



Robert W. Wilson
County Administrator

Telephone: 701-241-5770
wilsonro@casscountynynd.gov

MEMO

TO: County Commission
FROM: Robert W. Wilson
Date: November 27, 2024
Subject: JLG Agreement – Space Utilization Study & Master-Planning Project

Cass County received three proposals in response to the published Space Utilization and Master-Planning RFP. Bids were opened on November 6th and at the meeting on November 18th the Board identified JLG Architects as the preferred bidder based on the scope, timeline, deliverable and cost proposed.

JLG has provided a draft agreement, attached to this memo, to formalize the engagement with Cass County. The State's Attorney's Office has reviewed the draft and is satisfied with the terms. Consideration of approval of this agreement is scheduled for the Commission meeting on December 2, 2024.

Motion: Authorize the Chair to Sign Agreement with JLG Architects for Space Needs Assessment & Master-Planning services for the Courthouse, Annex & Robert D. Johnson Buildings.



CONTRACT APPROVAL

REQUIRED BY DEPARTMENT:

DEPARTMENT: Administration DATE OF REQUEST: 11-27-2024

COMPANY REQUESTING CONTRACT: JLG Architects

BRIEF PROJECT DESCRIPTION: Agreement for Space Needs Assessment and Masterplan

NEW CONTRACT OR CONTRACT RENEWAL

REQUIRED BY STATE'S ATTORNEY OFFICE:

STATE'S ATTORNEY SIGNATURE: _____ DATE _____

STATE'S ATTORNEY COMMENTS:

AIA[®] Document B105[®] – 2017

Standard Short Form of Agreement Between Owner and Architect

AGREEMENT made as of the Twenty-Fifth day of November in the year Two Thousand and Twenty Four
(In words, indicate day, month and year.)

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

Cass County

211 9th St. S.
Fargo, ND 58103

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

JLG Architects
214 Broadway
Fargo, ND 58102

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

24342 - Cass County Space Needs Assessment & Masterplan
for the Cass County Courthouse, Annex and Robert D. Johnson buildings

The 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. 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.

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User Notes:

(829773110)

ARTICLE 1 ARCHITECT'S RESPONSIBILITIES

The Architect shall provide architectural services for the Project as described in this Agreement. 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. The Architect shall assist the Owner in determining consulting services required for the Project. The
(Paragraphs deleted)

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

The Architect shall complete a Space Needs Assessment & Masterplan for the Cass County Courthouse, Annex and Robert D. Johnson Buildings. The scope of work shall include meetings with Cass County leadership and staff to assess the current needs and challenges, as well as understanding future needs and growth. Cass County shall provide Architect with existing drawings for all spaces in consideration. Where existing drawings do not exist, or are not accurate, Cass County shall contract JLG to create necessary drawings in order to complete the Assessment and Masterplanning work on an agreed upon hourly fee.

ARTICLE 2 OWNER'S RESPONSIBILITIES

The Owner shall provide full information about the objectives, schedule, constraints and existing conditions of the Project, and shall establish a budget that includes reasonable contingencies and meets the Project requirements. The Owner shall provide decisions and furnish required information as expeditiously as necessary for the orderly progress of the Project. The Architect shall be entitled to rely on the accuracy and completeness of the Owner's information. The Owner shall furnish consulting services not provided by the Architect, but required for the Project, such as surveying, which shall include property boundaries, topography, utilities, and wetlands information; geotechnical engineering; and environmental testing services. The Owner shall employ a Contractor, experienced in the type of Project to be constructed, to perform the construction Work and to provide price information.

ARTICLE 3 USE OF DOCUMENTS

Drawings, specifications and other documents prepared by the Architect are the Architect's Instruments of Service, and are for the Owner's use solely with respect to constructing the Project. The Architect shall retain all common law, statutory and other reserved rights, including the copyright. Upon completion of the construction of the Project, provided that the Owner substantially performs its obligations under this Agreement, the Architect grants to the Owner a license to use the Architect's Instruments of Service as a reference for maintaining, altering and adding to the Project. The Owner agrees to indemnify the Architect from all costs and expenses related to claims arising from the Owner's use of the Instruments of Service without retaining the Architect. When transmitting copyright-protected information for use on the Project, the transmitting party represents that it is either the copyright owner of the information, or has permission from the copyright owner to transmit the information for its use on the Project.

ARTICLE 4 TERMINATION, SUSPENSION OR ABANDONMENT

In the event of termination, suspension or abandonment of the Project by the Owner, the Architect shall be compensated for services performed. The Owner's failure to make payments in accordance with this Agreement shall be considered substantial nonperformance and sufficient cause for the Architect to suspend or terminate services. Either the Architect or the Owner may terminate this Agreement after giving no less than seven days' written notice if the Project is suspended for more than 90 days, or if the other party substantially fails to perform in accordance with the terms of this Agreement. Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

ARTICLE 5 MISCELLANEOUS PROVISIONS

This Agreement shall be governed by the law of the place where the Project is located. Terms in this Agreement shall have the same meaning as those in AIA Document A105-2017, Standard Short Form of Agreement Between Owner and Contractor. Neither party to this Agreement shall assign the contract as a whole without written consent of the other.

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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 the Architect.

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.

ARTICLE 6 PAYMENTS AND COMPENSATION TO THE ARCHITECT

The Architect's Compensation shall be:

A lump sum fee of \$65,000.00 for the Space Assessment & Masterplan scope of work. If necessary, Architect shall create existing background files on an hourly basis, with the contract amount to be agreed upon in advance of services.

The Owner shall pay the Architect an initial payment of Zero (\$ 0) as a minimum payment under this Agreement. The initial payment shall be credited to the final invoice.

