STANDARD FORM OF AGREEMENT BETWEEN OWNER AND DESIGN PROFESSIONAL

for Feasibility Study, XXX Services

Board of Regents, State of Iowa – July 2004 Edition

Project No. XXXXXXX

Agreement by and between the Board of Regents, State of Iowa, acting for The University of Iowa, hereinafter called the Owner, and Consultant of City, State, Design Professional. A strikethrough of paragraph(s) represents deleted or modified language – see Article 14 for changes to Agreement.

The Owner intends to undertake on the Campus of The University of Iowa, a Feasibility Study OR Other Descriptive Title for Services entitled and briefly described as follows:

Project Title: Enter Project Title Here

This project will insert description here.

The scope of work covered by this agreement includes insert scope of work here, as further detailed in the proposal letter, Exhibit A.

The Owner and the Design Professional agree as set forth below.

I. The Design Professional shall provide professional services in accordance with the Terms and Conditions of this Agreement and within the standards of care exercised by design professionals within the industry.

II. The Design Professional hereby acknowledges receiving and analyzing the Owner’s Scope of Work and meeting with the Owner’s Representative to confirm the Design Professional’s understanding of the Scope of Work.

III. BASIC SERVICES shall consist of all Services described in Article 2 unless modified in Article 14.
A. Owner’s Representative Designee is: Owner’s Representative’s Name

B. Design Professional’s Representative is: Design Professional’s Representative’s Name

C. Professional Consultants retained by the Design Professional for the services covered by this Agreement are: Professional Consultant’s Firm Name, Representative and Discipline OR type None

IV. The Owner shall compensate the Design Professional in accordance with the TERMS AND CONDITIONS OF THIS AGREEMENT.

A. For BASIC SERVICES compensation shall be a STIPULATED SUM of Amount in Agreement in Words and No/100 Dollars ($X,XXX,XXX.XX).

Or

A. For BASIC SERVICES compensation shall be on the basis of the hourly rates schedule attached hereto (Exhibit C) with a FIXED MAXIMUM not to exceed Amount of Agreement in Words and No/100 Dollars ($X,XXX,XXX.XX). Said schedule shall govern for the duration of this Agreement.

B. For Additional Services, compensation shall be stipulated at the time of occurrence.

C. For REIMBURSABLE EXPENSES, as defined in Article 4, compensation shall not exceed Amount in Agreement in Words and No/100 Dollars ($XXX,XXX.XX). REIMBURSABLE EXPENSES shall be compensated at a multiple of 1.0 times the amount invoiced to the Design Professional for such expenses.

V. The Design Professional and all Professional Consultants shall maintain insurance for the duration of the Project or statute of limitations in effect at the time of the execution of this Agreement, whichever is longer in such amounts and types as required below. The insurance required shall be obtained from a company(ies) licensed to do business in the state of Iowa and hold a current financial rating from A. M. Best of no less that A-, financial size VII, if reasonably available in the market place. The required minimum liability limits may be met through either the primary policy(ies), or a combination of primary and excess or umbrella policies.

A. Insurance coverage required:
i. Workers Compensation and Employer’s Liability: Coverage A – State of Iowa Statutory Benefits. Coverage B - $500,000 each accident; $500,000 disease each employee, and $500,000 disease policy limit.

ii. Commercial General Liability (ISO 1998 or later/equivalent form) covering all work and operations under the Agreement with limits of no less than $1,000,000 per occurrence and $2,000,000 in the aggregate.

iii. Automobile Liability of no less than $1,000,000 each accident and annual aggregate, covering owned, leased, hired, non-owned, and employee non-owned vehicles.

iv. Professional Liability of no less than $1,000,000 each occurrence and $2,000,000 annual aggregate. Coverage should be on a claims made basis.

v. Umbrella Liability of no less than $1,000,000 per occurrence.

B. The above liability insurance policies, with the exception of Professional and Workers Compensation coverage, shall name three entities, State of Iowa; Board of Regents, State of Iowa; and The University of Iowa as additional insureds.

