

Professional Services Agreement

THIS PROFESSIONAL SERVICES AGREEMENT is made and entered into as of the _____ day of _____, 2021 by and between GSBS, PC dba as GSBS Architects, hereinafter referred to as "Consultant" and Weber County hereinafter referred to as "Client."

1. CONSULTANT'S SERVICES

a. Consultant will provide to Client the services described below:

A feasibility study for the expansion of the Medical and Mental Health services and remote court access provided by the existing Weber County Jail. Consultant shall:

- 1. Review information regarding the existing facility including CAD drawings of the facility that will be provided by Client.*
- 2. Develop a preliminary building program to define, broadly, the required additional building functions and spaces desired by the Weber County Sheriff's Office necessary to meet the medical and mental health and court access needs of the existing jail;*
- 3. Develop up to four (4) conceptual design solutions that address the building program's requirements. At least two (2) of the design concepts shall utilize the existing medical and mental health space as a part of the solution;*
- 4. Analyze each of the conceptual design solutions to determine the benefits and drawbacks of each based on the identified needs of the Client as well as cost considerations, construction materials and systems, phasing, HVAC, value engineering, and other design decisions that affect cost.*
- 5. Provide a recommended course of action based on estimated construction cost, constructability, ease of implementation and operational implications.*

The feasibility study shall be provided in both electronic and printed format. Five (5) printed copies of the study will be provided.

2. CONSULTANT'S RESPONSIBILITIES

- a. The Consultant shall perform its services consistent with the professional skill and care ordinarily provided by professionals practicing in the same or similar locality under the same or similar circumstances. The Consultant shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.
- b. The Consultant shall designate a representative authorized to act on the Consultant's behalf. The Consultant shall not replace its identified representative without the Client's approval, which shall not unreasonably be withheld.

The Consultant designates:

*Kevin Miller, AIA
kmiller@gsbsarchitects.com*

- c. The Consultant shall recommend to the Client the appropriate investigations, analyses, reports, and the services of other consultants that are necessary for the proper execution of the Consultant's services. The Consultant shall review the information provided by the Client and promptly notify the Client if the Consultant needs further information to perform its services.
- d. The Consultant shall coordinate its services with those of the Client's other consultants for the Project, if any.
- e. The Consultant shall provide copies of the Instruments of Service, and other necessary information to the Client in the format the Client requires.
- f. The Consultant shall submit a schedule for the performance of the Consultant's services, which may be adjusted as the Project proceeds. The Consultant's schedule

shall allow reasonable time for the Client to review the Consultant's submittals. Once approved by the Client, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Consultant.

- g. The Consultant shall be entitled to rely on the accuracy and completeness of services and information furnished by the Client. The Consultant shall provide prompt written notice to the Client if the Consultant becomes aware of any errors, omissions or inconsistencies in such services or information.
- h. The Consultant is an independent contractor, responsible for methods and means used in performing the Consultant's services under this Agreement, and is not an employee, agent or partner of the Client. This agreement shall not be deemed to create a relationship of employment, partnership or joint venture between Consultant and Client.

3. CLIENT'S RESPONSIBILITIES

- a. The Client shall designate a representative authorized to act on the Client's behalf. The representative shall render decisions in a timely manner pertaining to documents submitted by the Consultant in order to avoid unreasonable delay in the orderly and sequential progress of the Consultant's services.

The Client designates:

*Chief Deputy Phillip Resse
presse@c.weber.ut.us*

- b. Prompt written notice shall be given by the Client to the Consultant if the Client observes or otherwise becomes aware of any fault or defect with respect to the Consultant's services for the Project.

4. ADDITIONAL SERVICES

- a. Additional Services may be provided after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services that may arise as the Project proceeds, the Consultant shall notify the Client. The Consultant, however, shall not proceed to provide such services until the Consultant receives the Client's written authorization. The Client has no obligation to compensate the Consultant for any Additional Services performed without such written authorization. Any Additional Services provided in accordance with this section shall entitle the Consultant to additional compensation and an appropriate adjustment to the Project schedule to be negotiated at the time the need for additional services becomes apparent.

