



**TOWN OF ASHLAND CITY**  
**Regularly Scheduled City Council Meeting**  
**April 14, 2020 6:00 PM**  
**Agenda**

**Mayor:** Steve Allen

**Vice Mayor:** Daniel Anderson

**Council Members:** Tim Adkins, Gerald Greer, Lisa Walker, Roger Jackson, Chris Kerrigan

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**CALL TO ORDER**

[Resolution](#) for Electronic Meetings

**ROLL CALL**

**PLEDGE AND PRAYER**

**APPROVAL OF AGENDA**

**APPROVAL OF MINUTES**

- [2.](#) Council Meeting Minutes 3-10-2020

**PUBLIC FORUM**

**REPORTS**

3. City Attorney Report

**OLD BUSINESS:**

- [4.](#) Architecture Progress Review
- [5.](#) CEC Engineering Agreement for the Sewer Treatment Plant Project
- [6.](#) Resolution: Employee Manual Updates
- [7.](#) Resolution: Wage and Salary Policy
- [8.](#) Ordinance: Budget Amendment: Riverbluff Stage Cover

**NEW BUSINESS:**

- [9.](#) Resolution: USDA Grant and Loan Applications
- [10.](#) Lindy Murff Renewal Contract
- [11.](#) GNRC Environmental Contract
- [12.](#) Corp of Engineers Easement Agreement
- [13.](#) TCRS Rate Agreement
- [14.](#) Audit Contract

**OTHER**

**ADJOURNMENT**

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*Those with disabilities who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting, should contact the ADA Coordinator at 615-792-6455, M-F 8:00 AM – 4:00 PM. The town will make reasonable accommodations for those persons.*

**RESOLUTION #2020-**

**RESOLUTION APPROVING THE CONDUCT OF THE MEETING OF  
THE TOWN OF ASHLAND CITY BY ELECTRONIC MEANS**

**WHEREAS,** Coronavirus Disease 2019 (COVID-19) is a respiratory disease caused by the SARS-Co V-2 virus that can result in mild or severe symptoms, including fever, cough, and shortness of breath, and can lead to serious illness or death, particularly in the case of older adults and persons with serious chronic medical conditions; and

**WHEREAS,** COVID-19 is frequently spread through close contact between persons and respiratory transmission; and

**WHEREAS,** Tennessee Governor William Lee, in his Executive Order No. 16, suspended certain statutory requirements for public meetings and allowed public meetings to be conducted by electronic means in order to protect the public health, safety, and welfare in light of the Covid19 pandemic; and

**WHEREAS,** Mayor Steve Allen, on April 10, 2020, declared a State of Emergency within the municipal boundaries of the Town of Ashland City as a result of the Covid19 pandemic.

**NOW THEREFORE, BE IT RESOLVED,** the Town of Ashland City, meeting in regular session via electronic means, does hereby acknowledge the Declaration of the State of Emergency declared by Mayor Steve Allen for the Town of Ashland City and does hereby find that the meetings of the Town of Ashland City, city council shall be conducted via electronic means to protect the public health, safety, and welfare in light of the Covid19 pandemic. The conduct of such meetings via electronic means shall continue until the expiration of Governor William Lee's Executive Order No. 16 and any extension or amendment thereof.

**APPROVED** by vote of the Town of Ashland City, City council on this the 14th day of April 2020.

Attest:

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Mayor Steve Allen

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City Recorder Kellie Reed CMFO, CMC

Approved as to Form and Legality:

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Jennifer Noe, City Attorney



**TOWN OF ASHLAND CITY**  
**Regularly Scheduled City Council Meeting**  
**March 10, 2020 6:00 PM**  
**Minutes**

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**CALL TO ORDER**

Mayor Allen called the meeting to order at 6:08 p.m. and declared a quorum.

**ROLL CALL**

PRESENT

Mayor Steve Allen  
Vice Mayor Daniel Anderson  
Councilman Tim Adkins  
Councilman Gerald Greer  
Councilman Roger Jackson  
Councilman Chris Kerrigan  
Councilwoman Lisa Walker

**PLEDGE AND PRAYER**

Councilman Adkins led the pledge and prayer.

**APPROVAL OF AGENDA**

A motion was made by Councilman Adkins, seconded by Councilwoman Walker, to approve the agenda. All approved by voice vote.

**APPROVAL OF MINUTES**

1. Special Called Council Meeting Minutes 1-28-2020
2. Council Meeting Minutes 2-11-2020

A motion was made by Councilman Adkins, seconded by Councilman Kerrigan, to approve both the January 28, 2020 Special Called Council Meeting minutes and the February 11, 2020 Council Meeting Minutes. All approved by voice vote.

**PUBLIC FORUM**

**Candice Beasley: Flooding and Water Quality Issues-** Ms. Beasley stepped forward and stated she is here tonight because her basement flooded again last week. She stated there are no ditches on North Poole and Turner Street. Mayor Allen stated the guys in Public Works have been very busy cleaning ditches and drainpipes, but it doesn't take long for them to get full again with all the rain we have been having lately. Ms. Beasley stated the issue is there are no drains or a way to reroute the water and no path for it to follow. Mayor Allen stated he would be glad to get the guys out there to look at it and there may need to be an engineering study done to see what they can do; however, he will get people out there to look at it. Ms. Beasley also stated they have very little water pressure and the water that is coming out of the faucet in her home has dirt and pebbles floating in it and further smells like chlorine. Mayor stated typically the only debris in the water is due to repair. Councilman Jackson stated they will test the water from the house. Ms. Beasley stated she is home every Monday and Tuesday and would love for them to test the water. Mayor questioned if that area is meeting the state requirement for the pressure test. Chief Walker responded they have tested it and it is meeting the minimum standard. Mayor apologized and stated he will get with the guys tomorrow and come look at the ditches and will further get with the water treatment plant to see what they can do about checking the water.

**Stacey Stuart: Flooding Issues-** Ms. Stuart stepped forward and stated she is here tonight to discuss flooding issues on her property as well. She stated her property did not flood during the 2010 flood. She further stated when Chris Cherry was the Public Works Director he came to the property and installed a curb that did help, but after the road was paved they did a slight incline on the road that

allowed the water to drain to the other side of the road. She stated since Piedmont Gas came out and did all their work, they knocked out the curb and messed up the road that was helping with the drainage issues and now the water runs right into her house. She stated her foundation is broken and they now have mold issues. Further, her mother is handicapped, and it would cost her around thirty thousand dollars (\$30,000) to raise the foundation on the home. She stated she intends to apply for the home grant if it is awarded and she is asking for the city's support in dealing with the gas company that made the issue worse. Mayor stated the gas company hired subcontractors who did not do a good job. Councilman Anderson stated it would be a good idea to have the engineer look at this as well. Mayor stated they will do everything they can to help.

**Jim Elmi: Concerns with Equipment for Police Officers-** Mr. Elmi stepped forward and stated the town has some of the best lawyers, judges and law enforcement in the state; however, the officers do not have equipment that is safe enough. He stated there is a warehouse in Nashville where our officers can get the best equipment and we need to allow them to utilize it. He stated we need new buildings and should ask the federal government to build a new water department. After much discussion Vice Mayor Anderson stated he formerly worked for Brentwood Police Department and they have a much larger revenue than Ashland City; however, the equipment our officers have is better than their equipment. Mayor stated he will research the facility Mr. Elmi mentioned and see if we can utilize it. Mr. Elmi stated we need to protect men and women who are working for us.

**Khristian Berry: Water Adjustment-** Ms. Berry stepped forward and stated she lives at Sycamore Place Apartments and learned she had a leak when she received a thirteen hundred dollars (\$1,300) water bill. She further stated her bill is normally sixty to sixty-five dollars (\$60-\$65) and maintenance has fixed the issue. Mayor stated Ms. Berry's bill normally averages fifty-six dollars and seventy-one cents (\$56.71) and her leak bill totaled one thousand two hundred and forty-six dollars (\$1,246). A motion was made by Councilman Jackson, seconded by Councilman Greer, to adjust the bill down to an average. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker.

**Dakota McDonald: Water Adjustment-** Mr. McDonald stated he had a leak outside the house, and they repaired the leak, but he would like to request a credit back. Mayor stated the leak bill totaled two hundred and sixty-seven dollars and ninety-eight cents (\$267.98), but normally averages thirty-six dollars (\$36). A motion was made by Vice Mayor Anderson, seconded by Councilman Kerrigan, to adjust the bill down to an average. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker.

**Jacob Poindexter: Water Adjustment-** Mr. Poindexter stated he lives on Skyview Drive where the new constructed homes are, and he had a leak in the toilet tank causing a bill to skyrocket. Mayor stated Mr. Poindexter's bill totaled one hundred seventy-six dollars and seventy-three cents (\$179.73) and normally averages sixty-eight dollars and ninety-nine cents (\$68.99). A motion was made by Councilman Jackson, seconded by Vice Mayor Anderson, to adjust the bill down to an average. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker.

**April Raines: Water Adjustment-** Ms. Raines stated she had a leak in the line, and it has been fixed, but she would like to request an adjustment. Mayor stated the leak bill totaled five hundred and twenty-three dollars and sixty four cents (\$523.64) and normally averages eighty one dollars and fifty cents (\$81.50). A motion was made by Councilman Jackson, seconded by Vice Mayor Anderson, to adjust the bill down to an average. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker.

**Courtne Warren: Water Adjustment-** Ms. Warren stepped forward and stated she had a high water bill at 2812 Bell Street and it has since been fixed. Mayor stated the leak bill totaled four hundred and eight dollars and seven cents (\$498.07) and normally averages eighty-five dollars and seventy one cents (\$85.71). A motion was made by Councilman Jackson, seconded by Vice Mayor Anderson to adjust the bill down to an average. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker.

**Robert Wilson: Water Adjustment-** Mr. Wilson stepped forward and stated he has the same issue and his bill went up, but he has been paying on it monthly. Mayor stated Mr. Wilson's leak bill totaled one thousand five hundred and ninety-seven dollars and forty four cents (\$1,597.44) and normally

averages eighty nine dollars and thirty nine cents (\$89.39). A motion was made by Councilman Jackson, seconded by Vice Mayor Anderson, to adjust the bill down to an average. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker.

**Kellie Reed: Water Adjustments-** Ms. Reed stated she had three water adjustments that need to be presented to council. First, Richard Bishop has moved, and he had a water heater leak causing a high bill in the amount of four hundred and fifty-nine dollars and forty-six cents (\$459.46), but it normally averaged one hundred and three dollars and ninety-three cents (\$103.93). Second, Ruby Honeycutt is deceased, and she had a toilet leak causing a high bill in the amount of three hundred ninety-nine dollars and twenty cents (\$399.20), but normally averaged eighty-eight dollars and four cents (\$88.04). Third, Tyresa Husbands has moved, and she had a toilet leak that caused a high bill in the amount of one hundred and sixty six dollars and eighteen cents (\$166.18) and normally averaged eighty two dollars and eighty eight cents (\$82.88). A motion was made by Councilman Jackson, seconded by Vice Mayor Anderson, to adjust these bills down to an average. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker.

## REPORTS

### 3. City Attorney Report

Ms. Jennifer Noe stated she wanted to let the board know there is an Attorney General opinion that has allowed several lawsuits in which the city may be eligible to collect settlement on cost of Narcan and further she may need to enlist the help of another attorney office that would handle the filing on a contingency fee. Councilman Jackson questioned what it is about. Ms. Noe responded it is a judgement to recoup time of officers and firefighters for overdoses.

## OLD BUSINESS:

### 4. Ordinance: Fiscal Year 2019-2020 Budget Amendment #2

AN ORDINANCE TO ACCEPT A BUDGET AMENDMENT FOR THE 19/20 FISCAL YEAR. A motion was made by Councilman Adkins, seconded by Vice Mayor Anderson, to approve the budget amendment. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker. **2nd reading**

### 5. Ordinance: Amending Title 15: Rules of Road

AN ORDINANCE OF THE TOWN OF ASHLAND CITY, TENNESSEE REPLACING MUNICIPAL CODE, TITLE 15 AND ADOPTING BY REFERENCE STATE TRAFFIC OFFENSES AND RULES OF THE ROAD. A motion was made by Vice Mayor Anderson, seconded by Councilman Kerrigan, to approve the ordinance to amend Title 15. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker. **2nd reading**

### 6. Ordinance: Updating Title 18 Chapter 1: Section 7: 18-107

AN ORDINANCE BY THE TOWN OF ASHLAND CITY, TENNESSEE TO AMEND TITLE 18, CHAPTER 1, SECTION 18-107. A motion was made by Vice Mayor Anderson, seconded by Councilwoman Walker, to amend Title 18, Chapter 1. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker. **2nd reading**

### 7. Ordinance: Title 2, Chapter 2: Parks and Recreation Advisory Board

AN ORDINANCE BY THE TOWN OF ASHLAND CITY TO ESTABLISH TITLE 2, CHAPTER 2 OF THE MUNICIPAL CODE. A motion was made by Councilman Kerrigan, seconded by Councilman Greer, to add Title 2, Chapter 2 to the Municipal Code. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker. **2nd reading**

### 8. Resolution: Employee Manual Updates

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ASHLAND CITY UPDATING A PERSONNEL POLICIES AND PROCEDURE MANUAL GOVERNING EMPLOYMENT WITH

THE TOWN OF ASHLAND CITY. Mayor questioned if this goes with the wage and salary policy. Ms. Reed stated it does as it takes everything regarding pay out of the manual and moves it to the wage and salary policy. Mayor suggested deferring this item for further discussion. A motion was made by Vice Mayor Anderson, seconded by Councilman Kerrigan, to defer the employee manual changes. All approved by voice vote.

#### **NEW BUSINESS:**

9. Ordinance: Rezone Map 64 Parcel 11.01- Highway 12 South and Caldwell Road  
AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF ASHLAND CITY, TENNESSEE, BY REZONING PARCEL 11.01 OF THE CHEATHAM COUNTY TAX MAP 64, LOCATED ON HIGHWAY 12 SOUTH AND CALDWELL ROAD. Councilman Jackson questioned what the property is changing from. Chief Walker responded R-1 and the way he understands it is changing to the PO-PUD zoning the plan goes with the zoning and if the plan deviates it will have to go back to the planning commission. After much discussion Chief Walker suggested deferring the discussion to allow the planning commission to review this further. A motion was made by Councilman Jackson, seconded by Councilwoman Walker to defer the rezone. All approved by voice vote. Mr. Jackie Bates stated he is a resident with a lot of concern regarding this rezone. He further stated the property is connected to his property, but it is not listed on the map. In addition, they have moved a lot of dirt on this property and now there is flooding in the yards of the neighboring residents. Councilman Jackson stated since it has been deferred to the planning commission Mr. Bates can go to the meeting to voice his concerns. Vice Mayor Anderson stated he has a hard time telling someone what they can or can't do with their property. Further recently there was a business that opened in town several people opposed but they met all the requirements so the town couldn't stop them. Mr. Tim Wayman stated he lives behind the property and the owner was moving dirt on Sunday and is not taking care of his property. Further, there is no seed or straw spread and there is a fence, but now it is just bare dirt. Mayor stated the PUD means the owner will be required to do everything according to the plan so this is the best option to give them.
10. Pickleball Discussion  
Mr. Randy Smith stepped forward and stated he is a neighbor and friend to Bob Schaeffer. He further stated he felt it would be an asset to the city to convert the tennis court to be dual purpose for tennis and pickleball. Mayor stated he would like to be able to, but he would like to construct a new court not to change our current one. Vice Mayor Anderson requested we look into the cost of constructing one. Mr. Bob Schaeffer stated if you make them dual purpose we can play either tennis or pickleball. Mayor stated this can be discussed by the Parks and Recreation Board as well.
11. Resolution: TOSHA Occupational Safety and Health Program Plan  
A RESOLUTION TO ESTABLISH AN UPDATED OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN, DEVISE RULES AND REGULATIONS, AND TO PROVIDE FOR A SAFETY COORDINATOR AND THE IMPLEMENTATION OF SUCH PROGRAM PLAN. Ms. Reed stated this is to update the plan we currently have as we are required to do so every six or seven years. A motion was made by Councilman Jackson, seconded by Councilman Kerrigan, to approve the Resolution to establish an updated occupational safety and health program plan. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker.
12. Resolution: Wage and Salary Policy  
A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ASHLAND CITY UPDATING THE WAGE AND SALARY POLICY GOVERNING EMPLOYMENT WITH THE TOWN OF ASHLAND CITY. A motion was made by Vice Mayor Anderson, seconded by Councilwoman Walker, to defer for further discussion. All approved by voice vote.
13. Resolution: Charter Changes  
A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE TOWN OF ASHLAND CITY TO AMEND THE CHARTER WHICH WAS LAST AMENDED IN 2018 BY THE PRIVATE ACTS OF THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE. Ms. Reed stated this is to

amend to take out the verbiage for the financial officer. Councilwoman Walker asked if there is anything else we need to look at changing. Ms. Noe stated there probably is not enough time. After some discussion a motion was made by Vice Mayor Anderson, seconded by Councilman Jackson, to approve the resolution to amend the charter. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker.

14. Appoint Board of Equalization Representative

Ms. Noe stated the Property Assessor's office contacted her regarding the appointment of the Board of Equalization. Further, Ms. Yvonne Stinnett has represented the town for several years and she is willing to continue doing so. A motion was made by Councilman Adkins, seconded by Councilman Greer, to appoint Ms. Stinnett to the Board of Equalization. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker.

15. Clark Renewal Contracts

A motion was made by Vice Mayor Anderson, seconded by Councilman Kerrigan, to approve the Clark Renewal Contracts. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker.

16. Budget Amendment- Riverbluff Stage Cover

AN ORDINANCE TO ACCEPT A BUDGET AMENDMENT FOR THE 19/20 FISCAL YEAR. Mr. Sampson stated he has gotten three (3) bids to construct a metal cover over the stage at Riverbluff Park and the city would be able to host more events with this cover. A motion was made by Vice Mayor Anderson, seconded by Councilman Greer, to approve the budget amendment. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker.

17. Update on Caldwell Park.

Ms. Noe stated she spoke with Buddy Wright some time back and he surveyed the area, but had not written it up. Mayor stated he has called him several times and he has not returned his call yet. He further stated it is eight (8) acres in conflict with the Girth Family and he would rather give the property to them and be done. Chief Walker stated he spoke to Jeff Chandler some time back and he stated he would survey the property for between ten thousand and thirteen thousand dollars (\$10,000 -\$13,000). Mayor stated he will try to reach back out to Mr. Wright. Ms. Noe stated she has been in contact with the attorney for the Girth Family.

18. CEC Engineering Agreement for the Sewer Treatment Plant Project

Ms. Noe asked for this to be deferred to the next meeting so she can discuss a few proposed changes with Mr. Westerman. A motion was made by Vice Mayor Anderson, seconded by Councilwoman Walker, to defer this agreement. All approved by voice vote.

**SURPLUS PROPERTY NOMINATIONS:**

None.

**EXPENDITURE REQUESTS:**

19. Cheatham County Enhancement Coalition Half Marathon Sponsorship

Ms. Melissa Womack stated this is the sponsorship for the Walk Across Tennessee program. Further the Coalition sent all the required paperwork except the audit. Ms. Noe stated there are certain requirements the comptroller has for donations which is why this is being brought before the council. A motion was made by Vice Mayor Anderson, seconded by Councilwoman Walker, to approve the sponsorship once we receive the proper documentation. Voting Yea: Mayor Allen, Vice Mayor Anderson, Councilman Adkins, Councilman Greer, Councilman Jackson, Councilman Kerrigan, Councilwoman Walker.

**OTHER**

Mayor stated there has been a lot going on. Further, he met with A.O. Smith and made sure everything is going well there.

Councilman Jackson asked if someone can check on the beaver issue and see how we can get that resolved.

**ADJOURNMENT**

A motion was made by Vice Mayor Anderson, seconded by Councilwoman Walker, to adjourn the meeting. All approved by voice vote and the meeting adjourned at 7:45 p.m.

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MAYOR STEVE ALLEN

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CITY RECORDER KELLIE REED, CMFO, CMC



**SITE LAYOUT NOTES**

PRIOR TO CONSTRUCTION, EXCAVATION, OR DISTURBANCE OF THE EXISTING GROUND ELEVATION, THE CONTRACTOR SHALL ASSUME THE RESPONSIBILITY AND EXPENSE OF CONTACTING THE LOCAL UTILITY OWNERS AND DEFINITELY ESTABLISHING THE EXISTENCE, EXACT LOCATIONS AND SIZES OF UNDERGROUND UTILITIES TO AVOID ANY HAZARD OR CONFLICT.

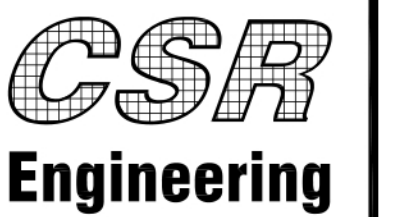
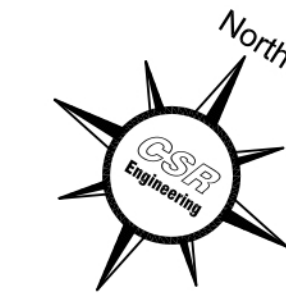
TENNESSEE LAW REQUIRES NO LESS THAN THREE NOR MORE THAN TEN WORKING DAYS NOTICE TO UNDERGROUND UTILITY OWNERS PRIOR TO INTENT TO EXCAVATE. A LIST OF THESE UTILITIES MAY BE OBTAINED FROM EACH COUNTY'S REGISTER OF DEEDS. THOSE UTILITIES THAT PARTICIPATE IN THE TN ONE-CALL SYSTEM CAN BE NOTIFIED AT 1-800-351-1111.