C. The Design Professional shall waive subrogation rights against the State of Iowa, and the Board of Regents, State of Iowa, and The University of Iowa for any claim paid or payable by any of the above-required insurance policies.

D. Neither the Owner, nor any additional insured required to be so named under this Agreement shall participate in any policy deductible or retention for claims. Any such deductible or retention shall be the sole responsibility of the Design Professional.

E. Certificate Holder address shall be as follows:

University of Iowa
FM-Planning, Design & Construction
Attn: Tammie Otto
200 University Services Building
Iowa City, IA 52242
TERMS AND CONDITIONS OF THE AGREEMENT

ARTICLE 1. WORKING RELATIONSHIPS

1.1 Owner's Representative. The Director of Planning, Design & Construction or designee shall be the principal representative of the Owner. All communications between the Owner and Design Professional shall be made through the Owner's Representative. The Owner's Representative shall be at all meetings with the Design Professional.

1.2 Design Professional's Representative. The Design Professional shall designate one principal or an authorized representative to represent the firm in all communications and at all meetings with the Owner's Representative. All correspondence from the Owner to the Design Professional shall be directed to this person. The Design Professional's Representative shall not be changed without prior written consent of the Owner. The Design Professional's Representative shall be professionally licensed in the State of Iowa.

1.3 Consultant's Representative. Each Professional Consultant retained by the Design Professional shall designate one principal or an authorized representative to represent the firm at all meetings with the Owner's Representative. The Consultant's Representative shall not be changed without prior written consent of the Owner.

1.4 Definitions.

1.4.1 Design Documents: Drawings and other documents that fix and describe the size and character of the entire project as to architectural, structural, mechanical and electrical systems, material and such other elements as may be appropriate.

1.4.2 Design Professional: The entity engaged to provide professional design services. The Design Professional may practice Architecture, Engineering, Interior Design, Landscape Architecture or other similar disciplines professionally qualified to provide the services described herein.

1.4.3 Professional Consultant: An entity contracted by the Design Professional to provide specific services for the project.

ARTICLE 2. THE DESIGN PROFESSIONAL’S SERVICES

2.1 Basic Services. The Design Professional's Basic Services shall consist of the work identified wherein, including architectural, structural engineering, mechanical engineering, electrical engineering, estimating services, and any other services included in Article 14.

2.1.1 The Design Professional shall attend meetings with the Owner as may be necessary for the timely performance of all services.

2.1.2 The Design Professional shall work with the Owner’s Representative in the development of the time schedule for the Design Professional’s services and shall agree to maintain the schedule as established. Modifications to the agreed upon time schedule shall be approved by the Owner.
2.1.3 The Design Professional shall comply with all provisions of the University Design Standards & Procedures manual, which can be viewed at [http://www.facilities.uiowa.edu/pdc/designstandards/index.html](http://www.facilities.uiowa.edu/pdc/designstandards/index.html), see December 31, 2013 edition. Any deviations for equal or improved concepts, methods, or products must be called to the attention of, and reviewed with the Owner's Representative and receive written approval before implementation.

2.1.4 The Design Professional shall include the Owner's project title and project number, if applicable, on all documents, including correspondence, letters of transmittal, requests for payment, and drawings.

2.1.5 The Design Professional's Basic Services also include:

.1 Analyzing with documentation all site utilities and building systems with each utility company and/or Owner, if applicable.

.2 Reviewing existing building and campus planning documents.

.3 Researching and resolving code interpretations.

.4 Securing reviews and approvals, on behalf of the Owner, of authorities having jurisdiction over the project, when applicable and/or furnishing drawings, specifications and applications for such reviews as may be required.

.5 Furnishing Design Documents and applications for such reviews as may be required.

.6 Making a presentation to the Board of Regents, planning committee and any other appropriate committee when requested by the Owner.