The Owner shall reimburse the Architect for expenses incurred in the interest of the Project, plus Ten percent (10 %).

Payments are due and payable upon receipt of the Architect's monthly invoice. Amounts unpaid Thirty (30) days after the invoice date shall bear interest from the date payment is due at the rate of One Point Five percent (1.5 %) Monthly , or in the absence thereof, at the legal rate prevailing at the principal place of business of the Architect.

At the request of the Owner, the Architect shall provide additional services not included in Article 1 for additional compensation. Such additional services may include, but not be limited to, providing or coordinating services of consultants not identified in Article 1; revisions due to changes in the Project scope, quality or budget, or due to Owner-requested changes in the approved design; evaluating changes in the Work and Contractors' requests for substitutions of materials or systems; providing services necessitated by the Contractor's failure to perform; and the extension of the Architect's Article 1 services beyond Twelve (12) months of the date of this Agreement through no fault of the Architect.

ARTICLE 7 OTHER PROVISIONS

(Insert descriptions of other services and modifications to the terms of this Agreement.)

Limitation of Liability

To the maximum extent permitted by law, the Owner agrees to limit the Architect's liability for any and all claims, losses, costs, damages, of any nature whatsoever or claims expenses from any cause or causes, including attorney's fees and costs and expert-witness fees and costs, so that the total aggregate liability of the Architect to the Owner shall not exceed the Architect's total compensation for services rendered on this Project. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

Claims and disputes:

The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law. Any such claim, dispute or matter in question shall be subject to Informal Negotiation as first course of resolution. Either party may initiate informal negotiation of its claim, assuming the claim has been asserted within the time limits set forth in this Agreement by giving the other party written notice of such demand. Within ten (10) days of receipt of demand for informal negotiations, representatives of the parties with authority to settle the claim will meet to determine if the claim can be resolved informally. If informal negotiation fails to resolve the claim, mediation as a condition precedent to binding dispute resolution. If the parties do not resolve a claim, dispute, or matter in question through mediation, the method of binding dispute resolution shall be the following: Litigation in a court of competent jurisdiction.

Exhibits:

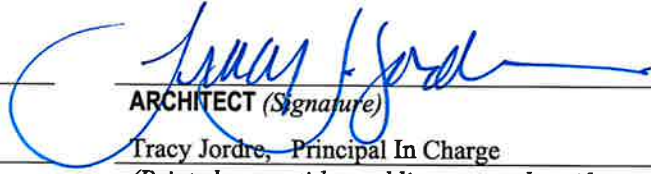
Exhibit B: JLG Image Release

Exhibit C: 2024 Schedule of Hourly Compensation & Reimbursable Expenses

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

OWNER (Signature)

Robert Wilson, County Administrator
(Printed name and title)



ARCHITECT (Signature)

Tracy Jordre, Principal In Charge
(Printed name, title, and license number, if required)

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Additions and Deletions Report for AIA® Document B105® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 09:41:36 ET on 11/26/2024.

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Cass County

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Fargo, ND 58103

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JLG Architects
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24342 - Cass County Space Needs Assessment & Masterplan
for the Cass County Courthouse, Annex and Robert D. Johnson buildings

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~~During the Design Phase, the Architect shall review the Owner's scope of work, budget and schedule and reach an understanding with the Owner of the Project requirements. Based on the approved Project requirements, the Architect shall develop a design, which shall be set forth in drawings and other documents appropriate for the Project. Upon the Owner's approval of the design, the Architect shall prepare Construction Documents indicating requirements for construction of the Project and shall coordinate its services with any consulting services the Owner provides. The Architect shall assist the Owner in filing documents required for the approval of governmental authorities, in obtaining bids or proposals, and in awarding contracts for construction. Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes~~

aware of any error, omission, or inconsistency in such services or information. The Architect's services include the following consulting services, if any:

During the Construction Phase, the Architect shall act as the Owner's representative and provide administration of the Contract between the Owner and Contractor. The extent of the Architect's authority and responsibility during construction is described in AIA Document A105™ 2017, Standard Short Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A105 2017, those modifications shall not affect the Architect's services under this Agreement, unless the Owner and Architect amend this Agreement. The Architect shall complete a Space Needs Assessment & Masterplan for the Cass County Courthouse, Annex and Robert D. Johnson Buildings. The scope of work shall include meetings with Cass County leadership and staff to assess the current needs and challenges, as well as understanding future needs and growth. Cass County shall provide Architect with existing drawings for all spaces in consideration. Where existing drawings do not exist, or are not accurate, Cass County shall contract JLG to create necessary drawings in order to complete the Assessment and Masterplanning work on an agreed upon hourly fee.

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The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law. Any such claim, dispute or matter in question shall be subject to Informal Negotiation as first course of resolution. Either party may initiate informal negotiation of its claim, assuming the claim has been asserted within the time limits set forth in this Agreement by giving the other party written notice of such demand. Within ten (10) days of receipt of demand for informal negotiations, representatives of the parties with authority to settle the claim will meet to determine if the claim can be resolved informally. If informal negotiation fails to resolve the claim, mediation as a condition precedent to binding dispute resolution. If the parties do not resolve a claim, dispute, or matter in question through mediation, the method of binding dispute resolution shall be the following: Litigation in a court of competent jurisdiction.

Exhibits:

Exhibit B: JLG Image Release

Exhibit C: 2024 Schedule of Hourly Compensation & Reimbursable Expenses

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Robert Wilson, County Administrator


Tracy Jordre, Principal In Charge

Certification of Document's Authenticity
AIA® Document D401™ – 2003

I, Tracy Jordre, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 09:41:36 ET on 11/26/2024 under Order No. 4104246954 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B105™ – 2017, Standard Short Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)



(Title)



(Dated)