CONTRACTOR IS TO PROTECT UTILITIES THAT ARE TO REMAIN AND ALL EXISTING IMPROVEMENTS INCLUDING BUT NOT LIMITED TO STRUCTURES, PAVEMENT, RAMPS, TREES, SIDEWALKS, CULVERTS, ETC. CONTRACTOR SHALL REPAIR ANY DAMAGE TO EXISTING IMPROVEMENTS AND UTILITIES TO REMAIN ACCORDING TO LOCAL STANDARDS AND AT THE CONTRACTOR'S EXPENSE. CONTRACTOR IS TO COORDINATE ALL CONSTRUCTION WITH THE APPROPRIATE UTILITY AUTHORITIES.

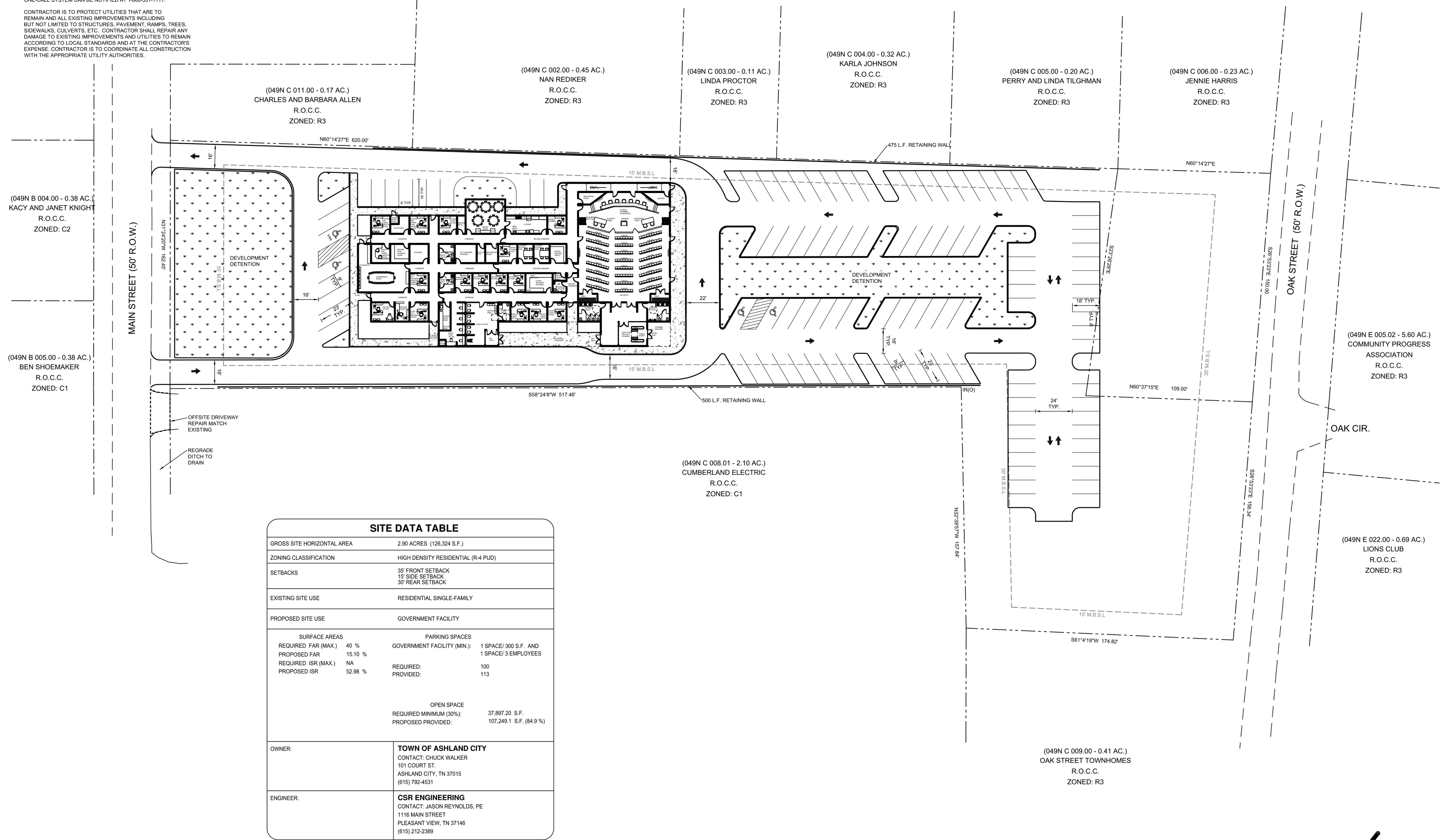
THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS BEFORE PROCEEDING WITH THE WORK. ANY DISCREPANCIES SHALL BE RESOLVED PRIOR TO CONSTRUCTION.

IN THE EVENT OF ANY DISCREPANCIES AND/OR ERRORS FOUND IN THE DRAWINGS OR IF PROBLEMS ARE ENCOUNTERED DURING CONSTRUCTION, THE CONTRACTOR IS REQUIRED TO CONTACT THE ENGINEER BEFORE PROCEEDING WITH THE WORK.

THE CONTRACTOR SHALL SUBMIT SHOP DRAWINGS FOR ALL RETAINING WALL SECTIONS AND RECEIVE APPROVAL PRIOR TO PROCEEDING WITH CONSTRUCTION.



CSR Engineering, Inc.  
1116 Main Street  
Pleasant View, TN 37146  
P: 615.212.2389  
F: 615.246.3815  
www.csrengineers.com



**SITE DATA TABLE**

GROSS SITE HORIZONTAL AREA	2.90 ACRES (126,324 S.F.)		
ZONING CLASSIFICATION	HIGH DENSITY RESIDENTIAL (R-4 PUD)		
SETBACKS	35' FRONT SETBACK 15' SIDE SETBACK 30' REAR SETBACK		
EXISTING SITE USE	RESIDENTIAL SINGLE-FAMILY		
PROPOSED SITE USE	GOVERNMENT FACILITY		
SURFACE AREAS	PARKING SPACES		
REQUIRED FAR (MAX.) 40 %	GOVERNMENT FACILITY (MIN.):	1 SPACE/ 300 S.F. AND 1 SPACE/ 3 EMPLOYEES	
PROPOSED FAR 15.10 %			
REQUIRED ISR (MAX.) NA	REQUIRED:	100	
PROPOSED ISR 52.98 %	PROVIDED:	113	
	OPEN SPACE		
	REQUIRED MINIMUM (30%):	37,897.20 S.F.	
	PROPOSED PROVIDED:	107,249.1 S.F. (84.9 %)	
OWNER:	<b>TOWN OF ASHLAND CITY</b> CONTACT: CHUCK WALKER 101 COURT ST. ASHLAND CITY, TN 37015 (615) 792-4531		
ENGINEER:	<b>CSR ENGINEERING</b> CONTACT: JASON REYNOLDS, PE 1116 MAIN STREET PLEASANT VIEW, TN 37146 (615) 212-2389		

**SITE PLAN**  
FOR  
**ASHLAND CITY TOWN HALL**  
405 N MAIN ST.  
ASHLAND CITY, TN 37015  
CHEATHAM COUNTY

REVISIONS		DESCRIPTION
NO.	DATE	BY

DESIGNER **SPa**  
REVIEWER **JLR**

PROJECT **19-125**

DATE **03-24-20**

SHEET **C2**

PURPOSE FOR ISSUE: PRELIMINARY



SCALE: 1"=30'



PROJECT:  
A NEW CITY HALL  
FOR  
THE TOWN OF ASHLAND CITY  
ASHLAND CITY, TENNESSEE

SHEET DESCRIPTION:

GENERAL CONTRACTOR:

DATE:

REVISION DATE:

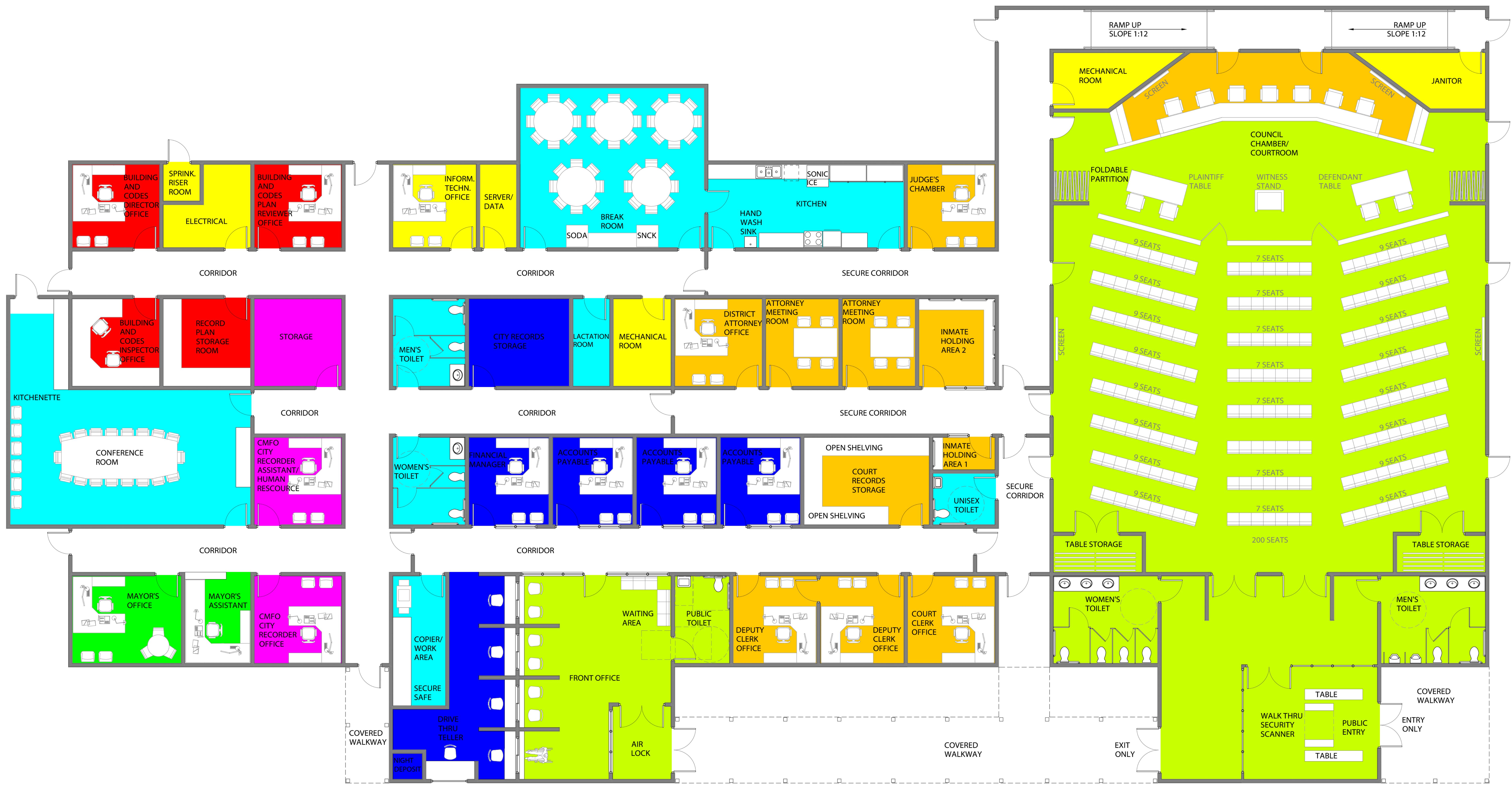
REVISION DATE:

REVISION DATE:

DRAWN BY:

PROJECT NUMBER: 2018 - 27

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**1 MAIN FLOOR PLAN**  
A2.1 SCALE: 3/16" = 1'-0"

GENERAL NOTES TO FLOOR PLAN  
1. PANIC BUTTONS TO BE LOCATED AT FRONT DESK AREAS, FINANCIAL MANAGER OFFICE, AND ACCOUNTS PAYABLE OFFICES.

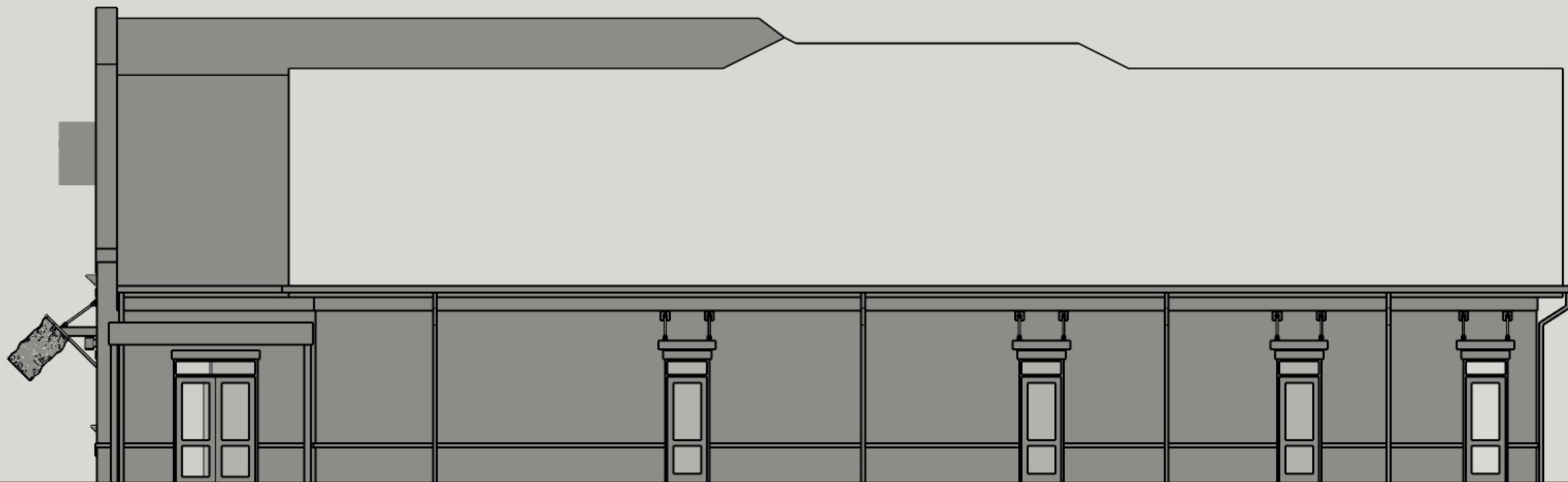
**LEGEND TO FLOOR PLAN**

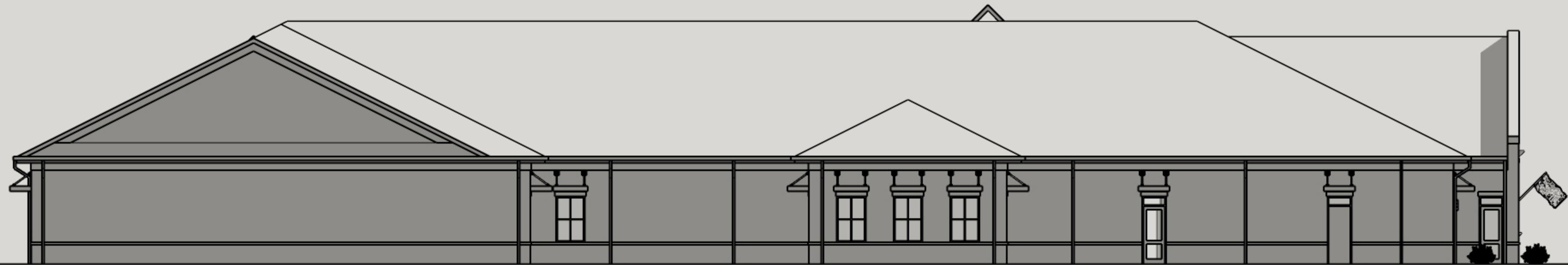
<span style="display:inline-block; width:15px; height:15px; background-color:cyan; border:1px solid black;"></span> COMMON USE	<span style="display:inline-block; width:15px; height:15px; background-color:orange; border:1px solid black;"></span> CITY/TRAFFIC COURT
<span style="display:inline-block; width:15px; height:15px; background-color:yellow; border:1px solid black;"></span> FACILITY SUPPORT	<span style="display:inline-block; width:15px; height:15px; background-color:lightgreen; border:1px solid black;"></span> GENERAL PUBLIC
<span style="display:inline-block; width:15px; height:15px; background-color:green; border:1px solid black;"></span> MAYOR	<span style="display:inline-block; width:15px; height:15px; background-color:blue; border:1px solid black;"></span> FINANCIAL OFFICE
<span style="display:inline-block; width:15px; height:15px; background-color:red; border:1px solid black;"></span> BUILDING AND CODES	<span style="display:inline-block; width:15px; height:15px; background-color:magenta; border:1px solid black;"></span> CITY RECORDER



The Town of Ashland City  
City Hall









The Town of Ashland City  
City Hall





The Town of Ashland City  
City Hall

The Town of Ashland City  
City Hall  
Business Office

The Town of Ashland City  
City Hall





The Town of Ashland City  
City Hall  
Business Office

The Town of Ashland City  
City Hall  
City Council Chamber  
City Court

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

**AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR PROFESSIONAL SERVICES**

Prepared by



Issued and Published Jointly by



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**AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of January 29, 2020 (“Effective Date”) between Town of Ashland City (“Owner”) and Civil and Environmental Consultants, Inc. ] (“Engineer”).

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows: Construct a new sewer treatment plant and construction sewer rehabilitation of the existing sewer system (“Project”).

Other terms used in this Agreement are defined in Article 7.

Engineer's services under this Agreement are generally identified as follows: Provide design, construction administration, and resident project inspection services ]

Owner and Engineer further agree as follows:

**ARTICLE 1 – SERVICES OF ENGINEER**

1.01 *Scope*

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

**ARTICLE 2 – OWNER’S RESPONSIBILITIES**

2.01 *General*

- A. Owner shall have the responsibilities set forth herein and in Exhibit B.
- B. Owner shall pay Engineer as set forth in Article 4 and Exhibit C.
- C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
  - 1. any development that affects the scope or time of performance of Engineer’s services;

2. the presence at the Site of any Constituent of Concern; or
3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.

### **ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES**

#### **3.01 Commencement**

- A. Engineer is authorized to begin rendering services as of the Effective Date.

#### **3.02 Time for Completion**

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services, or specific dates by which services are to be completed, are provided in Exhibit A, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

### **ARTICLE 4 – INVOICES AND PAYMENTS**

#### **4.01 Invoices**

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

#### **4.02 Payments**

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:

1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
  2. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices:* If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to the terms of Paragraph 4.01.
- D. *Sales or Use Taxes:* If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.

## **ARTICLE 5 – OPINIONS OF COST**

### **5.01 *Opinions of Probable Construction Cost***

- A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

### **5.02 *Designing to Construction Cost Limit***

- A. If a Construction Cost limit is established between Owner and Engineer, such Construction Cost limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F to this Agreement.

### **5.03 *Opinions of Total Project Costs***

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

## ARTICLE 6 – GENERAL CONSIDERATIONS

### 6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:*
  - 1. Engineer and Owner shall comply with applicable Laws and Regulations.
  - 2. Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
  - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
    - a. changes after the Effective Date to Laws and Regulations;
    - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures;
    - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make



resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.

- G. The general conditions for any construction contract documents prepared hereunder are to be EJCDC® C-700 "Standard General Conditions of the Construction Contract" (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in Exhibit J or elsewhere in this Agreement.
- H. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- I. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- J. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.
- K. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- L. Engineer's services do not include providing legal advice or representation.
- M. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- N. While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

#### 6.02 *Design Without Construction Phase Services*

- A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A, Paragraph A1.05. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application

and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in Exhibit A.

#### 6.03 *Use of Documents*

- A. All Documents are instruments of service, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed.
- B. If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- C. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project. Engineer grants Owner a limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.
- D. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

#### 6.04 *Electronic Transmittals*

- A. Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.

- B. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

#### 6.05 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G. Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.
- B. Owner shall procure and maintain insurance as set forth in Exhibit G. Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies carried by Owner, which are applicable to the Project.
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project.
- D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- E. All policies of property insurance relating to the Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer or its Consultants. Owner and Engineer waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.

- G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

## 6.06 *Suspension and Termination*

### A. *Suspension:*

- 1. *By Owner:* Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.
- 2. *By Engineer:* Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraph 4.02.B, or in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.10.D.

### B. *Termination:* The obligation to provide further services under this Agreement may be terminated:

- 1. For cause,
  - a. by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
  - b. by Engineer:
    - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
    - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.10.D.
    - 3) Engineer shall have no liability to Owner on account of such termination.
  - c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.06.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same,

then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon Engineer's receipt of notice from Owner.
- C. *Effective Date of Termination:* The terminating party under Paragraph 6.06.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- D. *Payments Upon Termination:*
1. In the event of any termination under Paragraph 6.06, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.
  2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.06.D.1, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

#### 6.07 *Controlling Law*

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.

#### 6.08 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.08.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

- C. Unless expressly provided otherwise in this Agreement:
1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
  2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
  3. Owner agrees that the substance of the provisions of this Paragraph 6.08.C shall appear in the Construction Contract Documents.