.7 Keeping, preparing and transmitting minutes of meetings between the Design Professional, Owner's Representative or other institutional personnel and any other groups.

.8 Preparing for and participating in a meeting on behalf of the Owner in connection with any public hearing.

2.1.6 The Design Professional shall not enter into a contract with any Professional Consultant for the rendering of any of the services provided under this Agreement without first obtaining the Owner's written approval of the proposed consultant.

2.1.7 The Owner reserves the right to require the Design Professional’s Professional Consultants to attend meetings referred to in Article 2, Paragraph 2.1.1 and to provide such data and design information as the Owner may find reasonably necessary in connection with the project.

2.1.8 The Design Professional shall furnish to the Owner a complete written report of observations made during the Construction Phase, if applicable.
2.1.9 The Design Professional shall not be responsible for the acts or omissions of the Owner's Representative during the Construction Phase.

2.2 Additional Services

2.2.1 The following services are not included in Article 2, Paragraphs 2.1 Basic Services. Such additional services will be paid for by the Owner in addition to compensation for the Design Professional's Basic Services, provided that such additional services have been authorized in writing by the Owner prior to their performance. The limitation on the total compensation provided in Paragraphs IV shall be changed to reflect these additional services upon execution of an amendment to this Agreement. Such services include:

1. Making revisions in Design Documents resulting from Owner-initiated changes in scope or in the standards of the institution made subsequent to Owner approval of previously completed work.

2. Preparing to serve or serving as an expert witness on behalf of the Owner in connection with any arbitration proceeding or legal proceeding.

2.2.2 The Design Professional shall have the right under this Article to claim additional compensation for any services not specifically covered herein, provided that such additional services are identified as such and are authorized in writing by the Owner's Representative prior to their performance.

ARTICLE 3. THE OWNER'S RESPONSIBILITIES

3.1 The Owner's Representative shall meet and confer with the Design Professional and the Design Professional's Professional Consultants as necessary to ensure complete understanding and communication relative to the needs and requirements of the project. The Owner's Representative shall notify the Design Professional in writing of any change in the written program/requirements.

3.2 The Owner will provide the Design Professional with a certified site survey, when such services are deemed necessary by the Design Professional and approved by the Owner, containing the data requested by the Design Professional.

3.3 The Owner shall furnish the services of a geotechnical engineer or other consultant when such services are deemed necessary by the Design Professional and approved by the Owner, including reports, test borings, test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion and resistively tests and other necessary operations for determining subsoil, air and water conditions, with appropriate professional recommendations.

3.4 The Owner shall furnish special testing services as deemed necessary by the Owner or Design Professional with appropriate professional reports or recommendations.

3.5 The services, information, surveys, and reports required by Article 3, Paragraphs 3.2 through 3.4, inclusive, shall be furnished at the Owner's expense and the Design Professional shall be entitled to rely upon the accuracy and completeness thereof.
3.6 The Owner shall furnish required information as expeditiously as necessary for the orderly progress of the Work.

ARTICLE 4. REIMBURSABLE EXPENSES

4.1 Reimbursable Expenses are in addition to the compensation for Basic Services and include actual expenditures made by the Design Professional, or its Professional Consultants associated with the services herein for the expenses listed in Article 14 and the following subparagraphs:

4.1.1 Reimbursable travel expenses shall be limited to those incurred in travel on behalf of the project when authorized by the Owner’s Representative.

4.1.2 If authorized by the Owner, expenses for reproduction and distribution of documents shall be considered to be reimbursable expenses.

4.1.3 The Design Professional shall have the right under this Article to claim reimbursable expenses for any items not specifically covered herein, provided that such reimbursable expenses are identified as such and are authorized in writing by the Owner’s Representative prior to being incurred.

ARTICLE 5. PAYMENTS TO DESIGN PROFESSIONAL

5.1 For Basic Services and Additional Services, as defined in Article 2, and for Reimbursable Expenses, as defined in Article 4, payments shall be made monthly based upon approved invoices.

