

MASTER AGREEMENT

FOR

OWNER'S REPRESENTATIVE SERVICES

JACKSON COUNTY, MISSOURI

and

JCDC PARTNERS, LLC

Dated: December 23rd, 2019

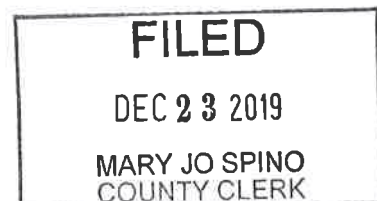


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MASTER AGREEMENT FOR OWNER'S REPRESENTATIVE SERVICES

THIS AGREEMENT is made and entered into as of the 23rd day of December, 2019, by and between County of Jackson, Missouri, a public body corporate and politic of the State of Missouri acting by and through the **Jackson County Legislature** (hereinafter referred to as "Owner"), and **JCDC Partners, LLC**, a Missouri Limited Liability Corporation (hereinafter referred to as "Owner's Representative").

BACKGROUND INFORMATION

Owner desires to retain the services of an Owner's Representative to assist Owner in developing a New County Jail Project for Jackson County. Owner has selected Owner's Representative as the entity to be engaged as the key consultant and Owner's Representative for the project contemplated by Owner. Owner and Owner's Representative desire to execute and enter into this Agreement for the purpose of setting forth their agreement with regard to the foregoing.

STATEMENT OF AGREEMENT

This *Master Agreement-Owner's Representative Services* sets forth the basis of understanding, terms, and governance for all *Component Service Agreements* that may be executed during the course of this engagement.

In consideration of the mutual covenants and agreement herein contained and hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1. DEFINITIONS

In addition to any other terms which are defined in this Agreement, each of the following terms, when used in this Agreement with an initial capital letter, shall have the following meaning:

1.1. **"Approved Development Budget"** means the schedule of all costs and expenses which Owner's Representative estimates will be incurred by or on behalf of Owner in connection with the Development Matters, as submitted by Owner's Representative to Owner with Owner's Representative's request for Owner's approval thereof as, and as approved by Owner as, the Approved Development Budget.

1.2. **"Component Services Agreement"** means any consulting or specialized service agreement to be provided as part of the overall Owner's Representative Services, whether initially provided at the outset of the engagement or whether defined, scoped, negotiated, approved, and executed during the engagement period.

1.3. **“Approved Development Schedule”** means the schedule of all activities to be managed by Owner’s Representative, including estimated duration for each activity, as submitted by Owner’s Representative to Owner with Owner’s Representative’s request for Owner’s approval thereof as, and as approved by Owner as, the Approved Development Schedule.

1.4. **“Completion”** means substantial completion of construction of the Jackson County Jail and services as defined in Component Service Agreements. Substantial completion, which shall in any event be deemed to have occurred upon the occurrence of any of the following events: (i) the issuance by the Project architect of a certificate of substantial completion of those Improvements; (ii) the issuance by the appropriate governmental authority of a certificate of occupancy for those Improvements; or (iii) the commencement of beneficial occupancy of those improvements by Owner or persons or entities claiming under Owner.

1.5. **“Owner’s Representative Fee”** means the fee to be paid by Owner to Owner’s Representative pursuant to any and all executed Component Service Agreements.

1.6. **“Development Matters”** means the pre-development, acquisition, development, design, construction, financing, furnishing, equipping and occupancy of the Project.

1.7. **“Expiration Date”** means the date three hundred sixty-five (365) consecutive days after the date of Completion, during which time the Owner’s Representative will assist the Owner in obtaining punch list completion, training, close out documents and construction warranty satisfaction from the parties who construct the Improvements, and assisting Owner in occupying, equipping and furnishing the Project.

1.8. **“Improvements”** means, collectively, all buildings, structures and other improvements (including all site development improvements and landscaping) to be developed on the Site pursuant to this Agreement.

1.9. **“Project”** means the Site and the Improvements.

1.10. **“Project Costs”** means the total of all costs and expenses incurred by or on behalf of Owner with respect to the Development Matters, including all amounts to be paid under agreements entered into by Owner’s Representative or Owner with third parties pursuant to this Agreement.

1.11. **“Site”** means that certain tract or parcel of land located in the County of Jackson, Missouri, upon which the Improvements are to be developed and constructed, as contemplated by this Agreement.

1.12. **“Approved Project Budget”** means the total of all costs and expenses incurred by or on behalf of Owner, which have been approved by the Owner, with respect to the

Development Matters, excluding all amounts to be paid under agreements entered into by Owner's Representative and land acquisition cost.

ARTICLE 2. ENGAGEMENT OF OWNER'S REPRESENTATIVE

2.1. Engagement of Owner's Representative. Owner hereby engages Owner's Representative to perform, and hereby grants to Owner's Representative the exclusive right to perform, the services specified in Component Service Agreement(s), subject to and in accordance with the terms and provisions of this Agreement.

2.2. Acceptance by Owner's Representative. Owner's Representative hereby accepts its engagement by Owner, and agrees to perform the services specified in Component Service Agreement(s) for the benefit of and on behalf of Owner, subject to and in accordance with the terms and provisions of this Agreement.

ARTICLE 3. NATURE OF ENGAGEMENT

3.1. Status of Owner's Representative. In the performance of its duties and obligations under this Agreement and all Component Service Agreement(s), Owner's Representative is, and shall at all times during the term of this Agreement be, an independent contractor, and not an employee of Owner. Owner's Representative shall act solely as the agent of Owner in the performance of its duties and obligations under this Agreement and all Component Service Agreement(s). All contracts and agreements executed or entered into by Owner's Representative in connection with the performance of its duties and obligations under this Agreement and all Component Service Agreement(s) shall be contracts and agreements on behalf of, and for the account of, Owner. Except for agreements between Owner's Representative and persons providing it with personnel as provided in Section 5.3 of this Agreement, Owner's Representative shall obtain Owner's prior approval of such contracts and agreements.