#### 6.09 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights at law.
- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.09.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

#### 6.10 *Environmental Condition of Site*

- A. Owner represents to Engineer that as of the Effective Date to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- C. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
- D. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until such portion of the Project is no longer affected.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on seven days notice.

- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

#### 6.11 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. **This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."**
- B. *Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations **and to the extent (if any) required in Exhibit I, "Limitations of Liability."**
- C. *Environmental Indemnification:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorneys fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- D. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- E. *Percentage Share of Negligence:* To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

- F. *Mutual Waiver:* To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes.

#### 6.12 *Records Retention*

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

#### 6.13 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver:* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims:* To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

### **ARTICLE 7 – DEFINITIONS**

#### 7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:



1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
2. *Additional Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
4. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
5. *Basic Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
6. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
7. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
8. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
9. *Construction Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.

10. *Construction Contract Documents*—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract.
11. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
12. *Construction Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
13. *Construction Cost*—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner’s costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
14. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner’s work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
15. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer’s independent professional associates and consultants; subcontractors; or vendors.
16. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.
17. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
18. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
20. *Engineer*—The individual or entity named as such in this Agreement.

21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
23. *Owner*—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
24. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.
25. *Record Drawings*—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer as an Additional Service and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
26. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.
27. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.
28. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
29. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
30. *Site*—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

31. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
32. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
34. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
35. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner’s costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.
36. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
37. *Work Change Directive*—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. *Day*:

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

## ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

### 8.01 *Exhibits Included:*

- A. Exhibit A, Engineer's Services.
- B. Exhibit B, Owner's Responsibilities.
- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.
- E. Exhibit E, Notice of Acceptability of Work.
- F. Exhibit F, Construction Cost Limit.
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution.
- I. Exhibit I, Limitations of Liability.
- J. Exhibit J, Special Provisions.
- K. Exhibit K, Amendment to Owner-Engineer Agreement.

### 8.02 *Total Agreement*

- A. This Agreement, (together with the exhibits included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit K to this Agreement.

### 8.03 *Designated Representatives*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party whom the individual represents.

### 8.04 *Engineer's Certifications*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

**IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.**

Owner: Town of Ashland City

Engineer: Civil & Environmental Consultants, Inc.

By: \_\_\_\_\_  
Print name: Steve Allen  
Title: Mayor  
Date Signed: January 29, 2020

By: \_\_\_\_\_  
Print name: Neal Westerman  
Title: Senior Principal  
Date Signed: January 29, 2020

Engineer License or Firm's Certificate No. (if required):

14544

State of: Tennessee

Address for Owner's receipt of notices:

101 Court Street  
Ashland City, TN 37015

Address for Engineer's receipt of notices:

117 Seaboard Lane, Suite E-100  
Franklin, TN 37067

Designated Representative (Paragraph 8.03.A):

Kellie Reed  
Title: City Recorder  
Phone Number: 615-792-4211  
E-Mail Address: kreed@ashlandcitytn.gov

Designated Representative (Paragraph 8.03.A):

Neal Westerman  
Title: Senior Principal  
Phone Number: 615-333-7797  
E-Mail Address: nwesterman@cecinc.com

This is **EXHIBIT A**, consisting of [17] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **January 29, 2020**.

## **Engineer's Services**

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Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Engineer shall provide Basic and Additional Services as set forth below.

### **PART 1 – BASIC SERVICES**

#### *A1.01 Study and Report Phase*

A. Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.
  - a. If Owner has already identified one or more potential solutions to meet its Project requirements, then proceed with the study and evaluation of such potential solutions: [ None ]
  - b. If Owner has not identified specific potential solutions for study and evaluation, then assist Owner in determining whether Owner's requirements, and available data, reports, plans, and evaluations, point to a single potential solution for Engineer's study and evaluation, or are such that it will be necessary for Engineer to identify, study, and evaluate multiple potential solutions.
  - c. If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify [Three] alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree that some other specific number of alternatives should be identified, studied, and evaluated.
2. Identify potential solution(s) to meet Owner's Project requirements, as needed.
3. Study and evaluate the potential solution(s) to meet Owner's Project requirements.
4. Visit the Site, or potential Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.
5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project-related data and information, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.



6. After consultation with Owner, recommend to Owner the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.
7. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Project.
8. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and Engineer's recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by Owner, a tabulation of other items and services included within the definition of Total Project Costs.
9. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B, for use in Project design, or in preparation for Contractor selection and construction.
10. When mutually agreed, assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph shall be referred to in Exhibit A and B as "Project Strategies, Technologies, and Techniques."
11. If requested to do so by Owner, assist Owner in identifying opportunities for enhancing the sustainability of the Project, and pursuant to Owner's instructions plan for the inclusion of sustainable features in the design.
12. Use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" as a means to advise the Owner on a recommended scope of work and procedure for the identification and mapping of existing utilities.
13. Develop a scope of work and survey limits for any topographic and other surveys necessary for design.
14. Perform or provide the following other Study and Report Phase tasks or deliverables: Preliminary Engineering Report, Environmental Report and RD Funding Application
15. Furnish One review copies of the Report and any other Study and Report Phase deliverables to Owner within 90 days of the Effective Date and review it with Owner. Within 30 days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.
16. Revise the Report and any other Study and Report Phase deliverables in response to Owner's comments, as appropriate, and furnish four(4) copies of the revised Report and

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**Exhibit A – Engineer's Services**

**EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.**

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any other Study and Report Phase deliverables to the Owner within sixty (60) days of receipt of Owner's comments.

- B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the revised Report and any other Study and Report Phase deliverables.

#### A1.02 *Preliminary Design Phase*

- A. After acceptance by Owner of the Report and any other Study and Report Phase deliverables; selection by Owner of a recommended solution; issuance by Owner of any instructions of for use of Project Strategies, Technologies, and Techniques, or for inclusion of sustainable features in the design; and indication by Owner of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, (1) Engineer and Owner shall discuss and resolve any necessary revisions to Engineer's compensation (through application of the provisions regarding Additional Services, or otherwise), or the time for completion of Engineer's services, resulting from the selected solution, related Project Strategies, Technologies, or Techniques, sustainable design instructions, or specific modifications to the Project, and (2) upon written authorization from Owner, Engineer shall:
  - 1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.
  - 2. In preparing the Preliminary Design Phase documents, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner during or following the Study and Report Phase, and include sustainable features, as appropriate, pursuant to Owner's instructions.
  - 3. Provide necessary field surveys and topographic and utility mapping for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities selected and authorized by Owner pursuant to advice from Engineer based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as set forth in Paragraph A1.01.A.12 above. If no such scope of work and procedure for utility mapping has been selected and authorized, then at a minimum the utility mapping will include Engineer contacting utility owners and obtaining available information.
  - 4. Visit the Site as needed to prepare the Preliminary Design Phase documents.
  - 5. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.
  - 6. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement.
  - 7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in tabulating the various cost categories which comprise Total Project Costs.

8. Obtain and review Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Also obtain and review copies of Owner's design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents or content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in the draft Construction Contract Documents, when applicable.
  9. Perform or provide the following other Preliminary Design Phase tasks or deliverables: preliminary plans **[List any such tasks or deliverables here.]**
  10. Furnish two **[2]** review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner within **180** days of authorization to proceed with this phase, and review them with Owner. Within **[30]** days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.
  11. Revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner two (2) copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within **sixty (60)** days after receipt of Owner's comments.
- B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

#### A1.03 *Final Design Phase*

- A. After acceptance by Owner of the Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other Preliminary Design Phase deliverables, subject to any Owner-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from Owner, Engineer shall:
1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
  2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
  3. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist Owner in consultations with such

authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.

4. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost.
  5. After consultation with Owner, include in the Construction Contract Documents any specific protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website. Any such protocols shall be applicable to transmittals between and among Owner, Engineer, and Contractor during the Construction Phase and Post-Construction Phase, and unless agreed otherwise shall supersede any conflicting protocols previously established for transmittals between Owner and Engineer.
  6. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
  7. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from Owner.
  8. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from Owner.
  9. Perform or provide the following other Final Design Phase tasks or deliverables: *Provide final plans, specifications and contract documents. [List any such tasks or deliverables here.]*
  10. Furnish for review by Owner, its legal counsel, and other advisors, two (2) copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, within 120 days of authorization to proceed with the Final Design Phase, and review them with Owner. Within sixty (60) days of receipt, Owner shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions.
  11. Revise the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables in accordance with comments and instructions from the Owner, as appropriate, and submit One (1) final copies of such documents to Owner within sixty (60) days after receipt of Owner's comments and instructions.
- B. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for

proposals or other construction procurement documents), and any other Final Design Phase deliverables.

- C. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.
- D. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is Three (3). If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.

#### A1.04 *Bidding or Negotiating Phase*

- A. After acceptance by Owner of the final Drawings and Specifications, other Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:
  - 1. Assist Owner in advertising for and obtaining bids or proposals for the Work, assist Owner in issuing assembled design, contract, and bidding-related documents (or requests for proposals or other construction procurement documents) to prospective contractors, and, where applicable, maintain a record of prospective contractors to which documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the issued documents.
  - 2. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents.
  - 3. Provide information or assistance needed by Owner in the course of any review of proposals or negotiations with prospective contractors.
  - 4. Consult with Owner as to the qualifications of prospective contractors.
  - 5. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
  - 6. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement

documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.

7. Attend the bid opening, prepare bid tabulation sheets to meet Owner's schedule, and assist Owner in evaluating bids or proposals, assembling final contracts for the Work for execution by Owner and Contractor, and in issuing notices of award of such contracts.
  8. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.
  9. Perform or provide the following other Bidding or Negotiating Phase tasks or deliverables: [ None ]
- B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if Exhibit F is a part of this Agreement).

#### A1.05 Construction Phase

- A. Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner, Engineer shall:
1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer shall be as assigned in EJCDC® C-700, Standard General Conditions of the Construction Contract (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, or other construction general conditions specified in this Agreement. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.
  2. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D.
  3. *Selection of Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified in Exhibit B, Paragraph B2.01.
  4. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.

5. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with Owner and Contractor jointly develop such protocols for transmittals between and among Owner, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.
6. *Original Documents:* If requested by Owner to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.
7. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
8. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
9. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:
  - a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.
  - b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer

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**Exhibit A – Engineer's Services**

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shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.

10. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.
11. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.
12. *Clarifications and Interpretations:* Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.
13. *Non-reviewable Matters:* If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (1) the performance or acceptability of the Work under the Construction Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.
14. *Field Orders:* Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
15. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
16. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and



hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use.

17. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.
18. *Substitutes and "Or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.
19. *Inspections and Tests:*
  - a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
  - b. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
  - c. Pursuant to the terms of the Construction Contract, require special inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.
20. *Change Proposals and Claims:* (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.
21. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
  - a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-offs

stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).

- b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.
22. *Contractor's Completion Documents:* Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Paragraph A1.05.A.17. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages.
  23. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections,

notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.

24. *Other Tasks:* Perform or provide the following other Construction Phase tasks or deliverables: [ None ]
  25. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to Owner and Contractor in the form attached hereto as Exhibit E ("Notice of Acceptability of Work") that the Work is acceptable (subject to the provisions of the Notice and Paragraph A1.05.A.21.b) to the best of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.
  26. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.
- B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves more than one prime contract as indicated in Paragraph A1.03.D, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

#### A1.06 *Post-Construction Phase*

- A. Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:
1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.
  2. Together with Owner, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.

3. Perform or provide the following other Post-Construction Phase tasks or deliverables:  
[ None ]

- B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.

## **PART 2 – ADDITIONAL SERVICES**

### *A2.01 Additional Services Requiring Owner's Written Authorization*

- A. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit C.
  1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
  2. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
  3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
  4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those agreed to in Paragraph A1.01.A.1 and 2.
  5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
  6. Providing renderings or models for Owner's use, including services in support of building information modeling or civil integrated management.
  7. Undertaking investigations and studies including, but not limited to:
    - a. detailed consideration of operations, maintenance, and overhead expenses;

- b. the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services are based on the engineering and technical aspects of the Project, and do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
  - c. preparation of appraisals;
  - d. evaluating processes available for licensing, and assisting Owner in obtaining process licensing;
  - e. detailed quantity surveys of materials, equipment, and labor; and
  - f. audits or inventories required in connection with construction performed or furnished by Owner.
8. Furnishing services of Consultants for other than Basic Services.
9. Providing data or services of the types described in Exhibit B, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
10. Providing the following services:
  - a. Services attributable to more prime construction contracts than specified in Paragraph A1.03.D.
  - b. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, and administering Owner's contract for such services.
11. Services during out-of-town travel required of Engineer, other than for visits to the Site or Owner's office as required in Basic Services (Part 1 of Exhibit A).
12. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructibility review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.
13. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents) or Construction Contract Documents for alternate bids or cost estimates requested by Owner for the Work or a portion thereof.
14. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services required by Paragraph 5.02.A and Exhibit F.
15. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all Addenda and any amendments negotiated by Owner and Contractor.

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**Exhibit A – Engineer's Services**

**EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.**

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16. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.
17. Preparing Record Drawings, and furnishing such Record Drawings to Owner.
18. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources.
19. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed.
20. Preparation of operation, maintenance, and staffing manuals.
21. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
22. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
23. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
24. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, lien or bond claim, or other legal or administrative proceeding involving the Project.
25. Overtime work requiring higher than regular rates.
26. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Paragraph A1.05.A.8; any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
27. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
28. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
29. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

A2.02 *Additional Services Not Requiring Owner's Written Authorization*

- A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner.
1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by Owner.
  2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.
  3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
  4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.
  5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.
  6. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.
  7. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.
  8. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.

This is **EXHIBIT B**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **January 29, 2020**.

## **Owner's Responsibilities**

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Article 2 of the Agreement is supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations.
- B. Give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Furnish copies (or give specific directions requesting Engineer to use copies already in Engineer's possession) of all design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and draft Construction Contract Documents, when applicable. Owner shall have responsibility for the final content of (1) such bidding-related documents (or requests for proposals or other construction procurement documents), and (2) those portions of any Construction Contract other than the design (as set forth in the Drawings, Specifications, or otherwise), and other engineering or technical matters; and Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- D. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, obtain, furnish, or otherwise make available (if necessary through title searches, or retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
  - 1. Property descriptions.
  - 2. Zoning, deed, and other land use restrictions.



3. Utility and topographic mapping and surveys.
  4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
  5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
  6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
  7. Data or consultations as required for the Project but not otherwise identified in this Agreement.
- E. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
- F. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
1. Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
  2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
  3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.
- G. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

- I. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.
- J. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- K. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, then designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
- L. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
- M. Examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- N. Inform Engineer regarding any need for assistance in evaluating the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
- O. Advise Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- P. Place and pay for advertisement for Bids in appropriate publications.
- Q. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
- R. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
- S. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement, as required.
- T. Perform or provide the following: [ ] ***[List any other Owner responsibilities here.]***

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Exhibit B – Owner's Responsibilities

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

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## Exhibit C

### Payments to Engineer for Services and Reimbursable Expenses

#### *[Notes to User]*

**Preparing a Project-specific Exhibit C:** In Exhibit C, the parties must specify how the Engineer will be compensated for its services. EJCDC's E-500 as published contains a lengthy Exhibit C, comprised of numerous options for detailing the Engineer's compensation. In preparing a Project-specific professional services agreement, retain only the few pages from Exhibit C that will apply to the agreement that is being prepared, and discard the rest. At the end of the agreement preparation process, Exhibit C should typically be approximately five to eight pages long.

**Exhibit C Compensation Packets:** EJCDC breaks the Engineer's compensation into three categories: (1) compensation for Basic Services, as defined in Exhibit A (but not including services of a Resident Project Representative, if any); (2) compensation for the services of a Resident Project Representative, if any; and (3) compensation for any Additional Services, as defined in Exhibit A. There are typically several possible ways of paying for services; Exhibit C includes "Compensation Packets" for the various methods. Each Compensation Packet contains the terms and conditions that apply to the specific means of compensation, and when appropriate incorporates appendices for hourly rates and reimbursable expenses.

1. The six Compensation Packets included in E-500's Exhibit C for Basic Services are:

- Lump Sum (Compensation Packet BC-1)
- Standard Hourly Rates (Compensation Packet BC-2)
- Percentage of Construction Costs (Compensation Packet BC-3)
- Direct Labor Costs Times a Factor (Compensation Packet BC-4)
- Direct Labor Costs Plus Overhead Plus a Fixed Fee (Compensation Packet BC-5)
- Salary Costs Times a Factor (Compensation Packet BC-6)

During the drafting process the user should **select one** of these six Compensation Packets and **discard (delete) the remaining five**.

2. The choices for compensating a Resident Project Representative are similar, with five RPR Compensation Packets available:

- Lump Sum (Compensation Packet RPR-1)
- Standard Hourly Rates (Compensation Packet RPR-2)
- Percentage of Construction Costs (Compensation Packet RPR-3)
- Direct Labor Costs Times a Factor (Compensation Packet RPR-4)
- Salary Costs Times a Factor (Compensation Packet RPR-5)

During the drafting process the user should **select one** of these five RPR Compensation Packets and **discard (delete) the remaining four**.

3. The choices for compensating the Engineer for Additional Services are narrower:

- Standard Hourly Rates (Compensation Packet AS-1)
- Direct Labor Costs Times a Factor (Compensation Packet AS-2)
- Salary Costs Times a Factor (Compensation Packet AS-3)

The user should **select one** of these three Additional Services Compensation Packets and **discard (delete) the remaining two**.

**Compensation Decision Guide:** The Compensation Decision Guide that is included on the following pages presents further guidance on the process of selecting the pages to retain for the specific contract, including appendices for hourly rates and reimbursable expenses, if applicable.

Example: If Basic Services (other than RPR) will be compensated using Lump Sum; RPR services using Direct Labor Times a Factor; and Additional Services using Standard Hourly Rates; then to form Exhibit C use Compensation Packet BC-1; Compensation Packet RPR-4; Compensation Packet AS-1; and Appendices 1 and 2.

**1. Compensation for Basic Services as described in Exhibit A, Part I (other than for Resident Project Representative services, which are separately addressed in item 2 immediately below).**

**Decision Question: Which method of compensation is to be used?**

	<b>Lump Sum</b>	<b>Standard Hourly Rates</b>	<b>Percentage of Construction Costs</b>	<b>Direct Labor Costs Times a Factor</b>	<b>Direct Labor Costs Plus Overhead Plus a Fixed Fee</b>	<b>Salary Costs Times a Factor</b>
Use This Base Compensation Packet	Packet BC-1	Packet BC-2	Packet BC-3	Packet BC-4	Packet BC-5	Packet BC-6
Include This Appendix	Appendix 1 (if applicable)	Appendices 1 and 2	Appendix 1 (if applicable)	Appendix 1	Appendix 1	Appendix 1

**2. Compensation for services of Resident Project Representative (as described in Exhibit A, Paragraph A1.05.A.2, and in Exhibit D).**

**Decision Question: Which method of compensation is to be used?**

	<b>Lump Sum</b>	<b>Standard Hourly Rates</b>	<b>Percentage of Construction Costs</b>	<b>Direct Labor Costs Times a Factor</b>	<b>Salary Costs Times a Factor</b>
Use This RPR Compensation Packet	Packet RPR-1	Packet RPR-2	Packet RPR-3	Packet RPR-4	Packet RPR-5
Include This Appendix	Appendix 1 (if applicable)	Appendices 1 and 2	Appendix 1 (if applicable)	Appendix 1	Appendix 1

**3. Compensation for Additional Services (as described in Exhibit A, Part 2)**

**Decision Question: Which method of compensation is to be used?**

	<b>Standard Hourly Rates</b>	<b>Direct Labor Costs Times a Factor</b>	<b>Salary Costs Times a Factor</b>
Use This Additional Services Compensation Packet	Packet AS-1	Packet AS-2	Packet AS-3
Include This Appendix	Appendices 1 and 2	Appendix 1	Appendix 1

This is **EXHIBIT C**, consisting of **6** pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated **January 29, 2020**.

**Payments to Engineer for Services and Reimbursable Expenses**  
**COMPENSATION PACKET BC-1: Basic Services – Lump Sum**

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Article 2 of the Agreement is supplemented to include the following agreement of the parties:

**ARTICLE 2 – OWNER’S RESPONSIBILITIES**

**C2.01 Compensation for Basic Services (other than Resident Project Representative) – Lump Sum Method of Payment**

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer’s Resident Project Representative, if any, as follows:

1. A Lump Sum amount of \$ **759,000** for sewer treatment plant, **\$75,000** for service line repair, and **\$65,800** for sewer system rehabilitation based on the following estimated distribution of compensation:

	STP	Service Line Repairs	Sewer Rehab
a. Study and Report Phase	\$ <b>100,000</b>	\$ <b>10,500</b>	\$ <b>9,000</b>
b. Preliminary Design Phase	\$ <b>125,000</b>	\$ <b>10,500</b>	\$ <b>9,000</b>
c. Final Design Phase	\$ <b>335,000</b>	\$ <b>33,000</b>	\$ <b>29,000</b>
d. Bidding and Negotiating Phase	\$ <b>25,000</b>	\$ <b>3,000</b>	\$ <b>3,000</b>
e. Construction Phase	\$ <b>150,000</b>	\$ <b>15,000</b>	\$ <b>14,000</b>
f. Post-Construction Phase	\$ <b>24,000</b>	\$ <b>3,000</b>	\$ <b>1,800</b>

2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total Lump Sum amount unless approved in writing by the Owner. Lump Sum amount base upon Opinion of Probable Cost in Preliminary Engineering Report

3. The Lump Sum includes compensation for Engineer’s services and services of Engineer’s Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor costs, overhead, profit, expenses (other than any expressly allowed Reimbursable Expenses), and Consultant charges.