5.2 Preparation of Invoices. Invoices for Basic and Additional Services and Reimbursable Expenses shall be prepared in accordance with the Owner’s standard invoice and shall be accompanied with documentation for services and reimbursable expenses.

5.3 Termination of the Agreement. In the event the Agreement is terminated for any reason, the Design Professional shall be paid for services satisfactorily performed and unpaid Reimbursable Expenses incurred prior to receipt of written notice of termination.

5.4 Design Professional’s Accounting Records. Records of the Design Professional's cost pertinent to Design Professional's compensation under this Agreement shall be:

5.4.1 Kept in accordance with generally accepted accounting practices.

5.4.2 Kept for the duration of the statute of Limitations that governs when this Agreement was executed.

5.4.3 Made available to the Owner on request or shall be made available for examination by the Owner's authorized representative at mutually convenient times at no expense to the Owner.
ARTICLE 6. EQUAL EMPLOYMENT OPPORTUNITY

6.1 The Design Professional shall not discriminate against any employee or applicant for employment because of race, creed, color, religion, national origin, sex, age, physical or mental disability or status as a Vietnam-era/disabled veteran. The Design Professional shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, religion, national origin, sex, age or physical or mental disability or status as a Vietnam-era/disabled veteran except where it relates to a bona fide occupational qualification. Such action shall include, but not be limited in the following; employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation, and, selection for training, including apprenticeship. The Design Professional agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Owner setting forth provisions of this nondiscrimination clause.

6.2 The Design Professional shall, in all solicitations or advertisements for employees placed by or on behalf of the Design Professional, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sex, age or physical or mental disability or status as a Vietnam-era/disabled veteran except where it relates to a bona fide occupational qualification.

6.3 The Design Professional shall send to each labor union or representative of workers with which the Design Professional has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or worker’s representative of the Design Professional’s commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

6.4 The Design Professional shall comply with all relevant provisions of state and federal laws and regulations. The Design Professional shall furnish all information and reports requested by the Owner or required by or pursuant to the rules and regulations herein and shall permit access to payroll and employment records by the Owner or the Owner’s Representatives for the purposes of investigation to ascertain compliance with such rules, regulations or requests, or with this nondiscrimination clause.

6.5 In the event of the Design Professional’s noncompliance with the nondiscrimination clauses of the Agreement or with any of the aforesaid rules, regulations or requests, this Agreement may be canceled, terminated or suspended in whole or in part and the Design Professional may be declared ineligible for further Agreements with the Owner. In addition, the Owner may take such further action, and such other sanctions may be imposed and remedies invoked, as provided by the Code of Iowa, as heretofore and hereafter amended, or by the rules and regulations of the Owner or as otherwise provided by law.

6.6 The Design Professional shall include the provisions of this Article 6 hereof in every agreement with consultants unless specifically exempted by approval of the Owner, in accordance with the rules and regulations of said Owner, so that such provisions shall be binding on each consultant. The Design Professional shall take such action with respect to any consultant as the Owner or the Owner’s authorized representative may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Design Professional becomes involved in, or is threatened with, litigation by a consultant as a result of such direction by the Board of Regents or its
institutions, the Design Professional may request the State of Iowa to enter into such litigation to protect the interests of the State of Iowa.

ARTICLE 7. TERMINATION OF AGREEMENT

7.1 This Agreement may be terminated by either party upon seven (7) days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.

7.2 This Agreement may be terminated by the Owner upon not less than seven (7) days written notice to the Design Professional for the Owner's convenience and without cause.

7.3 In the event of termination due to the fault of parties other than the Design Professional, the Design Professional shall be compensated for services performed to termination date, including reimbursable expenses.

7.4 This Agreement shall terminate upon final acceptance of the services described herein.

ARTICLE 8. OWNERSHIP OF DOCUMENTS

8.1 All documents required by this Agreement, as instruments of service are the property of the Owner.

8.2 Any use without specific written verification or adaptation by the Design Professional will be at Owner’s sole risk and without liability or legal exposure to the Design Professional.