3.2. No Partnership or Joint Venture. Nothing contained in this Agreement shall constitute or be deemed or construed to create a partnership or joint venture between Owner and Owner's Representative.

ARTICLE 4. TERM OF AGREEMENT

4.1. Term. The term of this Agreement shall commence on the date hereof, and shall continue 90 days beyond the last termination date of all executed Component Service Agreements, unless sooner terminated as herein provided.

4.2. Schedule of Services. Each Component Service Agreement is to provide and define a schedule for accomplishment of the services to be provided under this Owner's Representative Master Service Agreement.

4.3. Performance. Owner's Representative shall not be obligated to perform services under this Agreement after the Expiration Date unless authorized for additional services and compensation.

ARTICLE 5. OWNER'S REPRESENTATIVE SERVICES

5.1. Description of Services. The Owner's Representative services to be performed by Owner's Representative are to be set forth in Component Service Agreement(s) and incorporated herein upon execution.

5.2. Nature of Owner's Representative's Services and Responsibilities. Owner acknowledges and agrees that Owner's Representative's responsibilities under this Agreement and all Component Service Agreement(s) consist solely of advising and consulting with Owner in connection with certain matters pertaining to the Project, and coordinating and monitoring the activities of the design and engineering professionals, contractors and other third parties on behalf of Owner. Other than preparation of Owner's Criteria, Owner further acknowledges that Owner's Representative is not itself preparing any design or engineering plans or specifications directly related to construction of the project, or performing any of the construction or furnishing any of the materials required for the Project; and, accordingly, Owner agrees that Owner's Representative shall have no liability for or with respect to professional services rendered by others; plans, designs or specifications provided by others, construction work performed by others, or materials furnished by others (including without limitation any architect, engineer, construction manager or contractor) in connection with Owner's Representative's responsibilities under this Agreement and all Component Service Agreement(s). Owner's Representative is not providing legal assistance or advice to Owner in connection with such negotiations or otherwise. Owner's Representative will use its best efforts to assist the Owner in identifying and mitigating any hazardous materials that may exist relative to the Project, but assumes no responsibility to Owner in so doing. Owner's Representative is responsible for, and is liable for its performance in accordance with this Agreement and all Component Service Agreement(s) executed under this Agreement.

5.3. Owner's Representative's Team. Owner hereby authorizes Owner's Representative to enter into appropriate agreements to procure the services of additional personnel to carry out Owner's Representative's obligations under this Agreement. The services of any such additional personnel are included within the Owner's Representative Fee.

5.4. Key Personnel. Owner's Representative shall use its best efforts to assign and maintain key personnel to the Project whose qualifications and experience were presented in its written proposal to Owner or is herein defined.

5.5. Owner's Representative's Services Not Exclusive. The services to be rendered by Owner's Representative to Owner are not exclusive and, during the term of this Agreement and all Component Service Agreement(s), Owner's Representative and its affiliates may render services similar or identical to those required of it hereunder to other

owners of real property and may itself engage in the acquisition, development, management and operation of, or any other activities with respect to, real property for its own account or benefit or for others, without any accountability or liability whatsoever to Owner provided that Owner's best interest is represented at all times. Furthermore, any conflict of interest or potential conflict of interest must be disclosed to Owner.

5.6. Owner's Representative's Cooperation. In performing the functions as identified, the Owner's Representative shall act diligently and in good faith and shall cooperate fully with the Owner in all matters relating to the project. The Owner's Representative shall act expeditiously on requests by the Owner regarding project matters.

ARTICLE 6. OWNER'S OBLIGATIONS

6.1. Costs and Expenses. Except as expressly set forth in this Agreement to the contrary, Owner shall bear all costs and expenses of the Project, which are approved by the Owner, and all of the services performed by Owner's Representative under this Agreement shall be performed at the cost and expense of, and for the account of, Owner.

6.2. Owner's Funds; Development Account. Owner covenants and agrees (without creating any third party beneficiary rights) to make available all funds necessary to pay all Project Costs on a current basis.

6.3. Owner's Cooperation. In performing its functions hereunder, Owner shall act diligently and in good faith and shall cooperate fully with Owner's Representative in all matters relating to the Project. Owner shall act as expeditiously as possible on all requests by Owner's Representative for approval and execution of any contract, agreement or other document pertaining to the Project. In exercising its rights of approval, Owner shall act reasonably and in good faith.

ARTICLE 7. BOOKS, RECORDS, REPORTS, FISCAL MATTERS

7.1. Books. Owner's Representative shall maintain for Owner current and complete books of account of all transactions with respect to the Project. Such books of account shall be maintained at Owner's Representative's office or at such other place as the parties shall agree upon, and Owner and Owner's accountants and auditors shall have access to such books of accounts at all reasonable times. Owner's Representative shall maintain said books of account in a safe manner and separate from any books not dealing directly with the Project. Such books of account shall be kept in accordance with sound accounting practices consistently applied, and otherwise in such manner as shall be reasonably required by Owner.

7.2. Records. Owner's Representative shall maintain, in a secure and safe manner, complete and identifiable records on all matters pertaining to Owner's Representative's activities under this Agreement on behalf of Owner with respect to the Project.

7.3. Property of Owner. All such books of account and records shall be and remain the property of Owner, and, upon the expiration or earlier termination of this Agreement, shall be turned over to Owner as provided in Article 10 hereof. Such books and records shall thereafter be available to Owner's Representative at all reasonable times for inspection, audit, examination and transcription for a period of three (3) years from the Expiration Date or earlier date of termination of this Agreement, upon reasonable prior notice to Owner and at the expense of Owner's Representative. Any equipment or supplies purchased for Owner and charged to Owner by Owner's Representative, having a usable life at the expiration of this Agreement, shall be the property of the Owner, and shall be turned over to the Owner as provided in Article 10.

