey Laborde, AIA	Project Architect	claborde@viadesignarchitects.com
Mickey Chapa, AIA, LEED AP	Project Architect	mchapa@viadesignarchitects.com

Civil Engineering: Eastern Carolina Engineering, P.C. (ECE)

Sean C. Robey, PE	Principal in Charge	sean@easterncarolinainc.com
Jason Mizelle, PLS	Vice-President – Surveying	jason@easterncarolinainc.com
Kimberly Hamby, PE	Vice-President Engineering	kim@easterncarolinainc.com

Landscape Architect: InSites Landscape Architecture (InSites)

Keith Oliver, ASLA	Principal in Charge	koliver@insites-studio.com
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Structural Engineering, Special Inspections-Agent 1: Speight, Marshall & Francis, P.C. (SMF)

Daniel W. Speight, PE	Principal in Charge	dws@smandf.com
Jonathan Walesczyk, PE	Principal Structural Engineer	jw@smandf.com
J. Stephen Cowan, PE	Project Manager / Structural Engineer	jsc@smandf.com

Plumbing, Mechanical, Electrical, Fire Protection, Special Systems: Thompson Consulting Engineers (MJT)

Mark W. Thompson, PE, LEED AP	Principal, CEO	mwthompson@mjtengineers.com
Kevin D. Allen, PE, LEED AP	Principal, President	kallen@mjtengineers.com
Kenzie Cambar, PE, LEED AP	Principal, Vice President	

Other support team members include:

~~Soils Investigations + Testing: GET Solutions, Inc. (GET)~~

Special Inspections Testing Agent 1: Speight Marshall & Francis (SMF)

~~Cost Estimating: Scharf Associates, Inc. (Scharf)~~



SCOPE OF SERVICES

Basic Services:

The Scope of Basic Services under this contract will include those as outlined in the provided AIA Document ~~B101-B133-~~
~~2014~~ Standard Form of Agreement Between Owner and Architect, *Construction Manager as Constructor Edition*

Additional Services:

The Scope of Additional Service required under this contract are identified below and are as follows:

~~Pre-Design, Programming + Feasibility Study: (VIA, InSites, ECE, MJT)~~

~~Based on previously provided information, organization and goals for Camden County, we have determined the best approach for this project is to start with pre-design activities to gather necessary start-up information so we may develop a feasibility study. This study will establish a square foot space needs program, evaluate and update the earlier work performed by The Wooten Company, evaluate efficiencies in square footage opportunities, bring program definition to the library component of the project, evaluate the appropriate level of LEED certification and define return on investment.~~

~~This step includes two presentations to the Board of Commissioners; an initial presentation to introduce the overall project goals and direction and a final presentation to present the discoveries, determinations and findings which all clarify project definition.~~

~~Pre design activities:~~

- ~~:: Survey existing facilities to document space types, equipment + furnishings to determine actual space type needs, department adjacency requirements and opportunities for efficiencies~~
- ~~:: Create FF+E inventory list to support space planning efforts and ultimately the move~~
- ~~:: Gather site topographic and utility survey to be provided by Camden County~~
- ~~:: Develop Building code analysis~~
- ~~:: Develop site zoning code analysis~~

~~Feasibility Study activities:~~

- ~~:: Interview the various departments including the library to determine the square foot program needs~~
- ~~:: Space planning to determine new floor plan alternatives, configurations and future additions~~
- ~~:: Site planning to determine optimal site circulation, access and parking configurations~~
- ~~:: Meeting with building committee members to review findings and proposals~~
- ~~:: Selection and finalization of proposed site and floor plan concepts~~
- ~~:: Development of project LEED approach and opportunities~~
- ~~:: Creation of project definition and supporting budget~~
- ~~:: Identification of any phasing requirements~~
- ~~:: Development of final report to support the decisions and direction for the project~~

Conceptual Site Master Plan (VIA, InSites, ECE)

VIA and our team members will develop a schematic master plan for long term development of the adjacent properties in consideration to accommodate any known program elements that are outside of the fixed limits of construction costs and were not shown in the interview site plan. We will coordinate with Camden's Planning Department and design staff to develop preliminary schemes for potential overflow parking, private development opportunity guidance and expanded recreational use potential of the site.



Schematic plans will explore the relationships between Phase 1 and long term improvements. Budgets for overall site improvements are not included.

Eastern Carolina Engineering, PC will work with VIA to evaluate future storm water management needs for the residual land within the project area. An average land cover of 80% for commercial development will be assumed.

Civil Engineering (ECE)

• Site Plan Design

ECE will build on the approved schematic site plan to prepare a complete site plan design. They will take into consideration the requirements of the ordinances of Camden County and site constraints including setbacks, buffer requirements, building and vehicular areas. Design work will include on-site grading and drainage design conforming to the ordinances and policies of Camden County and the North Carolina Department Environmental Quality as well as good engineering practice and economics. Ordinance and policy requirements include but are not limited to setbacks, vehicular circulation areas, and parking requirements.

VIA will keep ECE informed of any changes to the proposed building as well as provide actual dimensions of any specialty site features required for the facility. This is to ensure that all applicable setbacks and building restrictions are being met. At a minimum, the following items will be discussed to ensure all contingencies are addressed in the site plan:

1. Location of sidewalks adjacent to buildings
2. Location of mechanical equipment
3. Exterior lighting
4. Electrical Load Letter and electrical phase required
5. Location of roof drains and any condensate drains
6. Locations of all building doors and handicap accessibility.
7. Location of all building utilities.
8. Any special needs

ECE will submit the completed site plan to Camden County for review by the TRC (Technical Review Committee). Upon completion of the review, they will make any necessary modifications and resubmit to the planning department for approval of the site plan. Completed plans will also be submitted to NCDOT along with applications for driveway permits and encroachment agreements.