4. In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following Reimbursable Expenses (see Appendix 1 for rates or charges): **Review Fees,**

Permit Fees, Surveying, Ecological Studies, Flood Study, Archaeological Survey, Environmental Studies, and Testing

5. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period. If any Reimbursable Expenses are expressly allowed, Engineer may also bill for any such Reimbursable Expenses incurred during the billing period.
- B. *Period of Service:* The compensation amount stipulated in Compensation Packet BC-1 is conditioned on a period of service not exceeding 48 months. If such period of service is extended, the compensation amount for Engineer's services shall be appropriately adjusted.

**COMPENSATION PACKET RPR-2:  
Resident Project Representative – Standard Hourly Rates**

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Article 2 of the Agreement is supplemented to include the following agreement of the parties:

**C2.04 Compensation for Resident Project Representative Basic Services – Standard Hourly Rates Method of Payment**

**A. Owner shall pay Engineer for Resident Project Representative Basic Services as follows:**

1. **Resident Project Representative Services:** For services of Engineer's Resident Project Representative under Paragraph A1.05.A of Exhibit A, an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Resident Project Representative services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any. The total compensation under this paragraph is estimated to be \$443,000 based upon full-time RPR services on an eight-hour workday, Monday through Friday, over a 900 day construction schedule.

**B. Compensation for Reimbursable Expenses:**

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01, and are directly related to the provision of Resident Project Representative or Post-Construction Basic Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
2. Reimbursable Expenses include the expenses identified in Appendix 1 and the following: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representative and assistants; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be those internal expenses related to the Resident Project Representative Basic Services that are actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such services, the latter multiplied by a factor of 1.1.
4. The Reimbursable Expenses Schedule will be adjusted annually (as of January 1) to reflect equitable changes in the compensation payable to Engineer.

**C. Other Provisions Concerning Payment Under this Paragraph C2.04:**

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.12.

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**Exhibit C – Compensation Packet RPR-2: Resident Project Representative Services—  
Standard Hourly Rates Method of Payment.**

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2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. *Estimated Compensation Amounts:*
  - a. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
  - b. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend Engineer's services during negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
4. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

**COMPENSATION PACKET AS-1:  
Additional Services – Standard Hourly Rates**

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Article 2 of the Agreement is supplemented to include the following agreement of the parties:

**C2.05 Compensation for Additional Services – Standard Hourly Rates Method of Payment**

- A. Owner shall pay Engineer for Additional Services, if any, as follows:
1. *General:* For services of Engineer's personnel engaged directly on the Project pursuant to Paragraph A2.01 or A2.02 of Exhibit A, except for services as a consultant or witness under Paragraph A2.01.A.20, (which if needed shall be separately negotiated based on the nature of the required consultation or testimony) an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Additional Services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any.
- B. *Compensation For Reimbursable Expenses:*
1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01 and are directly related to the provision of Additional Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
  2. Reimbursable Expenses include the expenses identified in Appendix 1 and the following categories: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items; and Consultants' charges. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
  3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of 1.12.
  4. The Reimbursable Expenses Schedule will be adjusted annually (as of [January 1]) to reflect equitable changes in the compensation payable to Engineer.
- C. *Other Provisions Concerning Payment for Additional Services:*
1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.12.

2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's Factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

This is **Appendix 1 to EXHIBIT C**, consisting of **1** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **January 29, 2020**.

## **Reimbursable Expenses Schedule**

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Reimbursable Expenses are subject to review and adjustment per Exhibit C. Rates and charges for Reimbursable Expenses as of the date of the Agreement are:

8"x11" Copies/Impressions	at cost plus 10%
Copies of Drawings	at cost plus 10%
Mileage (auto)	Current IRS Rate/mile
Air Transportation	at cost plus 10%
CAD Charge	\$ 15/hour
Laboratory Testing	at cost plus 10%
Survey Equipment Usage	\$12/hour
Telephone and Shipping	at cost plus 10%
Meals and Lodging	at cost plus 10%

## Standard Hourly Rates Schedule

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A. *Standard Hourly Rates:*

1. Standard Hourly Rates are set forth in this Appendix 2 to this Exhibit C and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Article C2.

B. *Schedule:*

Hourly rates for services performed on or after the date of the Agreement are:

<b>Classification</b>	<b>Rate/Hour</b>
Senior Principal.....	\$225
Principal.....	\$205
Senior Project Manager .....	\$180
Project Manager III .....	\$170
Project Manager II .....	\$155
Project Manager I .....	\$136
Assistant Project Manager.....	\$112
Project Consultant / Geologist / Ecologist / Environmental Scientist.....	\$106
Staff Consultant / Geologist / Ecologist / Environmental Scientist .....	\$99
CAD Designer .....	\$108
Draftsperson / CADD Operator.....	\$68
Senior Field Technician.....	\$85
Environmental Technician./ Intern.....	\$50
Senior Land Surveyor .....	\$140
Assistant Project Surveyor.....	\$100
Survey Technician IV .....	\$94
Survey Technician III.....	\$80
Survey Technician II.....	\$70
Survey Technician I.....	\$60
Administrative Assistant.....	\$66
Administrative Manager .....	\$76



This is **EXHIBIT D**, consisting of 5 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated January 29, 2020.

## **Duties, Responsibilities, and Limitations of Authority of Resident Project Representative**

Article 1 of the Agreement is supplemented to include the following agreement of the parties:

### **ARTICLE 1 - SERVICES OF ENGINEER**

#### **D1.01 Resident Project Representative**

- A. Engineer shall furnish a Resident Project Representative (“RPR”) to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree. RPR is Engineer’s representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR’s actions.
- B. Through RPR’s observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor’s work in progress, for the coordination of the Constructors’ work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor’s failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A, Paragraph A1.05, of this Agreement are applicable.
- C. The duties and responsibilities of the RPR are as follows:
  - 1. *General:* RPR’s dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR’s dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
  - 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.
  - 3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings

(but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. *Liaison:*
  - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
  - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
  - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor. ,
7. *Shop Drawings and Samples:*
  - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
  - b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
  - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.
9. *Review of Work; Defective Work:*
  - a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected,



removed and replaced, or accepted as provided in the Construction Contract Documents.

- b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work. ; and
- c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups:*

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.

11. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.

- d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Project documentation.
- f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

12. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately inform Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

15. *Completion:*

- a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.

- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).
- D. Resident Project Representative shall not:
1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including “or-equal” items).
  2. Exceed limitations of Engineer’s authority as set forth in this Agreement.
  3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
  4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
  5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
  6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
  7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
  8. Authorize Owner to occupy the Project in whole or in part.

This is **EXHIBIT E**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated January 29, 2020.

***1. Exhibit A, Paragraph A1.05.A.25 of this Agreement indicates that in connection with recommending final payment of the Construction Contractor, the Engineer will also provide a notice to Owner and Contractor of the acceptability of the Work, subject to stated limitations. The form for that purpose, "Notice of Acceptability of Work," is attached on the following pages of this Exhibit E.***

***2. The Notice of Acceptability of Work should be served in compliance with the requirements for service of notice under the Construction Contract. See Paragraph 18.01, Giving Notice, of EJCDC C-700 (2013), Standard General Conditions of the Construction Contract.]***



**NOTICE OF ACCEPTABILITY OF WORK**

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**PROJECT:**

**OWNER:**

**CONTRACTOR:**

**OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:**

**EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:**

**ENGINEER:**

**NOTICE DATE:**

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**To:** \_\_\_\_\_

**Owner**

**And To:** \_\_\_\_\_

**Contractor**

**From:** \_\_\_\_\_

**Engineer**

The Engineer hereby gives notice to the above Owner and Contractor that Engineer has recommended final payment of Contractor, and that the Work furnished and performed by Contractor under the above Construction Contract is acceptable, expressly subject to the provisions of the related Contract Documents, the Agreement between Owner and Engineer for Professional Services dated \_\_\_\_\_, and the following terms and conditions of this Notice:

**CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK**

The Notice of Acceptability of Work ("Notice") is expressly made subject to the following terms and conditions to which all those who receive said Notice and rely thereon agree:

1. This Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.

2. This Notice reflects and is an expression of the Engineer's professional opinion.
3. This Notice is given as to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's work) under Engineer's Agreement with Owner, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the related Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Construction Contract Documents, or to otherwise comply with the Construction Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner's reservations of rights with respect to completion and final payment.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

This is **EXHIBIT F**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated January 29, 2020.

## **Construction Cost Limit**

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Paragraph 5.02 of the Agreement is supplemented to include the following agreement of the parties:

### **F5.02 *Designing to Construction Cost Limit***

- A. Owner and Engineer hereby agree to a Construction Cost limit in the amount of \$15,000,000.
- B. A bidding or negotiating contingency of 5.0 percent will be added to any Construction Cost limit established.
- C. The acceptance by Owner at any time during Basic Services of a revised opinion of probable Construction Cost in excess of the then-established Construction Cost limit will constitute a corresponding increase in the Construction Cost limit.
- D. Engineer will be permitted to determine what types and quality of materials, equipment and component systems are to be included in the Drawings and Specifications. Engineer may make reasonable adjustments in the scope, extent, and character of the Project to the extent consistent with the Project requirements and sound engineering practices, to bring the Project within the Construction Cost limit.
- E. If the Bidding or Negotiating Phase has not commenced within three months after completion of the Final Design Phase, or if industry-wide prices are changed because of unusual or unanticipated events affecting the general level of prices or times of delivery in the construction industry, the established Construction Cost limit will not be binding on Engineer. In such cases, Owner shall consent to an adjustment in the Construction Cost limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or Bids are sought.
- F. If the lowest bona fide proposal or Bid exceeds the established Construction Cost limit, Owner shall (1) give written approval to increase such Construction Cost limit, or (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's scope, extent, or character to the extent consistent with the Project's requirements and with sound engineering practices. In the case of (3), Engineer shall modify the Construction Contract Documents as necessary to bring the Construction Cost within the Construction Cost Limit. Owner shall pay Engineer's cost to provide such modification services, including the costs of the services of its Consultants, all overhead expenses reasonably related thereto, and Reimbursable Expenses, but without profit to Engineer on account of such services. The providing of such services will be the limit of Engineer's responsibility in this regard and, having done so, Engineer shall be entitled to payment for services and expenses in accordance with this Agreement and will not otherwise be liable for damages attributable to the lowest bona fide proposal or bid exceeding the established Construction Cost limit.

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### **Exhibit F – Construction Cost Limit.**

This is **EXHIBIT G**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **January 29, 2020**.

## Insurance

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Paragraph 6.05 of the Agreement is supplemented to include the following agreement of the parties:

### G6.05 Insurance

A. The limits of liability for the insurance required by Paragraph 6.05.A and 6.05.B of the Agreement are as follows:

1. By Engineer:

a. Workers' Compensation: Statutory

b. Employer's Liability --

1) Bodily injury, each accident: \$1,000,000  
2) Bodily injury/disease, aggregate: \$1,000,000

c. General Liability --

1) Each Occurrence (Bodily Injury and Property Damage): \$1,000,000  
2) General Aggregate: \$1,000,000

d. Excess or Umbrella Liability --

1) Per Occurrence: \$0  
2) General Aggregate: \$0

e. Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage):

\$1,000,000

f. Professional Liability --

1) Each Claim Made \$1,000,000  
2) Annual Aggregate \$1,000,000

g. Other (specify): \$[ ]

2. By Owner:

a. Workers' Compensation: Statutory

b. Employer's Liability --

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Exhibit G – Insurance.



- 1) Bodily injury, Each Accident \$ 1,000,000
- 2) Bodily injury by Disease, Each Employee \$ 1,000,000
- 3) Bodily injury/Disease, Aggregate \$ 1,000,000

c. General Liability --

- 1) General Aggregate: \$ 1,000,000
- 2) Each Occurrence (Bodily Injury and Property Damage): \$ 1,000,000

d. Excess Umbrella Liability

- 1) Per Occurrence: \$[ ]
- 2) General Aggregate: \$[ ]

e. Automobile Liability – Combined Single Limit (Bodily Injury and Property Damage):

\$1,000,000

f. Other (specify):

\$[ ]

B. *Additional Insureds:*

1. The following individuals or entities are to be listed on Owner’s general liability policies of insurance as additional insureds:

- a. Civil & Environmental Consultants, Inc.  
Engineer
- b. Phillips Engineering, Inc  
Engineer’s Consultant
- c. James C. Hailey & Company  
Engineer’s Consultant
- d. [ ]  
[other]

2. During the term of this Agreement the Engineer shall notify Owner of any other Consultant to be listed as an additional insured on Owner’s general liability policies of insurance.

3. The Owner shall be listed on Engineer’s general liability policy as provided in Paragraph 6.05.A.

This is **EXHIBIT H**, consisting of **1** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **January 29, 2020**.

## **Dispute Resolution**

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Paragraph 6.09 of the Agreement is supplemented to include the following agreement of the parties:

### H6.08 *Dispute Resolution*

- A. *Mediation*: Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof (“Disputes”) to mediation by **[a Tennessee Rule 31 Mediator for General Civil Cases]**. Owner and Engineer agree to participate in the mediation process in good faith. The process shall be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction.

This is **EXHIBIT I**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **January 29, 2020**.

## Limitations of Liability

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Paragraph 6.11 of the Agreement is supplemented to include the following agreement of the parties:

A. *Limitation of Engineer's Liability*

1. *Engineer's Liability Limited to Stated Amount, or Amount of Engineer's Compensation:* To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants, to Owner and anyone claiming by, through, or under Owner for any and all injuries, claims, losses, expenses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project, Engineer's or its Consultants' services. or this Agreement, from any cause or causes whatsoever, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants, shall not exceed the total amount of \$50,000.00 or the total compensation received by Engineer under this Agreement, whichever is greater. Higher limits are available for an additional fee.

2. *Exclusion of Special, Incidental, Indirect, and Consequential Damages:* To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision in the Agreement, consistent with the terms of Paragraph 6.11, the Engineer and Engineer's officers, directors, members, partners, agents, Consultants, and employees shall not be liable to Owner or anyone claiming by, through, or under Owner for any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes, including but not limited to:

Costs of replacement power, loss of use of equipment or of the facility, loss of profits or revenue, loss of financing, regulatory fines, etc.

B. *Indemnification by Owner:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use

resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents, employees, consultants, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.

This is **EXHIBIT J**, consisting of **1** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **January 29, 2020**.

### **Special Provisions**

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Paragraph(s) [ ] of the Agreement is/are amended to include the following agreement(s) of the parties:

**NONE**

This is **EXHIBIT K**, consisting of **2** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **January 29, 2020**.

**AMENDMENT TO OWNER-ENGINEER AGREEMENT**  
**Amendment No. \_\_\_\_\_**

**The Effective Date of this Amendment is: \_\_\_\_\_.**

Background Data

Effective Date of Owner-Engineer Agreement:

Owner:

Engineer:

Project:

Nature of Amendment: [Check those that are applicable and delete those that are inapplicable.]

- \_\_\_\_ Additional Services to be performed by Engineer
- \_\_\_\_ Modifications to services of Engineer
- \_\_\_\_ Modifications to responsibilities of Owner
- \_\_\_\_ Modifications of payment to Engineer
- \_\_\_\_ Modifications to time(s) for rendering services
- \_\_\_\_ Modifications to other terms and conditions of the Agreement

Description of Modifications:

***Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary.***

Agreement Summary:

Original agreement amount:	\$ _____
Net change for prior amendments:	\$ _____
This amendment amount:	\$ _____
Adjusted Agreement amount:	\$ _____

Change in time for services (days or date, as applicable): \_\_\_\_\_

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER:

ENGINEER:

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By: \_\_\_\_\_  
Print  
name: \_\_\_\_\_

By: \_\_\_\_\_  
Print  
name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

UNITED STATES DEPARTMENT OF AGRICULTURE  
Rural Utilities Service  
RUS BULLETIN 1780-26

**SUBJECT:** Guidance for the Use of Engineers Joint Contract Documents Committee (EJCDC) Documents on Water and Waste Disposal Projects with RUS Financial Assistance

**TO:** Rural Development State Directors, RUS Program Directors, and State Engineers

**EFFECTIVE DATE:** Date of approval.

**OFFICE OF PRIMARY INTEREST:** Engineering and Environmental Staff, Water and Environmental Programs

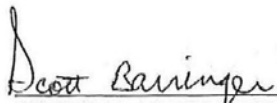
**INSTRUCTIONS:** This Bulletin replaces RUS Bulletin 1780-26, dated April 19, 2017.

**AVAILABILITY:** This Bulletin, as well as any Rural Development instruction or Rural Utilities Service (RUS) instructions, regulations, or forms referenced in this Bulletin are available at any Rural Development State Office. The State Office staff is familiar with the use of the documents in their States and can answer specific questions on Rural Development requirements.

This Bulletin is available on the Rural Utilities Service website at <https://www.rd.usda.gov/publications/regulations-guidelines/bulletins/water-and-environmental>

**PURPOSE:** This Bulletin assists Rural Development staff in providing information and guidance to applicants and professional consultants in the development of engineering agreements and construction contracts that are legally sufficient, ensure appropriate services are provided at a reasonable fee, and expedite the achievement of the applicant's goals. This update amends language to support compliance with 2 CFR Part 200.

**MODIFICATIONS:** Rural Development State Offices may modify this guidance when appropriate to comply with state statutes and regulations in accordance with the procedures outlined at Rural Development Instruction 2006-B (2006.55).



SCOTT BARRINGER  
Acting Assistant Administrator  
Water and Environmental Programs

9/7/17

Date



## TABLE OF CONTENTS

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5	OWNER RESPONSIBILITY	4
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### Exhibits:

A	The Engineering Agreement – Modifications for RUS Funded Projects	
B	Revisions to EJCDC E-500 (2014)	
C	RUS Certification Page	
D	The Construction Contract and Bidding Documents	
E	Engineer’s Development of Instructions to Bidders	
F	Engineer’s Development of Bid Form	
G	Engineer’s Development of Agreement between Owner and Contractor	
H	Engineer’s Development of Supplementary Conditions	
I	Certification of Owner’s Attorney and Agency Concurrence	
J	Engineer’s Certification of Final Plans and Specifications	

### INDEX

Agreement for Engineering Services  
 Construction Contract Documents  
 Water and Waste Disposal Facilities

## ABBREVIATIONS

CFR – Code of Federal Regulations  
 EJCDC – Engineers Joint Contract Documents Committee  
 EO – Executive Order  
 OGC – Office of General Counsel  
 PL – Public Law  
 RD – Rural Development  
 RPR – Resident Project Representative  
 RUS – Rural Utilities Service  
 USC – United States Code  
 USDA – United States Department of Agriculture  
 WWD – Water and Waste Disposal

## 1 GENERAL

- a Approved Documents. Subject to the modifications indicated in this Bulletin, the Engineers Joint Contract Documents Committee (EJCDC) developed the following documents which were previously approved by the Rural Utilities Service (RUS) for procurement of professional and construction services by loan and grant recipients:
- (1) Agreement between Owner and Engineer for Professional Services (EJCDC No. E-500, 2014 Edition)
  - (2) Agreement between Owner and Contractor for Construction Contract (Stipulated Price) (EJCDC No. C-520 (Rev 1), 2013 Edition)
  - (3) Standard General Conditions of the Construction Contract (EJCDC No. C-700 (Rev 1), 2013 Edition)
- b Associated Documents. In addition to items 2 and 3, there are also associated construction contract documents, some of which are available through EJCDC and its member organizations and some of which are to be developed by the engineer based on instructions in this Bulletin.
- c Alternative Documents. Recipients not wishing to use EJCDC documents may submit alternative documents for review and consideration. Such documents must be modified to meet all federal and state requirements and must be approved for each project by the Agency and the USDA Office of General Counsel (OGC). When modified as described in this Bulletin, the EJCDC documents listed above have been determined to meet such requirements and generally do not require OGC approval.

## 2 AVAILABILITY

The EJCDC documents are available online from any of the sponsoring organizations: the National Society of Professional Engineers ([www.nspe.org](http://www.nspe.org)); American Council of Engineering Companies ([www.acec.org](http://www.acec.org)); and American Society of Civil Engineers ([www.asce.org](http://www.asce.org)); or directly from EJCDC ([www.ejcdc.org](http://www.ejcdc.org)). EJCDC documents are proprietary and include a license agreement. RUS offices will not distribute EJCDC documents for any purpose other than training or to illustrate the appropriate use of the integrated set of documents on RUS financially assisted projects.

## 3 PRIOR VERSIONS OF EJCDC DOCUMENTS

- a Project-specific EJCDC documents approved prior to the effective date of this Bulletin are still considered approved. This Bulletin does not retroactively change the status of an individual document already approved.
- b Approval of Previous Engineering Agreements. The approval of a previous edition EJCDC engineering agreement must be used with the most current construction series documents.

- c Phase Out of Previous Editions. The most recent EJCDC documents should be used for WWD projects.