7.4. Reports. Not later than the thirtieth (30th) day of each month during the term of this Agreement, with respect to the preceding calendar month, Owner's Representative shall furnish Owner a statement of all disbursement recommended to the Owner by Owner's Representative in connection with the Project for the preceding calendar month, prepared in such reasonable detail and form as shall be required by Owner.

7.5. Audit. Owner shall have the right, during normal business hours, to inspect, copy and audit at any time, and from time to time, all of Owner's Representative's files, books, records, costs and expenses pertaining to the Project. If Owner elects to audit Owner's Representative's files, books, records, costs and expenses pertaining to the Project, and the audit discloses a material discrepancy from the payment applications or requirements of the contract documents, then, in addition to repaying Owner all sums owing, Owner's Representative shall pay the cost of the audit.

7.6. No Duty of Owner's Representative to Provide Funds. Under no circumstances shall Owner's Representative have any duty or obligation to advance any funds for the account of Owner, but if Owner's Representative does advance any of its own funds for the account of Owner, Owner shall promptly reimburse Owner's Representative therefore.

ARTICLE 8. COMPONENT SERVICE AGREEMENTS

8.1. Component Service Agreement(s). All obligations of scope of service(s), schedule and compensation are to be defined in individual Component Service Agreements. Component Service Agreements may be negotiated and executed individually or in groups as deemed necessary by the Owner and as required by the needs of the project.

8.1.1. Anticipated Component Service Agreements: It is anticipated that the Owner's Representative services required to accomplish this project will be as follows:

8.1.1.1. Component Service Agreement 1.0 – Validation of Need

8.1.1.2. Component Service Agreement 2.0 – Programming

8.1.1.3. Component Service Agreement 2.1 - Benchmarking

8.1.1.4. Component Service Agreement 3.0 – Owner’s Design Criteria Package

8.1.1.5. Component Service Agreement 4-0 – Procurement and Construction Project Management Services

8.1.1.6. Component Service Agreement 5.0 – Transition, Activation and FF&E Services

ARTICLE 9. COMPENSATION

9.1. Component Services Compensation. Compensation for scopes of services are to be defined in each Component Service Agreement. Compensation for services will be derived either as a percentage of project cost or as a lump sum. A Billing Schedule is to be included in each Component Service Agreement based upon negotiated fee and schedule of completion.

9.2. Additional Services. If the scope of the Project or the services required of Owner’s Representative materially expand or if Owner’s Representative is materially delayed through no fault of its own in providing its services, from the terms of this Agreement, Component Service Agreements, any exhibits to this Agreement, any documents incorporated herein, and any written amendments or modifications of this Agreement or of Component Service Agreements, the Owner’s Representative Fee for such additional services shall be negotiated and agreed to in a written amendment to the Component Service Agreement effected, by the Owner’s Representative and Owner.

9.3. Payment of Owner’s Representative Fee.

9.3.1. The Owner’s Representative Fee shall be paid in accordance with the agreed upon Billing Schedule incorporated in each Component Service Agreement, which shall be established to conform to the Owner’s Representative Fee amount and the schedule for completing the work.

9.3.2. The Owner’s Representative understands that it is in the interest of the Owner to advance the project quickly and efficiently. Should any scope or task defined in Component Service Agreements actually be accomplished in less time than anticipated in project schedule(s), any remaining fee for that Component scope or task be paid upon completion of that scope or task.

9.4. Reimbursable Expenses. Compensation as defined herein, and in Component Service Agreements, does not include out-of-pocket costs of Owner’s Representative for travel and travel expenses for necessary on-site meetings. Any reimbursable expenses due and payable to Owner’s Representative will be fully detailed in the monthly invoice statement to Owner and further documented with original receipts for such expenses.

9.5. Time of Reimbursement. Owner’s Representative shall be reimbursed for out-of-pocket costs and expenses on a calendar monthly basis, within thirty (30) days after submission to Owner of a statement thereof, together with such supporting material and

detail as may be reasonably required by Owner; out-of-pocket expenses will be invoiced with monthly invoicing as defined by herein and in Component Service Agreement(s).

ARTICLE 10. DEFAULT AND REMEDIES

10.1. Default by Owner's Representative. Owner's Representative shall be in default under this Agreement if Owner's Representative fails to perform any of its duties and obligations under this Agreement and does not cure or remedy such failure to perform within thirty (30) days after receipt of written notice from Owner with respect thereto; provided, however, that, if, Owner's Representative commences such cure within five (5) business days after receipt of written notice from Owner and thereafter proceeds diligently and in good faith to cure and cannot cure within thirty (30) days after receipt of written notice from Owner due to circumstances beyond Owner's Representative's control, then such cure period shall be reasonably extended to allow cure.

10.2. Remedy of Dispute: Mediation. Disputes are to be initially referred to nonbinding mediation as a condition precedent to any further dispute resolution proceedings. Owner and Owner's Representative will mutually agree to the appointment of a mediator within ten (10) days following a party's demand for mediation or, if the parties are unable to reach agreement within such time period, the Forum will appoint a mediator with experience in mediating complex construction-related disputes. Owner and Owner's Representative will share equally in the cost of the mediator. Mediation will occur no more than thirty (30) days from the date the mediator is appointed. If a Dispute is settled through mediation, the terms of settlement must be reduced to writing and signed by Owner and Owner's Representative.

10.3. Remedies of Owner. Upon the occurrence of a default by Owner's Representative under this Agreement, Owner may pursue any one or more of the following remedies, separately or concurrently or in any combination, without further notice or demand whatsoever:

10.3.1. Owner may terminate this Agreement by giving Owner's Representative written notice of such termination, in which event this Agreement shall be terminated at the time designated by Owner in its notice of termination to Owner's Representative.

10.3.2. With or without terminating this Agreement, Owner may bring an action against Owner's Representative to recover from Owner's Representative all damages, recoverable at law for reason of negligence, suffered, incurred or sustained by Owner as a result of, by reason of or in connection with such default.