• Utility Design

ECE will design and permit a sewer pump station and force main to provide sewer service to the proposed facility. They will need to coordinate with the plumbing designer for location, size and invert of the waste lines exiting the building. Placement and design of the pump station will be coordinated with the County and the design team to ensure that the needs for future expansion of the site are met. Plans will include details of the sewer pump station and a routing plan showing the sewer force main in plan and profile view.

ECE will coordinate with the fire suppression designer and plumbing engineer for the building to design and permit the extension of a water main to provide domestic service, a fire service line and fire hydrants as necessary. They will perform a flow test on the existing water main and prepare the necessary pressure analysis of the proposed system to ensure that minimum Camden County Public Services Building 3 required pressure can be maintained during fire flow conditions. A water main application will then be prepared and submitted to NCDENR – Public Water Supply Division. Once NCDENR has received plans and favorably reviewed the application, an authorization to construct will be issued.



• Drainage Design

Drainage design will take place in conjunction with the site plan design utilizing topographical information to plan for surface drainage of the property. Because the proposed improvements for this project will require disturbance of more than 1 acre of property, an erosion control permit will be required as part of the drainage design. As this site will have greater than 24% site coverage, it will be considered as a High-Density site by NCDEQ. A Stormwater Management Permit and design of a stormwater BMP in accordance with stormwater regulations of the State of North Carolina Department of Environmental Quality will also be required. Soil tests will need to be performed by a soil scientist to verify seasonal high water table and permeability rates of the soil as required for the BMP design and permitting. Fees for the soil scientist are included in the drainage design.

Applications will be prepared and submitted along with the sediment and erosion control and stormwater design to NCDEQ. ECE will coordinate with the County to obtain the necessary signature(s) for submittal. This proposal does not include fast-tracking of the permits, but ECE can provide express review for an additional fee. A drainage analysis will be prepared in accordance with the Camden County Stormwater Drainage Design Manual. The results of the drainage analysis will be included in the drainage narrative which will be provided to Camden County for review by their drainage engineer. Stormwater storage will be included in the design to limit runoff rates based on county requirements. It is assumed that analysis will be limited to the site and will not require any review of off-site drainage conditions.

Landscape Architecture Design (InSites)

InSites will work with the design team to provide a coordinated site and landscape design. The schematic site plan will be based on VIA's preliminary concept presented at project interview, with refinements made based on site and zoning conditions. They will coordinate with the Civil Engineer on general pedestrian and vehicular circulation layout, and stormwater feature location and appearance. The schematic landscape design will reflect the Camden County Unified Development Ordinance landscape and shading requirements, and respond to existing site features and vegetation, views and related site opportunities and constraints. Once the initial schematic is established, we will work with the team to make necessary adjustments to accommodate the owners' needs and architectural and mechanical features to be located on site.

In addition to meeting the minimum ordinance requirements, InSites will develop schematic designs for landscape features which further enhance the municipal complex. We will coordinate with the team on the design and material definition of the outdoor spaces adjacent to the buildings. As presented in the project interview, they will collaborate with the initiative to integrate outdoor learning and engagement opportunities in relation to the Library and potentially throughout the site. They will develop a framework for a civic plaza or green that respects and builds upon the historic resources to establish and reinforce a community identity. Concepts presented in the schematic phase may or may not be funded within the current project budget, but the plan could be used to leverage future funding.

They will identify features that are required by the development ordinance, and those that are optional.

Based upon the accepted schematic landscape plan, InSites will develop a more detailed landscape plan for the design development phase, including landscape buffers, parking lot shading calculations, and any required stormwater feature planting. They will include additional planting and hardscape features that will be included in the initial phase of construction. We will continue to coordinate with the Civil Engineer and team to integrate plantings and hardscapes with the circulation, grading and drainage, lighting, utility and mechanical designs being provided by others. They will identify the location(s) of any proposed feature that may be added in the future, but will not include a complete design for such features.

InSites will provide an updated landscape design in digital format to be integrated into the site plan submittal for the Camden County Technical Review Committee (TRC). They will provide outline specifications at this phase and update the preliminary landscape cost estimate.



Based on the Owner's approval of the Design Development documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget, InSites will prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development landscape plan and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. InSites' work shall include all planting design for the site, and the detailing of pedestrian paving and amenity features such as site walls and furnishings. They will coordinate with the MEP on the layout of site lighting. The vehicular and pedestrian paving section (thickness and structure) will be designed by the Civil Engineer.

Interior design + Furnishings, Fixtures and Equipment Design + Specifications (VIA)

Interior design and detailing supported with the appropriate selection of furnishings, fixtures and equipment supports the architectural building design and completes the necessary study of details required for the end user of the spaces. Each organization has its unique modes of work, preferences of operation and support requirements.

This is a holistic approach to work that helps our clients customize their methods, tools and places of work. The goal is to create a space which embodies a shared purpose and character as well as facilitate the natural way people work. It is based on the idea that places are powerful instruments to express an organization's distinctive culture and profess its unique ambitions. It is not a one-size-fits all solution.

