

DESIGN-BUILD PRE-CONSTRUCTION AGREEMENT

THIS DESIGN-BUILD PRE-CONSTRUCTION AGREEMENT (“AGREEMENT”) is made and entered into this ____ day of _____, 2014, by and between the **City of Orlando, Florida**, a Florida municipal corporation (“**CITY**”) and **H.J. High Construction Company**, a _____ corporation (“**DESIGN-BUILDER**”).

WHEREAS, CITY desires to obtain DESIGN-BUILDER’s professional design-build services (“**Services**”) for the project to be known as the Orlando Police Headquarters, Project No. 6342, RFP14-0133 Project (“**Project**”), according to the requirements in CITY Request for Proposal RFP14-0133, dated as of January 6, 2014 (the “**Solicitation**”), and as further described herein; and

WHEREAS, upon completion of the Services, it is contemplated that CITY and the DESIGN-BUILDER will enter into an additional contract pursuant to which the DESIGN-BUILDER will agree to perform the services of a prime contractor in connection with the construction of the Project (such contract, the “**Design-Build Contract**”);

WHEREAS, the DESIGN-BUILDER has submitted a proposal or response in connection with the Solicitation, which has been selected by CITY (hereinafter referred to as the “**Proposal**”); and

WHEREAS, the DESIGN-BUILDER warrants to CITY that it is qualified and duly licensed to furnish the Services in Florida and meet the obligations set forth in the Solicitation, the Proposal, and the documents detailing the scope of services attached hereto as **Exhibit A** and incorporated herein by this reference (the “**Scope of Services**”), and as hereinafter stated; and

WHEREAS, the DESIGN-BUILDER warrants that the representations made by it in its Proposal remain valid, accurate and binding upon it; and

WHEREAS, the DESIGN-BUILDER desires to render the Services and meet the obligations set forth in the Solicitation, the Proposal, and the Scope of Services and upon the terms and conditions set forth in the Contract Documents (as defined herein).

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained and given one party to the other, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

SECTION 1

RECITALS; CONTRACT DOCUMENTS AND SCOPE OF SERVICES

- 1.1 **RECITALS**. The Recitals set forth above are incorporated herein by this reference.
- 1.2 **CONTRACT DOCUMENTS**. For the purposes of this AGREEMENT, the following documents are collectively referred to herein as the “**Contract Documents**”:
 - (a) This AGREEMENT together with all Exhibits hereto;

- (b) The Solicitation; and
- (c) The Proposal.

The terms of the Contract Documents are incorporated herein by this reference. In the event of conflict between the terms of the Contract Documents, the order of precedence is as set forth above (thus, if there is a conflict between the terms of the Solicitation and the terms of the Proposal, the terms of the Solicitation shall govern). In addition, to the extent any of the terms of the Proposal conflict or in the reasonable opinion of CITY are not relevant to the remaining Contract Documents, then, in that event, the provisions contained in the Proposal will not be applicable nor a part of the Contract Documents. Contract Documents shall further include any later amendments.

1.3 **FURNISHING OF SERVICES.**

(a) The DESIGN-BUILDER shall furnish to CITY the Services in compliance with the Contract Documents.

(b) The DESIGN-BUILDER will prepare a design report during the pre-construction design phase and thirty percent (30%) construction documents, which will outline all of the parameters of the Project and describe in detail the design features. In its final form the design report will contain a preliminary guaranteed maximum price, a narrative of the main design features and the sequence for design and construction phasing. The DESIGN-BUILDER shall submit the thirty percent (30%) construction documents and design report to CITY for its review. CITY may, in its sole discretion, elect to approve or reject the design report and/or the thirty percent (30%) construction documents. If CITY rejects the design report and/or the thirty percent (30%) construction documents, the DESIGN-BUILDER shall rework said documents to CITY's satisfaction. Upon receiving CITY's approval of said documents, the DESIGN-BUILDER shall prepare one hundred percent (100%) construction documents. When the plans and specifications are sufficiently complete to establish the Scope of Work for the Project (the services to be performed pursuant to such Scope of Work, the "**Work**") or at such time thereafter designated by CITY, the DESIGN-BUILDER will establish and submit in writing to CITY for its approval a final guaranteed maximum price ("**GMP**") for the construction phase of the Project, guaranteeing the maximum price to CITY for the cost of construction or designated part thereof. The parties understand that there is no guarantee that a Design-Build Contract will be entered into between DESIGN-BUILDER and CITY and that either of the parties may elect not to enter into such an agreement in its sole discretion.

(c) The Services to be performed by the DESIGN-BUILDER shall be performed in accordance with the Project timeline attached hereto as **Exhibit B** and incorporated herein by this reference, and in no event shall the one hundred percent (100%) construction documents be completed by the DESIGN-BUILDER later than **seven-hundred days (700)** from the date hereof (the "**Completion Date**"). CITY may, in its sole and absolute discretion, extend the Completion Date to allow the DESIGN-BUILDER additional time to complete the Services or to provide additional services which CITY may request as set forth in the Scope of Services.

1.4 **SOLICITATION OF BIDS (CONSTRUCTION PHASE)**. If the parties enter into a Design-Build Contract, the DESIGN-BUILDER will, except as otherwise set forth below, prepare and issue solicitations (*i.e.*, invitations for bids, requests for proposals, etc.) for all procurements of (i) long lead items, (ii) materials and services, (iii) subcontractor contracts and (iv) site utilities in connection with the construction phase of the Project. The contracts entered into between the DESIGN-BUILDER and the providers of the items identified in (i) – (iv) of the previous sentence are referred to herein as “**Subcontracts**.” The procurement process for such Subcontracts shall be conducted by the DESIGN-BUILDER in accordance with the following guidelines.

(a) **Subcontracts that do not exceed \$50,000**. Unless waived by the CITY, subcontracts not exceeding \$50,000 may be entered into by the DESIGN-BUILDER with any firm that is qualified to provide the work sought and submits the lowest responsive bid. The DESIGN-BUILDER shall request at least three (3) firms to submit sealed written bids based on written drawings and/or specifications. A tabulation of the results shall be furnished to CITY and to each bidding firm. If approved in advance by CITY, the DESIGN-BUILDER and/or any of the proposed subcontractors included in the DESIGN-BUILDER’s Proposal (“**Proposed Subcontractors**”) may submit sealed written bids as well; *provided, that* the sealed written bids of the DESIGN-BUILDER and/or its Proposed Subcontractors shall be opened by CITY.

(b) **Subcontracts exceeding \$50,000**. Unless waived by the CITY, subcontracts exceeding \$50,000 may be entered into by the DESIGN-BUILDER with the firm that is qualified to provide the work sought and submits the lowest bid. The DESIGN-BUILDER shall advertise these Subcontracts at least once in the Orlando Sentinel with the last advertisement appearing at least fourteen (14) calendar days prior to the established bid opening time and date. If approved in advance by CITY, the DESIGN-BUILDER and/or any of its Proposed Subcontractors may submit sealed written bids as well; *provided, that* the sealed written bids of the DESIGN-BUILDER and/or its Proposed Subcontractors shall be opened by CITY.

(c) **Work performed by DESIGN-BUILDER**. If approved in advance by CITY, the DESIGN-BUILDER and/or the Proposed Subcontractors may perform a portion of the Work for any item listed on the estimate or GMP breakdown where it is economically advantageous to CITY or advantageous to the Project schedule. CITY may require that the DESIGN-BUILDER and/or the Proposed Subcontractors submit sealed bids for such Work and that the bids be opened by CITY.

SECTION 2

PRE-CONSTRUCTION DESIGN PHASE FEES AND COSTS AND DESIGN-BUILD CONSTRUCTION FEES AND COSTS

2.1 **PAYMENT OF FEES AND COSTS**. CITY shall be required to pay the DESIGN-BUILDER the amounts set forth in **Section 2.1(a)** for Services performed in connection with the pre-construction design phase of the Project. In the event the Project proceeds to the construction phase, the Design-Build Contract shall provide that CITY will be required to pay the DESIGN-BUILDER the amounts set forth in **Section 2.1(b)** for Services performed in connection with the construction phase of the Project. For the avoidance of doubt, if the Project does not proceed to the construction phase, CITY shall not be obligated to make any payments to

the DESIGN-BUILDER pursuant to **Section 2.1(b)**. Any amounts required to be paid pursuant to this **Section 2.1(a)** shall be paid in accordance with the procedure set forth in **Section 5**.

(a) **Pre-Construction Design Phase Fees and Costs.** In full consideration of the Services performed by the DESIGN-BUILDER in connection with the pre-construction design phase of the Project, CITY hereby agrees to pay the DESIGN-BUILDER a fee in the amount of \$3,554,474.00 as set forth on **Exhibit C** hereto (the “**Schedule of Fees**”). The DESIGN-BUILDER shall not be entitled to any other payments or reimbursements in connection with the pre-construction design phase of the Project.

(b) **Construction Phase Fees.** If the parties enter into a Design-Build Contract, the Design-Build Contract will provide that in full consideration of the Services performed by the DESIGN-BUILDER in connection with the construction phase of the Project, CITY will (i) pay the DESIGN-BUILDER a fee equal to five and one half percent (5.5%) of the Cost of Work (as defined in **Section 3.1**) (the “**Construction Phase Fee**”) and (ii) reimburse the DESIGN-BUILDER for the DESIGN-BUILDER’s out of pocket costs which are included within the definition of the Cost of Work. If construction is authorized by CITY for only for a part of the Project, the Design-Build Contract will provide that the Construction Phase Fee paid shall be proportionate to the amount of construction authorized by CITY.