10.4. Default by Owner. Owner shall be in default under this Agreement if Owner fails to perform any of its duties and obligations under this Agreement and does not cure or remedy such failure to perform within thirty (30) days after receipt of written notice from Owner's Representative with respect thereto; provided, however, that, if failure to perform, Owner commences such cure within five (5) business days after receipt of written notice

from Owner's Representative and thereafter proceeds diligently and in good faith to cure and cannot cure within thirty (30) days after receipt of written notice from Owner's Representative due to circumstances beyond Owners control, then such cure period shall be reasonably extended to allow cure.

10.5. Remedies of Owner's Representative. Upon the occurrence of a default by Owner under this Agreement, Owner's Representative may pursue any one or more of the following remedies, separately or concurrently or in a combination, without further notice or demand whatsoever:

10.5.1. Owner's Representative may terminate this Agreement by giving Owner written notice of such termination, in which event this Agreement shall be terminated at the time designated by Owner's Representative in its notice of termination to Owner.

10.5.2. With or without terminating this Agreement, Owner's Representative may bring an action against Owner to recover from Owner all damages, recoverable at law, suffered, incurred or sustained by Owner's Representative as a result of, by reason of or in connection with such default.

10.6. Other Remedies. In the event of the occurrence of a default hereunder, the prevailing party shall, in addition to its other rights and remedies hereunder, have the right to recover from the party in default all reasonable costs and expenses incurred by the prevailing party in enforcing its rights and remedies hereunder, including reasonable attorneys' fees. The termination of this Agreement by either Owner's Representative or Owner by reason of default by the other party shall not relieve either party of any of its duties and obligations theretofore accrued under this Agreement prior to the effective date of such termination.

ARTICLE 11. EXPIRATION, TERMINATION, SUSPENSION OR ABANDONMENT.

11.1. Termination. Owner's Representative or Owner may terminate this Agreement at any time by giving 30 days' written notice to the other party. Termination of this Agreement shall not constitute a waiver of the rights or obligations which Owner or Owner's Representative may be entitled to receive or be obligated to perform under this Agreement

11.2. Owner's Representative's Obligations. Upon the expiration or earlier termination of this Agreement, Owner's Representative shall promptly:

11.2.1. Upon request by Owner, deliver to Owner or such other person as Owner shall designate all materials, supplies, equipment, keys, contracts and documents, all books of account maintained pursuant to Section 7.1 hereof, and all records maintained pursuant to Section 7.2 hereof, pertaining to this Agreement and the Project.

11.2.2. Subject to Owner's Representative's obtaining any consent of any third party required therefore, assign all existing contracts approved by Owner relating to the Project to Owner or such other person or entity as Owner shall designate. Any contract or agreement that Owner's Representative negotiates on behalf of Owner that is subject to this paragraph shall contain a statement that prohibits such third party from unreasonably withholding the requisite consent.

11.2.3. Furnish all such information, take all such other action, and cooperate with Owner as Owner shall reasonably require in order to effectuate an orderly and systematic termination of Owner's Representative's services, duties, obligations and activities hereunder.

11.2.4. Within thirty (30) days after the expiration or termination of this Agreement, cause to be furnished to Owner a report similar in form and content to Owner's Representative's monthly reports covering the period from the last previous monthly report to the date of expiration or termination of this Agreement.

11.2.5. Furnish a report of all outstanding orders for services, materials and supplies ordered by Owner's Representative as a result of its obligations arising under this Agreement at the time of expiration or termination. Such report shall include the status of payment for such services, i.e., whether they have been charged to or paid by Owner's Representative, and whether they have been charged to or paid by Owner. Such report shall be furnished no later than thirty days after the date of expiration or termination.

11.3. Owner's Obligations. Upon the expiration or earlier termination of this Agreement, Owner shall promptly:

11.3.1. Assume any contracts which may have been entered into by Owner's Representative in its own name relating to the Project, provided, however, that Owner has specifically authorized Owner's Representative to enter into such contract. Further, Owner will indemnify Owner's Representative against any liability by reason of actions required to be done by Owner's Representative under any such approved contract after the effective date of such expiration or termination, unless Owner's Representative has defaulted. In such case that this Agreement is terminated due to a default by the Owner's Representative, there shall be no such indemnity.

11.3.2. Pay for and indemnify Owner's Representative against the cost of all services, materials and supplies, if any, which may have been ordered by Owner's Representative as a result of its obligations arising under this Agreement that has not been charged to or paid by Owner's Representative and reimbursed under this Agreement at the time of expiration or termination, but have since been paid for by Owner's Representative and were included in the

report submitted pursuant to Section 10.2.5; provided, however, that Owner actually receives such services, materials and supplies in a satisfactory manner or condition; provided further that demand for such payment is in a reasonable and timely manner.

11.4. Suspension. If the Project is suspended by Owner for more than thirty (30) consecutive days, Owner's Representative shall be compensated for services prior to notice of such suspension. When the Project is resumed, the Owner's Representative Fee shall be equitably adjusted by written amendment to this Agreement to provide for Owner's Representative's expenses incurred in the interruption and resumption of its services.

ARTICLE 12. INSURANCE

12.1. Owner's Insurance Requirements. Throughout the term of this Agreement, Owner shall carry and maintain in force, or cause to be carried and maintained in force by the construction contractor, the insurance described in Subsections 12.1.1, below, the premiums of all of which shall be the sole cost and expense of Owner.