5. COPYRIGHTS AND LICENSES

- a. Reports, presentations, graphical depictions, drawings, specifications, and other documents, including those in electronic form, prepared by the Consultant for the Project are Instruments of Service, and the Consultant shall be deemed the author and owner of any such Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights. Provided that the Client has paid the Consultant in full for any and all services rendered pursuant to this Agreement, the Client and Client's successors in interest, if any, shall have the right to retain copies, including reproducible copies of such Instruments of Service for information, reference, and use in connection with the Project.
- b. The Consultant and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

6. CLAIMS AND DISPUTES

- a. Any claim, dispute or other matter in question arising out of or related to this Agreement or breach thereof shall be subject to mediation as a condition precedent to binding dispute resolution.

- b. If the parties do not resolve a dispute through mediation, the claim, dispute or other matter in question shall be resolved in a court of competent jurisdiction.
- c. THE CONSULTANT AGREES AND COVENANTS TO HOLD HARMLESS AND INDEMNIFY THE CLIENT FROM ANY CLAIMS, LOSSES, INJURY, LIABILITY, AND EXPENSES PROXIMATELY CAUSED BY THE NEGLIGENT CONDUCT OR OMISSIONS OF THE CONSULTANT, ITS OFFICERS, EMPLOYEES, OR AGENTS IN THE EXECUTION OF THE WORK PERFORMED IN ACCORDANCE WITH THIS AGREEMENT, OR WHICH CONSTITUTES A BREACH OF THIS AGREEMENT.
- d. THE CLIENT AGREES AND COVENANTS TO HOLD HARMLESS AND INDEMNIFY THE CONSULTANT FROM ANY CLAIMS, LOSSES, INJURY, AND EXPENSES PROXIMATELY CAUSED BY THE NEGLIGENT CONDUCT OR OMISSIONS THAT CONSTITUTE A FORM OF TORTIOUS BEHAVIOR ON THE PART OF THE CLIENT, ITS OFFICERS, EMPLOYEES, OR AGENTS IN THE EXECUTION OF THE WORK PERFORMED IN ACCORDANCE WITH THIS AGREEMENT, OR WHICH CONSTITUTES A BREACH OF THIS AGREEMENT.

7. TERMINATION

- a. The Client may terminate this Agreement upon not less than seven days' written notice to the Consultant for the Client's convenience and without cause. If the Client terminates this Agreement for convenience, the Client shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.
- b. Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.
- c. If the Client fails to make payments to the Consultant in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Consultant's option, cause for suspension of performance of services under this Agreement. If the Consultant elects to suspend services, the Consultant shall give seven days' written notice to the Client before suspending services. In the event of a suspension of services, the Consultant shall have no liability to the Client for delay or damage caused the Client because of such suspension of services. Before resuming services, the Client shall pay the Consultant all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Consultant's services. The Consultant's fees for the remaining services and the time schedules shall be equitably adjusted.

8. CONFIDENTIALITY

- a. If the Consultant or Client receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in this Agreement. This confidentiality obligation shall survive the termination of this Agreement.
- b. The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 8.

9. MISCELLANEOUS PROVISIONS

- a. This Agreement shall be governed by the laws of the State of Utah.

- b. The Consultant and Client agree that the provisions of this Agreement shall be binding on heirs, permitted assigns and successors and agents.
- c. The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

10. COMPENSATION

- a. For the Consultant's Services as described under Article 1, the Client shall compensate the Consultant as follows:

A stipulated sum of \$22,750.

- b. Reimbursable Expenses are in addition to compensation for the Consultant's Services and include expenses incurred by the Consultant in the interest of the Project including, but not limited to, the expense of transportation in connection with the Project; expenses in connection with authorized out-of-town travel; expense of reproductions and postage. For Reimbursable Expenses, a multiple of 1.1 times the expenses incurred by the Consultant in the interest of the Project.
- c. Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Consultant's invoice. Amounts unpaid 30 days after the invoice date shall bear interest at the rate of 18% per annum.

11. SCOPE OF THE AGREEMENT

- a. This Agreement represents the entire and integrated agreement between the Client and the Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Client and Consultant.
- b. This Agreement is comprised of the following documents identified below:
 - i. This Professional Services Agreement



Consultant *(Signature)*

Kevin B. Miller, President/CEO

(Printed name and title)

Client *(Signature)*

(Printed name and title)