(c) **Unauthorized Services.** The DESIGN-BUILDER acknowledges and agrees that if at any time it performs Services for the Project outside of the Scope of Services and such Services have not been approved in writing in advance by CITY, then the DESIGN-BUILDER shall perform such Service without liability to CITY, and at the DESIGN-BUILDER’s own risk.

SECTION 3 COST OF THE WORK (Construction Phase)

3.1 **COSTS OF WORK.** The “**Cost of Work**” referred to in **Section 2.1(b)** shall be equal to the sum of the costs identified in **Section 3.2** (to the extent applicable). For the avoidance of doubt, the Cost of Work shall not include the costs identified in **Section 3.3**.

3.2 **INCLUDED COSTS.** Only the following costs, which are reasonably incurred by DESIGN-BUILDER in the proper performance of the Work, shall be included in the Cost of Work:

(a) Wages of direct employees of DESIGN-BUILDER performing the Work at the Work site (the “**Site**”), at locations off the Site with CITY’s prior written consent, provided however, that the costs for those employees of DESIGN-BUILDER performing design services shall be calculated on the basis of prevailing market rates for design professionals performing such services or, if applicable, those rates set forth in the Design-Build Contract.

(b) Wages or salaries of DESIGN-BUILDER’s supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or working off-Site to assist in the production or transportation of material and equipment necessary for the Work.

(c) Costs incurred by DESIGN-BUILDER for employee benefits, premiums, taxes, insurance, contributions and assessments required by law, collective bargaining agreements, or which are customarily paid by DESIGN-BUILDER, to the extent such costs are based on wages and salaries paid to employees of DESIGN-BUILDER covered under **Sections 3.2(a)** and **(b)** hereof.

(d) Payments properly made by DESIGN-BUILDER to its subcontractors, including the architect or engineer of record, for performance of the Work.

(e) Costs, including transportation, inspection, testing, storage and handling of materials, equipment and supplies incorporated or reasonably used in completing the Work.

(f) Costs less mutually agreed upon salvage value of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of DESIGN-BUILDER, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling and removing such items.

(g) Costs of removal of debris and waste from the Site.

(h) The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office.

(i) Rental charges and the costs of transportation, installation, dismantling and removal of temporary facilities, machinery, and equipment which are provided by DESIGN-BUILDER at the Site, whether rented from DESIGN-BUILDER or others, and incurred in the performance of the Work, at costs consistent with those prevailing in Orange County, Florida.

(j) All fuel and utility costs incurred in the performance of the Work.

(k) Sales, use or similar taxes incurred in the performance of the Work for which the DESIGN/BUILDER is liable.

(l) Costs for permits, royalties, licenses, tests and inspections incurred by DESIGN/BUILDER as a requirement of the Design-Build Contract.

(m) Costs incurred in preventing damage, injury or loss in case of an emergency affecting the safety of persons and property.

(n) Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by CITY.

(o) Costs for security services for the Work, if approved in writing by CITY.

(p) Costs of the DESIGN-BUILDER's General Conditions in connection with the construction phase (*i.e.*, Site-related expenses).

(q) Costs incurred for Project-specific employee training in accordance with the DESIGN-BUILDER's standard training program.

(r) Costs associated with the DESIGN-BUILDER's standard holiday and sick day policies.

3.3 **EXCLUDED COSTS.** The following costs shall be excluded from the Cost of Work:

(a) Compensation for DESIGN-BUILDER's personnel stationed at DESIGN-BUILDER's principal or branch offices.

(b) Overhead and general expenses (*i.e.*, expenses associated with DESIGN-BUILDER's principal office).

(c) The cost of DESIGN-BUILDER's capital used in the performance of the Work.

(d) If the parties have agreed on a GMP, costs that would cause the GMP, as adjusted in accordance with the Contract Documents, to be exceeded.

(e) The cost of correcting damaged or defective or non-conforming Work (or any resultant schedule delay) made necessary because of defective or non-conforming workmanship or materials, design errors or omissions or other causes attributable to the DESIGN-BUILDER, Designer, subcontractors at all tiers or anyone else for whom they are responsible.

SECTION 4 CITY'S RESPONSIBILITIES

4.1 **REQUIREMENTS FOR THE PROJECT.** CITY agrees that it will provide criteria and information as to CITY's requirements for the pre-construction design phase of the Project in a timely manner, including design objectives and constraints; space; capacity and performance requirements; flexibility and expandability matters; and any budgetary limitations; and copies of all design and construction standards which CITY will require to be included in the construction documents.

4.2 **INFORMATION PERTINENT TO THE PROJECT.** CITY shall, upon request, provide the DESIGN-BUILDER will reasonably available information reasonably pertinent to the Project (including previous reports and any other data relative to design or construction of the Project), and CITY shall advise the DESIGN-BUILDER as to what information, if any, CITY believes to be accurate. The DESIGN-BUILDER is ultimately responsible for satisfying itself as to accuracy of any data provided, and, furthermore, the DESIGN-BUILDER is responsible for bringing to CITY's attention, for CITY's resolution, any material inconsistencies or errors in such data which come to the DESIGN-BUILDER's attention. If CITY requires the DESIGN-BUILDER's assistance in resolving any error or inconsistency, such Services may be provided by mutual agreement of the parties.

4.3 **ACCESS TO PROPERTY.** CITY shall arrange for access to and make provisions for the DESIGN-BUILDER to enter upon public property as reasonably required for the DESIGN-BUILDER to perform the Services. DESIGN-BUILDER shall make its own arrangements for

access to private property which DESIGN-BUILDER believes is necessary to perform its Services. If required by the owner of the property, the DESIGN-BUILDER shall agree in writing to:

(a) Release and hold the owner of such property harmless against any claims, damages and injuries that occur as a result of the DESIGN-BUILDER's use of such property; and

(b) Leave such property in as good condition and order as existed on the commencement of DESIGN-BUILDER's use.

4.4 **CITY PROJECT MANAGER.** The CITY shall appoint a Project Manager ("**Project Manager**") for this Project. The Project Manager shall issue any and all written authorizations to the DESIGN-BUILDER that the Project may require, or that may otherwise be defined or referred to in this AGREEMENT. The Project Manager shall also, 1) act as the CITY's agent with respect to the Services rendered hereunder; 2) transmit instructions to and receive information from the DESIGN-BUILDER; and 3) communicate the CITY's decisions to the DESIGN-BUILDER regarding the Services. The Project Manager shall have the authority to extend the Completion Date as provided in **Section 1.3(c)**.

SECTION 5 PAYMENTS TO DESIGN-BUILDER

5.1 **INVOICING AND PAYMENT**

(a) **Submission of Invoices.** In order to receive payment for its Services performed in connection with the pre-construction design phase of the Project pursuant to **Section 2.1**, the DESIGN-BUILDER must submit an invoice in accordance with the Schedule of Fees detailing the Services provided and the amount charged (each, an "**Invoice**"). Each Invoice must be accompanied with an updated CD-ROM of the design files and an updated Project schedule in form and substance acceptable to CITY.

(b) **Payment Period.** Subject to the terms and conditions provided herein, CITY will pay each undisputed Invoice received pursuant to **Section 5.1(a)** within thirty (30) days after receipt and approval by CITY of said Invoice. CITY may request additional documentation from the DESIGN-BUILDER prior to payment of any Invoice. CITY may disallow and deduct any cost for which proper documentation is not provided.

(c) **Reimbursable Expenses.** "**Reimbursable Expenses**" means the actual, necessary and reasonable expenses incurred directly or indirectly in connection with the Project for: transportation and subsistence incidental thereto for Project visitation as approved in advance by the Project Manager and drawings and specifications and similar Project-related items, all in accordance with the CITY's Policy and Procedures Manual.

5.2 **SCOPE, COST AND FEE ADJUSTMENT**

(a) **General.** CITY may at any time request changes to the Scope of Services. CITY shall make such request by delivering to the DESIGN-BUILDER a notification stating the

proposed Scope of Services modification and an adjustment of the Schedule of Fees in **Exhibit C** to reflect such modification. The fee adjustment due to modification in the Scope of Services may be calculated utilizing the same method of compensation applicable to the AGREEMENT prior to the Scope of Services modification.

(b) **Scope Reduction.** CITY shall have the right to reduce (or eliminate, in whole or in part) the Scope of the Services at any time and for any reason, upon providing written notice to the DESIGN-BUILDER specifying the nature and extent of the reduction. In such event the DESIGN-BUILDER shall be fully compensated for the Services performed prior to such reduction or elimination.

(c) **Scope Suspension.** CITY may, at any time and for any reason, direct the DESIGN-BUILDER to suspend Services (in whole or in part) under this AGREEMENT. Such direction shall be in writing, and shall specify the period during which Services shall be stopped. The DESIGN-BUILDER shall resume its Services upon the date specified, or upon such other date as CITY may thereafter specify in writing. The period during which the Services are stopped by CITY shall be added to the term; provided however, that any work stoppage not approved or caused by the actions or inactions of CITY shall not give rise to any claim against CITY by the DESIGN-BUILDER. CITY agrees to compensate the DESIGN-BUILDER for its reasonable and provable costs, profits (as agreed to by CITY), and losses (including overhead costs, reimbursable, demobilization, remobilization, and subcontractor expenses incurred) attributable to any delay approved or caused by the actions or inaction of CITY.