12.1.1. "All risk" builder's risk insurance, provided either directly by Owner or through its construction contractor(s), written on 100% of the completed value basis, in an amount not less than the total replacement cost of the Project under construction (excluding site preparation and grading, but specifically including paving, parking lots, foundations and other undersurface installations subject to collapse or damage by other insured perils), including, if applicable, the coverage available under the so-called "installation floater". Owner shall be required to maintain such insurance only during periods when improvements are actually under construction. Owner shall, upon Owner's Representative's request, furnish Owner's Representative with appropriate certificates evidencing the insurance required to be maintained by Owner hereunder. If Owner for any reason fails to obtain and/or maintain in force any of the insurance required under this Subsection 12.1.1, then Owner shall, and Owner does hereby agree to, indemnify Owner's Representative against, and hold, save and defend Owner's Representative harmless from, any and all claims, demands, actions, causes of action, suits, liabilities, damages, losses, costs and expenses of any kind or nature whatsoever (including, without limitation, reasonable attorneys' fees and court costs incurred in enforcing this indemnity and otherwise) which Owner's Representative may suffer or incur, or which may be asserted against Owner's Representative, whether meritorious or not, against which Owner's Representative would or should have been insured under any required insurance which Owner does not for any reason obtain or maintain in force.

12.2. Owner's Representative's Insurance Requirements. Throughout the term of this Agreement, Owner's Representative shall carry and maintain in force the insurance described in Subsections 12.2.1 through 12.2.4, below.

- 12.2.1. Commercial General Liability Insurance (including protective liability coverage on operations of independent contractors engaged in construction, blanket contractual liability coverage, products liability coverage, and explosion, collapse and underground hazards coverage) for the benefit of Owner's Representative, against claims for personal injury, bodily injury and property damage, with a limit of not less than One Million Dollars (\$1,000,000) in the event of personal injury or bodily injury to any number of persons or of damage to property arising out of any one occurrence, and not less than \$2,000,000 in the aggregate applicable to this Project.
- 12.2.2. Workers' compensation insurance covering all employees of Owner's Representative employed in, on or about the Project in order to provide statutory benefits as required by the laws of the State of Missouri.
- 12.2.3. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. Owner shall be named as Additional Insured for this coverage.
- 12.2.4. Professional Liability: \$5,000,000 aggregate covering Owner's Representative in connection with the services to be provided by Owner's Representative under this Agreement.
- 12.2.5. Owner's Representative shall, upon Owner's request, furnish Owner with appropriate certificates evidencing the insurance required to be maintained by Owner's Representative hereunder. If Owner's Representative for any reason fails to obtain and/or maintain in force any of the insurance required under Subsections 11.2.1 through 11.2.4, above, then Owner's Representative shall, and Owner's Representative does hereby agree to, indemnify Owner against, and hold, save, and defend Owner harmless from, any and all claims, demands, actions, causes of action, suits, liabilities, damages, losses, costs and expenses of any kind or nature whatsoever (including, without limitation, reasonable attorneys' fees and court costs incurred in enforcing this indemnity and otherwise) which Owner may suffer or incur, or which may be asserted against Owner, whether meritorious or not, against which Owner would or should have been insured under any required insurance which Owner's Representative does not for any reason obtain or maintain in force.

12.3. Owner's Insurance Primary Coverage. As between any insurance carried by Owner and any insurance carried by Owner's Representative, Owner's insurance shall for all purposes be considered the primary coverage, and no claim shall be made under or with respect to any insurance maintained by Owner's Representative except in the event that Owner's entire insurance is exhausted (without regard to whether the actual amount of Owners' insurance exceeds the amounts specified in this Article 12).

ARTICLE 13. STANDARD OF CARE: LIABILITY: INDEMNITY.

13.1. Standard of Care. In the performance of its duties and obligations under this Agreement. Owner's Representative shall, subject to budgetary constraints and limitations imposed by Owner on the Project, perform diligently and in good faith.

13.2. Limitations on Liability. Neither Owner's Representative nor any agent or employee of Owner's Representative shall have any liability to Owner for any reasonable mistakes or errors of judgment, for any reasonable mistakes of fact or of law, or for any act or omissions within the scope of the authority conferred upon Owner's Representative by this Agreement; provided, however, that the foregoing shall not extend to losses, damages or expenses suffered or incurred by Owner if and to the extent the same are caused by any gross negligence or willful misconduct of Owner's Representative or its agents or employees.

13.3. Indemnity. All indemnity obligations of the parties shall be governed by paragraph 8.6.1 of Owner's Request for Proposals 17-19.

13.4. Relationship to Insurance. In no event shall the indemnification provisions of Sections 12.3 or 12.4, above, diminish, affect, impede or impair, in any manner whatsoever, the benefits to which any party may be entitled under any insurance policy with respect to the Project required by this Agreement or otherwise, or under the terms of any waiver of any subrogation contained therein.

13.5. No Third-Party Beneficiaries. None of the duties and obligations of Owner's Representative under this Agreement shall in any way or in any manner be deemed to create any liability of Owner's Representative to, or any rights in, any person or entity other than Owner.

13.6. Independent Contractors. No person who shall be engaged as an independent contractor by either Owner or Owner's Representative, or both, shall be considered an employee, servant, agent or other person for whom either Owner or Owner's Representative (as the case may be) is responsible for the purposes of Indemnifications in the foregoing Sections of this Article 13.

ARTICLE 14. REPRESENTATIONS AND WARRANTIES.

14.1. Of Owner. Owner represents and warrants to Owner's Representative that: (i) Owner is a public body corporate and politic, duly organized, validly existing and in good standing under the laws of the State of Missouri, is qualified to transact business in the State of Missouri, and has the full and complete right, power and authority to enter into this Agreement and perform Owner's duties and obligations under this Agreement in accordance with the terms and conditions of this Agreement; and (ii) Owner is the true and lawful owner of the Project.

14.2. Of Owner's Representative. Owner's Representative represents and warrants to Owner that: (i) Owner's Representative is a corporation, duly organized, validly existing and in good standing under the laws of the State of Missouri, is qualified to transact business in the State of Missouri, and has the full and complete right, power and authority to enter into this Agreement and perform Owner's Representative's duties and obligations under this Agreement in accordance with the terms and conditions of this Agreement; and (ii) Owner's Representative has obtained or will obtain all necessary licenses and permits which are required for Owner's Representative to perform Owner's Representative's services pursuant to this Agreement.

