

## SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("AGREEMENT") is executed by and among SCHOOLEY CALDWELL ASSOCIATES, INC., its parent companies, affiliates, subsidiaries, successors, and assigns, and their respective directors, officers, shareholders, and employees (together, "CONSULTANT") and the City of Columbus (the "CITY"), and each, a "Party".

### RECITALS

1. CONSULTANT and CITY entered into contract on July 29, 2014 for design services for the Richards House Renovations (the "PROJECT");
2. Thomas & Marker Construction Co. ("Contractor") was hired by CITY to construct the PROJECT that was designed by CONSULTANT;
3. Damages to the PROJECT occurred as a result of certain alleged mechanical insufficiencies as described further in **Exhibit A** hereto (the "Damages");
4. The cost of the Damages is estimated to be \$24,772.00, however, the actual cost of the Damages may exceed the estimate;
5. Based upon the totality of the circumstances, and without any admission of liability or wrongdoing on the part of or on behalf of either Party, the Parties have determined to resolve and settle any and all claims, controversies, disputes, and causes of action, whether asserted or unasserted, known or unknown, or whether in law, equity, or otherwise, relating to, arising out of, or in any way concerning the Damages, pursuant to the terms and conditions enumerated hereafter:

### TERMS & CONDITIONS

**A. PAYMENTS.** It is understood and agreed that CONSULTANT shall reimburse the CITY for the total cost of the Damages in the amount of the actual cost to the CITY, not to exceed \$26,000.00.

- i. Costs for Damages include: time, labor, and material for new ducted returns in basement from 1<sup>st</sup> floor to F-1 and F-4, PVC piping routed from crawl space to new exhaust fan in basement, four new floor grills to match existing grilles on first floor, new wall sensors to monitor the CO2, humidity readings, and temperature in the area served by F2 and F3, relocate two existing lights in basement, vapor barrier in existing crawl space. Costs estimates are shown on **Exhibit B**, attached hereto and made a part hereof but are not binding and are subject to change based on the actual cost to the CITY.
- ii. CONSULTANT shall reimburse CITY for the cost of the Damages within 30-days of receipt of an invoice from the CITY indicating the actual cost of the Damages.

**B. RELEASE.** It is understood and agreed that, upon receipt of the reimbursement payment from CONSULTANT described above, each Party, on behalf of themselves and all persons acting by, through, under or in concert with them, shall, forever **RELEASE** and **DISCHARGE** the other Party from any and all claims, causes of action of any kind, damages, costs, expenses, liabilities, compensation, interests, or other losses related to or arising out of the Damages. This AGREEMENT does not constitute a release or discharge of any claims, causes of action of any kind, damages,

costs, expenses, liabilities, compensation, interests, or other losses not related to the Damages specifically identified in Exhibit B.

**C. MODIFICATION.** It is understood and agreed that this AGREEMENT may not be modified except by an agreement in writing signed by the PARTIES.

**D. CHOICE OF LAW & FORUM.** It is understood and agreed that: (1) this AGREEMENT shall be governed by Ohio law; (2) nothing in this AGREEMENT shall prohibit any Party from bringing action to enforce its terms; and (3) any dispute arising from this AGREEMENT shall be heard in the first instance only in the Court of Common Pleas for Franklin County, Ohio.

**E. BINDING EFFECT.** This AGREEMENT shall be binding upon, benefit and be enforceable by the Parties hereto, and their respective shareholders, directors, officers, elected and appointed members, affiliated entities, employees, predecessors, successors, members, representatives, agents, and assigns.

#### SIGNATURES

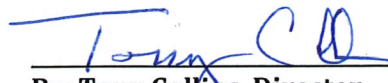
THE UNDERSIGNED HAVE CAREFULLY READ THIS ENTIRE AGREEMENT, REVIEWED IT WITH COUNSEL, UNDERSTAND IT CONTENTS, AND FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, AND INTENDING TO BE LEGALLY BOUND, THE PARTIES AGREE TO THE TERMS & CONDITIONS SET FORTH HEREIN.

FOR SCHOOLEY CALDWELL ASSOCIATES, INC.

  
By: \_\_\_\_\_ Title: \_\_\_\_\_  
ROBERT D. LOVBRUN, FAIA PRESIDENT & CEO

Date: 11/15/2017

FOR THE CITY OF COLUMBUS, OHIO

  
By: **Tony Collins, Director**  
Columbus Department of Recreation and Parks

Date: 11/16/17



# Exhibit A



ARCHITECTURE. INSPIRED.