5.3 **TERMINATION.** Upon the termination of this AGREEMENT, the DESIGN-BUILDER shall prepare a final and complete Invoice for all Services and Reimbursable Expenses incurred since the posting of the last Invoice, and through the date of termination. The final Invoice shall be subject to all of the provisions described in this **Section 5.**

5.4 **FINAL PAYMENT.** The acceptance by the DESIGN-BUILDER, its successors, or assigns, of any final payment due on account of the pre-construction design phase of the Project shall constitute a full and complete release of CITY from any and all claims or demands regarding further compensation for authorized Services rendered prior to such final payment that the DESIGN-BUILDER, its successors, or assigns have or may have against CITY under the provisions of this AGREEMENT, unless otherwise previously and properly filed pursuant to the provisions of this AGREEMENT, or in a court of competent jurisdiction. This **Section 5.4** does not affect any other portion of this AGREEMENT that extends obligations of the parties beyond final payment.

5.5 **LIVING WAGE.** The DESIGN-BUILDER, as well as its subcontractors at all tiers, shall pay to all of their employees providing Services pursuant to a contract with the CITY, a living wage for the time spent providing Services to the CITY. (This provision does not include general administrative personnel unless they are assigned to a CITY project.) “Living wage” means compensation for employment of not less than \$8.50 per hour for straight time, exclusive of FICA, unemployment taxes, and workers compensation insurance and employee benefits. Necessary payroll documentation shall be provided to confirm compliance with this provision or the DESIGN-BUILDER shall allow the CITY to audit (at DESIGN-BUILDER’s place of

business) its payroll records to determine if compliance has been achieved. Failure to comply with the provision may result in termination of the contract and/or preclusion from future CITY contracts at the sole option of the CITY. This provision shall apply to all bid and proposal awards for Services which involve CITY expenditures that exceed \$100,000.00 per year.

SECTION 6 TERMINATION

6.1 **TERMINATION BY CITY FOR CAUSE.** CITY may, in its sole and absolute discretion, by written notice of default to the DESIGN-BUILDER, terminate all or any part of this AGREEMENT if (a) the DESIGN-BUILDER fails to perform the Services described herein, within the time specified herein or any extension hereof; or (b) if the DESIGN-BUILDER fails to satisfy any of the other provisions of the AGREEMENT, or so fails to make progress as to endanger performance of this AGREEMENT in accordance with its terms; and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as CITY may in its sole discretion authorize in a writing signed by CITY) after receipt of notice from CITY specifying such failure. In the event that CITY elects to waive its remedies for any breach by the DESIGN-BUILDER of any covenant, term or condition of this AGREEMENT, such waiver by CITY shall not limit CITY's remedies for any succeeding breach of that or of any other term, covenant, or condition of this AGREEMENT.

6.2 **TERMINATION BY CITY FOR CONVENIENCE.** This AGREEMENT may be terminated by CITY in its absolute discretion, in whole or in part, whenever CITY shall determine that such termination is in its best interest. Any such termination shall be effected by delivery of a notice of termination by CITY to the DESIGN-BUILDER, signed by CITY, specifying the extent to which performance of work under the AGREEMENT is terminated, and the date upon which such termination becomes effective. The DESIGN-BUILDER shall be paid its costs, including contract closeout costs, and profit on Services performed by the DESIGN-BUILDER up to the effective date of AGREEMENT termination. The DESIGN-BUILDER shall promptly submit its claim for final payment to CITY.

6.3 **TERMINATION BY DESIGN-BUILDER FOR CAUSE.** In the event CITY is in default under this AGREEMENT, the DESIGN-BUILDER shall first provide written notice to CITY of said condition alleged by the DESIGN-BUILDER to be a default, and CITY shall have a reasonable period of time, not to exceed sixty (60) days, within which to cure said default. During said period, the DESIGN-BUILDER shall continue to provide the services to CITY. In the event CITY continues to be in default under this AGREEMENT upon the expiration of the time period set forth above for curing its default, this AGREEMENT may be terminated by the DESIGN-BUILDER upon providing a notice of termination to CITY.

6.4 **REMEDIES FOR DEFAULT BY DESIGN-BUILDER.** If this AGREEMENT is terminated by CITY for default by the DESIGN-BUILDER, CITY shall, except as otherwise expressly set forth in the Contract Documents, retain any and all remedies available for it against the DESIGN-BUILDER, all of which remedies shall be cumulative. By way of illustration and not limitation, CITY may proceed to obtain the remaining Services from another third party and thereby recover from the DESIGN-BUILDER any "excess costs" incurred by CITY in so doing.

6.5 **DELIVERY OF MATERIALS UPON TERMINATION.** In the event of termination of this AGREEMENT by CITY, prior to the DESIGN-BUILDER's satisfactory completion of all the Services described or alluded to herein, the DESIGN-BUILDER shall promptly furnish CITY, at no additional cost or expense, with one (1) copy of the following items ("**Documents**"), any or all of which may have been produced prior to and including the date of termination: data, specifications, calculations, estimates, plans, drawings, construction documents, photographs, summaries, reports, memoranda; CD-ROM design files, and any and all other documents, instruments, information, and materials (whether or not completed) generated or prepared by the DESIGN-BUILDER, or by any subcontractors at all tiers, in rendering the Services described herein, and not previously furnished to CITY by the DESIGN-BUILDER pursuant to this AGREEMENT. The Documents shall be the sole property of CITY, and CITY shall be vested with all rights provided therein of whatever kind and however created. The DESIGN-BUILDER shall also require that all such subcontractors at all tiers agree in writing to be bound by the provisions of this Subsection. Although the Documents will be the sole property of CITY, neither DESIGN-BUILDER nor their design consultants will be responsible for any errors or omissions in the Documents and there will be no guarantee that the Documents will be fit for their intended use.

SECTION 7 MATERIALS AND REUSE OF DOCUMENTS

The DESIGN-BUILDER shall supply CITY with at least one reproducible copy of all data, job files, test reports, cost control and scheduling data, computer printouts, summaries, memoranda, CD-ROM design files, and other written work, documents, instruments, information, and materials (whether or not completed) generated or prepared by the DESIGN-BUILDER especially for the Services rendered hereunder at CITY's request during the term of the AGREEMENT, upon termination, and with the DESIGN-BUILDER's final payment invoice) by the DESIGN-BUILDER. The final work product of all such materials (*e.g.*, signed and sealed plans and specifications which record design in written and CD-ROM formats; studies; analyses; and so forth), along with all formal DESIGN-BUILDER/CITY correspondence concerning the Project (*e.g.* letters, tapes, memoranda, etc.) shall be the sole property of CITY. All materials described above shall be retained by the DESIGN-BUILDER for the statutory period (§95.11, Fla. Stat., as it may be from time-to-time amended). Furthermore, CITY may reuse them at no additional cost, and CITY shall be vested with all rights of whatever kind and however created that may be in existence thereto. The design, plans, drawings and specifications shall be a "work made for hire," and the City shall be vested with all rights of ownership therein.

SECTION 8 NOTICES

All notices denominated as such by this AGREEMENT required to be given to the DESIGN-BUILDER hereunder shall be in writing, and shall be given by hand-delivery, facsimile transmission, or United States mail, postage prepaid, addressed to the DESIGN-BUILDER:

Robert High, President
H.J. Construction Company
1015 West Amelia Street
Orlando, Fl 32805

All notices required to be given to CITY shall be in writing, and shall be given by hand-delivery, facsimile transmission, or United States mail, postage prepaid, to CITY at:

David Billingsley, CPSM, C.P.M.
Chief Procurement Officer
CITY OF ORLANDO
400 South Orange Avenue, 4th Floor
Orlando, Florida 32801

Either party may change its address, for the purposes of this **Section 8**, by written notice to the other party given in accordance with the provisions hereof.

SECTION 9

MBE/WBE PARTICIPATION

9.1. **City Code Chapter 57.** Chapter 57, Articles II and III, of the Orlando City Code, (“**Chapter 57**”) establishes goals of eighteen percent (18%) and six percent (6%), respectively, of the CITY's annual monetary value of contracts for supplies, services and construction to be awarded to Minority Business Enterprises (“**MBE**”) and Women-Owned Business Enterprises (“**WBE**”).

9.2. **MBE and WBE Participation.** The DESIGN-BUILDER agrees to make a good faith effort to provide that eighteen percent (18%) of the dollar amount of the AGREEMENT is performed by MBEs and six percent (6%) of the dollar amount of the AGREEMENT is performed by WBEs. DESIGN-BUILDER shall utilize the MBEs and WBEs for the Services and in the amounts identified in **Exhibits A** and/or **C** attached hereto. Should the scope of Services herein be increased, the DESIGN-BUILDER agrees to make a good faith effort to include MBE and WBE participation in the increased Services. Such participation shall be in accordance with the MBE and WBE percentages stated above.

