

Business Development 407-836-7317

Capital **Projects** 407-836-0050

**Facilities** Management 407-836-9300

Fiscal & Operational Support 407-836-7396

Fleet Management 407-836-8200

Procurement 407-836-5635

Real Estate Management 407-836-7070

### ADMINISTRATIVE SERVICES DEPARTMENT Anne M. Kulikowski, Director

400 East South Street, 5th Floor • Reply to: Post Office Box 1393 • Orlando, Florida 32802-1393 407-836-5455 • Fax 407-836-2911 e-mail: Anne.Kulikowski@ocfl.net www.onetgov.net

### MEMORANDUM

TO:

Mayor Jerry L. Demings

and the Board of County Commissioners

FROM:

Anne M. Kulikowski, Director

Administrative Services Department ## WWW

Phone: (407) 836-5455

DATE:

October 29, 2020

SUBJECT:

Consent Agenda Item – November 10, 2020

Agreement between Orange County, Florida and Fraternal Order of Police, Lodge #93 related to the Law Enforcement Memorial Monument

The Fraternal Order of Police Lodge #93 ("FOP") desires to construct a law enforcement memorial monument ("Memorial") at the Orange County Courthouse Complex. Via letter dated November 1, 2019, FOP notified Orange County ("County") of their plans and sought a donation from the County for construction of the Memorial.

The agreement outlines the terms and conditions of the County contribution. Under the proposed agreement, the County agrees to contribute no more than 50% of the total construction cost of the new Memorial, in an amount not to exceed \$300,000. In addition to the monetary contribution, the County agrees to maintain the Memorial and surrounding areas.

**ACTION REQUESTED:** 

Approval and execution of Agreement between Orange County, Florida and Fraternal Order of Police, Lodge #93 related to the Law Enforcement Memorial Monument with Orange County to contribute no more than 50% of the total construction cost in an amount not

to exceed \$300,000.

Attachment (1)

c: Byron W. Brooks, AICP, County Administrator Danny Banks, Director of Public Safety Richard Steiger, Manager, Facilities Management Division Sawsan Mohiuddin, Assistant County Attorney

BCC Mtg. Date: November 10, 2020

# AGREEMENT between ORANGE COUNTY, FLORIDA and FRATERNAL ORDER OF POLICE, LODGE #93 related to the

### LAW ENFORCEMENT MEMORIAL MONUMENT

This Agreement is made and entered into as of the 15 day of 15 day of 15 day of 2020, by and between Orange County, Florida, a charter county and political subdivision of the State of Florida, hereinafter, referred to as "County", and the Fraternal Order of Police, Lodge #93. Orange County Sheriff's Office, hereinafter referred to as "FOP".

#### **RECITALS**

WHEREAS, County and FOP made and entered into an agreement dated the 15th day of February 2000 for the purpose of the construction and maintenance of a Law Enforcement Memorial Monument by the FOP; and

**WHEREAS**, in November 2016, as a result of damage to the monument, the original memorial was removed; and

WHEREAS, via letter dated November 1, 2019, FOP notified the County of plans to construct a new law enforcement memorial ("Memorial") at the Orange County Courthouse Complex and sought donations for the cost of construction; and

**WHEREAS**, the County desires to contribute to the construction of the new Memorial and maintain the areas surrounding the monument structure; and

WHEREAS, this Agreement is entered into for the purpose of the construction and maintenance of the new Memorial by the FOP; and

WHEREAS, the parties hereto desire to set forth their mutual understanding of the terms and conditions of their agreement contained herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the County and FOP agree as follows:

ARTICLE I
Authority

### ARTICLE I Authority

**1.1 Grant and Acceptance**. The County grants to FOP and FOP accepts the right to construct and maintain a Memorial located at 425 North Orange Avenue, Orlando, Florida, subject to and upon the terms and conditions stated herein.