8.3 The Design Professional shall not acquire a copyright for documents but shall be permitted to retain copies including reproducible copies or electronic data of the documents.

ARTICLE 9. INSURANCE AND INDEMNIFICATION

9.1 The Design Professional and all Professional Consultants employed by the Design Professional shall each effect and maintain insurance to protect the Design Professional from claims under worker's compensation acts; claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of their employees or of any person other than their employees, and from claims for damages because of injury to or destruction of tangible property including loss of use resulting therefrom; and from claims arising out of the performance or professional services caused by any errors, omissions, or negligent acts for which the Design Professional is legally liable. Insurance shall be as identified in Paragraph V.

9.2 The Design Professional shall furnish certificates to the Owner showing insurance coverage. Certificates shall identify the name of the project and shall provide Owner with a minimum 30 days notice of cancellation. The requirements for insurance are not intended to limit the liabilities and obligations otherwise assumed by the Design Professional in this Agreement, including provision concerning indemnification. Upon written request of the Owner, the Design Professional agrees to provide certified copies of any or all insurance policies required in Paragraph V, within 30 days of such request.
9.3 The Design Professional agrees to indemnify and hold harmless the Owner against all damages, liabilities or costs, including reasonable attorneys’ fees and all costs associated with internal and external expenses for labor and materials in preparing for the defense, to the extent caused by the Design Professional’s negligent performance of professional services under this Agreement and that of its Professional Consultants or anyone for whom the Design Professional is legally liable.

9.4 The requirements for insurance are not intended to limit, qualify or restrict the liabilities and obligations otherwise assumed by the Design Professional in this Agreement, including provisions concerning indemnification.

ARTICLE 10. DISPUTES

10.1 Any dispute between the Design Professional and the Owner regarding, but not limited to project budget, project scope, project layout, or types and quality of materials, shall be submitted in writing within twenty-one (21) days after occurrence of the event giving rise to the claim to be resolved by the Owner’s Representative. If not resolved by the Owner’s Representative within ten (10) days, then the Design Professional may submit in writing the issues(s) in dispute to the University Senior Vice President for Finance & Operations as the University President’s designee. The determination of the University Senior Vice President for Finance & Operations is the final institutional decision.

ARTICLE 11. SUCCESSORS AND ASSIGNS

11.1 The Owner and the Design Professional each is bound, all partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Design Professional shall assign, sublet or transfer its interest in this Agreement without the written consent of the other.

ARTICLE 12. EXTENT OF AGREEMENT

12.1 This Agreement represents the entire and integrated agreement between the Owner and the Design Professional 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 Owner and the Design Professional.

ARTICLE 13. GOVERNING LAW

13.1 This Agreement shall be governed by the laws of the State of Iowa.

ARTICLE 14. OTHER CONDITIONS OR SERVICES

14.1 MODIFICATIONS TO THE TERMS AND CONDITIONS OF THE AGREEMENT:

14.1.1 The following Paragraphs have been deleted from this Agreement: None

14.1.2 The following Paragraphs have been modified in this Agreement: None

14.1.3 The following Paragraphs have been added to this Agreement:
14.2 DOCUMENT SUBMITTAL SCHEDULE:

14.2.1 The Design Professional shall provide to the Owner the quantity (#) of hardcopies (HC) and the electronic files (E) of the documents identified below. (Select the appropriate table, Insert specific items as applicable and delete other tables.)

<table>
<thead>
<tr>
<th>Study and Report</th>
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<tr>
<td>Other (Describe)</td>
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<tr>
<td>Other (Describe)</td>
<td>E</td>
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</tbody>
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14.3 MONTHLY PROGRESS REPORT: (14.3.1 must be kept)

14.3.1 The Design Professional shall provide a monthly progress report summarizing the activities of the previous month (and outstanding issues or planned activities for the next month). This report shall be furnished to the Owner and shall coincide with the Design Professional’s invoice for professional services.