August 31, 2017

Jeff Anderson, RLA  
Parks Development Specialist  
Columbus Recreation & Parks Department  
1111 Broad Street  
Columbus, OH 43205

Subject: Lashutka Center Humidity Issues

Dear Jeff:

In response to the email you sent to Rob Smith and me last Friday, August 25<sup>th</sup>, as well as our field visit to the Lashutka Center on Tuesday, August 22<sup>nd</sup>, we contacted Jim Dempsy, head Mechanical Engineer at Korda/Nemeth Engineering on Monday to discuss some of the possible solutions that Rob and I had devised as well as to see if he had any additional ideas. Jim agreed with our assessment that the excess humidity was probably coming from three sources: 1) the outdoor air to the four air handlers, 2) the crawl space beneath the old house, and 3) the stone walls that made it impossible to install a vapor barrier around the entire envelope. The location of the facility next to the river and on the side of a steep slope where storm water collects, makes it prone to excess moisture in and around the site. As you know, since the construction budget was very tight, residential/light commercial air conditioning equipment and temperature controls were used, making control of the temperature and excessive humidity a challenge.

Nevertheless, we feel confident that implementing the attached "Action Plan," developed by Korda and Schooley Caldwell, will greatly reduce the level of humidity and also get rid of the musty smell pervading the facility. Sealing off and ventilating the crawl space beneath the old house directly to the outdoors will keep the musty smell out of the airstream of the air handlers. In addition, adding some return air grilles on the first floor that are directly ducted back to the air handlers F-1 and F-4 will also help avoid pulling moist, smelly air into the airstream as well.

We propose that you review our Action Plan and then we can set up a meeting next week between us, Recreation & Parks, and Farber Mechanical (the contractor on the original construction project), to see how quickly we can begin to implement the plan. Because the building is still under warranty by Farber, I would prefer to see if their price to make these alterations is reasonable.

Jeff, the Columbus Recreation & Parks Department has been a special client of Schooley Caldwell since the 1960s, when John Schooley and Mel Dodge worked together to make the Department one of the best in the region. We will certainly do everything we can to minimize the air quality problem at the new Lashutka Center. Rob and I want to let you know that we have made this effort our highest priority, and hope to get the work started as early as next week.

Please let us know your thoughts on the "Action Plan"; we're ready to get going on the implementation plan. If you have any questions, please contact Rob or me.

Sincerely,  
SCHOOLEY CALDWELL

A handwritten signature in black ink, appearing to read "T. Sullivan".

Terence J. Sullivan, P.E., AIA, LEED AP

Enclosure

300 Marconi Boulevard  
Columbus, Ohio 43215

T 614 628.0300

F 614 628.0311

[schooleycaldwell.com](http://schooleycaldwell.com)



## Action Plan

### Lashutka Center Humidity Issues

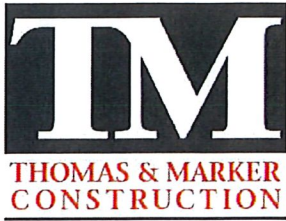
#### Event Room (Served by Air Handlers F-2 & F-3)

- On our latest field visit this past Tuesday (8/29/17), Rob Smith and Terry Sullivan temporarily closed the outside air dampers to F-2 and F-3 to determine if doing so will help with the humidity control.
- If limiting the outside air when no one is in the building helps reduce the humidity problem, we recommend installing a CO<sub>2</sub> sensor and motor operated dampers on the fresh air intake to both units to automatically control the amount of outside air, based on the actual occupancy.
- In addition, change the air handler's temperature control sequence to keep the air handlers operating when high humidity conditions are present. Currently, when space temperature is met, the air handler's blower fans ramp down to provide very little air movement or completely shut off, terminating de-humidification. We propose keeping F-2 running at night and shutting down Air Handler F-3, thereby, forcing F-2 to work harder to provide improved de-humidification.