Geotechnical Site Engineering (GET)

The purpose of the Geotechnical engineering services will be to determine pertinent information regarding the subsurface soil and groundwater conditions within the proposed structural, storm water, and pavement areas at the site in order to provide conclusions and recommendations for foundation, storm water, and pavement design/construction and other Geotechnical aspects. For this project, ~~G E T Solutions, Inc.~~ proposed to perform the following tasks:

Contact the local underground utility service company prior to beginning our field services, in order to identify the location of public underground utilities in the work area. Also, stake the proposed boring locations in the field. Please note that we are unable to determine if private utilities are on this site. As such, we cannot accept liability for damage to unidentified utilities.

Foundation Design: Locate and advance a total of five (5) 25-foot deep Standard Penetration Test (SPT) borings within the limits of the proposed structures. Hand-operated clearing is anticipated to be required at one (1) of the boring locations to complete the subsurface exploration procedures.

In the event that unsuitable soils are encountered for the proposed foundation design, deeper borings will be required in order to provide deep foundation design recommendations.

Grout bore holes upon completion of sampling with a neat cement mix, pursuant to the NCDENR regulations and requirements.

Seismic Site Class: On the basis of the soil test boring results, it is anticipated that this site will be designated as a site class "D" in accordance with the requirements of the IBC-2012.

Pavement Design: Perform a series of three (3) 5-foot deep hand auger borings within the proposed pavement areas. Dynamic Cone Penetrometer (DCP) testing will be performed at each boring locations to determine in-situ CBR values. Also, collect three (3) bulk soil samples from the approximate subgrade level of the proposed paved areas and return them to our laboratory for CBR testing. The results of the exploration and laboratory testing procedures will be used to effectively complete the AASHTO pavement analysis.



Perform laboratory tests on selected soil samples collected from the SPT borings in order to determine in-situ moisture content, moisture-plasticity relationships (Atterberg Limits), and/or full sieve testing and analysis, as deemed necessary.

Additionally, a total of two (2) Topsoil tests will be performed and include Hydrometer, Organic Content, pH, Phosphorus, Potassium, Magnesium, Cation Exchange, Soluble Salts, and Acidity.

Conduct a Geotechnical engineering evaluation of the available data with respect to foundation, pavement, earthwork, and storm water related design including foundation type, allowable capacities, estimated foundation settlements, as well as light and heavy duty asphalt pavement design analysis, and storm water design parameters including seasonal high groundwater estimates and saturated hydraulic conductivity. Also, provide groundwater conditions and its impact on the construction, if any.

Prepare an engineering report signed by a registered professional engineer presenting data, soil boring logs, observations, evaluations, and recommendations. Earthwork, pavement, storm water, and foundation related design/construction parameters will also be addressed. Additionally, the potential suitability of on-site excavated soils to be reused throughout the site will be provided.

Geothermal Conductivity Test (GET)

In the event Geothermal systems are determined to be warranted, a 300-foot deep (closed loop) test hole can be performed to determine the ground's thermal conductivity value which can be used in the geothermal well field design.

Interpretive Signage (VIA)

Civic architecture development is followed and complimented with a branding identity package support by sophisticated graphics, directional, instructional and interpretive signage. The dominant outdoor spaces, the Library and its Nature explore space will all require this level of attention.

Special Inspections –Agent 1 (SMF)

SMF will provide site visits to review installation of foundations, slabs, masonry, steel, roof/floor framing, and light gage framing. A schedule of these inspections are required with the building permit application and must all be signed off by the Structural Engineer of record prior to obtaining an Occupancy Permit at Substantial Completion.

Record Drawings (VIA, ECE, SMF, MJT) – optional services

During the course of construction, changes occur which drive different aspects of every project to be constructed slightly different than designed. Long term building owners such as public clients traditionally retain a final set of documents on file as a final record of the changed conditions. This record facilitates, repairs, maintenance, operations and acts as a base file to guide future expansion.

1 year Warranty Inspection (VIA, SMF, MJT) – optional services

As follow-up to 1 year of occupancy, the key design team members follow-up on the performance of the major building components, identify and warranty follow-up needs and make recommendations for any special concerns of needs that have been identified during this first year of occupancy.

USGBC LEED – V4 Certification Design (VIA, MJT, ECE, InSites)

VIA will register the project with the US Green Building Council, coordinate and review LEED related submittals, collection, review, and submission of LEED related documentation, and make payment of LEED related fees. A LEED



required daylighting analysis and a building energy model is also included. Contractor requirements shall be included in the construction documents.

Building Commissioning per LEED V4 (VIA, MJT)

MJ Thompson (MJT) will provide the commissioning services to ensure all applicable systems, subsystems, equipment and controls are installed, tested, and operating in compliance with contract documents and within the scope of the design requirements for the project.

Public Presentation preparation + meetings (VIA)

The need to introduce the projects to other review groups will be required to insure that the County has earned the acceptance of constituent groups as identified by the Building Committee. VIA will prepare appropriate graphics to support public presentations to include large format colored site plans, floor plans and rendered 3D views of the project design as well as slide show format presentations. We anticipate 3 presentations to support this need.