9.3. **Substitution.** The DESIGN-BUILDER may, under limited circumstances, substitute an MBE or WBE firm from a firm identified in the Exhibit(s). However, substitution shall only be allowed upon good cause shown as determined by the CITY's MBE official. The DESIGN-BUILDER must receive written approval of the MBE official before substitution will be allowed. Failure to comply shall result in the CITY imposing penalties on the DESIGN-BUILDER; such penalties may include termination of the AGREEMENT or suspension or debarment from obtaining future CITY contracts.

9.4. **Reporting.** The DESIGN-BUILDER shall submit monthly reports in a form acceptable to the CITY to the MBE Office, 400 South Orange Avenue, 5th Floor, Orlando, Florida 32801, documenting compliance with this AGREEMENT. The initial report shall be submitted within ten (10) days after the execution of the AGREEMENT and shall include the names of participating MBEs and WBEs and the MBE and WBE Subcontract dollar amounts. The initial report shall also include copies of all MBE and WBE Subcontracts. Subsequent reports shall include documentation on the number of hours worked and the Services performed.

9.5. **No Third-Party Beneficiary.** There shall be no third party beneficiaries of the Minority Business Enterprise or Women-Owned Business Enterprise provisions of this AGREEMENT. The CITY shall have the exclusive means of enforcement of Chapter 57 and the AGREEMENT terms. No right of action for non-signatories of the AGREEMENT is intended or implied. The CITY is the sole judge of compliance and whether a good faith effort has been made under Chapter 57 and the AGREEMENT.

SECTION 10 DESIGN-BUILDER'S PROJECT TEAM

The DESIGN-BUILDER shall designate members of its staff and its subcontractors as the DESIGN-BUILDER's principal-in-charge, project manager and key personnel (collectively, the "**Project Team**"), who shall collectively devote such working time and attention as may be reasonably required to ensure that the Services are properly, economically, and efficiently performed. The DESIGN-BUILDER shall inform CITY as to the authority and powers that the DESIGN-BUILDER's Project Team shall possess during the life of the Project. The DESIGN-BUILDER agrees that CITY shall have the right to approve the DESIGN-BUILDER's Project Team, and that the DESIGN-BUILDER shall not change any member of its Project Team without obtaining written approval from CITY. Furthermore, if any member of the DESIGN-BUILDER's Project Team is removed from his or her Project duties, or his or her employment is otherwise terminated or curtailed by the DESIGN-BUILDER, or if the DESIGN-BUILDER's Project Team member terminates his or her employment with the DESIGN-BUILDER, then the DESIGN-BUILDER shall promptly replace such Project Team member with a person of comparable experience and expertise.

**SECTION 11
INDEMNIFICATION AND INSURANCE**

11.1 **INDEMNIFICATION.** The DESIGN-BUILDER shall indemnify and hold harmless the CITY, its employees and officers, from liabilities, damages, losses, and costs including, but not limited to, reasonable attorney’s fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the DESIGN-BUILDER and persons employed or utilized by the DESIGN-BUILDER in the performance of the AGREEMENT. This provision shall survive the expiration or termination of the AGREEMENT.

11.2 **INSURANCE.**

(a) **Required Insurance.** The DESIGN-BUILDER shall purchase, maintain, and keep in full force, effect, and good standing, such insurance that is further described below, and any other insurance necessary to fully protect DESIGN-BUILDER from claims of the nature that are detailed below, that may arise out of, or result from, the DESIGN-BUILDER’s operations, performance, or Services, or all of these things, or any of these things in combination (“**DESIGN-BUILDER’s Operations**”), whether the DESIGN-BUILDER’s Operations are by the DESIGN-BUILDER, any of its agents or subcontractors, or anyone for whose act or acts it may be liable:

- (i) claims under Worker’s Compensation, disability benefit, or other (similar) employee benefit acts;
- (ii) claims for damages because of bodily injury, sickness or disease, or death of any person other than its employees;
- (iii) claims for damages for personal injury; and
- (iv) claims for damages because of injury to or destruction of tangible property, including the loss of property use resulting therefrom.

(b) **Insurance Limits.** The insurance required by **Section 11.2(a)** shall be written for not less than the limits of liability specified below, or such limits required by law, whichever is greater:

<u>Type of Insurance</u>	<u>Required Coverages</u>
(i) Worker’s Compensation; Employer’s Liability	Florida statutory limit \$500,000 per accident
(ii) Comprehensive General Liability:	
Bodily Injury	\$1,000,000 per occurrence
Property Damage	\$1,000,000 per occurrence

Personal Injury	\$1,000,000 per occurrence
Bodily Injury, Personal Injury and Property Damage	\$1,000,000 combined single-limit per occurrence and aggregate
(iii) Business Automobile Liability	\$1,000,000 per occurrence

(c) **Errors and Omissions Policy.** The DESIGN-BUILDER shall require the architect or engineer of record, as applicable, and other design professionals to purchase, maintain, and keep in full force, effect, and good standing, a professional liability/errors and omissions insurance policy having minimum limits of \$1,000,000, with a maximum deductible of \$100,000.

(d) **Insurance Administration.** Insurance certificates, in form and content acceptable to CITY, evidencing all insurance coverages referred to in this Section, shall be delivered to CITY at least ten (10) calendar days before any Services are commenced by the DESIGN-BUILDER under this AGREEMENT. The insurance certificates shall provide and specify that the related insurance coverage shall not be cancelled without at least thirty (30) calendar days prior written notice having been given to CITY. It is also understood and agreed that it is the DESIGN-BUILDER's sole burden and responsibility to coordinate activities between itself, CITY, and the DESIGN-BUILDER's insurer(s) so that the insurance certificates are acceptable to and accepted by CITY within the time limits described in this Section.

(e) **CITY As Additional Insured.** CITY shall be listed as an additional insured on all insurance coverages required by this AGREEMENT, except Worker's Compensation and Professional Liability errors and omissions insurance. Furthermore, all other insurance policies pertaining to the Services to be performed under this AGREEMENT shall memorialize that the DESIGN-BUILDER or the DESIGN-BUILDER's subcontractors, or all of these entities' ("**Primary Insureds**") insurance, shall apply on a primary basis, and that any other insurance maintained by CITY shall be in excess of and shall not contribute to or be commingled with the Primary Insureds' insurance. Where CITY has been named as an additional insured, the DESIGN-BUILDER shall include the provisions of this Subsection in its subcontractors' at all tiers contracts and the Primary Insureds' insurance shall contain a severability of interest provision stating that, except with respect to total limits of liability, all insurance shall apply separately to each Primary Insured or the additional insured in the same manner as if separate policies had been issued to each.

(f) **CITY's Right to Inspect Policies.** The DESIGN-BUILDER shall, upon thirty (30) days' written request from CITY, deliver copies to CITY, or make copies available for CITY's inspection at Orange County, Florida, of any or all insurance policies that are required in this AGREEMENT. If the DESIGN-BUILDER fails to deliver or make such copies available to CITY; or, if the DESIGN-BUILDER fails to obtain new insurance or have a previous insurance policy reinstated or renewed; or, if the DESIGN-BUILDER fails in any other regard to obtain coverage sufficient to meet the terms and conditions of this AGREEMENT; then CITY may, at its sole option, terminate this AGREEMENT for cause pursuant to the terms and conditions of **Section 6.1.**

(g) **Notifications.** The DESIGN-BUILDER acknowledges, understands, and agrees that it shall give prompt and prior written notice to CITY that any insurance policy defined or contemplated in this **Section 11.2** has lapsed, its limits have been reduced below the amounts required hereunder or such policy has otherwise been terminated.

SECTION 12 MISCELLANEOUS PROVISIONS

12.1 **RECORDS.** The DESIGN-BUILDER shall maintain and require each of its subcontractors at all tiers to maintain complete and accurate books and records (“**Books**”) in accordance with sound accounting principles and standards relating to all Services, and the related costs and expenditures to CITY that have been contracted for and paid during the life of this AGREEMENT. The Books shall identify the Services rendered during each month of the AGREEMENT, the date that each Project expense was incurred, and whether the expense was Service or reimbursable-related. These Books shall be maintained for five (5) years following Final Payment.

12.2 LOCAL, STATE AND FEDERAL OBLIGATIONS.

(a) **Compliance with Law.** The DESIGN-BUILDER and its employees shall promptly observe, comply with, and execute the provisions of any and all present and future federal, state, and local laws, rules, regulations, requirements, ordinances, orders, mandatory guidelines, and mandatory directions, which may pertain or apply to the Services that may be rendered hereto. The DESIGN-BUILDER shall also require, by contract, that all subcontractors at all tiers comply with the terms hereof.

(b) **Licenses.** The DESIGN-BUILDER shall, during the life of this AGREEMENT, procure and keep in full force, effect, and good standing all necessary licenses, registrations, certificates, permits, and other authorizations as are required by local, state, or federal law, in order for the DESIGN-BUILDER to render its Services or Work as described herein. The DESIGN-BUILDER shall also require all of its subcontractors at all tiers to comply by contract with the provisions of this Subsection.