#### 4 PURPOSE

- a Use by Staff. This Bulletin is to be used by Rural Development staff in providing information and guidance to applicants and professional consultants in the development of agreements that are legally sufficient, ensure appropriate services are provided for a reasonable fee, and expedite the achievement of the applicant's goals.
- b Assembly of Documents. This Bulletin consists of exhibits with required modifications that when combined with the standard EJCDC documents and appropriate drawings, specifications and other required documents, create a complete set of engineering and construction contracts for use with WWD projects. However, the documents in these exhibits are not to be used as a substitute for the careful evaluation of the requirements for a project. The owner, their engineer, and legal counsel, with RD consultation, must determine the best approach for a successful outcome.

#### 5 OWNER RESPONSIBILITY

- a Verify Bulletin is Current. Before an applicant or consultant proceeds with the development of an engineering agreement or a set of construction contract documents, they should contact the Rural Development State Office to verify they have the most current information specific to the type of project and state or other jurisdiction where the project is located.
- b Contractual and Administrative Issues. The Owner is responsible for the settlement of all contractual and administrative issues arising out of procurement entered into in support of a loan or grant. These include, but are not limited to: source evaluation; protests; disputes; and claims. Matters concerning violations of laws are to be referred to the applicable local, state, or Federal authority.
- c Modifications. It is RUS policy that applicants use the EJCDC documents with minimal modification. However, RUS recognizes each project is unique and that modifications may be required to satisfy project requirements or state statutes. If changes must be made to the standard documents to address project-specific issues, they must be made via bold type additions and deletions with strike-outs or addenda showing all revisions. Because the EJCDC documents are fully integrated, when making a modification in one document applicants must ensure that appropriate modifications are made in all affected documents.

#### 6 USE OF EXHIBITS

The following explains the purpose of each Exhibit to this Bulletin.

- a **THE ENGINEERING AGREEMENT - MODIFICATIONS FOR RUS FUNDED PROJECTS:** This exhibit explains the use of the EJCDC Owner – Engineer Agreement for RUS funded projects and includes instructions for

modification and review of the Agreement Between Owner and Engineer for Professional Services (EJCDC E-500 (2014)).

- b **REVISIONS TO EJCDC E-500:** This exhibit contains the list of revisions to the E-500 (2014), “Agreement Between Owner and Engineer for Professional Services” for RUS funded WWD projects. The exhibit consists of a checklist of changes that must be made to the standard EJCDC documents to ensure they comply with Agency requirements. The actual changes must be made using either bold type additions and deletions with strike-outs or addenda showing all revisions.
- c **RUS CERTIFICATION PAGE:** This exhibit consists of a certification, to be signed by the engineer and owner, stating the fees for engineering services and certifying that the required changes were made to the Owner – Engineer Agreement. This certification is to be attached as the last page of the Owner-Engineer Agreement.
- d **THE CONSTRUCTION CONTRACT AND BIDDING DOCUMENTS – MODIFICATIONS FOR RUS FUNDED PROJECTS:** This exhibit explains the use of the EJCDC construction contract and bidding documents. It includes a table of all the required documents and instruction for modification and review of these documents.
- e **ENGINEER’S DEVELOPMENT OF INSTRUCTIONS TO BIDDERS:** This exhibit contains instructions for the engineer to develop Instructions to Bidders using C-200 (Rev 1) (2013), “Suggested Instructions to Bidders” and a checklist of modifications included in the exhibit.
- f **ENGINEER’S DEVELOPMENT OF BID FORM:** This exhibit contains a checklist of changes that must be made by the engineer to the C-410 (2013), “Bid Form for Construction Contracts”.
- g **ENGINEER’S DEVELOPMENT OF AGREEMENT BETWEEN OWNER AND CONTRACTOR:** This exhibit contains a checklist of changes that must be made by the engineer to C-520 (Rev 1) (2013), “Agreement between Owner and Contractor for Construction Contract (Stipulated Price)”.
- h **ENGINEER’S DEVELOPMENT OF SUPPLEMENTARY CONDITIONS:** This exhibit contains instructions for the engineer to develop Supplementary Conditions using C-800 (Rev 1) (2013), “Guide to the Preparation of Supplementary Conditions” and a checklist of modifications included in the exhibit.
- i **CERTIFICATE OF OWNER’S ATTORNEY AND AGENCY CONCURRENCE:** This exhibit consists of two certificates, on a single page, to be attached to the construction contract and signed upon execution. The first is a certificate signed by the owner’s attorney and the second is the State Engineer’s concurrence in the executed construction contract. This certificate is to be attached after the Owner-Contractor Agreement (C-520 (Rev 1) (2013)) in the construction contract.

- j ENGINEER'S CERTIFICATION OF FINAL PLANS AND SPECIFICATIONS:  
This exhibit is a certification by the engineer to the owner and RD that the plans and specifications have been completed in accordance with RUS requirements. This certificate is to be provided to the Agency with the final plans and specifications prior to advertisement for bids.

**THE ENGINEERING AGREEMENT  
MODIFICATIONS FOR RUS FUNDED PROJECTS**

1 PURPOSE

This exhibit explains the use of the EJCDC Owner – Engineer Agreement for RUS funded projects and includes instructions for modification and review of the Agreement Between Owner and Engineer for Professional Services (EJCDC E-500 (2014)).

2 GENERAL INFORMATION

The EJCDC has developed a 2014 edition of the Owner-Engineer Agreement that, when assembled as described in this Bulletin, is acceptable for use on WWD projects funded by RUS.

3 INSTRUCTIONS

a Process. Instructions to modify EJCDC E-500 (2014) prior to use on RUS funded WWD projects are as follows:

- (1) Engineer must attach the list of “Revisions to the EJCDC E-500 (2014)” to the Agreement as an addendum or make the specific changes listed using bold type additions and deletions with strike-outs.
- (2) Engineer must include the “RUS Certification Page” in the Agreement (Exhibit C of this Bulletin).
- (3) Project-specific requirements may be added to Exhibit J of E-500 (2014).
- (4) Owner and Engineer must select a payment method from Exhibit C of E-500 (2014) (see below).
- (5) Owner and Engineer must sign the Agreement and complete and sign the RUS Certification Page (Exhibit C of this Bulletin).
- (6) Agency must review to ensure changes were made as required or revisions were attached and that the certification is attached, completed, and acceptable.
- (7) Agency completes and signs the RUS Certification page.

b Approval. The executed Owner-Engineer Agreement must be approved by Rural Development prior to Agency concurrence in any payment of RUS funding for engineering services.

c Subsurface Utility Data. ASCE 38, “Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data,” is mentioned in Exhibits A and B of the Agreement. Note that the use of this ASCE standard is optional, but the scope of engineering services in this Agreement includes the Engineer discussing whether or not the standard will be used on a given project.

- d Payment for Services. The standard Exhibit C from E-500 (2014), “Payments to Engineer for Services and Reimbursable Expenses,” should be used along with the E-500 (2014) Owner-Engineer Agreement, but only the following Compensation Packets are allowed for use with RUS funded projects (other compensation packets are not allowed):
- (1) Allowed for Basic Services:
    - Lump Sum (Compensation Packet BC-1)
    - Standard Hourly Rates (Compensation Packet BC-2)
  - (2) Allowed for RPR Services:
    - Lump Sum (Compensation Packet RPR-1)
    - Standard Hourly Rates (Compensation Packet RPR-2)
  - (3) Allowed for Additional Services:
    - Standard Hourly Rates (Compensation Packet AS-1)
- f Insurance. Exhibit G (to E-500), “Insurance,” amounts should be established by the Owner based on advice from the Owner’s attorney or a risk manager hired by the Owner.
- g Limitations of Liability. Exhibit I (to E-500 (2014)), “Limitations of Liability,” is permissible to be used on RUS funded projects.

**REVISIONS TO EJCDC E-500**

- Amend paragraph 4.01.A by inserting the following text after the first sentence: “Invoices must include a breakdown of services provided.”
- In paragraph 6.04.B replace “shall” with “may”.
- Modify paragraph 7.01.A.25 by striking “, as an Additional Service.”
- Add paragraph 7.01.A.38 to the Agreement as follows:

Agency – The Rural Utilities Service or any designated representative of Rural Utilities Service, including USDA, Rural Development.

- Add paragraph 8.05 to the Agreement as follows:

**8.05 Federal Requirements**

A. Agency Concurrence. Signature of a duly authorized representative of the Agency in the space provided on the signature page of EJCDC form E-500 (2014) hereof does not constitute a commitment to provide financial assistance or payments hereunder but does signify that this Agreement conforms to Agency’s applicable requirements. This Agreement shall not be effective unless the Funding Agency’s designated representative concurs. No amendment to this Agreement shall be effective unless the Funding Agency’s designated representative concurs.

B. Audit and Access to Records. Owner, Agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Engineer which are pertinent to the Agreement, for the purpose of making audits, examinations, excerpts, and transcriptions. Engineer shall maintain all required records for three years after final payment is made and all other pending matters are closed.

C. Restrictions on Lobbying. Engineer and each Consultant shall comply with “*Byrd anti-lobbying amendment (31 U.S.C. 1352)*” if they are recipients of engineering services contracts and subcontracts that exceed \$100,000 at any tier. If applicable, Engineer must complete a certification form on lobbying activities related to a specific Federal loan or grant that is a funding source for this Agreement. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other applicable award. Each tier shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Certifications and disclosures are forwarded from tier to tier up to the Owner. Necessary certification and disclosure forms shall be provided by Owner.

D. Suspension and Debarment. Engineer certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared



ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. Engineer will not contract with any Consultant for this project if it or its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Necessary certification forms shall be provided by the Owner. The Engineer will complete and submit a form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – lower tier transactions," to the Owner who will forward it the USDA, Rural Development processing office.

#### Modifications to Exhibit A of the Agreement

- Replace paragraph A1.01.A.1.b with "In addition, Engineer must identify, study, and evaluate multiple potential alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree with Agency concurrence that only one feasible solution exists. The number of alternative solutions should be appropriate to the specific project as concurred in by the Agency."
- Delete paragraph A1.01.A.1.c.
- Insert the following additional text at the end of Article A1.01.A.8: "The Report mentioned in paragraph 1.01.A.8 of Exhibit A to the Agreement is the Preliminary Engineering Report as defined in RUS Bulletin 1780-2. This document must meet customary professional standards as required by 7 CFR 1780.55. The Report must be concurred in by the Agency."
- Modify paragraph A1.01.A.10 by inserting "and approved by the Agency" after "When mutually agreed."
- If applicable, add the following immediately after paragraph A1.01.A.14: "Provide an Environmental Report as defined at 7 CFR 1970 or other Agency approved format. The Environmental Report must be concurred in by the Agency."
- Replace paragraph A1.01.A.16 with "Revise the Report and any other Study and Report Phase deliverables in response to Owner's and Agency's comments, as appropriate, and furnish three (3) written copies and one (1) electronic copy of the revised Report and any other Study and Report Phase deliverables to the Owner within [ ] days of receipt of Owner's and Agency's comments."
- Modify paragraph A1.02.A by inserting "and concurrence by Agency" after the words "acceptance by Owner."
- Modify paragraph A1.02.A.2 by inserting "and Agency" after "authorized by Owner."
- Add the following to the end of paragraph A1.02.A.8: "Engineer must also incorporate all Agency regulations, forms, and design and construction standards applicable to the project in development of the documents indicated in this Article."
- Add the following immediately after paragraph A1.03.A.9: "The Engineer shall identify the building codes and accessibility standards used in the design and indicate them on the

drawings and specifications and certify that the final drawings and specifications comply with those standards.”

- Modify paragraph A1.03.A.10 by adding the “and Agency” after the word “counsel.”
- Insert paragraph A1.03.A.12 stating, “Provide the Owner and Agency with a written certification that the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables comply with all requirements of Agency. Use the Engineer’s Certification of Final Plans and Specifications (Attachment J of the RUS Bulletin 1780-26) for this purpose.”
- Modify paragraph A1.03.B by deleting the period at the end of the paragraph and adding: “and all final design phase deliverables have been accepted by Owner.”
- Add the following to the end of paragraph A1.04.A.2: “Obtain Agency concurrence on any addenda that modify the bidding documents. Obtain prior concurrence where possible.”
- Replace paragraph A1.04.A.6 with the following: “The Engineer shall evaluate and determine the acceptability of “or equals” and substitute materials and equipment proposed by prospective contractors prior to award of contracts for the Work. Engineer shall issue a bid addendum for any and all approved “or equals” and substitutes. Review of substitutes and “or equals” shall be in accordance with the General Conditions of the Construction Contract and applicable Agency regulations. Services under this paragraph are subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.”
- Add the following sentence immediately after paragraph A1.04.A.9: “Upon award of the Construction Contract, the Engineer shall furnish to Owner five executed copies of the Contract Documents and one electronic copy of the signed documents, including Drawings and Specifications.”
- Paragraph A1.05.A.4: Insert “and chair” after “Participate in” regarding the preconstruction conference.
- Delete “If requested by Owner to do so” from Article A1.05.A.6 regarding the Engineer maintaining a set of Drawings and Specifications.
- Insert paragraph A1.05.A.9.c stating “The visits described in Article A1.05.A.9.a shall be at least monthly and the Engineer shall document all visits to the project with copies furnished to the Owner and Agency.”
- Add the following text at the end of paragraph A1.05.A.18: “Review of substitutes and “or equals” shall be in accordance with the General Conditions of the Construction Contract and applicable Agency regulations.”
- Insert paragraph A1.05.A.24.a: “Upon Substantial Completion, the Engineer shall provide a copy of the Certificate of Substantial Completion to the Agency.”

- Modify paragraph A1.05.A.22 by striking the words “Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer’s review of record documents shall be to check that Contractor has submitted all pages.”
- Add the following to the end of paragraph A1.05.A.22: “Receive from Contractor and review the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The Engineer shall prepare Record Drawings, and furnish such Record Drawings to Owner.”
- Add the following text after “preparation or review of environmental assessments and impact statements” in A2.01.A.1: “not including preparation of the Environmental Report defined under Basic Services.”
- Replace the period at the end of Article A2.01.A.4 with a comma and add the following text to the end of the Article: “but only if the Owner’s request is made after completion of the Study and Report Phase.”
- Mark paragraph A2.01.A.17 as “[Deleted].”
- Replace paragraph A2.02.A.2 with the following: “Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than “or equal” items; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.”

#### Modifications to Exhibit C of the Agreement

- Modify Exhibit C, Compensation Packet BC-1, paragraph C2.01.A.2, by adding “and Agency” after “approved in writing by the Owner.”
- Modify Exhibit C, Compensation Packet BC-2, paragraph C2.01.A.5, by inserting “and Agency” after “approved in writing by Owner.”
- Modify Exhibit C, Compensation Packet BC-2, paragraph C2.01.A.8, by inserting the following text at the end of the paragraph, “Changes will not be effective unless and until concurred in by the Owner and Agency.”
- Modify Exhibit C, Compensation Packet BC-1, paragraph C2.01,B by inserting “with concurrence of the Owner and Agency” after “the compensation amount for Engineer’s services shall be appropriately adjusted.”
- Modify text of Exhibit C, Compensation Packet BC-2, paragraph C2.03.C.2 by inserting “and Agency” after Owner in “Engineer shall give Owner written notice thereof.”
- Add paragraph C2.04.A.2 to Exhibit C, Compensation Packet RPR-2, by adding the following text to the end of the paragraph: “If rate(s) for RPR services is not indicated in

Appendix Two to Exhibit C, “Standard Hourly Rates Schedule,” the Standard Hourly Rate for RPR services is \$\_\_\_\_\_ per hour.”

- Modify Exhibit C, Compensation Packet RPR-1, paragraph C2.04.A.3 by inserting the following text at the end of the paragraph, “Changes will not be effective unless and until concurred in by the Owner and Agency.”
- Modify Exhibit C, Compensation Packet RPR-2, paragraph 2.04.B.4, by inserting the following text at the end of the paragraph, “Changes will not be effective unless and until concurred in by the Owner and Agency.”
- Modify Exhibit C, Compensation Guide RPR-2, paragraph 2.04.C.3.B by inserting “and Agency” after Owner in “Engineer shall give Owner written notice thereof.”
- Modify Exhibit C, Compensation Packet RPR-2, paragraph C2.04.C.4 by deleting “at cost” and inserting “at no cost” at the end of the paragraph.
- Modify Exhibit C, Compensation Packet AS-1, paragraph C2.05.B.4, by inserting the following text at the end of the paragraph, “Changes will not be effective unless and until concurred in by the Owner and Agency.”
- Modify Exhibit C, Compensation Packet AS-1, paragraph C2.05.C.3 by deleting “at cost” and inserting “at no cost” at the end of the paragraph.

#### Modifications to Exhibit D of the Agreement

- Add the following to the end of Exhibit D, Article D1.01.A: “Full time Resident Project Representation is required unless requested in writing by the Owner and waived in writing by the Agency.”
- Mark paragraph D1.01.C.12.b as [Deleted] regarding Resident Project representative role in Change Orders, Work Change Directives, and Field Orders.

*Optional Exhibits: F, H, J*

#### Modifications to Exhibit F of the Agreement

- Add the following to the end of Exhibit F, Article F5.02.D: “Engineers determinations on types and quality of materials, equipment, and component systems to be included in the Drawings and Specifications are subject to approval by Agency in accordance with requirements of 7 CFR 1780, including open and free competition.”

**RUS CERTIFICATION PAGE**

PROJECT NAME: \_\_\_\_\_

The Engineer and Owner hereby concur in the Funding Agency required revisions to E-500 (2014). In addition, Engineer certifies to the following:

All modifications required by RUS Bulletin 1780-26 have been made in accordance with the terms of the license agreement, which states in part that the Engineer “must plainly show all changes to the Standard EJCDC Text, using ‘Track Changes’ (redline/strikeout), highlighting, or other means of clearly indicating additions and deletions.” Such other means may include attachments indicating changes (e.g. Supplementary Conditions modifying the General Conditions).

**SUMMARY OF ENGINEERING FEES**

Note that the fees indicated on this table are only a summary and if there is a conflict with any provision of Exhibit C, the provisions there overrule the values on this table. Fees shown in will not be exceeded without the concurrence of the Agency.

Basic Services	\$ _____
Resident Project Observation	\$ _____
Additional Services	\$ _____
<b>TOTAL:</b>	\$ _____

Any adjustments to engineering fees or changes to maximum estimated values must be approved by the Agency and must include a table of what specific category or categories of fees are being changed, what fees were before and after the change, and the resulting total fee.

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Engineer	Date
----------	------

---

Name and Title

---

Owner	Date
-------	------

---

Name and Title

Agency Concurrence:

As lender or insurer of funds to defray the costs of this Contract, and without liability for any payments thereunder, the Agency hereby concurs in the form, content, and execution of this Agreement.

---

Agency Representative	Date
-----------------------	------

---

Name and Title

## THE CONSTRUCTION CONTRACT AND BIDDING DOCUMENTS MODIFICATIONS FOR RUS FUNDED PROJECTS

### 1 PURPOSE

This exhibit explains the use of the EJCDC construction contract and bidding documents. It includes a table of all the required documents and instruction for modification and review of these documents.

### 2 GENERAL INFORMATION

The EJCDC has developed a 2013 edition of the Construction Series (Owner-Contractor) documents that when assembled as described in this Bulletin is acceptable for use on WWD projects funded by RUS. All contract documents must be approved by the USDA, Rural Development State Engineer prior to advertisement for bids, the Agency must concur in award, and the executed contract documents must be approved by the USDA, Rural Development State Engineer prior to Agency concurrence in any payment of RUS funding for construction services. A copy of the signature page on the last page of this exhibit must be used for this purpose.

### 3 INSTRUCTIONS

- A Assembly of Documents. Bid packages must be assembled in accordance with the following notes, requirements of Exhibits E through J, and the table below:
- B Indicating Revised Text. Although the following instructions direct that changes be made to various EJCDC construction documents, actual changes to EJCDC standard language must be made using either bold type additions or deletions with strike-outs or addenda showing all revisions.
- C General Conditions. The EJCDC General Conditions (C-700 (Rev 1) (2013)) should not be modified. Changes to C-700 (Rev 1) (2013) should only be made via the Supplementary Conditions, except in unusual cases as approved by the USDA RD State Engineer.
- D EJCDC Suggested Language. The Instruction to Bidders and Supplementary General Conditions must be developed by the Engineer based on EJCDC guidance documents and the instructions and Exhibits below. The USDA RD State Engineer must verify that the instructions and Exhibits below were followed prior to any advertisement for bids.
- E EJCDC Standard Language. The Bid Form and the Agreement Between Owner and Contractor are standard documents from EJCDC, but must be modified before use on an RUS funded project as explained below. The USDA RD State Engineer must verify that the instructions and Exhibits below were followed prior to advertisement for bidding.
- F Project Signs. It is customary that project signs identifying the Owner, Contractor, Engineer, and Funding Agencies be displayed during project construction. The sign requirements are not included in the Supplementary Conditions, but should be a part

of the specifications prepared by the Engineer. The Engineer should contact the Rural Development State Office for specific requirements and include the sign standard in the bid package.

Note that at least five copies of the executed construction contracts documents (two for Agency, one for Engineer, one for Contractor, and one for Owner) must be submitted to the RD State Office for review and acceptance before issuance of the Notice to Proceed.