COMPENSATION

Basic Service

Schematic Design Phase	\$ 41,876 \$ 40,897
Design Development Phase	\$ 71,439 \$ 68,352
Construction Document Fee	\$ 150,965 \$140,594
Bidding/Negotiation Phase	\$ 10,289
Bidding/Construction Phase (site visits incl: 15 arch, 9 mech, 9 elec, 2 structural)	\$ 106,435 \$ 80,846

Total Basic Services

~~\$381,004~~ \$330,689

Additional Services

Pre-Design, Programming + Feasibility	\$ 38,737
Conceptual Site Master Planning	\$ 12,000
Civil Engineering	\$ 54,280 \$49,852.50
Landscape Architecture design	\$ 31,528 \$27,122.50
Interior design + Furnishings, Fixtures and Equipment Design + Specifications	\$ 16,000 \$ 7,500
Geotechnical Site Engineering - by owner	\$ 9,407
Geothermal Conductivity Test	\$ 12,650
Interpretive Signage	\$ 9,600 \$ 5,000
Cost Estimating - by CMR	\$ 25,505
Special Inspections - Agent 1	\$ 10,925
Record Drawings - optional	\$ 9,999
1 year warranty inspection - optional	\$ 6,624
LEED V4	
USGBC LEED - V4 Certification Design	\$ 35,519
— LEED registration + USGBC reviews + Plaques	\$ 6,200
— LEED daylighting analysis	\$ 14,745
— LEED Building Energy Modeling	\$ 21,090
Building Commissioning per LEED V4	\$ 26,525
Public Presentation preparation + meetings	\$ 7,200

Total Additional Services

~~\$ 348,533~~ \$112,400



Reimbursable Expenses	
Reproduction (estimated)	\$ 15,000 \$2,500
Mileage Allowance	\$ 3,500
Total Reimbursable Expenses	\$ 12,500 \$6,000

TOTAL FEE **\$ ~~748,038~~ 449,089**

Optional Additional Services	
I year warranty Inspection	\$ 6,624 opt'l
Record Drawings	\$ 9,999 opt'l

Other project cost which may occur during construction could be additional site observation. We are proposing a per meeting rate on an as need basis should this request be necessary. **\$ 1,280 per visit max.**

I look forward to reviewing these project start up documents and refining the various scenarios as necessary to get getting this project underway. As mentioned, we are ready to have a kick-off meeting with the Building Committee as well as release the field work and Geotechnical crews with your permission.

Thank you again for this opportunity and we look forward to getting started.

Sincerely,
VIA design architects, p.c.

Donna M. Phaneuf, AIA
President
dphaneuf@viadesignarchitects.com

Attachment: Exhibit A - 2017.04.05-CamdenCoAdminComplex-Scope+FeeLetter-DRAFT-revised (1662) : Contract for Architectural Design

EXHIBIT B

Hourly Rates for Professional Services

Architectural

Principal	\$ 175.00
Project Manager	\$ 160.00
Graphic Designer	\$ 140.00
Staff Architect	\$ 140.00
Intern Architect	\$ 110.00
Interior Designer	\$ 140.00
Administrative	\$ 85.00

Engineering

Structural Engineering Principal	\$ 175.00
Structural Engineering Project Manager	\$ 135.00
Structural Technician	\$ 85.00
Civil Principal Engineer	\$ 150.00
Civil Professional Engineer	\$ 135.00
Civil Design Engineer	\$ 110.00
Civil CAD Technician	\$ 80.00
PME Principal Engineer	\$ 200.00
PME Engineer Project Manager	\$ 150.00
PME Engineer	\$ 115.00
PME Specification Writer	\$ 115.00

Landscape Architect

Design Principal	\$ 130.00
Landscape Designer	\$ 75.00



CAMDENCOUNTY

new energy. new vision.

Board of Commissioners AGENDA ITEM SUMMARY SHEET

New Business

Item Number: 4.B

Meeting Date: May 15, 2017

Submitted By: Michael Brillhart, County Manager
Administration
Prepared by: Amy Barnett

Item Title **Contract for Construction Manager at Risk for New Public Services Bldg**

Attachments: Construction Mgr at Risk Contract for New Public
Svcs Bldg (PDF)

Summary:

Contract for Construction Manager at Risk (CMR) for New Public Services Building. Subject matter discussed at Public Workshop / Special Meeting held on April 19, 2017.

Recommendation:

Consider Contract for Approval.



AIA®

Document A133™ – 2009

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

AGREEMENT made as of the _____ day of _____ in the year Two Thousand Seventeen
(In words, indicate day, month and year.)

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

Camden County
330 East Hwy158, Camden, NC 27921
P.O. Box 190, Camden, NC 27921
Phone:252-338-6363

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

M. B. Kahn Construction Co., Inc.
101 Flintlake Road, P.O. Box 1179 (29202)
Columbia, SC 29223
Phone: 803-736-2950 / Fax: 803-736-9501

for the following Project:
(Name and address or location)

New Public Services Facility

The Architect:
(Name, legal status and address)

VIA design architects, pc
150 Randolph Street
Norfolk, VA 23510
Phone: 757-627-1489

The Owner's Designated Representative:
(Name, address and other information)

Michael Brillhart, County Manager
Camden County
P.O. Box 190
Camden NC 27921
Phone: 252-338-1919

The Construction Manager's Designated Representative:
(Name, address and other information)

William W. Cram, Executive Vice President
bcram@mbkahn.com

ADDITIONS AND DELETIONS:

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

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

AIA Document A201™–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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User Notes:

Init.

1

Attachment: Construction Mgr at Risk Contract for New Public Svcs Bldg (1663 : Contract for Construction Manager at Risk for New Public

M. B. Kahn Construction Co., Inc.
101 Flintlake Road, P.O. Box 1179 (29202)
Columbia, SC 29223
Phone: 803-736-2950 / Fax: 803-736-9501

The Architect's Designated Representative:
(Name, address and other information)

TBD

The Owner and Construction Manager agree as follows.

Init.