(c) **Compliance With New Regulations.** The DESIGN-BUILDER agrees that at such time as the local, state, or federal agencies modify their grant procedures in order for CITY or the DESIGN-BUILDER to qualify for local, state, or federal funding for the Services to be rendered by the DESIGN-BUILDER, then the DESIGN-BUILDER shall consent to and make such modifications or amendments in a timely manner. If the DESIGN-BUILDER is unable to comply with applicable local, state, or federal laws and regulations governing the grant of such funds for Services to be rendered herein, then CITY shall have the right, by written notice to the DESIGN-BUILDER, to terminate this AGREEMENT without liability. Furthermore, if the DESIGN-BUILDER’s compliance with such grant laws, regulations, rules, or procedures causes a material change to a term or condition of this AGREEMENT, then CITY agrees, upon sufficient proof of material changes as may be presented to it by the DESIGN-BUILDER, to amend all related CITY/DESIGN-BUILDER contractual obligations, and to revise such contract budgets accordingly.

12.3 **DESIGN-BUILDER NOT AGENT OF CITY.** The DESIGN-BUILDER is not authorized to act as CITY's agent hereunder and shall have no authority, expressed or implied, to act for or bind CITY hereunder, either in DESIGN-BUILDER's relations with its subcontractors at all tiers or in any other manner whatsoever except as elsewhere provided for in this AGREEMENT.

12.4 **ASSIGNMENT.** CITY has selected the DESIGN-BUILDER to render the Services based in substantial part on the personal qualifications of the DESIGN-BUILDER; as such, the DESIGN-BUILDER may not assign or transfer any right or obligation of this AGREEMENT in whole or in part, without the prior written consent of CITY, which consent may be granted or withheld in the sole discretion of CITY. Any direct or indirect change in the ownership (legal or equitable) of a controlling and/or a majority interest of the DESIGN-BUILDER, whether such change in ownership occurs at one time or as a result of sequential incremental changes, and whether said change is by sale, assignment, hypothecation, bequest, inheritance, operation of law, merger, consolidation, reorganization or otherwise, shall be deemed an assignment of this AGREEMENT subject to the consent of CITY. The DESIGN-BUILDER may utilize subcontractors as otherwise permitted and provided in the Contract Documents. Any assignment or transfer of any obligation under this AGREEMENT without the prior written consent of CITY shall be void, *ab initio*, and shall not release the DESIGN-BUILDER from any liability or obligation under the AGREEMENT, or cause any such liability or obligation to be reduced to a secondary liability or obligation.

12.5 **AUDITS**

(a) **Periodic Auditing of DESIGN-BUILDER's Books.** The Books may (but need not) be kept separate and apart from the DESIGN-BUILDER's other books; but CITY shall have the right, at any reasonable time and through any of its designated agents or representatives, to inspect and audit the Books for the purpose of verifying the accuracy of any Invoice or completion report. In lieu of the above and upon request of CITY, the DESIGN-BUILDER shall prepare an audit (for the most recent fiscal year) for CITY, which shall include the DESIGN-BUILDER's paid salary, fringe benefits, general and administrative overhead costs, and the total amount of money paid by CITY to the DESIGN-BUILDER. The fiscal report shall be certified as true and correct by, and shall bear the signature of, the DESIGN-BUILDER's chief financial officer or its certified public accountant.

(b) **Retention of Books.** The DESIGN-BUILDER shall retain the Books, and make them available to CITY as specified above, until the later of five (5) years after the date of termination or expiration of this AGREEMENT, or such longer time if required by any federal, state, or other governmental law, regulation, policy, or contractual or grant requirement or provision.

(c) **Overcharge.** If it is established by the audit, or by any other means, that the DESIGN-BUILDER has over-billed or overstated its costs, fees, or reimbursable expenses ("**Overcharge**") to the CITY, then the amount of any Overcharge shall be refunded by the DESIGN-BUILDER, plus interest at twelve percent (12%) simple interest per annum, together with the CITY's reasonable and provable costs (including the auditing expenses) in discovering the Overcharge and effecting its repayment.

12.6 **SUBCONTRACTOR CONTRACTS.** The DESIGN-BUILDER shall provide a copy of all relevant provisions of this AGREEMENT to all subcontractors hired by it, or for which it may have management responsibilities and shall inform all subcontractors at all tiers that the Services performed hereunder shall strictly comply with the AGREEMENT's terms. The DESIGN-BUILDER shall also furnish the CITY, upon demand, with a copy of all of the subcontractors' at all tiers contracts.

12.7 **ENTIRE AGREEMENT.** This AGREEMENT, including the Exhibits hereto, constitutes the entire AGREEMENT between the parties, and shall supersede and replace all prior agreements or understandings, written or oral, relating to the matters set forth therein, and that specifically related to the execution of this particular document.

12.8 **AMENDMENT.** This AGREEMENT may be amended or modified only by a written instrument duly authorized and executed by the parties.

12.9 **VALIDITY.** The validity, interpretation, construction, and effect of this AGREEMENT shall be in accordance with and governed by the laws of the State of Florida, only. In the event any provision hereof is determined to be unenforceable or invalid, such unenforceability or invalidity shall not affect the remaining provisions of this AGREEMENT, which shall remain in full force and effect. To that extent, this AGREEMENT is deemed severable.

12.10 **HEADINGS.** The headings of the Sections or Subsections of this AGREEMENT are for the purpose of convenience only, and shall not be deemed to expand, limit, or modify the provisions contained in such Sections or Subsections.

12.11 **TIMELINESS.** CITY and the DESIGN-BUILDER acknowledge and understand that time is of the essence in this AGREEMENT and that the Services shall be performed in as expeditious a manner as may be in accord with the nature of the Project.

12.12 **FORCE MAJEURE.** The parties acknowledge that adverse weather conditions, acts of God, or other unforeseen circumstances of a similar nature, may necessitate modifications to this AGREEMENT, such modifications to include, but not be limited to, the Project's Services, schedule, and Schedule of Fees. If such conditions and circumstances do in fact occur, then CITY and DESIGN-BUILDER shall mutually agree, in writing, to the modifications to be made to this AGREEMENT.

12.13 **RIGHTS CUMULATIVE; NO WAIVER.** No right or remedy herein conferred upon or reserved to either party hereto is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of a default hereunder. The failure of either party hereto to insist, at any time, upon the strict observance or performance of any of the provisions of this AGREEMENT, or to exercise any right or remedy as provided in this AGREEMENT, shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof with respect to subsequent defaults. Every right and remedy given by this AGREEMENT to the parties hereof may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

12.14 **DISCRIMINATION**. The DESIGN-BUILDER covenants and agrees that, 1) in the furnishing of Services to the CITY hereunder, no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in regard to this AGREEMENT on the grounds of such person's race, color, creed, national origin, disability, sexual orientation, religion or sex; and 2) the DESIGN-BUILDER shall comply with all existing requirements concerning discrimination imposed by any and all applicable local, state, and federal rules, regulations, or laws, and as such rules, regulations, or laws may be from time to time amended. In the event of a breach of any of the nondiscrimination covenants described in this Subsection, the CITY shall have the right to terminate this AGREEMENT, without liability, as described above.

12.15 **TRUTH-IN-NEGOTIATIONS**. The DESIGN-BUILDER shall execute a Truth-in-Negotiation Certificate in the form attached hereto and made a part hereof, by reference, as **Exhibit D**. It is agreed by the DESIGN-BUILDER that the Schedule of Fees set forth in **Exhibit C**, and any modifications thereto, shall be adjusted to exclude any sum [plus interest at twelve percent (12%) per annum simple interest on the sums, from the date of payment by the CITY] by which the CITY determines that the price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs.

12.16 **ENTIRE CONTRACT**. This AGREEMENT, including the Contract Documents referenced above, together with any Exhibits or attachments hereto, constitutes the entire agreement between the parties.

12.17 **GOVERNING LAW**. The parties mutually acknowledge and agree that this AGREEMENT shall be construed in accordance with the laws of the State of Florida.

12.18 **PUBLIC ENTITY CRIME**. Any Person or affiliate, as defined in Section 287.133 of the *Florida Statutes*, shall not be allowed to contract with the CITY, nor be allowed to enter into a Subcontract for work on this AGREEMENT, if such a person or affiliate has been convicted of a public entity crime within three (3) years of the date this AGREEMENT was advertised for proposals, or if such person or affiliate was listed on the State's convicted vendor list within three (3) years of the date this AGREEMENT was advertised, whichever time period is greater. A public entity crime means a violation of any state or federal law with respect to and directly related to the transaction of business with any public entity or agency (federal, state or local), involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, forgery, falsification of records, receiving stolen property or material misrepresentation. Any agreement with the CITY obtained in violation of this Section shall be subject to termination for cause. A subcontractor who obtains a Subcontract in violation of this Section shall be removed from the Project and promptly replaced by a subcontractor acceptable to the CITY.

SECTION 13 CONFLICTS OF INTEREST

The DESIGN-BUILDER represents and warrants unto CITY that no officer, employee, or agent of CITY has any interest, either directly or indirectly, in the business of the DESIGN-BUILDER to be conducted hereunder. It is absolutely understood and agreed by the DESIGN-BUILDER

that, for the breach or violation of this Section, CITY shall have the right to terminate this AGREEMENT without liability and at its sole discretion.

IN WITNESS WHEREOF, the authorized signatories named below have executed this AGREEMENT on behalf of the parties as of the date first set forth above.

City of Orlando, Florida

By: _____
David Billingsley, CPSM, C.P.M.
Chief Procurement Officer

Date: _____

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA.