## Assembling the Construction Contract and Bidding Documents

Advertisement for Bids	Use EJCDC C-111 (2013).
Instructions to Bidders	Engineer will develop the Instructions to Bidders using the Suggested Instructions to Bidders for Construction Contracts (EJCDC C-200 (Rev 1), 2013) as modified by this Bulletin.
Qualifications Statement	Use EJCDC C-451 (2013).
Bid Form	Use EJCDC C-410 (2013) as modified by this Bulletin.
Bid Bond	Use EJCDC C-430 (2013).
Notice of Award	Use EJCDC C-510 (Rev 1) (2013). Owner must obtain concurrence of Agency prior to announcing award.
Agreement Between Owner and Contractor (Stipulated Price)	Use EJCDC C-520 (Rev 1) (2013) as modified by this Bulletin.
Standard General Conditions of the Construction Contract	Use EJCDC C-700 (Rev 1) (2013). Modifications to C-700 (Rev 1) (2013) should be made in the Supplementary Conditions, not in C-700 (Rev 1) (2013) itself.
Supplementary Conditions	Engineer will develop the Supplementary Conditions using the Guide to the Preparation of Supplementary Conditions (EJCDC C-800 (Rev 1) (2013)) as modified by this Bulletin.
Performance Bond	Use EJCDC C-610 (2013). Note that the bond must be at least 100% of the bid amount.
Payment Bond	Use EJCDC C-615 (2013). Note that the bond must be at least 100% of the bid amount.
Application for Payment	Use EJCDC C-620 (2013). This documents is pre-approved for use per 7 CFR 1780.76(e).
Change Order	Use EJCDC C-941 (2013). This documents is pre-approved for use per 7 CFR 1780.76(h)(2).
Notice to Proceed	Use EJCDC C-550 (2013).
Certificate of Substantial Completion	Use EJCDC C-625 (2013).
Compliance Statement	Use Form RD 400-6.
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions	Use Form AD-1048.
Certification for Contracts, Grants, and Loans	Use Exhibit A-1 of RD Instruction 1940-Q.
Construction Project Sign	Template provided by RD State Office.
Certificate of Owner's Attorney	Use template provided in Exhibit I of this Bulletin.
Engineer's Certification of Final Plans and Specifications	Use template provided in Exhibit J of this Bulletin.

## ENGINEER'S DEVELOPMENT OF INSTRUCTIONS TO BIDDERS

The Engineer will develop the Instructions to Bidders using the Suggested Instructions to Bidders (EJCDC C-200 (Rev 1), 2013) and using the instructions provided in this Bulletin. In addition, the Engineer must ensure that any applicable state or federal wage rate requirements are added to the Instructions to Bidders (ITB) at Article 24. The USDA, Rural Utilities Service, Water and Waste Disposal program does not require the use of Davis Bacon Wage rates in most cases, but other sources of federal funds may.

- ITB 3.01 The second suggested version of 3.01 is not acceptable for use on RUS funded projects. Owners must not preclude entities from submitting bids.
- ITB 8.01 Bid security must be equal to 5% of the Bidder's maximum Bid price.
- ITB 9.01 The second suggested version of 9.01 (applicable to Price-plus-Time bids) is not acceptable for use on RUS funded projects.
- ITB 11 The following text shall be used for Article 11:

### ARTICLE 11 – SUBSTITUTE AND “OR-EQUAL” ITEMS

11.01 The Contract for the Work, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, and those “or-equal” or substitute materials and equipment subsequently approved by Engineer prior to the submittal of Bids and identified by Addendum. No item of material or equipment will be considered by Engineer as an “or-equal” or substitute unless written request for approval has been submitted by Bidder and has been received by Engineer at least 15 days prior to the date for receipt of Bids in the case of a proposed substitute and 5 days prior in the case of a proposed “or-equal.” Each such request shall comply with the requirements of Paragraphs 7.04 and 7.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any such proposed item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner. Substitutes and “or-equal” materials and equipment may be proposed by Contractor in accordance with Paragraphs 7.04 and 7.05 of the General Conditions after the Effective Date of the Contract.

11.02 All prices that Bidder sets forth in its Bid shall be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of “or-equal” or substitution requests are made at Bidder's sole risk.

11.03 If an award is made, Contractor shall be allowed to submit proposed substitutes and “or-equals” in accordance with the General Conditions.

- ITB 12.01 Do not include this first paragraph of Article 12.
- ITB 12.02 Do not include this second paragraph of Article 12.
- ITB 12.03 Insert the following text at the beginning of the third paragraph of Article 12, “If required by the bid documents.”

- ITB 12.05 Contractor shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom Contractor has reasonable objection.
- ITB 12.06 The Contractor shall not award work to Subcontractor(s) in excess of the limits stated in SC 7.06A.
- ITB 14.01 The fourth suggested version of 14.01 (for cost-plus-fee bids) is not acceptable for use on RUS funded projects.
- ITB 14.04 Do not include Article 14.04 (applicable only to Price-plus-Time bids).
- ITB 19.03.B The fourth suggested version of 19.03.B (for Cost-plus-Fee bids) will not be used.
- ITB 19.03.C Will not be used (applicable only to Price-plus-Time bids).
- ITB 24 The following text must be used for Article 24:

**ARTICLE 24 FEDERAL REQUIREMENTS**

24.01 Federal requirements at Article 19 of the Supplementary Conditions apply to this Contract.

### **ENGINEER'S DEVELOPMENT OF BID FORM**

Development of the Bid Form must be based on the Bid Form for Construction Contracts (EJCDC C-410, 2013) as modified below.

- In Article 5, "Basis of Bid," do not use the Suggested Formats for Price-plus-Time Bids or Cost-plus-Fee bids.
- Use the first version of Article 6.01 regarding "Time of Completion."
- Add the following additional required Attachments to Article 7.01, "Attachments to this Bid":
  - H. If Bid amount exceeds \$10,000, signed Compliance Statement (RD 400-6). Refer to specific equal opportunity requirements set forth in the Supplemental General Conditions;
  - I. If Bid amount exceeds \$25,000, signed Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (AD-1048);
  - J. If Bid amount exceeds \$100,000, signed RD Instruction 1940-Q, Exhibit A-1, Certification for Contracts, Grants, and Loans.

**ENGINEER'S DEVELOPMENT OF AGREEMENT BETWEEN  
OWNER AND CONTRACTOR**

Development of the Agreement between Owner and Contractor must be based on EJCDC C-520 (Rev 1), 2013, as modified below:

- Delete paragraph 4.04 in its entirety and insert the following in its place:

[Deleted]

- Amend paragraph 6.02.A.1.a by adding 95 to the blank.
- Amend paragraph 6.02.A.1.a by deleting the period at the end of the first sentence, replacing it with a semicolon, and by striking out the following text: "If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage;"
- Amend paragraph 6.02.A.1.b by adding 95 to the blank.
- Amend paragraph 6.02.B by inserting "of the entire construction to be provided under the Contract Documents" after "Substantial Completion."

## ENGINEER'S DEVELOPMENT OF SUPPLEMENTARY CONDITIONS

The Engineer will develop Supplementary Conditions using the guidance from the Guide to the Preparation of Supplementary Conditions (EJCDC C-800 (Rev 1), 2013), instructions provided in this Bulletin, and by adding other project-specific supplementary conditions as required for the project.

The Supplementary Conditions document that is developed for a specific Project is the contractual means by which the Standard General Conditions (EJCDC C-700 (Rev 1), 2013) are modified and supplemented for the Project. The references in the Supplementary Conditions items below (and in EJCDC C-800 (Rev 1) (2013) as published) to adding, amending, or supplementing are referring to the paragraphs of C-700 (Rev 1) (2013). Thus the first item below, SC-1.01.A.8, is a contractual provision that adds the stated language ("The Change Order form to be used etc.") to Paragraph 1.01.A.8 of C-700 (Rev 1) (2013).

As in C-800 (Rev 1) (2013) itself, the actual Supplementary Conditions (contract terms) are shown in bold as modified below. Also included below are a few Guidance Notes to assist in development of the Project-specific Supplementary Conditions document. The Guidance Notes are not in bold.

The Supplementary Conditions items that follow are mandatory for each specific Project, unless noted otherwise. In most cases they are new (supplemental) SC items; in a few cases, they replace or expand on a Supplementary Condition item that is in EJCDC C-800 (Rev 1) (2013), as published.

In addition to including the items that follow in the Supplementary Conditions document for the specific Project, the Engineer (in cooperation with the Owner) also should follow the guidance of EJCDC C-800 (Rev 1) (2013), as published, to develop other SC items for inclusion in the Project-specific Supplementary Conditions document; as the published guidance indicates, some of the published SC items are mandatory, or require additional Project-specific input, such as insurance coverage limits. Other SC items in C-800 (Rev 1) (2013) as published are optional but in many cases will be useful for the specific Project.

Include the following RUS-mandated Supplementary Conditions (or follow the Guidance Notes provided) in the Supplementary Conditions document for the specific Project:

- SC 1.01.A.8 Add the following language at the end of last sentence of Paragraph 1.01.A.8:

**The Change Order form to be used on this Project is EJCDC C-941. Agency approval is required before Change Orders are effective.**

- SC 1.01.A.48 Add the following language at the end of the last sentence of Paragraph 1.01.A.48:

**A Work Change Directive cannot change Contract Price or Contract Times without a subsequent Change Order.**

- SC 1.01.A.49 Add the following new Paragraph after Paragraph 1.01.A.48:

**Abnormal Weather Conditions – Conditions of extreme or unusual weather for a given region, elevation, or season as determined by Engineer. Extreme or unusual weather that is typical for a given region, elevation, or season should not be considered Abnormal Weather Conditions.**

- SC 1.01.A.50 Add the following new Paragraph after Paragraph 1.01.A.49:

**Agency - The Project is financed in whole or in part by USDA Rural Utilities Service pursuant to the Consolidated Farm and Rural Development Act (7 USC Section 1921 et seq.). The Rural Utilities Service programs are administered through the USDA Rural Development offices; therefore, the Agency for these documents is USDA Rural Development.**

- SC 2.02.A Amend the first sentence of Paragraph 2.02.A. to read as follows:

**Owner shall furnish to Contractor five copies of the Contract Documents (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF).**

- SC 2.06.B (Non-mandatory). Guidance Note: If the parties do not intend to develop electronic or digital transmittal protocols, then Paragraph 2.06B of the General Conditions may be deleted. Use the following Supplementary Condition in such case:
- SC- 2.06.B Delete Paragraph 2.06.B and replace it with the term **[Deleted]**.

Guidance Note, continued: If the use of electronic data, electronic media, or electronic project monitoring is planned for this Project, then the parties may develop a protocol with the assistance of the Engineer or Consensus DOCS form 200.2 may be added to the Construction Contract as an Exhibit. If Consensus DOCS form 200.2 will be used, then include the following Supplementary Condition:

SC-2.06.B Add the following language to the end of 2.06.B:

**Special requirements for electronic data apply to this Project. See attached Exhibit entitled “Electronic Communications Protocol Addendum,” Consensus DOCS form 200.2.**

- SC 4.01.A Amend the last sentence of Paragraph 4.01.A by striking out the following words:

**In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.**

- SC 4.05.C.2 Amend Paragraph 4.05.C.2 by striking out the following text: “abnormal weather conditions;” and inserting the following text:

**Abnormal Weather Conditions;**

- SC 5.03 Guidance Note: Amend Paragraph 5.03 using one of the suggested Paragraphs SC 5.03 in EJCDC C-800 (Rev 1) (2013), concerning reports and drawings of conditions at the Site, and any Technical Data in the reports and drawings on whose accuracy the Contractor may rely.
- SC 5.06 Guidance Note: Amend Paragraph 5.06 using one of the suggested Paragraphs SC 5.06 from EJCDC C-800 (Rev 1) (2013), concerning reports and drawings regarding Hazardous Environmental

Conditions at the Site, and any Technical Data in those reports and drawings on whose accuracy the Contractor may rely.

- SC 6.03 Guidance Note: Amend Paragraph 6.03 identifying specific insurance coverage requirements using guidance from EJCDC C-800 (Rev 1) (2013).
- SC 7.04.A Amend the third sentence of Paragraph 7.04.A by striking out the following words:

**Unless the specification or description contains or is followed by words reading that no like, equivalent, or 'or-equal' item is permitted.**
- SC 7.04.A.1 Amend the last sentence of Paragraph a.3 by striking out “and;” and adding a period at the end of Paragraph a.3.
- SC 7.04.A.1 Delete paragraph 7.04.A.1.a.4 in its entirety and insert the following in its place:

**[Deleted]**
- SC 7.06.A Amend Paragraph 7.06.A by adding the following text to the end of the Paragraph:

**The Contractor shall not award work valued at more than fifty percent of the Contract Price to Subcontractor(s), without prior written approval of the Owner.**
- SC 7.06.B Delete paragraph 7.06.B in its entirety and insert the following in its place:

**[Deleted]**
- SC 7.06.E Amend the second sentence of Paragraph 7.06.E by striking out “**Owner may also require Contractor to retain specific replacements; provided, however, that**”.
- SC 10.03 Guidance Note: Amend Paragraph 10.03 using one of the two alternatives presented in C-800's (Rev 1) (2013) section on SC 10.03 (either the Engineer will provide Resident Project Representative services on the Project, with specific authority and responsibilities, or Engineer will not provide Resident Project Representative services).
- SC 11.07.C Add the following new Paragraph after Paragraph 11.07.B:

**All Contract Change Orders must be concurred in by Agency before they are effective.**
- SC 13.02.C Delete Paragraph 13.02.C in its entirety and insert the following in its place:

**[Deleted]**
- SC 15.01.B Amend the second sentence of Paragraph 15.01.B.1 by striking out the following text: “**a bill of sale, invoice, or other.**”
- SC 15.01.B.3 Add the following language at the end of paragraph 15.01.B.3:



**No payments will be made that would deplete the retainage, place in escrow any funds that are required for retainage, or invest the retainage for the benefit of the Contractor.**

- SC 15.01.B.4 Add the following new Paragraph after Paragraph 15.01.B.3:

**The Application for Payment form to be used on this Project is EJCDC C-620. The Agency must approve all Applications for Payment before payment is made.**

- SC 15.01.D.1 Delete Paragraph 15.01.D.1 in its entirety and insert the following in its place:

**The Application for Payment with Engineer's recommendations will be presented to the Owner and Agency for consideration. If both the Owner and Agency find the Application for Payment acceptable, the recommended amount less any reduction under the provisions of Paragraph 15.01.E will become due twenty (20) days after the Application for Payment is presented to the Owner, and the Owner will make payment to the Contractor.**

- SC 15.02.A Amend Paragraph 15.02.A by striking out the following text: **"no later than seven days after the time of payment by Owner"** and insert **"no later than the time of payment by Owner."**
- SC 18.09 Add the following new paragraph after Paragraph 18.08:

**Tribal Sovereignty. No provision of this Agreement will be construed by any of the signatories as abridging or debilitating any sovereign powers of the {insert name of Tribe} Tribe; affecting the trust-beneficiary relationship between the Secretary of the Interior, Tribe, and Indian landowner(s); or interfering with the government-to-government relationship between the United States and the Tribe.**

- SC 19 Add Article 19 titled **"FEDERAL REQUIREMENTS"**
- SC 19.01 Add the following language as Paragraph 19.01 with the title **"Agency Not a Party"**:
  - A. This Contract is expected to be funded in part with funds provided by Agency. Neither Agency, nor any of its departments, entities, or employees is a party to this Contract.**
- SC 19.02 Add the following sections after Article 19.01 with the title **"Contract Approval"**:
  - A. Owner and Contractor will furnish Owner's attorney such evidence as required so that Owner's attorney can complete and execute the following "Certificate of Owner's Attorney" (Exhibit I of RUS Bulletin 1780-26) before Owner submits the executed Contract Documents to Agency for approval.**
  - B. Concurrence by Agency in the award of the Contract is required before the Contract is effective.**
- SC 19.03 Add the following language after Article 19.02.B with the title **"Conflict of Interest"**:
  - A. Contractor may not knowingly contract with a supplier or manufacturer if the individual or entity who prepared the plans and specifications has a corporate or**

**financial affiliation with the supplier or manufacturer. Owner's officers, employees, or agents shall not engage in the award or administration of this Contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: (i) the employee, officer or agent; (ii) any member of their immediate family; (iii) their partner or (iv) an organization that employs, or is about to employ, any of the above, has a financial interest or other interest in or a tangible personal benefit from the Contractor. Owner's officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from Contractor or subcontractors.**

- SC 19.04 Add the following language after Article 19.03.A with the title **“Gratuities”**:
  - A. **If Owner finds after a notice and hearing that Contractor, or any of Contractor's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts, or otherwise) to any official, employee, or agent of Owner or Agency in an attempt to secure this Contract or favorable treatment in awarding, amending, or making any determinations related to the performance of this Contract, Owner may, by written notice to Contractor, terminate this Contract. Owner may also pursue other rights and remedies that the law or this Contract provides. However, the existence of the facts on which Owner bases such findings shall be an issue and may be reviewed in proceedings under the dispute resolution provisions of this Contract.**
  - B. **In the event this Contract is terminated as provided in paragraph 19.04.A, Owner may pursue the same remedies against Contractor as it could pursue in the event of a breach of this Contract by Contractor. As a penalty, in addition to any other damages to which it may be entitled by law, Owner may pursue exemplary damages in an amount (as determined by Owner) which shall not be less than three nor more than ten times the costs Contractor incurs in providing any such gratuities to any such officer or employee.**
  
- SC 19.05 Add the following language after Article 19.04.B with the title **“Small, Minority and Women's Businesses”**:
  - A. **Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. If Contractor intends to let any subcontracts for a portion of the work, Contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:**
    - (1) **Placing qualified small and minority businesses and women's business enterprises on solicitation lists;**
    - (2) **Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;**
    - (3) **Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;**

- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;**
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and**

- SC 19.06 Add the following after Article 19.05.A.(5) with the title **“Anti-Kickback”**:
  - A. Contractor shall comply with the Copeland Anti-Kickback Act (40 U.S.C 3145) as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Buildings or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that Contractor or subcontractor must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. Owner shall report all suspected or reported violations to Agency.**
- SC 19.07 Add the following after Article 19.06.A with the title **“Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended”**:
  - A. Contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).**
- SC 19.08 Add the following after Article 19.07.A with the title **“Equal Employment Opportunity”**:
  - A. The Contract is considered a federally assisted construction contract. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”**
- SC 19.09 Add the following after Article 19.08.A with the title **“Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)”**:
  - A. Contractors that apply or bid for an award exceeding \$100,000 must file the required certification (RD Instruction 1940-Q, Exhibit A-1). The Contractor certifies to the Owner and every subcontractor certifies to the Contractor that it will not and has not used Federal appropriated funds to pay any person or organization**

for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining the Contract if it is covered by 31 U.S.C. 1352. The Contractor and every subcontractor must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Owner. Necessary certification and disclosure forms shall be provided by Owner.

- SC 19.10 Add the following after Article 19.09.A with the title “**Environmental Requirements**”:

**When constructing a Project involving trenching and/or other related earth excavations, Contractor shall comply with the following environmental conditions:**

- A. **Wetlands – When disposing of excess, spoil, or other construction materials on public or private property, Contractor shall not fill in or otherwise convert wetlands.**
  - B. **Floodplains – When disposing of excess, spoil, or other construction materials on public or private property, Contractor shall not fill in or otherwise convert 100-year floodplain areas (Standard Flood Hazard Area) delineated on the latest Federal Emergency Management Agency Floodplain Maps, or other appropriate maps, e.g., alluvial soils on NRCS Soil Survey Maps.**
  - C. **Historic Preservation – Any excavation by Contractor that uncovers an historical or archaeological artifact or human remains shall be immediately reported to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the State Historic Preservation Officer (SHPO).**
  - D. **Endangered Species – Contractor shall comply with the Endangered Species Act, which provides for the protection of endangered and/or threatened species and critical habitat. Should any evidence of the presence of endangered and/or threatened species or their critical habitat be brought to the attention of Contractor, Contractor will immediately report this evidence to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the U.S. Fish and Wildlife Service.**
  - E. **Mitigation Measures – The following environmental mitigation measures are required on this Project: {Insert mitigation measures here}.**
- SC 19.11 Add the following after Article 19.10.E. with the title “**Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)**”:
- A. **Where applicable, for contracts awarded by the Owner in excess of \$100,000 that involve the employment of mechanics or laborers, the Contractor must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, the Contractor must compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the**

**worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.**

- SC 19.12 Add the following after Article 19.11.A. with the title **“Debarment and Suspension (Executive Orders 12549 and 12689)”**:
    - A. A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), **“Debarment and Suspension.”** SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
  
  - SC 19.13 Add the following after Article 19.12.A. with the title **“Procurement of recovered materials”**:
    - A. The Contractor must comply with 2 CFR Part 200.322, **“Procurement of recovered materials.”**
-

**CERTIFICATE OF OWNER’S ATTORNEY AND AGENCY CONCURRENCE**

CERTIFICATE OF OWNER’S ATTORNEY

PROJECT NAME:

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CONTRACTOR NAME:

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I, the undersigned, \_\_\_\_\_, the duly authorized and acting legal representative of \_\_\_\_\_, do hereby certify as follows: I have examined the attached Contract(s) and performance and payment bond(s) and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements is adequate and has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with the terms, conditions, and provisions thereof.

---

Name

Date

AGENCY CONCURRENCE

As lender or insurer of funds to defray the costs of this Contract, and without liability for any payments thereunder, the Agency hereby concurs in the form, content, and execution of this Agreement.