### <u>ARTICLE II</u>

### Construction and Location of the Memorial

- **2.1** Location of Memorial. The Memorial shall be located and constructed in accordance with the design plans attached hereto as **Exhibit A**.
- **2.2.** County Contribution. The County shall contribute no more than fifty percent (50%) of the total construction cost of the new Memorial in an amount not to exceed \$300,000.00.
- **2.3** Plans and Specifications. The Memorial shall be constructed by FOP. All surveys, site plans and other necessary documents shall be prepared by FOP at its expense. FOP shall provide the County with a copy of all surveys, site plans, permits, specifications and drawings related to the design and construction of the Memorial.
- 2.4 Inspections. During the construction of the Memorial and from time to time thereafter, the County shall have the right to inspect the Memorial for the purpose of determining whether it is built according to plans and specifications and thereafter, its state of repair. In the event the Memorial is not being constructed in accordance with plans and specifications, the County shall have the right to halt construction immediately. If construction is halted, both parties shall meet within seventy-two (72) hours in an effort to resolve the issue. Absent resolution of the issue, both parties may pursue any other remedies provided under this Agreement. The County shall not be liable for any costs of delays. FOP shall be solely responsible for any costs occasioned by delay in the design and construction of the Memorial. Upon the completion of the construction of the Memorial, and prior to its commencement of operation, the County shall be furnished, at the expense of FOP, a certificate to the effect that the Memorial was constructed according to the plans and specifications and in accordance with generally accepted engineering standards.
- **2.5** Commencement and Completion. FOP shall apply for and seek approval of any permits or other approval that may be necessary for the construction of the Memorial. FOP will apply for all necessary permits and approvals by executing,

furnishing and filing, all information, applications or other documents required by the City of Orlando to secure such permits and approvals. In any event, construction of the Memorial shall commence by July 20<sup>th</sup>, 2020 and be substantially completed by October 15, 2020.

**2.6** Compliance with Permits and Law. The Memorial shall be constructed in accordance with the terms and conditions of the permits issued and any other applicable law, rules, regulations and ordinances.

### ARTICLE III Operation of the Memorial

- 3.1 Maintenance/Repair. County will be responsible for maintenance of the Memorial and surrounding areas. Any repairs or replacements required of Monument are the responsibility of FOP. Prior to conducting any repair or replacement work, FOP shall consult with and receive approval from the County to enter upon County property and perform said work.
- 3.2 Damage to the Memorial- Obligation to Rebuild. In the event that the Memorial is damaged or destroyed, FOP agrees to repair or rebuild the Memorial in substantially the same form as the original Memorial, within six (6) months from the date of the damage or destruction. In the event the Memorial is not reconstructed for any reason, FOP agrees to clean up all of the debris and leave the site in substantially the same condition it was in prior to the execution of this Agreement.
- 3.3 Risk of Loss and Insurance. The Memorial shall be covered for property damage under the County's self-insurance program. Any loss shall be subject to all of the terms and conditions of this program, including deductibles and exclusions. FOP shall be responsible for any deductibles that are in effect at the time of loss. In the event that FOP is not able to repair or reconstruct the Memorial, the County shall have the right, but not the obligation, to use any and all insurance proceeds necessary for the cleanup and removal of debris and/or reconstruction of the Memorial.

### ARTICLE IV Term and other Provisions of Agreement

- **4.1 Term.** The term of this Agreement shall be for a period of thirty (30) years from the date of last execution. However, the maintenance obligations set forth in section 3.1 and the requirements specified in Section (3.2, 3.3 and 3.4) shall survive the termination of the Agreement.
- **4.2 Relationship of Parties.** Nothing in this Agreement shall be construed in any manner to create the relationship of employer/employee, principal/agent, joint

venture or partners between the County and FOP. Neither the County nor FOP shall act in such manner as would imply any of such relationships.