_____, 20____

Assistant City Attorney
Orlando, Florida

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A
SCOPE OF SERVICES



H. J. HIGH CONSTRUCTION
BUILD TRUST. BUILD QUALITY. BUILD COMMUNITY.

May 14, 2014

Mr. Steven Wiedenbeck, P.E.
Project Manager
City of Orlando
400 South Orange Ave, Orlando, FL 32801

Dear Mr. Wiedenbeck:

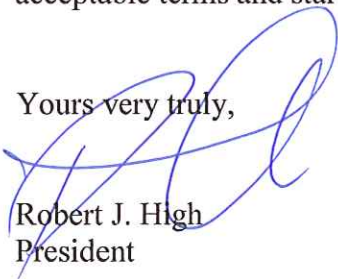
We have prepared a proposal for the complete Design and Engineering required for the proposed New Orlando Police Department Headquarters.

The project is an approximately 130,000 square foot, three story, tilt wall facility. We anticipate the facility shall include the program and functions as outlined in RFP14-0133. For the purposes of this design proposal we have assumed a construction budget of \$34 million and an overall project budget of \$40 million. The anticipated duration of design is approximately 10 months.

The consultants retained at H. J. High's expense for the purposes of design are listed with their associated scope. We have included allowances to cover design scope that has yet to be determined and a contingency to cover any unknown design requirements. Please note that these costs exclude all permitting and impact fees. As the design/builder H. J. High will provide project management and cost estimating services for the project during the design phase. We have also included our proposed construction labor assignments and construction fee as requested.

Upon your acceptance of this proposal we anticipate going to contract under mutually acceptable terms and starting on this important project.

Yours very truly,



Robert J. High
President

EXHIBITS

Exhibit A	Design Phase Proposal
Exhibit B	Design Phase Proposal with MWBE Breakout
Exhibit C	Proposed Labor Assignments – Construction
Exhibit D	Proposed Fee – Construction
Exhibit E	Scope of Services
Exhibit F	Preliminary Design Schedule Milestones

City Of Orlando – OPD Headquarters

Design Phase Proposal April 30, 2014

Project Budget	\$	40,000,000
Const. Budget	\$	34,000,000
Const. w/o Site	\$	32,250,000

Estimate Summary		
Direct Costs:		
Basic Design Costs		Notes
Architectural Design	\$2,108,718 *	Florida DMS Calculator - Group "A"
Structural Engineering	incl	
Mechanical Engineering	incl	
Plumbing Engineering	incl	
Electrical Engineering	incl	
Fire Protection	incl	
Basic Design Costs Subtotal:		\$2,108,718
Pre-Design Services		
Detailed Spatial Needs Assesment	\$56,280	ADG/R&B
Existing Facility Assesment - Programming Validation	\$18,880	ADG/R&B
Master Planning	\$43,560	ADG/R&B
Pre-Design Costs Subtotal:		\$118,720
Additional Services		
Civil Engineering	\$120,833 *	WBQ
Topo & Boundary Surveys	\$19,495	Southeastern
Geotechnical Engineering Services	\$10,000	Terracon
Traffic Study	\$12,000	GMB Engineers
Landscape Architecture	\$49,220 *	Bellomo Herbert
Security/Tech/A-V	\$147,488 *	TLC
Interior Design	\$160,000	Allowance
LEED Administration	\$18,600 *	TLC
LEED Energy Modeling	\$19,600 *	TLC
Fundamental & Enhanced Commissioning	\$81,700 *	TLC
LEED Design & Specifications	\$55,400	ADG/R&B
LEED Registration Fee	\$5,000	Allowance
Graphic & Signage Design	\$28,800	Allowance
Grant Programs Research & Analysis	\$5,850	ADG/R&B
OBT Board Development Meetings & Prep	\$5,250	ADG/R&B
Design Renderings for Public Meetings, Etc.	\$12,800	ADG/R&B
Additional Services Subtotal:		\$752,036
Design Phase Contingency		\$200,000
Design Direct Cost Subtotal:		\$3,179,474 *
Indirect Costs:		
Reimbursable Expenses	\$35,000	
Project Management & Estimating Services - 1%	\$340,000	
Design Indirect Cost Subtotal:		\$375,000
Proposal Total:		\$3,554,474

*Includes Construction Admin Services

City Of Orlando – OPD Headquarters

Design Phase Proposal - MWBE BREAKOUT April 29, 2014

Project Budget	\$ 40,000,000
Const. Budget	\$ 34,000,000
Const. w/o Site	\$ 32,250,000

Estimate Summary					
Direct Costs:			Firm	MBE	WBE
Basic Design Costs					
Architectural Design	*				
ADG	\$1,086,614				
Rhodes & Brito	\$489,758			\$489,758	
Structural Engineering - Base Consultants	\$177,449				\$177,449
Mechanical Engineering - Milan Eng	\$354,897			\$354,897	
Plumbing Engineering		incl			
Electrical Engineering		incl			
Fire Protection		incl			
Basic Design Costs Subtotal:			\$2,108,718		
Pre-Design Services					
Detailed Spatial Needs Assessment					\$0
ADG	\$45,024				
Rhodes & Brito	\$11,256			\$11,256	
Existing Facility Assessment - Programming Validation	\$18,880		ADG		
Master Planning					
ADG	\$31,040				
Rhodes & Brito	\$7,760			\$7,760	
WBQ	\$4,760			\$4,760	
Pre-Design Costs Subtotal:			\$118,720		
Additional Services					
Civil Engineering	\$120,833 *		WBQ		\$120,833
Topo & Boundary Surveys	\$19,495		Southeastern		
Geotechnical Engineering Services	\$10,000		Terracon		
Traffic Study	\$12,000		GMB Engineers	\$12,000	
Landscape Architecture	\$49,220 *		Bellomo Herbert		
Security/Tech/A-V	\$147,488 *		TLC		
Interior Design	\$160,000		Allowance		
LEED Administration	\$18,600 *		TLC		
LEED Energy Modeling	\$19,600 *		TLC		
Fundamental & Enhanced Commissioning	\$81,700 *		TLC		
LEED Design & Specifications			Design Team		
ADG	\$24,680				
Rhodes & Brito	\$7,920			\$7,920	
Milan Engineering	\$14,000			\$14,000	
Base Consultants	\$8,800				\$8,800
LEED Registration Fee	\$5,000		Allowance		
Graphic & Signage Design	\$28,800		Allowance		
Grant Programs Research & Analysis	\$5,850		ADG		
OBT Board Development Meetings & Prep	\$5,250		ADG		
Design Renderings for Public Meetings, Etc.	\$12,800		ADG		
Additional Services Subtotal:			\$752,036		
Design Phase Contingency					
			\$200,000		
Design Direct Cost Subtotal:			\$3,179,474 *		
Indirect Costs:					
Reimbursable Expenses	\$35,000				
Project Management & Estimating Services - 1%					
H. J. High	\$289,000				
RL Burns	\$51,000			\$51,000	
Design Indirect Cost Subtotal:			\$375,000		
Proposal Total:			\$3,554,474		
Total Excluding Contingency					
			\$3,354,474	\$1,074,184	\$186,249
TOTAL MWBE PERCENTAGE - DESIGN PHASE CONTRACT			37.57%	32.02%	5.55%

*Includes Construction Admin Services

-Overall Construction Admin Value	\$569,459.50
-MWBE Construction Admin Value	\$285,734.25

Orlando Police Department Headquarters

Labor Assignments

<i>Project Management</i>	<i>Designation</i>	<i>Location</i>	<i>Base Weekly Rate</i>	<i>Labor Burden</i>	<i>Total Weekly Rate</i>
Principal In Charge	Included in Fee	Home Office	-	-	-
Project Executive	Included in Fee	Home Office	-	-	-
Project Manager	Full Time	On Site	2,000	32%	2,640
Assistant Project Manager	Full Time	On Site	1,600	32%	2,112
Sr. Superintendent	Full Time	On Site	2,000	32%	2,640
Assistant Superintendent	Full Time	On Site	1,600	42%	2,272
Assistant Superintedent	Allowance	On Site	1,600	42%	2,272
Project Assistant	Full Time	On Site	850	31%	1,114
Project Accountant	3 days per Week	Home Office	950	31%	747
Safety Manager	1 day per Week	Home Office	300	31%	393

For the purposes of developing the construction fee for the project, we investigated similar projects, their delivery method, date of completion, budget, and fee:

Orlando Police Department Headquarters					
Historic Fee % Case Study					
Project	Delivery	Date	Owner	Project Budget	Fee
Paynes Prairie Restoration	CMAR	7/3/2012	Gainesville Regional Utility	\$22,063,179	4.80%
Ormond Beach Middle School	CMAR	10/7/2011	VCSB	\$39,128,000	4.50%
Fire Station #1	DB	6/16/2009	City of Orlando	\$19,140,801	6.50%
Sanford Public Safety Center	CMAR	6/9/2009	Sanford	\$15,930,416	5.50%
Sunrise Public Safety Center	CMAR	11/1/2008	City of Sunrise	\$32,500,000	4.30%
Cape Coral Police Department	CMAR	9/1/2007	City of Cape Coral	\$19,114,000	4.80%
Courthouse Parking Garage	DB	4/15/2002	City of Orlando	\$7,123,776	5.00%
Average					5.06%

In light of the complexity of the project, budget constraints, schedule constraints, and associated requirements of the design/builder to successfully design and construct this facility, **we submit a construction fee of 5.50%**

SCOPE OF WORK

1 - Pre-Design Services

1.1. Task One: Detailed Spatial Needs Assessment

During this task the Design Team shall prepare a detailed space-by-space list of requirements for the proposed facility. The process shall be initiated by review of previous Needs Assessments, including the criteria prepared by the City's Design Criteria Professional and specifically, the list of Staff/Area Projections identified as Exhibit "4" – Building and Parking Criteria, provided in the RFP 14-0133 packet. The Architect shall conduct one-on-one interviews with the project stakeholders, to understand operations and needs of the facility. The Architects shall then prepare a report documenting the space requirements, including to the extent possible, equipment (existing and new), and technology systems (security, voice/data and audio/visual) that will be required for operations of the completed facility.