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User Notes: (1715884625)

2

Attachment: Construction Mgr at Risk Contract for New Public Svcs Bldg (1663 : Contract for Construction Manager at Risk for New Public

TABLE OF ARTICLES

1	GENERAL PROVISIONS
2	CONSTRUCTION MANAGER'S RESPONSIBILITIES
3	OWNER'S RESPONSIBILITIES
4	COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
5	COMPENSATION FOR CONSTRUCTION PHASE SERVICES
6	COST OF THE WORK FOR CONSTRUCTION PHASE
7	PAYMENTS FOR CONSTRUCTION PHASE SERVICES
8	INSURANCE AND BONDS
9	DISPUTE RESOLUTION
10	TERMINATION OR SUSPENSION
11	MISCELLANEOUS PROVISIONS
12	SCOPE OF THE AGREEMENT

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

§ 1.2 Relationship of the Parties

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

§ 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™–2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2007, which document is incorporated herein by reference. The term "Contractor" as used in A201–2007 shall mean the Construction Manager.

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and

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3

Attachment: Construction Mgr at Risk Contract for New Public Svcs Bldg (1663 : Contract for Construction Manager at Risk for New Public

Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.1 Preconstruction Phase

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

§ 2.1.2 Consultation

The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.

§ 2.1.4 Phased Construction

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

§ 2.1.5 Preliminary Cost Estimates

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

§ 2.1.5.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.6 Subcontractors and Suppliers

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

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

establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 2.1.8 Extent of Responsibility

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

§ 2.1.9 Notices and Compliance with Laws

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

§ 2.2 Guaranteed Maximum Price Proposal and Contract Time

§ 2.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of (1) the lowest qualified bid for each package; (2) the Construction Manager's estimate of the cost for work either not included in a bid package, or for packages for which no qualified bids were received; (3) other Costs to be Reimbursed as defined in Article 6 of this Agreement; (4) the Construction Manager's Fee as defined in Paragraph 5.1.1, plus General Conditions costs as defined in 6.6.10; and (5) the cost of insurance and bonds as defined in Articles 6 and 8; and (6) the Construction Manager's contingency as called for in Paragraph 2.2.4.

§ 2.2.1.1 If, at the conclusion of bidding, the total of the items 1 through 6 above, based on the lowest bona fide proposals from qualified subcontractors and vendors exceeds the budget, the Owner may choose from the following options: (1), authorize an increase in the budget; or (2), work cooperatively with the Construction Manager and Architect to revise the Drawings and Specifications as may be required (including reducing or modifying the quality and/or quantity) so that the cost of the Project will not exceed the budget.

§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

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

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency that is equal to five percent (5%) of the Cost of the Work for the Construction

Manager's exclusive use to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.

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

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

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

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

§ 2.3 Construction Phase

§ 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201–2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

§ 2.3.2 Administration

§ 2.3.2.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work in accordance with the requirements N.C.G.S.143-128. The Construction Manager shall then determine, with the advice of the Owner and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 2.3.2.1.1 It is the intent of the Owner that the Construction Manager will not self-perform any Work. The Construction Manager may self-perform a portion of the Work only in accordance with the provisions of Section 2.3.2.1.2.

§ 2.3.2.1.2 The Construction Manager, in accordance with the requirements of North Carolina General Statutes §143-128.1, may self-perform a portion of the Work only if (i) bidding produces no responsible, responsive bidder for that portion of the Work, the lowest responsible, responsive bidder will not execute a contract for the bid portion of the Work, or the subcontractor defaults and a prequalified replacement cannot be obtained in a timely manner, and (ii) the Owner approves of the Construction Manager's performance of the Work.

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

§ 2.3.2.3 Deleted in its entirety.

§ 2.3.2.4 Deleted in its entirety.

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

§ 2.3.2.6 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and submittal schedule in accordance with Section 3.10 of A201–2007.

§ 2.3.2.7 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Construction Manager shall also keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 2.3.2.8 The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 2.3.2.7 above.

§ 2.4 Professional Services

Section 3.12.10 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 2.5 Hazardous Materials

Section 10.3 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

§ 3.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 3.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

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§ 3.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

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

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

§ 3.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a 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.

§ 3.1.4.3 The Owner, when such services are requested, 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.

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

§ 3.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

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

§ 3.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™-2014, Standard Form of Agreement Between Owner and Architect, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES**§ 4.1 Compensation**

§ 4.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:
(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

General Conditions costs as defined in 6.6.10 plus a Fee of Fifty Thousand Dollars (\$50,000.00). General Conditions costs for the Construction Manager to provide all required services under Articles 2.1 Preconstruction Phase and 2.2 Guaranteed Maximum Price Proposal and Contract Time shall not exceed \$35,000.00.

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within twelve (12) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

(Paragraph deleted)

§ 4.2 Payments

§ 4.2.1 Unless otherwise agreed, payments for services shall be made monthly for services performed. The Preconstruction Phase Fee will be paid in equal monthly installments.

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

Prime plus two percent (2.00%) per annum.

ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 5.1 For the Construction Manager's performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee.

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

A Fee equal to Four Percent (4.00%) of the Guaranteed Maximum Price, converted to a lump sum at acceptance of GMP.

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

The Construction Manager's fee shall not be adjusted either up or down as a result of changes in the Work except when the Owner makes significant changes to the scope of the project. Significant change is defined as an impact greater than Ten Percent (10.00%) of the Initial Guaranteed Maximum Price.

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

§ 5.1.4 Rental rates for Construction Manager-owned equipment shall not exceed One Hundred percent (100 %) of the standard rate paid at the place of the Project.