ARTICLE 15. GENERAL PROVISIONS.

15.1. Relationship Between Parties. The relationship of the parties shall be limited to the Project. Nothing herein shall be deemed to authorize Owner's Representative to act as the general agent of Owner.

15.2. Notices. Whenever any notice, demand or request is required or permitted under this Agreement, such notice, demand or request shall be in writing and shall be delivered by hand, be sent by registered or certified mail, postage prepaid, return receipt requested, or be sent by nationally-recognized commercial courier for next business day delivery, to the addresses set forth below or to such other addresses as are specified by written notice given in accordance herewith, or shall be transmitted by facsimile to the number for each party set forth below or to such other numbers as are specified by written notice given in accordance herewith:

OWNER:	County Executive Jackson County, Missouri 415 East 12 th Street Kansas City, Missouri 64106
OWNER'S REPRESENTATIVE :	JCDC Partners, LLC 1220 Washington Street Kansas City, MO 64105 Attention: W. Robert Glass, AIA Email: bglass@cglcompanies.com

All notices, demands or requests delivered by hand shall be deemed given upon the date so delivered; those given by mailing as hereinabove provided shall be deemed given on the date of deposit in the United States Mail; those given by commercial courier as hereinabove provided shall be deemed given on the date of deposit with the commercial courier; and those given by facsimile shall be deemed given on the date of facsimile transmittal. Nonetheless, the time period, if any, in which a response to any notice, demand or request

or because of refusal to accept delivery shall be deemed received by the party to whom addressed on the date of hand delivery, on the date of facsimile transmittal, on the first calendar day after deposit with commercial courier, or on the third calendar day following deposit in the United States Mail, as the case may be.

15.3. Assignment: Binding Effect. The rights of the parties under this Agreement are personal to the parties and may not be assigned without prior written consent of the other party, which consent shall not be unreasonably withheld; This Agreement shall be binding upon and enforceable against, and shall inure to the benefit of, the parties hereto and their respective legal representatives, successors and permitted assigns.

15.4. Authorized Representatives. Any consent, approval, authorization or other action required or permitted to be given or taken under this Agreement by Owner or Owner's Representative, as the case may be, shall be given or taken by one or more of the authorized representatives of each. For purposes of this Agreement; (i) the authorized representatives of Owner shall be any one or more of the following – Jackson County Administration or designee, (ii) the authorized representatives of Owner's Representative shall be W. Robert Glass or designee. Any party hereto may from time to time designate other or replacement authorized representatives to the other party hereto. The written statements and representations of any authorized representative of Owner or Owner's Representative shall be binding upon the party for whom such person is an authorized representative, and the other party hereto shall have no obligation or duty whatsoever to inquire into the authority of any such representative to take any action which he proposes to take.

15.5. Headings. The use of headings, captions and numbers in this Agreement is solely for the convenience of identifying and indexing the various provisions in this Agreement and shall in no event be considered otherwise in construing or interpreting any provision in this Agreement.

15.6. Exhibits. Each and every exhibit referred to or otherwise mentioned in this Agreement is attached to this Agreement and is and shall be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

15.7. Defined Terms. Capitalized terms used in this Agreement shall have the meanings ascribed to them at the point where first defined, irrespective of where their use occurs, with the same effect as if the definitions of such terms were set forth in full and at length every time such terms are used.

15.8. Pronouns. Wherever appropriate in this Agreement, personal pronouns shall be deemed to include the other genders and the singular to include the plural.

15.9. Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held to be invalid or unenforceable, then in each such event the remainder of this Agreement or the application

of such term, covenant, condition or provision to any other person or any other circumstance (other than those as to which it shall be invalid or unenforceable) shall not be thereby affected, and each term, covenant, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

15.10. Non-Waiver. Failure by either party to complain of any action, non-action or default of the other party shall not constitute a waiver of any aggrieved party's rights hereunder. Waiver by either party of any right arising from any default of the other party shall not constitute a waiver of any other right arising from a subsequent default of the same obligation or for any other default, past, present or future.

15.11. Rights Cumulative. All rights, remedies, powers and privileges conferred under this Agreement on the parties shall be cumulative of and in addition to, but not restrictive of or in lieu of, those conferred by law.

15.12. Time of Essence. Time is of the essence of this Agreement. Anywhere a day certain is stated for payment or for performance of any obligation, the day certain so stated enters into and becomes a part of the consideration of this Agreement.

15.13. Applicable Law. This Agreement shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of Georgia.

15.14. Entire Agreement. This Agreement, along with Request for Proposal No. 17-19, addenda to RFP No. 17-19, JCDC Partner's responding proposal, and all executed Component Service Agreement(s) contains the entire agreement of Owner and Owner's Representative with respect to the engagement of Owner's Representative as the Owner's Representative for the Project, and all representations, warranties, inducements, promises or agreements, oral or otherwise, between the parties not embodied in this Agreement shall be of no force or effect.

15.15. Modifications. This Agreement shall not be modified or amended in any respect except by a written agreement executed by Owner and Owner's Representative in the same manner as this Agreement is executed.

15.16. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Owner and Owner's Representative have caused their respective duly authorized representatives to execute, seal and deliver this Agreement, all as of the day and year first above written.

OWNER:

Jackson County, Missouri

By: 

OWNER'S REPRESENTATIVE

JCDC Partners, LLC a Missouri Corporation

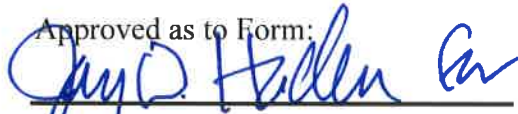
By: 

Attest: W. Robert Glass, AIA

Title: _____

Title: Executive Vice President

Attest: 
Clerk of County Legislature

Approved as to Form:

County Counselor

COMPONENT SERVICES AGREEMENT - 1.0

FOR

VALIDATION OF NEED SERVICES

JACKSON COUNTY, MISSOURI

And

JCDC PARTNERS, LLC

Dated: December 23, 2019

OWNER'S REPRESENTATIVE – VALIDATION OF NEED SERVICES

THIS AGREEMENT is made and entered into as of the **23rd** day of December, 2019, by and between County of Jackson, a public body corporate and politic of the State of Missouri, acting by and through the **Jackson County Legislature** (hereinafter referred to as “Owner”), and **JCDC Partners, LLC**, a Missouri Limited Liability Corporation (hereinafter referred to as “Owner’s Representative”).