- 4.3 Suspension of Obligation to Perform. FOP's obligation to construct, maintain and operate the Memorial shall be suspended for reasons beyond the reasonable control of FOP, or by reasons of acts of God, or force majeure, strikes, lock outs, labor troubles, and unavailability of building materials and the time for performance shall be extended for a period equal to the delays so caused.
- 4.4 Reimbursement- Surety. In the event FOP fails to construct the Memorial in accordance with the provisions of this Agreement, the County shall be entitled to reimbursement for its contribution toward the construction of the Memorial as well as for all expenses incurred by the County after the date of execution of the Agreement. FOP shall furnish the County adequate security, by irrevocable letter of credit or such other security as is acceptable to the County, in an amount which is equal to 100% of the total anticipated costs to be incurred by the County.
- 4.5 Indemnification. To the extent permitted by law, each party agrees to defend, indemnify, and hold harmless the other party, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorneys' fees) arising from the indemnifying party's own negligent acts or omissions, or those negligent acts or omissions of the indemnifying party's officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this Agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability of any kind for the acts, omissions, and/or negligence of the other party, its officers, officials, employees, agents, or contractors.
- **4.6 Insurance.** FOP agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this agreement the following types of insurance coverage with limits and on forms (including endorsements) as described herein. These requirements, as well as the County's review or acceptance of insurance maintained by FOP is not intended to and shall not in any manner limit or qualify the liabilities assumed by FOP under this agreement. FOP is required to maintain any coverage required by federal and state workers' compensation or financial responsibility laws including but not limited to Chapter 324 and 440, Florida Statutes, as may be amended from time to time.

FOP shall require and ensure that each of its contractors or subcontractors providing services hereunder (construction or maintenance) procures and maintains until the completion of their respective services, insurance of the types and to the limits specified herein. Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A- Class VIII or better.

(Note: State licenses can be checked via www.floir.com/companysearch/ and A.M. Best Ratings are available at www.ambest.com)

Required Coverage:
Commercial General Liability – FOP/Contractor shall maintain coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than one million dollars (\$1,000,000) per occurrence. FOP/Contractor further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insureds. The General Aggregate limit shall either apply separately to this agreement or shall be at least twice the required occurrence limit.
Required Endorsements:
☐ Additional Insured- CG 20 26 or CG 20 10/CG 20 37 or their
equivalents.
Note: CG 20 10 must be accompanied by CG 20 37 to include products/completed operations  Understand Transfer of Rights of Recovery- CG 24 04 or its equivalent.  Note: If blanket endorsements are being submitted please include the entire endorsement and the applicable policy number.
Business Automobile Liability FOP/Contractor shall maintain coverage for all owned; non owned and hired vehicles issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with limits of not less than five hundred thousand dollars (\$500,000) per accident or combined single limit. In the even FOP/Contractor does not own automobiles the FOP/Contractor shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation FOP/Contractor shall maintain coverage for

its employees with statutory workers' compensation limits, and no less than five hundred

thousand dollars (\$500,000) each incident of bodily injury or disease for Employers'

Liability. Elective exemptions as defined in Floridá Statute 440 will be considered on a case-by-case basis. If FOP/Contractor will be using an employee leasing company the authorized agent shall complete the Leased Employee Affidavit.

Required Endorsements:

☐ Waiver of Subrogation- WC 00 03 13 or its equivalent

Prior to execution and commencement of any operations provided under this agreement FOP/Contractor shall provide the COUNTY with current certificates of insurance evidencing all required coverage. In addition to the certificate(s) of insurance the Vendor/Contractor shall also provide endorsements for each policy as specified above. All specific policy endorsements shall be in the name of the Orange County, Florida. The certificate holder shall read:

Orange County, Florida Attention: Risk Management Division 109 E. Church Street, Suite 200 Orlando, Florida 32801

### ARTICLE V Miscellaneous Provisions

- **5.1 Exercise of Powers.** The County shall exercise such powers as it possesses as a charter county and political subdivision of the State of Florida to perform its obligations and functions under this Agreement.
- 5.2 Assignment of Rights. No party shall assign its rights or obligations under this Agreement without the prior written consent of the other party provided. Except for an assignment by FOP to the County, no assignment by FOP shall relieve it of its responsibilities and obligations under this Agreement without the consent of the County.
- **5.3 Notices**. All notices, requests, and demands given under this Agreement are to be in writing, delivered by hand, facsimile, certified or registered mail to the following addresses which may be changed by written notice:

County:

Orange County Facilities Management

Attn: Manager

210 East Michigan Street Orlando, Florida 32792 with copy to:

Orange County Administrator

P.O. Box 1393

Orlando, Florida 32802

FOP:

Jeff Stinson FOP President 5505 Hansel Ave.