§ 5.1.5 Unit prices, if any:
(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
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§ 5.2 Guaranteed Maximum Price

§ 5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.
(Insert specific provisions if the Construction Manager is to participate in any savings.)

All savings remain with the Owner. The Construction Manager does not participate in any savings.

§ 5.2.2 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

§ 5.3 Changes in the Work

§ 5.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201–2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 5.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Section 7.3.3 of AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of AIA Document A201–2007 and the term "costs" as used in Section 7.3.7 of AIA Document A201–2007 shall have the meanings assigned to them in AIA Document A201–2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of AIA Document A201–2007 shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 5.1 of this Agreement.

§ 5.3.5 If no specific provision is made in Section 5.1.2 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 5.1.2 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 6.1 Costs to Be Reimbursed

§ 6.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

§ 6.1.1.1 The cost of General Conditions expenses as defined in 6.6.10 shall be reimbursed.

§ 6.1.2 Where any cost is subject to the Owner's prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

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§ 6.2 Labor Costs

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

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

(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager's principal or other offices shall be included in the Cost of the Work, identify in Section 11.5, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

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

§ 6.2.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 6.2.1 through 6.2.3 at a standard rate of 52% of the base wage or salary rate.

§ 6.2.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, with the Owner's prior approval.

§ 6.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts. Subcontractor bonding requirements shall be in accordance with M.B. Kahn's Subcontractor Bonding Policy. For the purpose of payment under this Agreement, the cost of subcontractor bonding shall be computed at 1.2% of subcontract costs and shall be payable in full upon execution of each subcontract agreement

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

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

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

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

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

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

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

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§ 6.5.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

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

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

§ 6.6 Miscellaneous Costs

§ 6.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval. The cost for Performance and Payment Bonds shall be nine-tenths of one percent (0.9%) for the GMP payable in full upon acceptance of the GMP. The cost for Corporate General Liability Insurance shall be ninety-four one-hundredths of one percent (0.94%) of the GMP payable in full upon acceptance of the GMP

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

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

§ 6.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201-2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

§ 6.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201-2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

§ 6.6.6 Costs for electronic equipment and software, directly related to the Work.

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

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

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

§ 6.6.10 – General Conditions

§ 6.6.10.1 General Conditions items to be provided by Construction Manager may include, but are not limited to, the following: project manager; site manager; assistant site manager; estimators and other preconstruction phase staff; office, project and scheduling engineers; clerical staff; field office and its related supplies, equipment, furnishings, and utilities; tool and storage shed; first aid station; project vehicles; project signs; progress photographs; project insurance and taxes.

§ 6.6.10.2 Items purchased by Owner shall become the property of Owner upon the completion of the Project. Items

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rented by Owner from the Construction Manager shall remain the property of Construction Manager upon the completion of the Project.

§ 6.6.10.3 COST OF GENERAL CONDITIONS ITEMS

§ 6.6.10.3.1 Owner will reimburse Construction Manager for all costs and expenses of General Conditions items including, but not limited to the following:

- .1 The cost of job site materials used in providing the General Conditions items.
- .2 The pro-rata wages and the associated cost of program personnel, including the salaries of the project manager, site manager, assistant site manager, estimators and other preconstruction phase staff, office, project and scheduling engineers, clerical staff, and home office employees while engaged on the Project whether on-site or off-site.
- .3 The cost to provide statutory benefits required by law, such as FICA, Workmen's Compensation, Unemployment Insurance, etc., at the rate of 23 percent of wages. The cost of group employee benefits such as medical insurance, bonuses, vacation expense, sick leave allowances, disability benefits, pension plans, etc., shall be reimbursed at the rate of 29 percent of wages or salaries paid to such employees for work in connection with the Project.
- .4 The expense of equipment, including jobsite computers, owned by Construction Manager. Rental rates established in the Equipment Rental Schedule described in the Associated Equipment Distributor's publication of Nationally Averaged Rates (100% A.E.D.) for the appropriate year shall be used.
- .5 The expense of equipment rented from others including the cost of field offices.
- .6 The cost of transportation of personnel, equipment and materials to and from the Project site.
- .7 The cost of power, light, water and telephone service for field offices.
- .8 The cost of field office furnishings, supplies and similar type items.
- .9 The cost of insurance coverage beyond the Construction Manager's normal coverage as required by the Contract.
- .10 The amount of all sales, use, gross receipts and other taxes paid in connection with the project.
- .11 The cost of permits and licenses as required by the Contract Documents.
- .12 The cost of transportation and living expenses for the program personnel including project manager, site manager, assistant site manager, estimators and preconstruction staff, and office, project engineer, and scheduling engineers when traveling in connection with the Project.
- .13 The cost of shipping and postage related to the Project.
- .14 The cost of all telephone charges related to the Project of both the on-site and home office staff.

§ 6.6.10.4 General Conditions expenses may vary from month to month depending on construction activity, Trade Contractor progress, weather Conditions or Owner requirements. The Owner shall allow for reasonable escalation of salaries and labor burden.

§ 6.6.10.5 General Conditions expenses may also include services normally arranged for and managed by the Owner. This would include items such as surveying, drawing and specification reproduction (including distribution costs), signs, control photographs, licenses and other miscellaneous items required by the Owner and not assigned to any direct construction contract.

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Attachment: Construction Mgr at Risk Contract for New Public Svcs Bldg (1663 : Contract for Construction Manager at Risk for New Public

§ 6.7 Other Costs and Emergencies

§ 6.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ 6.7.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of AIA Document A201–2007.