#### The Existing House (Served by Air Handlers F-1 & F-4)

- Because it was virtually impossible to install an effective vapor barrier in the two existing crawl spaces during construction, we suggest sealing off both crawl spaces from the existing portion of the basement where the two air handlers are located. We propose using sheet metal and a closed cell foam insulation on the two large openings into the crawl space as well as in many of the joist spaces that communicate between the crawl space and the basement. We then propose to exhaust both of the crawl spaces using a small in-line exhaust fan (150 CFM) ducted directly to the outdoors, which should eliminate the musty odors throughout the facility. In addition to sealing off the crawl spaces, we need to seal off the opening in the basement east wall where the stone is exposed.
- Install a 6" x 30" floor mounted return air grille in the floor of the "South Room" (similar to the floor mounted supply grilles in that room) along the basement stairwell wall on the east side of the room. Then pan the 36" x 11" joist space below the grille in the basement ceiling and duct this return air grille directly into the existing 12" x 12" opening in the return air mixing box on Air Handler F-4.
- Install two 16" x 30" return air grilles in the basement stairwell wall behind the low chest of drawers in the east portion of the South Room. Pan multiple stud spaces down to the basement, tie these stud spaces together with sheet metal, and duct directly into the return air mixing box of Air Handler F-1.
- Similar to revising the controls of F-2 and F-3, modify the temperature controls of Air Handlers F-1 and F-4 to allow the units to de-humidify while there is not much load on the system. Since the fresh air quality requirement is much less stringent in the old house portion than in the event space, we may be able to close off the ducted fresh air to Air Handlers F-1 and F-4 and achieve the code required fresh air through the operable windows instead.





## Exhibit B

Construction Management  
General Contracting  
Design-Build  
Owner's Representation  
Consulting  
Preconstruction Services

October 30, 2017

via e-mail

City of Columbus: Recreation and Parks Department  
1111 East Broad Street, Suite 101  
Columbus, Ohio 43205

Attn: Mr. Jeff Anderson

Ref: **Lashutka Event Center; HVAC Modifications**

Dear Mr. Anderson:

We propose to modify the HVAC system, for the sum of \$24,772. The scope of our work follows:

1. Furnish and install new ducted returns in basement from 1<sup>st</sup> floor to F-1 and F-4. Balancing of return air and new exhaust fan only included.
2. Furnish and install PVC piping routed from crawl space to new exhaust fan in basement.
3. Furnish and install four new floor grilles to match existing grilles on first floor.
4. Furnish and install new wall sensors to monitor the CO<sub>2</sub>, humidity readings and temperature in the area served by F2 and F3.
5. Relocate two existing lights in basement.
6. Furnish and install new access panel in mechanical room.
7. Furnish and install new moisture barrier wall in basement.
8. Furnish and install vapor barrier in existing crawl space.
9. Dumpster cost included.
10. Optional: Add for AHU-1 and 4 controls like AHU-2 and 3, add \$1,500.
11. All work to be complete by December 29, 2017.
12. This proposal is independent of the Lashutka Event Center construction agreement with Thomas & Marker.
13. Invoice for this work to be paid in full (no retainage) within thirty days of receipt.

Subcontractor	\$ 20,699
Labor	\$ 2,463
Materials & Equipment	\$ 1,611

Should this proposal meet with your approval, please sign and return this letter, acknowledging your acceptance and authorizing us to proceed with the work.

City of Columbus: Recreation and Parks Department  
October 30, 2017  
Page 2

Sincerely,

THOMAS & MARKER CONSTRUCTION CO.



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Molly Soliz, Project Manager

C: S. Melson

Approved / Authorized:

City of Columbus: Recreation and Parks Department

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Authorized Signature

Date



Date: 10/13/2017

Thomas & Marker  
Attn: Molly Soliz  
RE: Lashutka House Duct Modifications

We would like to provide the following HVAC Proposal

**INCLUDES:**

- Estimate derived from Drawings H1.0R, H1.1AR, H1.1R dated 9/27/17
- HVAC as shown on drawings
- Provide new ducted returns in basement from 1<sup>st</sup> floor to F-1 & F-4
- Provide PVC piping routed from crawl space to new Exhaust fan in basement
  - o Electric for exhaust fan is included.
  - o Cored hole to exterior is included
- (4) New floor grilles to match existing grilles on 1<sup>st</sup> floor as shown on H1.1R
- HVAC Controls as detailed per on site meeting & drawings
  - o Control of damper actuator, temp sensor with CO2 & humidity sensing capabilities, status on exhaust fan in basement
- Relocating (2) lights as shown on drawings
- Provide Access Panel INSTALLATION IS BY OTHERS
- Standard working hours 7am to 3:30pm
- Coring of basement hole
- Balancing of RETURN AIR & NEW EXHAUST FAN ONLY
- Metal bridging installed in two locations only

**EXCLUDES:**

- Sawcutting & removing existing floor on 1<sup>st</sup> floor for new grilles
- Permits
- Installing access doors
- Moisture barrier as shown on drawings
- Insulation & Insulation patching
- Hole & wall patching
- Painting access panel
- Touch up painting if necessary
- Engineered drawings
- Overtime premiums

HVAC Base Bid .....	\$ 19,713.00
Riley ADD for AHU-1 & 4 controls like AHU-2 & 3.....	\$ 1,550.00