STATEMENT OF COMPONENT SERVICES AGREEMENT

This Component Services Agreement and the provisions contained herein form the basis of understanding between the Owner and Owner’s Representative for scope, compensation, and schedule of performance, for the specific Owner’s Representative services detailed as follows.

The *Master Agreement for Owner’s Representative Services* sets forth the general basis of understanding, terms, and governance for this agreement. This Component Service Agreement is bound to, and becomes part of the *Master Agreement for Owner’s Representative Services* executed December **23**, 2019.

In consideration of the mutual covenants and agreement herein contained and hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1. VALIDATION OF NEED - SCOPE

- 1.1. Provide a review and synopsis of existing reports
 - 1.1.1. Document key findings and recommendations from prior studies
 - 1.1.2. Identify common themes and categorize by topic areas
 - 1.1.3. Update status of recommendations
- 1.2. Provide a comprehensive assessment of current justice system conditions
 - 1.2.1. Identify key system policies relative to enforcement, supervision, incarceration, and treatment
 - 1.2.2. Assess use and effectiveness of program alternatives to incarceration
 - 1.2.3. Review efficiency and impact of justice system processing

1.3. Submit a profile of the jail population that documents the following key characteristics:

- 1.3.1. Demographics
- 1.3.2. Charge
- 1.3.3. Legal status
- 1.3.4. Length of Stay
- 1.3.5. Security classification
- 1.3.6. Medical/mental health status
- 1.3.7. Program need

1.4. Submit a forecast jail system needs

- 1.4.1. Projected jail population levels by classification, gender, and legal status
- 1.4.2. Capacity requirements to safely manage projected population levels in a secure, cost-effective manner
- 1.4.3. Programs needed to address criminogenic issues and reduce recidivism
- 1.4.4. Resource requirements to support projected system needs

1.5. Provide a comparison of findings with conclusions from prior studies

- 1.5.1. Document alternative scenarios to address needs
- 1.5.2. Alternative sanctions to divert offenders away from jail
- 1.5.3. Policy changes to reduce reliance on incarceration
- 1.5.4. Process changes to reduce the amount of time in jail required as offenders progress through the justice system
- 1.5.5. Adjust required jail capacity requirements for each scenario

1.6. Provide cost/benefit analysis of alternatives

1.7. Submit justice system plan consistent with stakeholder decisions on alternative scenarios

1.8. Provide General Owner Representative project management for *Validation of Need* - scope

1.8.1. Work Plan/Project Controls

1.8.1.1. Prepare overall plan for Validation of Need scope, including:

1.8.1.1.1. Information flow and overall communications plan.

1.8.1.1.2. Approval levels

1.8.1.1.3. Overall policies and procedures

1.8.1.1.4. Budget/Cash Flow

1.8.1.1.5. Schedule

1.8.2. Coordinate with other County Agencies

1.8.3. Coordination, documentation and scheduling of all meetings necessary to accomplish scope.

1.8.4. Provide on-going communication and reporting.

1.8.5. Prepare Quality Plan for Validation of Need scope.

1.8.6. Public Relations

1.8.6.1. Assist county with communication and information campaigns/activities including production of supporting materials and presentations.

ARTICLE 2. COMPENSATION

2.1. Owner's Representative Fee for Validation of Need. As compensation for the services to be rendered by Owner's Representative pursuant to this Agreement, the Owner agrees to pay the Owner's Representative as follows:

2.1.1. Validation of Need - Lump Sum

Four Hundred Fifty-Five Thousand Three Hundred and No Dollars
(\$455,300.00)

2.1.2. Reimbursable Expenses – Not-To-Exceed.

Thirty-Eight Thousand Six Hundred and No Dollars (\$38,600.00)

2.2. Payment Schedule. The Owner will compensate the Owner's Representative based upon the following:

YEAR MONTH	MONTHLY AMOUNT TO BE INVOICED
2020	
JANUARY	\$ 77,750
FEBRUARY	\$ 97,550
MARCH	\$ 70,000
APRIL	\$ 70,000
MAY	\$ 70,000
JUNE	\$ 70,000
	\$ 455,300

ARTICLE 3. SCHEDULE OF PERFORMANCE


3.1. Schedule of Performance. Beginning no later than January 6, 2020 the scope of services defined herein are scheduled to be completed by June 30, of 2020.

OWNER:

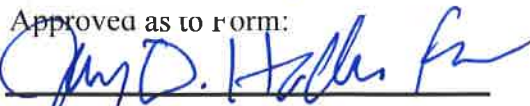
Jackson County, Missouri

By: 

Title: Director of Finance

Attest: 

Clerk of County Legislature

Approved as to form: 

County Counselor

OWNER'S REPRESENTATIVE

JCDC Partners, LLC a Missouri Corporations

By: 

Attest: W. Robert Glass, AIA

Title: Executive Vice President

REVENUE CERTIFICATE

I hereby certify that there is a balance otherwise unencumbered to the credit of the appropriation to which this contract is chargeable, and a cash balance otherwise unencumbered in the treasury from which payment is to be made, each sufficient to meet the obligation of \$493,900.00 which is hereby authorized.