---

Agency Representative

Date

---

Name

**ENGINEER'S CERTIFICATION OF FINAL PLANS AND SPECIFICATIONS**

PROJECT NAME: \_\_\_\_\_

The final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, comply with all requirements of the U.S. Department of Agriculture, Rural Utilities Service, to the best of my knowledge and professional judgment.

If the Engineers Joint Contract Documents Committee (EJCDC) documents have been used, all modifications required by RUS Bulletin 1780-26 have been made in accordance with the terms of the license agreement, which states in part that the Engineer "must plainly show all changes to the Standard EJCDC Text, using 'Track Changes' (redline/strikeout), highlighting, or other means of clearly indicating additions and deletions." Such other means may include attachments indicating changes (e.g. Supplementary Conditions modifying the General Conditions).

---

Engineer

Date

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Name and Title

UNITED STATES DEPARTMENT OF AGRICULTURE  
Rural Utilities Service  
**RUS BULLETIN 1780-35**

**SUBJECT:** Guidance for the Implementation of American Iron and Steel (AIS) Requirements with Rural Utilities Service (RUS) Financial Assistance

**TO:** Rural Development (RD) state directors, RUS program directors, and state engineers.

**EFFECTIVE DATE:** Date of approval.

**OFFICE OF PRIMARY INTEREST:** Engineering and Environmental Staff (EES), Water and Environmental Programs (WEP).

**INSTRUCTIONS:** This is a new Bulletin and does not replace any existing RUS Bulletin.

**AVAILABILITY:** This Bulletin, as well as any RD or RUS instructions, regulations, or forms referenced in this Bulletin are available at any RD State Office. The State Office staff is familiar with the use of the documents in their States and can answer specific questions on RD requirements.

This Bulletin is available on the RUS website at <https://www.rd.usda.gov/publications/regulations-guidelines/bulletins/water-and-environmental>.

**PURPOSE:** This Bulletin assists RD staff in providing information and guidance to applicants, professional consultants, general contractors, and manufacturers regarding the AIS Requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. The intended outcome of this Bulletin is to instruct and inform RD State Office staff and others on how to implement these requirements to ensure compliance with the AIS requirements.

**MODIFICATIONS:** RD State Offices may modify this guidance when appropriate to comply with state statutes and regulations in accordance with the procedures outlined at RD Instruction 2006-B (2006.55).

*for*   
SCOTT BARRINGER  
Acting Assistant Administrator  
Water and Environmental Programs

August 30, 2017  
Date



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**ABBREVIATIONS**

AIS – American Iron and Steel  
ANTHC – Alaska Native Tribal Health Consortium  
AWWA – American Water Works Association  
CFR – Code of Federal Regulations  
EO – Executive Order  
NIST – National Institute of Standards and Technology  
NSF – National Sanitation Foundation  
OGC – Office of General Counsel  
PL – Public Law  
PER – Preliminary Engineering Report  
RAVG – Rural Alaska Village Grant  
RD – Rural Development  
RUS – Rural Utilities Service  
USC – United States Code  
USDA – United States Department of Agriculture  
WEP – Water and Environmental Programs  
WWD – Water and Waste Disposal

## DEFINITIONS

“Assistance recipient” is the entity that receives funding assistance from programs required to comply with Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. This term includes owner and/or applicant.

“Certifications” means the following:

- *Manufacturers’* certification is documentation provided by the manufacturer or fabricator to various entities stating that the iron and steel products to be used in the project are produced in the United States in accordance with American Iron and Steel (AIS) Requirements. If items are purchased via a supplier, distributor, vendor, etc. vs. from the manufacturer or fabricator directly, then the supplier, distributor, vendor, etc. will be responsible for obtaining and providing these certification letters to the parties purchasing the products.
- *Engineers’* certification is documentation that plans, specifications, and bidding documents comply with AIS.
- *Contractors’* certification is documentation submitted upon substantial completion of the project that all iron and steel products installed were produced in the United States.

“Coating” means a covering that is applied to the surface of an object. If a coating is applied to the external surface of a domestic iron or steel component, and the application takes place outside of the United States, said product would be considered a compliant product under the AIS requirements. Any coating processes that are applied to the external surface of iron and steel components that would otherwise be AIS compliant would not disqualify the product from meeting the AIS requirements regardless of where the coating processes occur, provided that final assembly of the product occurs in the United States. This exemption only applies to coatings on the *external surface* of iron and steel components. It does not apply to coatings or linings on internal surfaces of iron and steel products, such as the lining of lined pipes. All manufacturing processes for lined pipes, including the application of pipe lining, must occur in the United States for the product to be compliant with AIS requirements.

“Construction materials” are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered “structural steel”. See Exhibit F for examples.

*Note:* Mechanical and electrical components, equipment and systems are not considered construction materials. See definition of mechanical and electrical equipment.

“Consulting engineer” is an individual or entity with which the owner has contracted to perform engineering/architectural services for water and waste projects funded by the programs subject to AIS requirements).

“De minimis incidental components” are various miscellaneous low-cost components that are essential for, but incidental to, the construction and are incorporated into the physical structure of

the project. Examples of incidental components could include small washers, screws, fasteners (such as “off the shelf” nuts and bolts), miscellaneous wire, corner bead, ancillary tube, signage, trash bins, door hardware etc.

Costs for such de minimis incidental components cumulatively may comprise no more than a total of five percent of the total cost of the materials used in and incorporated into a project; the cost of an individual item may not exceed one percent of the total cost of the materials used in and incorporated into a project.

“General contractor” is the individual or entity with which the applicant has contracted (*or is expected to*) to perform construction services (or for water and waste projects funded by the programs subject to AIS requirements). This includes bidders, contractors that have received an award from the applicant and any party having a direct contractual relationship with the owner/applicant. A general contractor is often referred to as the prime contractor.

“Iron and steel products” are defined as the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. Only items on the above list made primarily of iron or steel, permanently incorporated into the project must be produced in the United States. For example trench boxes, scaffolding or equipment, which are removed from the project site upon completion of the project, are not required to be made of U.S. Iron or Steel.

“Manufacturers” meaning a supplier, fabricator, distributor, materialman, or vendor is an entity with which the applicant, general contractor or with any subcontractor has contracted to furnish materials or equipment to be incorporated in the project by the applicant, contractor or a subcontractor.

“Manufacturing processes” are processes such as melting, refining, forming, rolling, drawing, finishing, and fabricating. Further, if a domestic iron and steel product is taken out of the United States for any part of the manufacturing process, it becomes foreign source material. However, raw materials such as iron ore, limestone and iron and steel scrap are not covered by the AIS requirement, and the material(s), if any, being applied as a coating are similarly not covered. Non-iron or steel components of an iron and steel product may come from non-US sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin. Raw materials, such as iron ore, limestone, scrap iron, and scrap steel, can come from non-U.S. sources.

“Mechanical equipment” is typically that which has motorized parts and/or is powered by a motor. “Electrical equipment” is typically any machine powered by electricity and includes components that are part of the electrical distribution system. AIS does apply to mechanical equipment.

“Minor components” are components *within* an iron and/or steel product otherwise compliant with the American Iron and Steel requirements. This is different from the de minimis definition where de minimis pertains to the entire project and the minor component definition pertains to a single product. This waiver, would allow non-domestically produced miscellaneous minor

components comprising up to five percent of the total material cost of an otherwise domestically produced iron and steel product to be used. However, unless a separate waiver for a product has been approved, all other iron and steel components in said product must still meet the AIS requirements. This waiver does not exempt the whole product from the AIS requirements only minor components within said product and the iron or steel components of the product must be produced domestically. Valves and hydrants are also subject to the cost ceiling requirements described here. Examples of minor components could include items such pins and springs in valves/hydrants, bands/straps in couplings, and other low cost items such as small fasteners etc.

“Municipal castings” are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and solid waste infrastructure. See Exhibit E for examples.

“National Office” refers to the office responsible for the oversight and administration of the program nationally. The National Office sets policy, develops program regulations, and provides training and technical assistance to help the state offices administer the program. The National Office is located in Washington, D.C.

“Owner” is the individual or entity with which the general contractor has contracted regarding the work, and which has agreed to pay the general contractor for the performance of the work, pursuant to the terms of the contract for water and waste projects funded by the programs subject to AIS requirements. For the purpose of this Bulletin, this term is synonymous with the term “applicant” as defined in 7 CFR 1780.7 (a) (1), (2) and (3) and is an entity receiving financial assistance from the programs subject to the AIS requirements.

“Pass through Entities” is an entity that provides a subaward to a loan and/or grant recipient to carry out part of a Federal program. Examples are grantees utilizing the Revolving Loan Program and Household Water Well Program and Alaska Native Tribal Health Consortium (ANTHC) or the State of Alaska from the RAVG Program.

“Primarily iron or steel” is defined as a product made of greater than 50 percent iron or steel, measured by cost. The cost should be based on the material costs. An exception to this definition is reinforced precast concrete (see Definitions). All technical specifications and applicable industry standards (e.g. NIST, NSF, AWWA) must be met. If a product is determined to be less than 50 percent iron and steel, the AIS requirements do not apply.

For example, the cost of a fire hydrant includes:

- (1) The cost of materials used for the iron portion of a fire hydrant (e.g. bonnet, body and shoe);  
and
- (2) The cost to pour and cast to create those components (e.g. labor and energy).

Not included in the cost are:

- (1) The additional material costs for the non-iron and steel internal workings of the hydrant (e.g. stem, coupling, valve, seals, etc.); and
- (2) The cost to assemble the internal workings into the hydrant body.

“Produced in the United States” means that the production in the United States of the iron or steel products used in the project requires that all manufacturing processes must take place in the United States, with the exception of metallurgical processes involving refinement of steel additives.

“Project” is the total undertaking to be accomplished for the applicant by consulting engineers, general contractors, and others, including the planning, study, design, construction, testing, commissioning, and start-up, and of which the work to be performed under the contract is a part. A project includes all activity that an applicant is undertaking to be financed in whole or part by programs subject to AIS requirements. The intentional splitting of projects into separate and smaller contracts or obligations to avoid AIS requirements is prohibited.

“Reinforced Precast Concrete” may not consist of at least 50 percent iron or steel, but the reinforcing bar and wire must be produced in the United States and meet the same standards as for any other iron or steel product. Additionally, the casting of the concrete product must take place in the United States. The cement and other raw materials used in concrete production are not required to be of domestic origin. If the reinforced concrete is cast at the construction site, the reinforcing bar and wire are considered to be a construction material and must be produced in the United States.

“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements. Metallic elements such as chromium, nickel, molybdenum, manganese, and silicon may be added during the melting of steel for the purpose of enhancing properties such as corrosion resistance, hardness, or strength. The definition of steel covers carbon steel, alloy steel, stainless steel, tool steel, and other specialty steels.

“Structural steel” is rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees, and zees. Other shapes include but are not limited to, H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.

“Ultimate recipient” is a loan or grant recipient receiving funds from a pass-through entity. Examples include: (1) a loan recipient from the Revolving Loan Fund; (2) a loan recipient from the Household Water Well Program; and (3) a grant recipient from ANTHC or the State of Alaska from the RAVG Program.

“United States” means each of the several states, the District of Columbia, and each Federally Recognized Indian Tribe.

## 1 BACKGROUND

- a Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference, applies a new American Iron and Steel (AIS) requirement to the following programs:
- (1) Water and Waste Disposal Loan and Grant program;
  - (2) Guaranteed Loan Funds;
  - (3) Revolving Loan Funds;
  - (4) Emergency Community Water Assistance Grants;
  - (5) Section 306C Colonias and Tribal Set-Aside Grants;
  - (6) Rural Alaskan Native Village Grants;
  - (7) Household Water Well System Grants; and
  - (8) Rural Economic Area Partnership Zone projects.
- b The basic concept of this new requirement is that all iron and steel products used in projects funded by RUS WEP must be produced in the United States. Iron and steel products are specifically defined and does not include every item consisting of any quantity of iron and/or steel.
- c Statutory Language: SEC. 746 Division A Title VII the Consolidated Appropriations Act of 2017.
- (a)(1) No Federal funds made available for this fiscal year for the rural water, waste water, waste disposal, and solid waste management programs authorized by sections 306, 306A, 306C, 306D, 306E, and 310B of the Consolidated Farm and Rural Development Act ([7 U.S.C. 1926](#) et seq.) shall be used for a project for the construction, alteration, maintenance, or repair of a public water or wastewater system unless all of the iron and steel products used in the project are produced in the United States.
- (2) In this section, the term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(b) Subsection (a) shall not apply in any case or category of cases in which the Secretary of Agriculture (in this section referred to as the “Secretary”) or the designee of the Secretary finds that—

- (1) applying subsection (a) would be inconsistent with the public interest;
- (2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the Secretary or the designee receives a request for a waiver under this section, the Secretary or the designee shall make available to the public on an informal basis a copy of the request and information available to the Secretary or the designee concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Secretary or the designee shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Department.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

(e) The Secretary may retain up to 0.25 percent of the funds appropriated in this Act for “Rural Utilities Service—Rural Water and Waste Disposal Program Account” for carrying out the provisions described in subsection (a)(1) for management and oversight of the requirements of this section.

(f) Subsection (a) shall not apply with respect to a project for which the engineering plans and specifications include use of iron and steel products otherwise prohibited by such subsection if the plans and specifications have received required approvals from State agencies prior to the date of enactment of this Act.

(g) For purposes of this section, the terms “United States” and “State” shall include each of the several States, the District of Columbia, and each federally recognized Indian tribe.

- d American Iron and Steel (AIS) refers to requirements mandated by Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.
- e The statute refers to Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.



## 2 APPLICABILITY

- a The requirements of AIS apply only to projects that construct, alter, enlarge, extend, maintain, repair or otherwise improve rural water, sanitary sewage, solid waste disposal, and storm wastewater disposal facilities.
- b The requirements apply to projects using funds from programs listed in Section 1 a of this Bulletin. Any amount of funding from these programs requires compliance with the AIS requirements. Use of funds from these programs is not allowed unless the requirements for AIS are met for the entire project. Projects that leverage funds from other funding sources are also subject the requirements.
- c The requirements apply in the United States as defined in Section 746 (g) of the statute and therefore do not apply to projects located in Puerto Rico, the Virgin Islands, or the Western Pacific Territories.
- d The requirements apply to any used AIS products to be constructed in the project.
- e The requirements do not apply to projects for which any funds were obligated on or before May 5, 2017. The requirements therefore do not apply to subsequent obligations of funds for projects which had an initial obligation of funds on or before May 5, 2017.
- f The requirements do not apply to contracts which were executed prior to or on May 5, 2017, regardless of the date of obligation.
- g The requirements do not apply to projects for which contracts were executed and/or construction is already underway and/or completed prior to applying to USDA funding.
- h The requirements do not apply to products primarily composed of iron and/or steel (composed of more than 50 percent) if they are not listed in the statute.
- i The requirements do not apply to raw materials used in the production of iron or steel such as iron ore, limestone, scrap iron and scrap steel.
- j The requirements do not apply to any items that are at the construction site temporarily, such as scaffolding, trench boxes, or equipment temporarily used or stored on site.
- k The requirements do not apply when the sole purpose of the loan and/or grant is to fund non-construction activities such as capacity/connection fees or the acquisition of a system.

- l The requirements supersede any regulation on full and open competition stated in 7 CFR 1780.70 (b) and 2 CFR Part 200.319. For example, if an iron and steel product that is compliant with AIS is made by only one manufacturer provided documentation is submitted and verified, sole source procurement of said product may be used.
  - m The requirements only apply to the final product as delivered to the work site and incorporated into the project. The need for compliance of an item with AIS depends on whether or not the final assembled product is listed. Components of a final product even if they are listed, do not need to comply with the AIS requirements. In the case of an assembled product where the primary component is not listed in the 2017 Consolidated Appropriations Act and includes components/appurtenances that are specifically listed, said assembled product is not subject to AIS (e.g. pump assembly).
- 3 IMPLEMENTATION (Agency, Owner, Engineer, General Contractor, Manufacturers et. al., Pass through Entities, Ultimate Recipients)
- a There are several parties involved in compliance with the AIS requirements and some requirements are specific to a party.
  - b The parties that have one or more responsibilities under AIS include: the Agency, funding recipients under the Water and Waste Disposal Loan and Grant program and Guaranteed Loan Program, consulting engineers, construction contractors, suppliers, distributors, manufacturers, lenders under the Guaranteed Loan Program; grantees under the revolving loan program, Household Water Well program, and grantees under the 306C, ECWAG programs, and RAVG programs, as well as loan recipients under the Revolving Loan and Household Water Well program.
  - c For exceptions please see Section 2.
- 4 RESPONSIBILITIES UNDER THE WATER & WASTE DISPOSAL (WWD) LOAN & GRANT PROGRAM: *AGENCY RESPONSIBILITIES*
- a State Director:
    - (1) ***Approve*** and set aside a sufficient budget for travel so that Area Specialists and State Engineers can perform their responsibilities under this section.

b Community Programs Director:

- (1) **Ensure** that all Grant Agreements, Letters of Conditions, Loan Resolutions and Conditional Commitments for Guarantees, include appropriate language prior to obligation of funds (see Section 17).
- (2) **Budget** for travel so that State Engineers (as applicable) can perform their responsibilities under this section.

c State Engineer:

- (1) **Ensure** that the cost estimates in the PER reflect AIS requirements.
- (2) **Ensure** that agreements for engineering services include AIS language (see Section 16).
- (3) **Ensure** that plans, specifications and bidding documents include required language (see Section 16).
- (4) **Obtain** engineer's certification letter where the consulting engineer certifies that plans, specifications, and bidding documents comply with AIS and commits that bid addenda, executed contracts and change orders will comply with AIS (see Exhibit B).
- (5) Monitoring: For each project, **perform** a site visit during active construction and complete the AIS checklist (see Exhibit J). Provide an electronic copy to National Office upon final payment.
- (6) Change orders and partial payment estimates: **Verify** the consulting engineer, general contractor and owner have signed C-941 and C-620 of EJCDC and manufacturers' certifications letters (as applicable) (see Exhibit D) are included with the submittal.
- (7) Substantial completion of project: **Obtain** a copy of the contractor's certification letter (see Exhibit C). **Obtain** a list of manufacturers from the consulting engineer for AIS products used in the project (including manufacturer name and location, product(s)) and provide an electronic copy to the National Office Engineer(s).
- (8) Special cases:
  - (a) Where owner provides their own engineering and/or construction services, **obtain** copies of engineers', contractors' (prepared by the owner), and manufacturers' certification letters (as applicable) for the Agency to insert into the Agency file.
  - (b) Where owner directly procures AIS products, **obtain** copies of manufacturers' certification letters for the Agency to insert into the Agency file.

d Area Office Specialist:

- (1) Pre-construction Conference: **Read** a statement outlining the AIS requirements (see Exhibit A) during the conference.
- (2) Guaranteed Program: **Ensure** that conditional commitments include AIS language (i.e. Section 17 a)
- (3) Partial payment estimates: **Verify** that the consulting engineer, general contractor and owner have signed C-620 of EJCDC.

## 5 OWNER RESPONSIBILITIES

- a Owners are ultimately responsible for compliance with AIS requirements.
- (1) **Sign** loan resolutions, grant agreements and letters of intent to meet conditions which include AIS language, accepting AIS requirements in those documents and in the letter of conditions.
  - (2) **Sign** agreements for engineering services, executed construction contracts and all other appropriate and necessary documents which include AIS language.
  - (3) **Acknowledge** responsibility for compliance with AIS requirements by signing change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC).
  - (4) Substantial completion of project: **Obtain** the certification letters from the consulting engineer and **maintain** this documentation for the life of the loan.
  - (5) Special Cases
    - (a) Where the owner provides their own engineering and/or construction services, **provide** copies of engineers' (see Exhibit B), contractors' (see Exhibit C), and manufacturers' certification letters (see Exhibit D) (*as applicable*) to the Agency. All certification letters must be kept in the engineer's project file and on site during construction. For Owner Construction (Force Account), all AIS clauses from Section 16 must be included in the Agreement for Engineering Services.
    - (b) Where the owner directly procures AIS products, the owner must:
      - (i) **Include** clauses from Section 17 a not including 17 a (1) in the procurement contracts.
      - (ii) **Obtain** manufacturers' certification letters and provide copies to consulting engineers and contractors.

## 6 CONSULTING ENGINEER RESPONSIBILITIES

- (1) **Include** costs of compliance with AIS in engineering fees (if appropriate) and in engineer's opinions of probable cost and associated revisions.
- (2) Agreements for engineering services: **Include** AIS language (see Section 16).
- (3) Plans, specifications, bidding documents and bid addenda: **Include** required AIS language (see Section 16). For any AIS products specified by brand names, **obtain** a manufacturer's certification letter (see Exhibit D) from the manufacturer to verify the products comply with AIS.
- (4) **Certify** that plans, specifications, and bidding documents comply with AIS and **commit** that bid addenda, executed contracts and change orders will comply with AIS and **submit** a letter to the Agency prior to authorization to advertise for bids (see Exhibit B).
- (5) Award: **Provide** copies of manufacturers' certification letters to the general contractor on any specified brand name AIS products in the plans, specifications and bidding documents including any bid addenda.