Deliverable Product: A report to the City that discusses routine operations and procedures, a narrative and space-by-space spreadsheets of the detailed Facility Program Requirement, for both current and future needs. The Architect shall also provide Program Development Options that consider total building size and project budget constraints.

1.2. Task Two: Existing Facility Assessment – Program Validation

The Design Team shall evaluate the current Orlando Police Department Facility for the purpose of validating the understanding of Space Needs and Requirements. The Team will identify specific operational issues and organizational entities specific to the existing building and services that can be more efficiently provided in the new, purpose-built facility.

Deliverable Product: As part of the Pre-Design Services Report, documentation of existing conditions and recommendations for the new facility will be provided.

1.3. Task Three: Master Planning

Based upon information and site data provided by the Site (Civil) Engineer, and the City, the needs identified within the Spatial Needs Assessment, and with the direct input of the City, the Architect shall provide Master Planning Services for development of the proposed property on the southeast corner of South Street and

Orange Blossom Trail. The Master Plan shall include evaluation of this property utilizing nationally recognized criteria for Law Enforcement Facility Security and CPTED principals. Items to be considered will include:

- Ability of the site to accommodate appropriate Public and Law Enforcement parking.
- Evaluation of property relative to a 100-year storm.
- Identification of potential hazards, such as the adjacent highway, SR 408, and Orange Blossom Trail.
- Appropriateness (capacity) of existing utilities, such as power, gas, water, sewer, fiber optics, etc.
- The ability of the site to accommodate the space needs of the Police Department, both in terms of current needs (Year 2014) and future needs.
- Based upon the recommendations related to facility size, the Architect shall identify the land area needed for the building(s), associated parking and related site requirements, such as storm water retention, parking areas, landscape requirements and building setback requirements as well as future expansion areas. All identified development options will be verified to be able to be supported by the identified site with site diagrams included within the report.

Based upon conclusions of the site investigation, the Architect shall participate in a meeting(s) with key project stakeholders, to initiate the Master Planning effort. The premise of this meeting shall be to obtain consensus as to appropriate land utilization of the designated property as the proposed facility, as well as future expansion requirements. The Architect shall prepare a Master Plan Document of the selected site illustrating:

- Proposed land utilization of the selected site.
- Location and general configuration of “current need” facilities.
- Areas of potential expansion for future need.
- Location of vehicle access and egress, both staff and public.
- Pedestrian areas and site circulation.
- Vehicle parking areas (Staff, Public).
- Area(s) designated for storm water retention.
- Required “standoff” distances for Law Enforcement purposes.

Deliverable Product: The Architect shall prepare a final Master Planning Drawing illustrative of the proposed recommended concept, and present same to the Police Department and staff of the City of Orlando.

2 - Basic Design Services

2.1 Task Four: Preliminary Design (30% Complete)

During this task the Design Team shall prepare preliminary design documents for the project. The task will be initiated by a stakeholders meeting during which the conclusions of the preceding task are thoroughly reviewed and updated. The Architect will then prepare a concept plan for review and acceptance by the City. Upon reaching consensus on the conceptual plan, the Design Team shall prepare 30% complete documents. The 30% complete documents shall include the following:

- Architectural plans sufficient to accurately define the scope of construction. The architectural plans will include floor plan layouts with furniture and equipment locations; building sections that accurately define size and volume; elevations suitable for evaluation by the Orange Blossom Trail (OBT) Development Board and other City review authorities; preliminary finish schedules and details; schematic outline of building environmental systems (MEP/FP) with a design narrative describing systems; preliminary structural layout; narrative describing technology systems (security / voice-data / audio-visual). The Architect will coordinate with the Civil Engineer's site design documents to a level of detail for submittal and review by the City's Development Review Authorities.
- During this task the Architect shall propose and test various scenarios for phasing the work such that the overall project schedule can be maintained.
- Upon completion of this task, the Design-Build (D-B) Team will prepare a cost estimate to confirm the probable construction cost of the project.

Deliverable Product: A set of 30% complete documents shall be prepared including drawings and outline specifications furnished from all architectural/engineering disciplines along with a narrative describing approach to the project. The design documents shall accompany applications prepared for submittal and review by the development review authorities. A detailed construction cost estimate shall be completed.

2.2 Task Five: Detailed Design (60% Construction Plans and Specifications)

Upon review and approval by the City of the 30% Complete Design Submittal, the Design Team shall proceed with Detailed Design of the project. During this phase of the work, the Team will coordinate closely with the Building Contractor (HJH) to evaluate constructability and building systems issues insuring that the project is being designed within the maximum construction cost. The Design Team will finalize the building materials and the structural, mechanical/electrical/plumbing and fire protection systems. Attention will be focused on integration of the technology systems for the project (security / audio-visual / voice-data systems). The 60% complete documents shall include the following:

- Architectural plans prepared to a level of 60% complete construction/bid documents will include all finishes, wall types, life-safety/code analysis, exterior elevations and details, interior details and built-in (millwork) equipment.
- Engineering plans will include structural design (foundations, framing plan, and preliminary details); MEP/FP (equipment selection, plans and distribution layouts with preliminary details); technology systems (coordination, plans, preliminary details). The documents will be coordinated with the Site Design (Civil and Landscape) for all utility connection and storm water drainage approach.
- A 60% complete project specification will be prepared by all Design Disciplines documenting materials, systems and technical requirements.
- A Code Review will be conducted with the Authorities Having Jurisdiction (AHJ) over permitting of the building construction.
- Upon completion of this task, the D-B Team will update and confirm the probably construction cost for the project.

Deliverable Product: A set of 60% complete documents shall be prepared including drawings and preliminary project specifications furnished from all architectural/engineering disciplines. The detailed construction cost estimate shall be updated.

2.3 Task Six: Final Design (90% Complete)

The task shall be initiated by a review of all City comments, including OBT Development Board, AHJ and facility user groups with a written response by the Design Team to comments. The detailed construction cost estimate shall be reviewed relative to project construction budget; and recommendations shall be provided to the City for modification to the construction scope to bring the project within the approved budget.

A meeting will be held with project stakeholders to reach consensus on design scope and adherence to the budget. The meeting will conclude with acceptance of the final scope of design to be further developed with the 90% complete Final Design Submittal.

The Design Team will prepare detailed design drawings and specifications that accurately describe the final scope of project construction. The documents will include all architectural and engineering elements, including technology and fixed equipment that will be included in the contract for construction of the project. The design documents shall be used as the basis of preparing a final Guaranteed Maximum Price (GMP) for the project.

The Architect shall assist with coordination of the permitting process. The 90% complete plans and detail drawings along with the final construction specifications shall be signed and sealed by Florida registered (licensed) professionals for submittal to all agencies having jurisdiction over the permitting of building and site development construction. The Design Team shall assist with all permit applications for submittal. The Design Team shall monitor the permit process, answer any questions relative to the scope and intent of construction, and submit revised drawings as necessary to achieve all necessary permits for construction.

Deliverable Product: The 90% complete design documents shall be prepared for format and completion to assist submittal for an early site development permit review and issuance. The documents will include detailed plans and specifications prepared by all architectural/engineering disciplines. Applications for permitting shall be prepared and submitted. The final Guaranteed Maximum Price (GMP) will be completed and provided to the City.

2.4 Task Seven: Approved and Permitted Construction Plans and Specifications

The Design Team shall incorporate revisions to the project design documents based upon Permit Agency review and acceptance; and any final adjustments to the project construction scope based upon the accepted Guaranteed Maximum Price (GMP).

Deliverable Product: The Architect shall prepare 100% complete drawings and specifications; and incorporate all adjustments to the scope of construction resulting from permit review and approval and the Guaranteed Maximum Price (GMP). 100% complete documents in hard copy and electronic formats necessary for construction of the project will be prepared.

2.5 Task Eight: Design Development Phase Reports

The Design Team shall coordinate with the Design-Build Contractor to prepare a series of Design Reports at all critical phases of the Design Development process. The reports will outline all of the parameters of the project and describe in detail the design features.

The Design-Build Entity will organize and coordinate with the team of individuals that represent the specific interests of the City that will provide necessary design review and information toward development of the design.

In its final form, the Design Report shall contain the preliminary GMP cost estimate, design and operations requirements of the office space, and the sequence for design and construction phasing. The Design Report will be reviewed by the Design Criteria Professional who will accept and approve the Report prior to the Design-Build Entity beginning the detailed construction documents and construction sequence.