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

§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2007 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 6.8.

§ 6.8 Costs Not To Be Reimbursed

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

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 6.2, or as may be provided in Article 11;
- .2 Expenses of the Construction Manager's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Sections 6.1 to 6.7;
- .4 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of the Construction Manager, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Sections 6.1 to 6.7;
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .8 Costs for services incurred during the Preconstruction Phase.

§ 6.9 Discounts, Rebates and Refunds

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

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.10 Related Party Transactions

§ 6.10.1 For purposes of Section 6.10, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" includes any member of the immediate family of any person identified above.

§ 6.10.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall

procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, the Construction Manager shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

§ 6.11 Accounting Records

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

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

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

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

§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the fifteenth day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than fifteen (15) days after the Architect receives the Application for Payment.

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

§ 7.1.4 With each Application for Payment, the Construction Manager shall submit any evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, less that portion of those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 7.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

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

§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201–2007;
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Construction Manager's Fee. The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of Five percent (5%);
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.

§ 7.1.8 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

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

§ 7.1.10 In taking action on the Construction Manager's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 7.1.11 The amount retained shall be 5% of the value of Work until 50% of the Work has been completed. At 50% completion, further partial payments shall be made in full to the Contractor and no additional amounts may be retained unless the Architect certifies that the Work is not proceeding satisfactorily, but amounts previously retained shall not be paid to the contractor. At 50% completion or any time thereafter when the progress of the Work is not satisfactory, additional amounts may be retained but in no event shall the total retainage be more than 5% of the value of Work completed

§ 7.2 Final Payment

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

- .1 the Construction Manager has fully performed the Contract except for the Construction Manager's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect.

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

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§ 7.2.2 The Owner's auditors will review and report in writing on the Construction Manager's final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Construction Manager's final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within ten days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment using AIA Documents 702, "Application and Certificate for Payment" or Form RD 1924-18 "Partial Payment Estimate" with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the AIA Document A201-2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201-2007. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be less than claimed by the Construction Manager, the Construction Manager may be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 15.2 of A201-2007. A request for mediation may be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager such costs and the Construction Manager's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

ARTICLE 8 INSURANCE AND BONDS

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201-2007. *(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)*

(Table deleted)

§ 8.1.1 Workers' Compensation and Employers' Liability meeting statutory limits mandated by state and federal laws. If (1) limits in excess of those required by statute are to be provided, or (2) the employer is not statutorily bound to obtain such insurance coverage or (3) additional coverages are required, additional coverages and limits for such insurance shall be as follows:

§ 8.1.2 Commercial General Liability including coverage for Premises-Operations, Independent Contractors' Protective, Products-Completed Operations, Contractual Liability, Personal Injury and Broad Form Property Damage (including coverage for Explosion, Collapse and Underground hazards):

\$1,000,000	Each Occurrence
\$2,000,000	General Aggregate
\$1,000,000	Personal and Advertising Injury
\$2,000,000	Products-Completed Operations Aggregate

- .1 The policy shall be endorsed to have the General Aggregate apply to this Project only.
- .2 Products and Completed Operations insurance shall be maintained on all General Liability policies carried by the Construction Manager for a minimum period of at least three (3) year(s) after final payment.
- .3 The Contractual Liability insurance shall include coverage sufficient to meet the obligations in Section 3.18 of A201-2007.

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§ 8.1.3 Automobile Liability (owned, non-owned and hired vehicles) for bodily injury and property damage:
\$1,000,000 Each Accident

§ 8.1.4 Other coverage:

The Construction Manager shall carry Umbrella Liability Insurance with a limit of \$10,000,000.00.

(If Umbrella Excess Liability coverage is required over the primary insurance or retention, insert the coverage limits. Commercial General Liability and Automobile Liability limits may be attained by individual policies or by a combination of primary policies and Umbrella and/or Excess Liability policies. If Project Management Protective Liability Insurance is to be provided, state the limits here.)

§ 8.2 INSURANCE REQUIRED OF THE OWNER

During both phases of the Project, the Owner shall purchase and maintain liability and property insurance, including waivers of subrogation, as set forth in Sections 11.2 and 11.4 of A201-2007. Such insurance shall be written for not less than the following limits, or greater if required by law:

§ 8.2.1 Property Insurance:
\$5,000 Deductible Per Occurrence
N/A Aggregate Deductible

§ 8.2.2 Boiler and Machinery insurance with a limit of: N/A .
(If not a blanket policy, list the objects to be insured.)

§ 8.3 PERFORMANCE BOND AND PAYMENT BOND

§ 8.3.1 The Construction Manager shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Construction Manager's usual source, and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to One Hundred Percent (100%) of the Contract Sum.

§ 8.3.2 The Construction Manager shall deliver the required bonds to the Owner at least three days before the commencement of any Work at the Project site.

ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201-2007. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.

§ 9.1.1 Claims, disputes, or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof, if not resolved by the Initial Decision Maker in accordance with the applicable provisions of Article 15 of A201-2007, shall be subject to and decided by mediation or litigation. Mediation shall be a condition precedent to the institution of legal or equitable proceedings by either party and shall be in accordance with the requirements of North Carolina General Statutes §143-128(f1) and Subchapter 30H of Title 01 of the North Carolina Administrative Code. The parties shall share the mediator's fee, and any filing fees in connection therewith, equally. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. Should the parties fail to resolve any such issues through mediation, and the parties move to litigation, any such litigation shall be tried before a judge in the court of proper authority in the jurisdiction of Camden County, North Carolina. The Construction Manager will take those steps necessary to include this same dispute resolution provision, with appropriate changes concerning identification of parties, in the agreement for services between the Owner and the Architect and in all agreements for construction and supplies or equipment between the Construction Manager and Subcontractors or suppliers of materials and equipment.