Sincerely

*Matt Klingler*  
Farber Corporation  
Office 614-294-1626 \* Cell 614-330-3717 \* Fax 614-294-4825 \* [maklingler@farbercorp.com](mailto:maklingler@farbercorp.com)

This bid proposal is valid for a period not to exceed 60 days from the "DATE"



**MAILING ADDRESS**  
 P O Box 869  
 Akron OH 44309-0869  
 330-666-1115 • 800-996-1115

**STREET ADDRESS**  
 1315 S Cleveland Massillon Rd  
 Copley OH 44321-2175  
 Fax 330-666-1377

MINIMUM 15% RESTOCKING CHARGE LEVIED ON ALL RETURNS  
 NO RETURNS ON SPECIAL ORDER ITEMS

**ALL PRICES SUBJECT TO CHANGE WITHOUT NOTICE**  
**THIS IS AN ESTIMATE ONLY - NOT A GUARANTEED MATERIAL LIST**

**CUSTOMER:**

THOMAS & MARKER CONST CO  
 2084 US 68 SOUTH  
 PO BOX 250  
 BELLEFONTAINE, OH 43311

**DELIVER TO:**

THOMAS & MARKER CONST CO  
 2084 US 68 SOUTH  
 PO BOX 250  
 BELLEFONTAINE, OH 43311

**Quotation**

ACCOUNT #	QUOTE NUMBER	TERMS	QUOTE DATE	SLSMN	ENTD. BY	EXPIR. DATE
49250	dk1011d1k	MET 30 DAYS	10/11/17	137		10/21/17
ORDERED		U/M	DESCRIPTION	PRICE		AMOUNT.
			****QUOTES****			
			***** fence at trash area is excluded there are enough 2x4 to build in front of the existing wall and build the 1/2" and 3/4 panels. Panel SS screws are excluded The other wall is assumed there already quote is for the material listed only *****			
2		PC	2X4 - 16' #2 TREATED AG	10.610		21.220
5		PC	2X4 - 16' #2 SPF	7.990		39.950
24		PC	2X4 - 92-5/8 PRECUT STUD	3.990		95.760
2		EA	15/32 4X8 4-PLY YP RATED SHEATHING	23.250		46.500
1		EA	23/32 4X8 YP RATED SHEATHING	30.660		30.660
2		PC	2X8 - 16' #2 SPF	14.730		29.460
2		EA	WH ZMAX 2X8 JOIST SUP LUS28 FOR TREATED LBR	1.240		2.480
2		EA	JOIST SUPPORT 4X8-4X10 LUS28-2 NOT FOR TREATED LBR	2.800		5.600
1		LOT	DELIVERY	20.000		20.000
Footage Sub-Total		336 BF				
Footage Grand Total		336 BF				
October 11, 2017 13:48:59				MERCHANDISE		206.61
***** * QUOTE * *****				OTHER		0.00
X PAGE 1 OF 1				ACCEPTED BY	6.750%	18.00
				SUMMIT COUNTY		
				FREIGHT		0.00
				<b>TOTAL</b>		<b>304.61</b>



**HVAC MODIFICATIONS**

Material	QUANTITY	UNIT	UNIT PRICE	PRICE
Lumber	1	LS	\$ 305.00	\$ 305
Vapor barrier	1	LS	\$ 300.00	\$ 300

MATERIAL TOTAL: \$ 605

Equipment	QUANTITY	UNIT	UNIT PRICE	PRICE
Lift	1	DAY	\$ 450.00	\$ 450
Dumpster	1	LS	\$ 346.00	\$ 346

EQUIPMENT TOTAL: \$ 796

MATERIAL/EQUIPMENT SUBTOTAL: \$ 1,401

MATERIAL/EQUIPMENT MARK-UP (15%): \$ 210

**MATERIAL/EQUIPMENT TOTAL: \$ 1,611**

Subcontractor	QUANTITY	UNIT	UNIT PRICE	PRICE
Farber	1	LS	\$ 19,713.00	\$ 19,713

TOTAL: \$ 19,713

SUBCONTRACTOR MARK-UP (5%): \$ 986

**SUBCONTRACTOR TOTAL: \$ 20,699**

Labor	QUANTITY	UNIT	UNIT PRICE	PRICE
Carpenter (58 hrs)	58	HRS	\$ 42.46	\$ 2,463

TOTAL: \$ 2,463

**LABOR TOTAL: \$ 2,463**

**TOTAL PROPOSAL: \$ 24,772**