Orlando, Florida 33809

- 5.4 Amendments and Waivers. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the parties relating to such subject matter. This Agreement may not be amended or modified except by mutual written agreement of the authorized parties to this Agreement. Any waiver of rights of obligations of a party under this Agreement shall be valid only if it is signed by the party waiving these rights or obligations.
- 5.5 Severability of Provisions. If any provision of this Agreement is deemed to be invalid or inoperative for any reason, that part shall be deemed modified to the extent necessary to make it valid and operative, or it can be so modified then severed and the remainder of the Agreement shall continue in full force and effect as if the Agreement had been signed with the invalid portions modified or eliminated.
- **5.6 Governing Law.** This Agreement shall be governed by the laws of the State of Florida. The venue for any litigation involving this Agreement shall be the Ninth Judicial Circuit Court in and for Orange County, Florida.
- **5.7 Events of Default.** Any one of the following shall constitute an event of default under this Agreement.
- (a) Failure of FOP to commence or complete construction of the Memorial as provided for in Section 2.5.
- (b) Failure of FOP to observe and perform any covenant, condition, or agreement on its part to be observed or permitted for a period of fourteen (14) days after notice of such a failure request such failure to be remedied, given to FOP and any trustee or lender representing the party or parties financing construction of the Memorial, by the County, unless the County shall agree in writing to an extension of such time prior to its expiration; provided, however, that if and so long as FOP is proceeding with due diligence to cure the default such fourteen (14) day period shall be extended to such period as is required to permit proceeding with due diligence to cure such default; or
- (c) The dissolution or liquidation of the FOP or the filing by FOP of a voluntary petition in bankruptcy, or failure by FOP to lift any execution, garnishment, or

attachment of such consequence as will impair its ability to carry out its obligations under this Agreement.

The provisions of subsections (b) and (c) above are subject to the following limitations: if for any reason beyond the reasonable control of the FOP for paragraph (b) and the County for paragraph (c) or by reason of acts of God, force majeure, strikes, lock outs, labor troubles, or unavailability of building materials the County or FOP are unable to perform their obligations under this Agreement, they shall not be deemed in default during the continuance of such inability.

- **5.8** Remedies. Upon the occurrence and continuance of such event of default of which the defaulting party has notice, the other party or parties shall have the right to enforce its rights by commencing judicial proceedings to:
- (a) Correct the event of default and all costs and expenses, including attorneys feed and interest at the legal rate, incurred in correcting the default shall be paid by the defaulting party;
- (b) Enforce the terms of this Agreement or to seek injunctive relief, including a temporary restraining order, preliminary injunction, and specific performance without showing or proving any actual damage sustained or
- (c) Pursue any other remedies available to the parties under the laws of the State of Florida.

All remedies conferred on any party shall be cumulative. In addition to the above remedies, upon an event of default by FOP, the County may at its option, complete construction of and operate the Memorial or, after completion of construction, take possession of and operate the Memorial.

5.9 Understanding of Parties. It is understood and agreed by the parties of this Agreement that the permission to construct the Memorial is given subject to any limitation on the County to grant such permission, which may now or later exist. If it is determined that such limitation exists, this Agreement shall be modified to comply with such limitations.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, County and FOP have caused this Agreement to be executed by their respective officers and parties thereunto duly authorized to be effective as of the date of last execution.

### COUNTY

ORANGE COUNTY, FLORIDA



**Board of County Commissioners** By:

Orange County Mayor

Date: // / Mentles 2020

ATTEST: Phil Diamond, CPA, County Comptroller

As Clerk to the Board of County Commissioners

By: Neelin Key

For Deputy Clerk

Printed Name: Noelice Perez

*	FOP:
	Fraternal Order of Police Lodge #93
	Ву:
	Print(Name Jeff Stinger
	Date: 10/15/20
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in the presence of:	
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Printed Name:	<del></del>
Witness:	· · · · · · · · · · · · · · · · · · ·
Printed Name:	
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(Notary Seal)	OMU & L
Notary Public State of Florida Anita D Sturgill My Commission Gc 228514 Expires 06/13/2022	Anita D. 5419,11  Printed Name of Notary Commission Number: 66 228514  Commission Expires: 041312022
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## LAW ENFORCEMENT MONUMENT MEMORIAL AGREEMENT

# LAW ENFORCEMENT MONUMENT MEMORIAL AGREEMENT

# **EXHIBIT A**DESIGN PLANS

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ORANGE COUNTY COURTHOUSE LAW ENPORCEMEN

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ORLANDO, PL. 53801
CLIENT\*
ORANGE COUNTY
SHERIFF'S OFFICE
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Project Plane

FOP MEMORIAL

SITE PLAN

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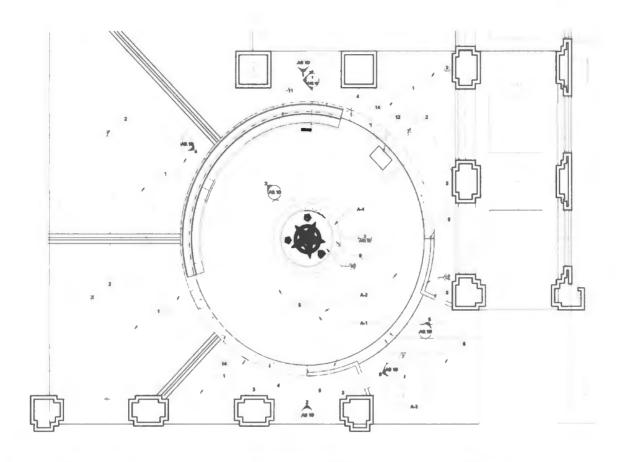
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STYLE: CONCRETE EDGE PRIVING COLOR: STYLY AREA: HOTES:

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A-3 MANUF: SIZE: 20" X 20" PAWER STYLE. COLOR: GRAY AREA. MOYES

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CLIENT: ORANGE COUNTY SHERIFF'S OFFICE FRATERNAL ORDER OF POLICE

FOP MEMORIAL

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State of Florida: AFG000000 Albert J. Cooper Nr. AFG010460 v. 278 National Principles

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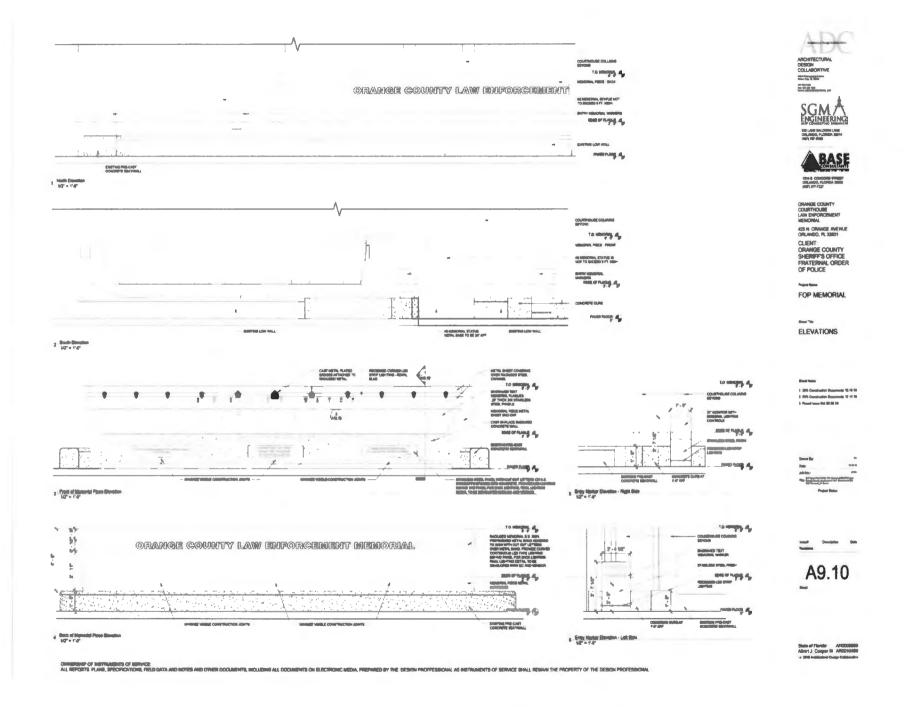
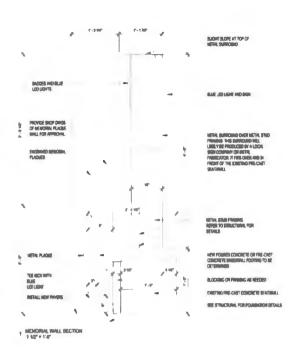
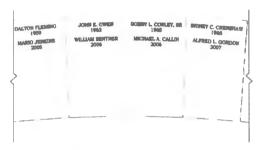


Exhibit A Page 3 of 6





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GRANGE COUNTY COURTHOUSE LAW ENFORCEMENT MEMORIAL

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Propert Store

FOP MEMORIAL

DETAILS

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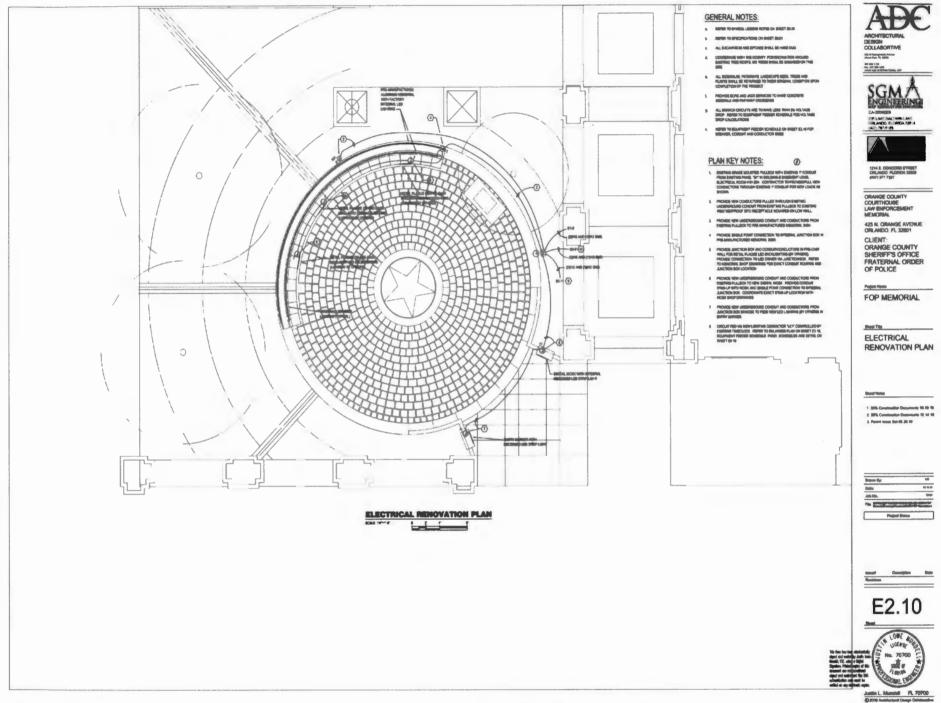
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Exhibit A
Page 6 of 6