Studies, investigations, designs and calculations shall be performed by the Design Team for the complete facility that meets the operational expectations of the City. The Design Team professionals will certify, sign and seal their respective drawings and specifications in compliance with Florida Statutes. The design team will review and approve shop drawings and equipment submittals during the construction phase of the project.

The Design-Build Team shall obtain and pay for all necessary permits required by state and local agencies for the construction of the facility which will include such things as building permits and utility service permits. The technical specifications for the project shall conform to the format of the Construction Specification Institute. The General Conditions and the General Contracts Documents will conform to those used by the City.

The design and construction work shall be performed in accordance with the requirements of applicable Federal, State, County and City codes, laws, ordinances, regulations, and standards. Where these rules overlap or conflict

between the same requirements, the requirement which is more stringent shall govern.

Deliverable Product: The following shall be the minimum information provided with the Final Design Report:

- Existing conditions survey including any items not mentioned within this document which require upgrade or replacement. Including a Pre-Construction Video.
- Structural Inspection report, calculations and recommendations.
- Recommended spare parts list after construction.
- Detailed 90% Construction Cost Estimate of project.
- Anticipated Construction schedule and bid packages. Long lead items will be described and discussed as to how project construction can be expedited..

3 - Additional Services

Civil Engineering

Civil Design is included for the following on-site civil components required for the project: Site demolition and clearing plans; erosion control and storm water pollution prevention plans; storm water management plans; design of pedestrian and vehicular site layout geometry; coordination with landscape design; final site grading and drainage including surface water management systems and storm water treatment areas and other government related agency required drainage design documentation; and domestic and site fire water supply systems.

Topographic & Boundary Survey

Provide a Topographic Survey to include the following: locate all improvements and utilities; obtain spot elevations on natural ground and existing improvements suitable for interpolation of one foot contours to be shown on the final drawing; cross-sections at 50 foot intervals along adjacent roadways; and two site benchmarks. The design contract also includes a boundary survey based on updating and verifying the boundary survey provided by the City.

Geotechnical Engineering Services

Our proposal includes twenty four (24) borings across the site with six (6) of the borings for the main building to depths of twenty five (25) feet. The remainder of the borings are between 10-20 feet deep. We will provide a geotechnical report with recommendations for building foundations, site preparation, pavements and storm water retention design parameters.

Traffic Study

Our design consultant will be responsible for the assessment of traffic necessary to support the project and satisfy the traffic concurrency requirements established by the City of Orlando. In addition, the traffic design consultant will develop a Neighborhood Traffic Impact Study for the purpose of satisfying the City of Orlando Growth Management Plan.

Landscape Architectural Services

Landscape Architectural Services shall be provided by the Design Team's registered Landscape Architect starting with input to the Site Master Plan. Conclusions of the accepted Master Plan shall define the scope of plantings, irrigation, hardscape and site lighting, which shall be developed and coordinated in the execution of design and construction services.

Technology Design Services

Technology Design Services consist of voice-data systems, security systems, and audio-visual systems. Design services for these systems shall be provided by the Design Team's Technology Consultant. The Technology Designer shall document system requirements, provide design of the accepted technology systems scope of work and coordinate thoroughly with the Architect and MEP/FP Engineers. The final design documents shall thoroughly integrate technology systems into the project.

LEED Design, Specifications, and Administration

The Design Team has set a goal of attaining GOLD Level LEED Certification for the project. At a minimum level, LEED Certification shall be attained. The Design Team shall be responsible for identifying and implementing a variety of sustainable design components for the project according to the LEED Certification process of the U.S. Green Building Council (USGBC). The Design Team shall prepare all necessary documentation for LEED credits that shall be submitted to the USGBC. This scope includes energy analysis per the ANSI/ASHRAE Std. 90.1-2010 Performance Rating Method and LEED

Fundamental & Enhanced Commissioning

Develop and implement a commissioning plan. The requirements of the plan will be incorporated into the construction documents. This includes site observations, performance testing and a summary commissioning report. Enhanced Commissioning is included as required for LEED EAc3

Interior Design

Interior Design services related to the programming, conceptual design, bidding and supervision of installation of furnishings. The interior designer for this work is identified as Architectural Interiors, Inc.

Grant Program Research and Analysis

The Architect shall include in the Design Services, information as to potential grants available for a project of this type. It shall identify funding sources, availability of funds and methodology (when appropriate) as to obtaining grant funding.

Graphics and Signage Design

The Architect shall prepare design documents associated with site and building identification/graphic design. The services shall provide the City with design, bidding (GMP) and construction phase services for building identification, graphics and signage.

OBT Development Board Meetings and Preparation

The Architect shall attend two (2) meetings with the OBT Development Board to gain insight and awareness of the goals for the project in the OBT Development area. Based upon information gathered, the Architect shall prepare a presentation of the project design for the OBT Development Board Public Meeting.

Design Renderings for Public Meetings

The Architect shall prepare, based on the selected Master Plan concept and Preliminary Design (30% complete), a concept model and building design renderings illustrating the proposed facility, relationships, site utilization, etc. A power point presentation shall be prepared that illustrates the appearance/character of the proposed facility.

4 - Design Phase Contingency

A design contingency is included for this phase to cover any services not specifically included in the scopes above or for any design or preconstruction services needed to cover scopes that are unknown at the time of the execution of this contract. The contingency will for the design builder's use. All unused funds will be refunded to the City.

5 - Indirect Costs

Reimbursables

Allowance for all reimbursables during this phase. The design team will provide receipts as requested by the City. All costs will be billed "at cost" with no markup. Excludes local mileage, phone, tolls, stamps, computer time, word processing time, "entertainment", internal copying which is not submitted to the City (internal review docs), local meals, etc. Local means Seminole, Orange, Polk and Lake Co.

Project Management & Estimating Services

All estimating time, project management services, meeting attendance, accounting, clerical requirements, scheduling, and cost studies are included.

EXCLUSIONS:

- Impact Fees
- Permit Fees

Preliminary Design Schedule Milestones

	<u>Start</u>	<u>Finish</u>
1. Kick-off Meeting.....	06/18/14	----
2. Pre-Design	06/18/14	07/09/14
3. 30% Complete Design.....	07/14/14	08/11/14
4. City / User Review	08/11/14	08/15/14
5. 60% Complete Design.....	08/18/14	10/13/14
6. City / User Review	10/13/14	10/17/14
7. 90% Complete Design.....	10/20/14	12/19/14
8. GMP	12/22/14	02/02/15
9. Early Site Prep / Construction.....	01/19/15	----
10. 100% Complete Design/ Submit for Building Permit.....	02/02/15	03/16/15
11. Building Construction	03/30/15	---
12. Substantial Completion		06/01/16

EXHIBIT B
PROJECT TIMELINE

Preliminary Design Schedule Milestones

	<u>Start</u>	<u>Finish</u>
1. Kick-off Meeting.....	06/18/14	----
2. Pre-Design	06/18/14	07/09/14
3. 30% Complete Design.....	07/14/14	08/11/14
4. City / User Review	08/11/14	08/15/14
5. 60% Complete Design.....	08/18/14	10/13/14
6. City / User Review	10/13/14	10/17/14
7. 90% Complete Design.....	10/20/14	12/19/14
8. GMP	12/22/14	02/02/15
9. Early Site Prep / Construction.....	01/19/15	----
10. 100% Complete Design/ Submit for Building Permit.....	02/02/15	03/16/15
11. Building Construction	03/30/15	---
12. Substantial Completion		06/01/16

EXHIBIT C
SCHEDULE OF FEES

Orlando Police Department Headquarters

Labor Assignments

<i>Project Management</i>	<i>Designation</i>	<i>Location</i>	<i>Base Weekly Rate</i>	<i>Labor Burden</i>	<i>Total Weekly Rate</i>
Principal In Charge	Included in Fee	Home Office	-	-	-
Project Executive	Included in Fee	Home Office	-	-	-
Project Manager	Full Time	On Site	2,000	32%	2,640
Assistant Project Manager	Full Time	On Site	1,600	32%	2,112
Sr. Superintendent	Full Time	On Site	2,000	32%	2,640
Assistant Superintendent	Full Time	On Site	1,600	42%	2,272
Assistant Superintedent	Allowance	On Site	1,600	42%	2,272
Project Assistant	Full Time	On Site	850	31%	1,114
Project Accountant	3 days per Week	Home Office	950	31%	747
Safety Manager	1 day per Week	Home Office	300	31%	393

EXHIBIT D

TRUTH-IN-NEGOTIATION CERTIFICATE

DESIGN-BUILDER hereby certifies that all wage rates, and any and all other unit costs supporting the compensation to be paid to the DESIGN-BUILDER pursuant to this AGREEMENT for the Services as set forth herein, are accurate, complete, and current at the date of the AGREEMENT's execution.

By: _____

(Type or Print Name)

(Title)

Date: _____

STATE OF _____ }

COUNTY OF _____ }

THE FOREGOING INSTRUMENT was acknowledged before me this _____ day of _____, 20____, by _____, of _____, on behalf of the corporation. He/she [] is personally known to me or [] has produced _____, as identification, and who acknowledged before me that he/she executed the same for the uses and purposes therein expressed.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: