

**MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN
THE FBI AND CITY OF OLATHE KANSAS
CONCERNING THE CONSTRUCTION AND USE
OF A NEW FIREARMS RANGE AND TRAINING FACILITY**

1. PURPOSE

- a. The purpose of this Memorandum of Understanding (MOU) between the Federal Bureau of Investigation (FBI), and the City of Olathe, Kansas (CITY), hereinafter collectively referred to as the “Parties,” is to: (1) define the scope and responsibilities of the Parties concerning the construction of a new firearms range and training facility (hereinafter “Facility”) to be designed and constructed on real property Exhibit A (Southwest quarter of Section 16, Township, range 23 Johnson County Kansas) owned by the CITY (hereinafter referred to as “Location”) to be operated, maintained, and occupied by CITY, and (2) allow the Parties to conduct regular and specialized firearms training, special weapons and tactics (hereinafter “SWAT/TSU”) training, tactical and defensive tactics training and related demonstrations and events.
- b. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise among or against any of the Parties, their parent agencies, the United States, or the officers, employees, agents, or other associated personnel thereof.

2. PARTIES

- a. This (MOU) is entered into by the Federal Bureau of Investigation (FBI), and the City of Olathe, Kansas (CITY).
- b. The Special Agent in Charge (SAC), Kansas City Division is responsible for administering this MOU for the FBI and has designated the Principal Firearms Instructor as the FBI’s Point of Contact for this purpose.
- c. The Olathe Police Department (OPD) is responsible for administering this MOU for the CITY and has designated the Chief of Police or designee as the OPD Point of Contact for this purpose.

3. AUTHORITIES

- a. The FBI enters into this MOU under the authority provided by 28 U.S.C. 530C.
- b. The CITY enters into this MOU under the authority provided by City of Olathe Charter Ordinance No. 76.

4. BACKGROUND INFORMATION

- a. The FBI has secured the authority to commit funding in an amount not to exceed two million US dollars (\$2,000,000.00) for the purpose of design and construction of the

Facility in order to ensure said Facility will meet FBI operational standards for the purpose of conducting firearms and tactical training for its Agents, employees, and/or appointees.

- b. OPD will operate a law enforcement training facility on behalf of CITY, including a firearms range at Location. The FBI has operational responsibilities for maintaining firearms proficiency of its Special Agents and other personnel assigned to its City, State field office and assigned to FBI facilities. The FBI also tests and evaluates firearms and ammunition for research purposes and for acquisitions and use by its workforce. Title to all property and improvements will belong to CITY.

5. SCOPE

- a. The FBI hereby agrees to reimburse the CITY a sum of money not to exceed two million US dollars (\$2,000,000.00) for the site preliminary evaluation, programming, design, and construction of the Facility, to be constructed at the Location.
- b. CITY agrees to maintain adequate and detailed records, including financial records of projects funded under this MOU and to require its contractor(s) to do so. Such records shall be available to the FBI or its assigned agents for inspection or audit at a reasonable time and place.
- c. CITY agrees to do all the contracting for work specific to this MOU and will oversee construction and/or installation of equipment to ensure specific FBI requirements and technical specifications are satisfied.
- d. CITY will provide periodic updates to the FBI on status of construction of Facility and the obligation and expenditure of funds. CITY and OPD will allow FBI personnel periodic access to construction sites to observe and monitor progress. FBI will provide CITY and OPD access to FBI subject matter experts for consultation in developing requirements, technical specifications, programming project design, and oversight of the project.
- e. Contracts for work or projects awarded pursuant to this agreement shall be awarded by CITY and completed as soon as practical but contracts shall be awarded by CITY not later than twelve (12) months after the effective date of this agreement.
- f. CITY agrees to return the two million US dollars (\$2,000,000.00) to the FBI if the Facility is not constructed.

6. SPECIFIC RESPONSIBILITIES

- a. The FBI will provide all ammunition for its employees, agents, or invited guests while using the Facility. No FBI firearms or ammunition will be stored at the Facility when the FBI is not present without the permission of the appropriate OPD Point of Contact.
- b. OPD will provide all ammunition for its employees while using the Facility. OPD may store firearms or ammunition at the Facility when OPD is not present in accordance with applicable OPD protocols.
- c. The FBI acknowledges that its employees, agents or invited guests are responsible for becoming familiar with, and abiding by, the rules and regulations regarding their conduct on, and use of, the Facility.

- d. All FBI requests for Facility use and access will be through a single FBI scheduling Point of Contact.
- e. The CITY shall be responsible for all releases of hazardous substances (as defined by the Comprehensive Environmental Response Compensation and Liability Act, Title 41, U.S.C. Section 9601 et seq.) and other contaminants on or from the premises, unless such releases are solely from the activities of the FBI.
- f. The CITY shall take all reasonable measures to avoid such releases, and as operator of the premises, shall indemnify and hold harmless the FBI for any liability related to compliance with environmental requirements described herein, unless failure to comply with such requirements arises solely from the activities of the FBI.
- g. The CITY agrees to provide and pay for those utilities (e.g., electricity, water, and sewer) that may be reasonably consumed by the FBI during the FBI's use of the Facility during the term of this agreement. The CITY agrees to be responsible for all operations and maintenance costs for the Facility. FBI funds provided under this agreement will be used exclusively for the purposes set forth in this MOU and will not be used to support OPD operations or administration unrelated to this MOU.
- h. The Facility is anticipated to include forty (40) lanes, fifty (50) yards long for an outdoor shooting range, as well as an indoor range, classroom, sniper range, shoot house, and related improvements. The FBI shall have unlimited access to their designated outdoor twenty (20) lane, fifty (50) yard range at the Facility. OPD will have unlimited access to their designated outdoor twenty (20) lane, fifty (50) yard range at the Facility. The Facility's shared portion (indoor range, classroom, sniper range, shoot house, etc.) will be the responsibility of the FBI and OPD Point of Contact to coordinate usage. The Parties shall meet at least twice a year to coordinate training schedules to include plans for any exclusive use by either Party. The FBI and OPD will operate in good faith to accommodate each other's scheduling needs to include those occasions on short notice.
- i. The FBI will exercise reasonable due care in its use of the Facility and shall be responsible to OPD and CITY for conducting all activities in a safe and prudent manner so as not to endanger others while on CITY property. The FBI shall return the Facility to OPD and CITY after each use in the same condition as before its use, except for reasonable wear and tear. If the FBI cannot return the Facility in such condition due to acts of negligence or misuse by FBI employees, agents or guests, it agrees to immediately notify the appropriate OPD point of contact and will negotiate an appropriate response, including financial responsibility, for needed repairs as jointly determined by the Parties under the terms of this agreement for the settlement of disputes. Neither OPD nor CITY has any requirement or obligation to staff the Facility during scheduled FBI use.
- j. It shall be the intent of the CITY to construct a Facility as specified in EXHIBIT B. The project funding appropriated by CITY (including all funds reimbursed by FBI) may require a phased approach to complete all specifications in EXHIBIT B.

7. EFFECT OF THIS AGREEMENT

- a. This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the Parties of

the matters described herein. Expenditures by the Parties will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The Parties expressly acknowledge that the language in this MOU in no way implies that funds will be made available for such expenditures.

- b. This MOU does not constitute an agreement for any party to assume or waive any liability or claim under any applicable law.
- c. Nothing in this MOU is intended to conflict with current law, regulations or directives of the FBI, CITY, or OPD. If a term of this MOU is inconsistent with any such authority, then that term shall be invalid, but the remaining terms and conditions of this Agreement shall remain in full force and effect.
- d. The FBI, as an agency of the United States Government, is self-insured. United States Government liability for claims for personal or property damage, including death, caused by the negligent or wrongful acts or omissions of FBI employees acting within the scope of their employment is determined under the terms and conditions of the Federal Tort Claims Act (28 U.S.C., Sections 1346(b) and 2671, et seq.). Appropriate claims and judgments against the United States, to include claims made under the Federal Tort Claims Act, are paid out of the Judgment Fund (31 U.S.C., Section 1304).
- e. CITY or OPD liability for claims for personal or property damage, including death caused by the negligent or wrongful acts or omissions of CITY or OPD employees acting within the scope of their employment is determined under the terms and conditions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
- f. This MOU is not intended to be enforceable in any court or administrative forum. The Parties will seek to resolve any disputes regarding this agreement by mutual consultation.


8. EFFECTIVE DATE, ADMINISTRATION AND TERMINATION

- a. This MOU shall be effective when executed by all of the Parties and will continue in effect until the date of expiration unless it is terminated per section 8b. This agreement may be modified at any time by written consent of authorized representatives of all Parties. For the FBI, the authorized representative is the Contracting Officer.
- b. The term of this MOU is for twenty (20) years from the last date of signature. This MOU may be terminated, with respect to any Party, at any time upon written notice of withdrawal to all other Parties. Any Party desiring to withdraw from this MOU will provide such written notification to all Parties at least thirty (30) days prior to withdrawal.
- c. Should this MOU be terminated by CITY prior to the end of the designated term, CITY will reimburse the FBI for the residual value (cost reduced by straight-line depreciation computed over a twenty-five (25) year service life) for facilities/structures (capital investments) and ten (10) year service life for equipment (non-capital investments) of FBI funded improvements as of the date of termination. Should this MOU be terminated by the FBI prior to the end of the designated term,

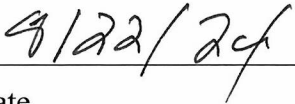
the FBI will forfeit any claim for reimbursement for the residual value of FBI funded improvements as of the date of termination.

John W. Bacon, Mayor, City of Olathe

Date



Special Agent in Charge, FBI Kansas City



Date