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§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:
(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

- Arbitration pursuant to Section 15.4 of AIA Document A201–2007
- Litigation in a court of competent jurisdiction
- Other: (Specify)

§ 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 9.4 Notwithstanding anything to the contrary contained herein, in the event of default by either party the non-defaulting party shall notify the defaulting party in writing specifying any alleged default and providing a fourteen (14) day period in which to cure any alleged default. The fourteen (14) day period shall commence upon receipt of such notice as documented by a registered mailing, return receipt requested delivered to the address set forth on page 1 of this Agreement or such address as may be later designated in writing by the parties.

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

§ 10.1.1 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Section 14.1.1 of A201–2007.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 4.1.

§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 10.1.2:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 10, execute and deliver all such papers and take

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all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

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

§ 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price

Following execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Section 10.2.1 and 10.2.2 below, the Contract may be terminated as provided in Article 14 of AIA Document A201–2007.

§ 10.2.1 If the Owner terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager pursuant to Sections 14.2 and 14.4 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.

§ 10.2.2 If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above, except that the Construction Manager's Fee shall be calculated as if the Work had been fully completed by the Construction Manager, utilizing as necessary a reasonable estimate of the Cost of the Work for Work not actually completed.

§ 10.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007. In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201–2007, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 5.1 and 5.3.5 of this Agreement.

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Terms in this Agreement shall have the same meaning as those in A201–2007.

§ 11.2 Ownership and Use of Documents

Section 1.5 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.3 Governing Law

Section 13.1 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.4 Assignment

The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement. Except as provided in Section 13.2.2 of A201–2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 11.5 Other provisions:

§ 11.5.1 The Owner may, with the consent of the Construction Manager, elect to add additional projects to the scope of this contract.

§ 11.5.2 The Construction Manager's Contingency as described on Paragraph 2.2.4 shall be included in the Guaranteed Maximum Price (GMP).

§ 11.5.3 At the conclusion of the project, the unused portion (if any) of the Construction Manager's Contingency will revert 100% to the Owner.

ARTICLE 12 SCOPE OF THE AGREEMENT

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

§ 12.2 The following documents comprise the Agreement:

- .1 AIA Document A133-2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A201-2007, General Conditions of the Contract for Construction
- .3 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:

N/A
- .4 AIA Document E202™-2008, Building Information Modeling Protocol Exhibit, if completed, or the following:

N/a
- .5 Other documents:
(List other documents, if any, forming part of the Agreement.)

.1 North Carolina RD Instruction 1942-A Attachment for AIA Document A133-2009 (to be used only if USDA funding is applicable to the project).

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

OWNER *(Signature)*

CONSTRUCTION MANAGER *(Signature)*

(Printed name and title)

William W. Cram, Executive Vice President
(Printed name and title)

Init.

Attachment: Construction Mgr at Risk Contract for New Public Svcs Bldg (1663 : Contract for Construction Manager at Risk for New Public



Board of Commissioners
AGENDA ITEM SUMMARY SHEET

Board Appointments

Item Number: 5.1
Meeting Date: May 15, 2017
Submitted By: Karen Davis, Clerk to the Board
Board of Commissioners
Prepared by: Karen Davis

Item Title **EIC Board Re-Appointment**

Attachments:

Summary:

Per request by Dr. Landon Mason, Executive Director of the Economic Improvement Council, please re-appoint Dr. William Sawyer of 533 N. Trotman Road, Camden, NC, whose current term is set to expire on July 5, 2017, to the Economic Improvement Council Board of Directors with a new term to expire July 5, 2022 (5-year term).

Recommendation:

Approve re-appointment.



Board of Commissioners
AGENDA ITEM SUMMARY SHEET

Information, Reports & Minutes From Other Agencies

Item Number: 8.A
Meeting Date: May 15, 2017

Submitted By: Karen Davis, Clerk to the Board
Board of Commissioners
Prepared by: Karen Davis

Item Title **ROD Monthly Report - April 2017**

Attachments: ROD Monthly Report - April 2017 (PDF)

Summary:

Recommendation:

Ledger Report Fee Distribution

(1692 : ROD Monthly Report - April 2017) Attachment: ROD Monthly Report - April 2017

Camden, NC

Date Range From Saturday, April 01, 2017 to Sunday, April 30, 2017

Name	Amount
NC Children's Trust Fund	\$55.00
NC Domestic Violence Fund	\$330.00
State Revenue Stamp	\$5,283.67
County Revenue Stamp	\$5,499.33
Land Transfer Fee	\$0.00
Floodplain Map Fund	\$0.00
Supplemental Retirement	\$69.18
ROD Automation Fund	\$371.55
Dept Of Cultural Resources	\$0.00
Vital Records Fund	\$0.00
State General Fund	\$0.00
State Treasurer Amount	\$576.60
ROD General Fund	\$3,209.32
Total Distribution For Period	\$15,394.65
Cash Total	\$884.42
Check Total	\$14,510.23
Pay Account Total	\$0.00
ACH Total	\$0.00
Escrow Account Total	\$0.00
Overpayment Total	\$0.00
Total Deposit For Period	\$15,394.65