14.4 PAYMENT TO THE DESIGN PROFESSIONAL:

14.4.1 Payment to the Design Professional for Basic and Additional Services, as defined in Article 2, and for Reimbursable Expenses, as defined in Article 4, shall be made monthly upon presentation of the Design Professional’s statement on the Owner’s standard invoice format. Only payment requests submitted using the Owner’s invoice format will be processed for payment. Send payment requests to the following: fm-capitalaccounting@uiowa.edu

14.4.2 During the course of the Project, payments to the Design Professional shall not exceed the following percentages of the total compensation due under the Agreement. When total compensation is Stipulated Sum, payment shall be commensurate with the actual work completed, but not exceeding the phase limit.

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<thead>
<tr>
<th></th>
<th>Fee Amount in $s</th>
<th>Fee Amount as %</th>
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<tbody>
<tr>
<td>Study</td>
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<tr>
<td>Quality Control Testing</td>
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<td>Commissioning</td>
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<td>Other (Describe)</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
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14.4.3 Any required back up documentation to the Design Professional’s statement shall be included with the statement.

14.5 PROPOSAL LETTER:

14.5.1 The Design Professional’s proposal letter dated Enter Date is appended and incorporated into this Agreement by reference as Exhibit A.
This Agreement becomes effective the day and year signed by the Owner below:

[Use if agreement is < $50,000]

**Design Professional:**

(Enter Firm Name)

By: ______________________________

(Title)

Date: ____________________________

**Owner:**

University of Iowa

By: ______________________________

David W. Kieft
University Business Manager

Dated: ____________________________
Project: Enter Project Title

Project #: Enter #

This Agreement becomes effective the day and year signed by the Owner below:

[Use if agreement is MORE than $50,000]

Design Professional:

(Enter Firm Name)

By: ________________________________

(Title)

Date: ________________________________

Recommended by:

University of Iowa

By: ________________________________

David W. Kieft
University Business Manager

Owner:

Board of Regents, State of Iowa

By: ________________________________

Robert Donley
Executive Director

Dated: ________________________________
EXHIBIT A
PROPOSAL LETTER

(Attachment shall match Professional Service Agreement Proposal Letter format.)
EXHIBIT A
PROPOSAL LETTER - CONTINUED
EXHIBIT B
REIMBURSABLE GUIDELINES FOR
STANDARD AGREEMENT BETWEEN OWNER AND DESIGN PROFESSIONAL

A. TRAVEL EXPENSES (when authorized):

1. Automobile: IRS allowable reimbursement rate for current calendar year.

2. Air Travel:* Actual coach class fare from airport near office or previous engagement to Cedar Rapids, IA or Moline, IL. (Flight insurance is not a reimbursable expense.)

3. Rental Automobile:* Actual cost of mid-size car or smaller.

4. Taxi, Airport Shuttle:* Actual cost including gratuity.

5. Parking:* Actual cost.

B. PER DIEM EXPENSES (when authorized):

1. Lodging:* Actual cost up to $110.00 per day, including state and local taxes. (An itemized receipt is required.)

2. Restaurant Meals:* Actual cost up to $40.00 per day, including tips, state and local taxes. (An itemized receipt is required and alcohol is not a reimbursable expense.) See UI Purchasing website for further guidelines.

C. PRINTING EXPENSES:

1. Design Review Documents, Bidding Documents or Final Reports No reimbursement - Owner Provided Printing Vendor Services

2. Correspondence, check prints, file copies, etc. No Reimbursement.

D. FAX & PHONE EXPENSES: No Reimbursement.

E. POSTAGE & DELIVERY EXPENSES: No Reimbursement.

* Receipts required
EXHIBIT C
SCHEDULE OF HOURLY FEES

(Attach hourly rates for all PSA. Attach schedule of hours for all PSA with T&M fees basis.)