12-19-2019
Date



Director of Finance and Purchasing
Account No. 013-5113-56790

51132019005
KR

COMPONENT SERVICES AGREEMENT - 2.0

FOR

PROGRAMMING SERVICES

JACKSON COUNTY, MISSOURI

And

JCDC PARTNERS, LLC

Dated: December 23, 2019

OWNER'S REPRESENTATIVE – PROGRAMMING SERVICES

THIS AGREEMENT is made and entered into as of the 23rd day of December, 2019, by and between County of Jackson, a public body corporate and politic of the State of Missouri, acting by and through the **Jackson County Legislature** (hereinafter referred to as “Owner”), and **JCDC Partners, LLC**, a Missouri Limited Liability Corporation (hereinafter referred to as “Owner’s Representative”).

STATEMENT OF COMPONENT SERVICES AGREEMENT

This Component Services Agreement and the provisions contained herein form the basis of understanding between the Owner and Owner’s Representative for scope, compensation, and schedule of performance, for the specific Owner’s Representative services detailed as follows.

The *Master Agreement for Owner’s Representative Services* sets forth the general basis of understanding, terms, and governance for this agreement. This Component Service Agreement is bound to, and becomes part of the *Master Agreement for Owner’s Representative Services* executed December. 23, 2019.

In consideration of the mutual covenants and agreement herein contained and hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1. PROGRAMMING - SCOPE

- 1.1. Provide Operational Program
 - 1.1.1. Define facility mission, goals and objectives in conjunction with appropriate stakeholders
 - 1.1.2. Define overall management standards and benchmark requirements
 - 1.1.3. Define management approach under which the facility will be operated.
 - 1.1.4. Define all levels of security and special populations by gender and management requirements
 - 1.1.5. Determine all existing and planned programs to be made available and define operational and delivery parameters for each population and security level
 - 1.1.6. Determine overall operational protocols for healthcare, food, laundry, maintenance, and in-custody movement

- 1.1.7. Assess jail operations
 - 1.1.7.1. Staffing
 - 1.1.7.1.1. Roster management
 - 1.1.7.1.2. Overtime management
 - 1.1.7.2. Classification system
 - 1.1.7.2.1. Validity review
 - 1.1.7.2.2. Reliability assessment
 - 1.1.7.3. Information management
 - 1.1.7.3.1. Offender data systems
 - 1.1.7.3.2. Security technology
 - 1.1.7.4. Programs
 - 1.1.7.4.1. Gap analysis of program availability and population need profile
 - 1.1.7.4.2. Assessment of evidenced-base practices
 - 1.1.7.5. Support services
 - 1.1.7.5.1. Review of efficiency of service delivery models
- 1.1.8. Upon completion of Architectural Program, consult and assist Jail Transition team with preparation of preliminary staffing plan and preliminary post directives.
- 1.2. Provide Architectural Program
 - 1.2.1. Develop a listing of each space required in the facility
 - 1.2.2. Establish space standards and guidelines
 - 1.2.3. Identify square footage of each space by standards and guidelines
 - 1.2.4. Identify staff for each functional space
 - 1.2.5. Identify total number of spaces for each space type
 - 1.2.6. Identify non-functional space square footage parameters for circulation and building components to determine overall gross square footage required.

- 1.2.7. Develop functional adjacency and relationship diagrams to Identify spaces where proximity or security separation are required or desired
- 1.3. Provide General Owner Representative project management for *Programming* - scope
 - 1.3.1. Work Plan/Project Controls
 - 1.3.1.1. Prepare overall plan for Programming scope, including:
 - 1.3.1.1.1. Information flow and overall communications plan.
 - 1.3.1.1.2. Approval levels
 - 1.3.1.1.3. Overall policies and procedures
 - 1.3.1.1.4. Budget/Cash Flow
 - 1.3.1.1.5. Schedule
 - 1.3.2. Coordination with other County Agencies
 - 1.3.3. Coordination, documentation and scheduling of all meetings necessary to accomplish scope.
 - 1.3.4. Provide on-going communication and reporting.
 - 1.3.5. Prepare Quality Plan for Programming scope.
 - 1.3.6. Public Relations
 - 1.3.6.1. Assist county with communication and information campaigns/activities including production of supporting materials and presentations.

ARTICLE 2. COMPENSATION

2.1. Owner's Representative Fee for Validation of Need. As compensation for the services to be rendered by Owner's Representative pursuant to this Agreement, the Owner agrees to pay the Owner's Representative as follows:

2.1.1. Validation of Need - Lump Sum

Seven Hundred Seventy-Six Thousand Eight Hundred and No Dollars (\$776,800.00)

2.1.2. Reimbursable Expenses – Not-To-Exceed.

Thirty-Eight Thousand Seven Hundred and No Dollars (\$38,700.00)

2.2. Payment Schedule. The Owner will compensate the Owner's Representative based upon the following:

YEAR MONTH	MONTHLY AMOUNT TO BE INVOICED
2020	
JANUARY	\$ -
FEBRUARY	\$ -
MARCH	\$ 60,000
APRIL	\$ 135,000
MAY	\$ 135,000
JUNE	\$ 135,000
JULY	\$ 131,800
AUGUST	\$ 120,000
JUNE	\$ 60,000
	\$ 776,800

ARTICLE 3. SCHEDULE OF PERFORMANCE

3.1. Schedule of Performance. Beginning no later than March 16, 2020, the scope of services defined herein are scheduled to be completed by June 18, of 2020.

OWNER:


Jackson County, Missouri

By: 

Title: Director of Finance

Attest: 
Clerk of County Legislature

Approved as to Form:


County Counselor

OWNER'S REPRESENTATIVE

JCDC Partners, LLC a Missouri
Corporations

By: 

Attest: W. Robert Glass, AIA

Title: Executive Vice President

REVENUE CERTIFICATE

I hereby certify that there is a balance otherwise unencumbered to the credit of the appropriation to which this contract is chargeable, and a cash balance otherwise unencumbered in the treasury from which payment is to be made, each sufficient to meet the obligation of \$815,500.00 which is hereby authorized.

12-19-2019
Date



Director of Finance and Purchasing
Account No. 013-5113-56790

51132019005
MR