- (6) Shop drawing submittal: **Review** shop drawings and change orders to ensure compliance with AIS. For shops drawings under consideration for any brand name, equal and/or substitute, and any iron and steel products subject to AIS, **obtain** a manufacturers' certification letter (see Exhibit D) from the general contractor to verify the products comply with AIS.
- (7) **Keep** all certification letters (including those from the engineer, contractor and any manufacturer providing AIS products) in the engineer's project file.
- (8) Change Order: For any change order under consideration for any AIS products, **obtain** a manufacturer's certification letter (see Exhibit D) from parties submitting the change proposal to ensure compliance with AIS.
- (9) **Acknowledge** responsibility for compliance with AIS requirements by signing change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC).
- (10) Substantial completion of project: **Obtain** the contractors' certification letter (see Exhibit C) and copies of manufacturers' certification letters for all AIS products used in the project. **Provide** copies of engineer's, contractors', and manufacturers' certification letters to the owner and copy of contractor's certification letter to the Agency. **Provide** a list of manufacturers to the RD State Engineer for AIS products used in the project (including manufacturer name and location, product(s)).

## 7 CONSTRUCTION CONTRACTOR RESPONSIBILITIES

- a Construction contractors must use and install iron and steel products that are compliant with AIS as part of the permanent work.
  - (1) Bid submittal: for proposed equals and substitutes, **provide** manufacturers' certification letter (see Exhibit D) to verify the products comply with AIS.
  - (2) Award: **Obtain** copies of manufacturers' certification letters (see Exhibit D) from the consulting engineer for brand name products specified by the consulting engineer.
  - (3) Shop drawing submittal: For proposed equals, substitutes and any iron and steel product subject to AIS, **provide** manufacturers' certification letters (see Exhibit D) to verify the products comply with AIS.
  - (4) Prior to construction: **Ensure** that copies of manufacturers' certification letters including those from others (e.g. consulting engineer, owner, etc.) for any AIS products to be used in the project is in the project file on site prior to installation.
  - (5) Change Order: For any AIS products proposed in a change proposal, **provide** manufacturers' certification letter (see Exhibit D) to the consulting engineer to verify the products comply with AIS.
  - (6) **Acknowledge** responsibility for compliance with AIS requirements by signing change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC).

- (7) **Keep** all manufacturer certification letters (including those from the engineer, general contractor and any manufacturer providing AIS products) on site during construction in the construction project file.
- (8) **Substantial completion of the project: Provide** the general contractor's certification (see Exhibit C) letter to the engineer that all iron and steel products installed comply with AIS. This certification is to be submitted upon substantial completion of the project to the project engineer.

## 8 MANUFACTURER, SUPPLIER, DISTRIBUTOR RESPONSIBILITIES

- (1) If iron and steel products are produced in the United States as defined in this Bulletin, **prepare** (*applicable to manufacturers and fabricators*) or **obtain** (*applicable to suppliers, distributors, vendors, etc.*) manufacturers' certification letters (see Exhibit D) and make available upon request to consulting engineers, general contractors, etc.

## 9 PASS THROUGH ENTITIES (e.g. Grantees utilizing the Revolving Loan Program and Household Water Well Program)

- (1) **Sign** Grant Agreements which include AIS language (See Section 17).
- (2) **Include** AIS language in loan agreement their borrowers (See Section 17 a).
- (3) **Monitor** for compliance.
- (4) **Perform** corrective actions to ensure compliance where needed.

## 10 ULTIMATE RECIPIENT (e.g. Loan Recipients under Revolving Loan Program, Homeowners under the Household Water Well Program)

- a Loan recipients are ultimately responsible for compliance with AIS requirements.
  - (1) **Sign** loan agreements which include AIS language (see Section 17 a).
  - (2) **Include** required AIS language (see Section 17 a) in any agreements for engineering services and contracts for construction services and procurement of AIS products.
  - (3) **Obtain** manufacturers' certification letters for AIS products and include a copy in project files.
- b Homeowners are ultimately responsible for compliance with AIS requirements.
  - (1) **Sign** a loan agreement accepting responsibility to ensure AIS products used to construct, refurbish, or service individually-owned household water well systems are produced in the United States.
  - (2) **Obtain** manufacturers' certification letters (see Exhibit D) from contracted service providers (e.g. well driller) and maintain a copy on-site for the duration of the loan.

## 11 RESPONSIBILITIES UNDER THE GUARANTEED LOAN PROGRAM

AIS applies to projects funded by Section 306A – Guaranteed Loan Program.

- a Lenders are responsible to ensure that ultimate recipients comply with AIS requirements.
- b Loan recipients are ultimately responsible for compliance with AIS requirements.
- c Project specialists will ensure that conditional commitments include AIS language (i.e. Section 17 a)

## 12 ECWAG

AIS applies to projects funded by ECWAG.

- a If construction contracts were awarded and/or executed or construction began prior to application, these projects are not subject to AIS (see Section 2).
- b If construction contracts were awarded and/or executed or construction began during the application process, these projects are subject to AIS.

## 13 SECTION 306C COLONIAS AND TRIBAL SET-ASIDE GRANTS

AIS applies to projects funded by Section 306 C including Colonias and Tribes.

## 14 RURAL ALASKAN NATIVE VILLAGE GRANTS

AIS applies to projects funded by Section 306 D – the Rural Alaskan Native Village Grant Program.

- a Special Cases:
  - (1) If a project is administered by Alaska RD State Office, please *follow* this Bulletin.
  - (2) If the project is administered by the State of Alaska or ANTHC:
    - (a) **Sign** grant agreements and letters of intent to meet conditions which include AIS language (See Section 17), accepting AIS requirements in those documents and in the letter of conditions.
    - (b) **Include** AIS language in grant agreement their grantees (See Section 17 a).
    - (c) **Monitor** for compliance.
    - (d) **Perform** corrective actions to ensure compliance where needed.

## 15 RURAL ECONOMIC AREA PARTNERSHIP ZONE (REAP)

AIS applies to projects funded by Section 310 B – REAP.

## 16 CONTRACT PROVISIONS

To ensure compliance with the AIS requirements specific AIS contract language must be included in each contract including agreements for engineering services, construction contract documents and purchase agreements prepared by the owner.

- a Agreement Between Owner and Engineer for Professional Services (EJCDC E-500, 2014)
- (1) (E-500, Article 5.01.A)  
*Add the following to 5.01.A:* “Opinions of Probable Cost and any revisions thereof should reflect compliance with American Iron & Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.”
  - (2) (E-500, Article 5.03.B)  
*Add paragraph 5.03.B:* “Opinions of Total Project Costs and any revisions thereof should reflect compliance with American Iron & Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.”
  - (3) (E-500, Exhibit A.1.03.A.13):  
*Add paragraph A.1.03.A.13:* “Services required to determine and certify that to the best of the Engineer’s knowledge and belief all iron and steel products referenced in engineering analysis, the Plans, Specifications, Bidding Documents, and associated Bid Addenda requiring design revisions are either produced in the United States or are the subject of an approved waiver; and services required to determine to the best of the engineer’s knowledge and belief that approved substitutes, equals, and all iron and steel products proposed in the shop drawings, Change Orders and Partial Payment Estimates are either produced in the United States or are the subject of an approved waiver under Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The de minimis and minor components waiver *{add project specific waivers as applicable}* apply to this contract.”
  - (4) (E-500, Exhibit A.1.04.A.10)  
*Add paragraph A.1.04.A.10:* “Provide copies of Manufacturers’ Certification letters to the Bidders on any brand name iron and steel products along with the Plans, Specifications and Bidding Documents. Manufacturers’ Certification Letters are to be included in the Bidding



Documents and must be kept in the engineer's project file and on site during construction."

- (5) (E-500, Exhibit A.1.04.11)  
*Add paragraph A.1.04.A.11:* "Provide copies of Manufacturers' Certification letters to the Contractor on any brand name iron and steel products along with the Plans, Specifications, Bidding Documents including any Bid Addenda and Change Orders. Manufacturers' Certification Letters must be kept in the engineer's project file and on site during construction."
- (6) (E-500, Exhibit A.1.05.A.17)  
*Modify A.1.05.A.17 by adding the following prior to the first sentence:* "Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals to ensure compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. Any iron and steel products included in any submittal by the General Contractor, must include a Manufacturers' Certification letter to verify the products were produced in the United States. Copies of Manufacturers' Certification letters must be kept in the engineer's project file and on site during construction."
- (7) (E-500, Exhibit A.1.05.A.18)  
*Add the following to A.1.05.A.18 to the end of the paragraph as amended by RUS Bulletin 1780-26:* "Prior to approval of any substitute "or equal" obtain a Manufacturers' Certification letter to verify the products were produced in the United States. Manufacturers' Certification letters must be kept in the engineer's project file and on site during construction to ensure compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference, if applicable."
- (8) (E-500, Exhibit A.1.05.A.19)  
*Add subparagraph A.1.05.A.19.d:* "Receive and review all Manufacturers' Certification Letters for materials required to comply with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference to verify the products were produced in the United States. Manufacturers' Certification letters must be kept in the engineer's project file and on site during construction."

- (9) (E-500, Exhibit A.1.05.A.20)  
*Add subparagraph (c) to the end of A.1.05.A.20:* “(c) Review Change Proposals to ensure compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.”
- (10) (E-500, Exhibit A.1.05.A.25)  
*Add item “a” as a deliverable under paragraph A.1.05.A.25:* “(a) Obtain the Contractors’ Certification letter and copies of Manufacturers’ Certification letters for all American Iron and Steel products used in the project. Upon Substantial Completion, provide copies of Engineer’s, Contractors’, and Manufacturers’ Certification letters to the Owner and a copy of Contractor’s Certification letter to the Agency. Provide a list of manufacturers of American Iron and Steel products used in the project and include manufacturer’s name and location, and product(s) to the Agency.”
- (11) (E-500, Exhibit B.2.02)  
*Add the following language to B.2.02:* “Owners are ultimately responsible for compliance with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference and will be responsible for the following:
- (a) **Signing** loan resolutions, grant agreements and letters of intent to meet conditions which include American Iron and Steel language, accepting American Iron and Steel requirements in those documents and in the letter of conditions.
  - (b) **Signing** change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC) and thereby **acknowledging** responsibility for compliance with American Iron and Steel requirements.
  - (c) **Obtaining** the certification letters from the consulting engineer upon substantial completion of the project and **maintaining** this documentation for the life of the loan.
  - (d) Where the owner provides their own engineering and/or construction services, **providing** copies of engineers’, contractors’, and manufacturers’ certification letters (*as applicable*) to the Agency. All certification letters must be kept in the engineer’s project file and on site during construction. For Owner Construction (Force Account), all clauses from Section 17 of RUS Bulletin 1780-35 must be included in the Agreement for Engineering Services.
  - (e) Where the owner directly procures American Iron and Steel products, **including** American Iron and Steel clauses in the procurement

contracts and **obtaining** manufacturers' certification letters and **providing** copies to consulting engineers and contractors.

(12) (E-500, Exhibit D1.01.C.11.g)

**Add sub paragraph D.1.01.C.11.g:** “(g) Maintain all Manufacturers’ Certification letters in the project file and on site during construction to ensure compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference, as applicable.”

b Bidding and Construction Contract Documents (EJCDC C-Series, 2013)

(1) Advertisement for Bids (C-111):

**Add at the end of C-111 prior to the Owner’s name:** “Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies an American Iron and Steel requirement to this project. All listed iron and steel products used in this project must be produced in the United States. The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The de minimis and minor components waiver *{add project specific waivers as applicable}* apply to this contract.”

(2) Instructions to Bidders (C-200):

(a) (C-200, Article 5.01.C)

**Delete** the semicolon at the end of 5.01.C and **insert the following:**  
...including but not limited to American Iron and Steel requirements as mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference which apply to the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(b) (C-200, Article 11.01)

**Modify paragraph 11.01, as previously amended by RUS 1780-26, by inserting the following sentence after** “Each such request shall comply with the requirements of Paragraphs 7.04 and 7.05 of the General Conditions.

Each such request shall include Manufacturer's Certification letter for compliance with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference, if applicable. Refer to Manufacturer's Certification Letter provided in these Contract Documents."

(c) (C-200, Article 24.02)

**Add paragraph to 24.02:** "Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies an American Iron and Steel requirement to this project. All iron and steel products used in this project must be produced in the United States. The term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The de minimis and minor components waiver *{add project specific waivers as applicable}* apply to this contract."

(3) Bid Form (C-410)

(a) (C-410, Article 3.01.C)

**Add language at the end of the sentence of Article 3.01.C:** "...and including all American Iron and Steel requirements."

(b) (C-410, Article 7.01)

**Add 7.01.K after 7.01.J (7.01.J added by RUS 1780-26):** K. Manufacturer's Certification letter of compliance with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference for all equals or substitutes approved by Addenda for American Iron and Steel products as provided in these Contract Documents.

(4) Supplementary General Conditions (C-800)

(a) (C-800, Article SC 1.01.A.51)

**Add 1.01.A.51 after 1.01.A.50 (as amended by RUS 1780-26):**  
"Manufacturer's Certification letter is documentation provided by the manufacturer, supplier, distributor, vendor, fabricator, etc. to various entities stating that the American Iron and Steel products to be used in the project are produced in the United States in accordance with American Iron and Steel requirements. Refer to Manufacturer's Certification Letter provided in these Contract Documents."

- (b) (C-800, Article SC 1.01.A.52)  
**Add 1.01.A.52 after 1.01.A.51:** “AIS - refers to requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.”
- (c) (C-800, Article SC 7.03)  
**Add sentence 7.03.d:** “All iron and steel products must meet American Iron and Steel requirements.”
- (d) (C-800, Article SC 7.04.B.1)  
**Add 7.04.B.1:** “Contractor shall include a Manufacturer’s Certification letter for compliance with American Iron and Steel requirements in support data, if applicable. Refer to Manufacturer’s Certification Letter provided in these Contract Documents. In addition, for the Deminimis Waiver, Contractor shall maintain an itemized list of incidental components and ensure that the cost is less than 5% of total materials cost for project; for the Minor Components Waiver, the Contractor shall maintain a list of products to which the minor components waiver applies and the cost of the non-domestically produced component is less than 5% of total materials cost of that product.”
- (e) (C-800, Article SC 7.05.A.3.a.4)  
**Add 7.05.A.3.a.4:** “4) comply with American Iron and Steel by providing Manufacturer’s Certification letter of American Iron and Steel compliance, if applicable. Refer to Manufacturer’s Certification Letter provided in these Contract Documents.”
- (f) (C-800, Article SC 7.11.A)  
**Modify 7.11.A by inserting the following after “written interpretations and clarifications,”:** “Manufacturers’ Certification letter is documentation provided by the manufacturer, supplier, distributor, vendor, fabricator, etc. to various entities stating that the iron and steel products to be used in the project are produced in the United States in accordance with American Iron and Steel Requirements. Refer to Manufacturer’s Certification Letter provided in these Contract Documents.”
- (g) (C-800, Article SC 7.16.A.1.e)  
**Add 7.16.A.1.e:** “e. obtained Manufacturer’s Certification letter for any item in the submittal subject to American Iron and Steel requirements and include

the Certificate in the submittal. Refer to Manufacturer's Certification Letter provided in these Contract Documents."

- (h) (C-800, Article SC 7.16.D.9)  
**Add 7.16.D.9:** "Engineer's review and approval of Shop Drawing or Sample shall include review of compliance with American Iron and Steel requirements, as applicable."
- (i) (C-800, Article SC 7.17.E)  
**Add 7.17.E:** "Contractor shall certify upon Substantial Completion that all Work and Materials has complied with American Iron and Steel requirements as mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. Contractor shall provide said Certification to Owner. Refer to General Contractor's Certification Letter provided in these Contract Documents."
- (j) (C-800, Article SC 10.10.A)  
**Add 10.10.A American Iron & Steel:** "A. "Services required to determine and certify that to the best of the Engineer's knowledge and belief all iron and steel products referenced in engineering analysis, the Plans, Specifications, Bidding Documents, and associated Bid Addenda requiring design revisions are either produced in the United States or are the subject of an approved waiver and services required to determine to the best of the engineer's knowledge and belief that approved substitutes, equals, and all iron and steel products proposed in the shop drawings, Change Orders and Partial Payment Estimates are either produced in the United States or are the subject of an approved waiver under Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017).
- (k) (C-800, Article SC 11.06.A.1)  
**Modify 11.06.A.1 by inserting the following sentence after "within 15 days after the submittal of the Change Proposal.":** "Include supporting data (name of manufacturer, city and state where the product was manufactured, description of product, signature of authorized manufacturer's representative) in the Manufacturer's Certification Letter, as applicable."

- (l) (C-800, Article SC 14.03.G)  
**Add 14.03.G:** “G. Installation of Materials that are non-compliant with American Iron and Steel requirements shall be considered defective work.”
- (m) (C-800, Article SC 15.01.B.4)  
**Add 15.01.B.4:** “4. By submitting Materials for payment, Contractor is certifying that the submitted Materials are compliant with American Iron and Steel requirements. Manufacturer’s Certification letter for Materials satisfy this certification. Refer to Manufacturer’s Certification Letter provided in these Contract Documents.”
- (n) (C-800, Article SC 15.01.C.2.d)  
**Add 15.01.C.2.d:** “d. the Materials presented for payment comply with American Iron and Steel.”
- (o) (C-800, Article SC 15.03.A)  
**Modify 15.03.A by adding the following after the last sentence:** “Services required to determine and certify that to the best of the Contractor’s knowledge and belief all substitutes, equals, and all iron and steel products proposed in the shop drawings, Change Orders and Partial Payment Estimates, and those installed for the project are either produced in the United States or are the subject of an approved waiver under Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.”
- (p) (C-800: Article 19, SC 19.14):  
**Add** “Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies an American Iron and Steel requirement to this project. All iron and steel products used in this project must be produced in the United States. The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The de minimis and minor components waiver *{add project specific waivers as applicable}* apply to this contract.”
- (q) (C-800: Article 19, SC 19.15):  
**Add SC 19.15 Definitions:**  
“Assistance recipient” is the entity that receives funding assistance from programs required to comply with Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development,

Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. This term includes owner and/or applicant.

“Certifications” means the following:

- *Manufacturers’* certification is documentation provided by the manufacturer or fabricator to various entities stating that the iron and steel products to be used in the project are produced in the United States in accordance with American Iron and Steel (AIS) Requirements. If items are purchased via a supplier, distributor, vendor, etc. vs. from the manufacturer or fabricator directly, then the supplier, distributor, vendor, etc. will be responsible for obtaining and providing these certification letters to the parties purchasing the products.
- *Engineers’* certification is documentation that plans, specifications, and bidding documents comply with AIS.
- *Contractors’* certification is documentation submitted upon substantial completion of the project that all iron and steel products installed were produced in the United States.

“Coating” means a covering that is applied to the surface of an object. If a coating is applied to the external surface of a domestic iron or steel component, and the application takes place outside of the United States, said product would be considered a compliant product under the AIS requirements. Any coating processes that are applied to the external surface of iron and steel components that would otherwise be AIS compliant would not disqualify the product from meeting the AIS requirements regardless of where the coating processes occur, provided that final assembly of the product occurs in the United States. This exemption only applies to coatings on the *external surface* of iron and steel components. It does not apply to coatings or linings on internal surfaces of iron and steel products, such as the lining of lined pipes. All manufacturing processes for lined pipes, including the application of pipe lining, must occur in the United States for the product to be compliant with AIS requirements.

“Construction materials” are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered “structural steel”.

*Note:* Mechanical and electrical components, equipment and systems are not considered construction materials. See definition of mechanical and electrical equipment.

“Consulting engineer” is an individual or entity with which the owner has contracted to perform engineering/architectural services for water and waste projects funded by the programs subject to AIS requirements).



“De minimis incidental components” are various miscellaneous low-cost components that are essential for, but incidental to, the construction and are incorporated into the physical structure of the project. Examples of incidental components could include small washers, screws, fasteners (such as “off the shelf” nuts and bolts), miscellaneous wire, corner bead, ancillary tube, signage, trash bins, door hardware etc.

Costs for such de minimis incidental components cumulatively may comprise no more than a total of five percent of the total cost of the materials used in and incorporated into a project; the cost of an individual item may not exceed one percent of the total cost of the materials used in and incorporated into a project.

“General contractor” is the individual or entity with which the applicant has contracted (*or is expected to*) to perform construction services (or for water and waste projects funded by the programs subject to AIS requirements). This includes bidders, contractors that have received an award from the applicant and any party having a direct contractual relationship with the owner/applicant. A general contractor is often referred to as the prime contractor.

“Iron and steel products” are defined as the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. Only items on the above list made primarily of iron or steel, permanently incorporated into the project must be produced in the United States. For example trench boxes, scaffolding or equipment, which are removed from the project site upon completion of the project, are not required to be made of U.S. Iron or Steel.

“Manufacturers” meaning a supplier, fabricator, distributor, materialman, or vendor is an entity with which the applicant, general contractor or with any subcontractor has contracted to furnish materials or equipment to be incorporated in the project by the applicant, contractor or a subcontractor.

“Manufacturing processes” are processes such as melting, refining, forming, rolling, drawing, finishing, and fabricating. Further, if a domestic iron and steel product is taken out of the United States for any part of the manufacturing process, it becomes foreign source material. However, raw materials such as iron ore, limestone and iron and steel scrap are not covered by the AIS requirement, and the material(s), if any, being applied as a coating are similarly not covered. Non-iron or steel components of an iron and steel product may come from non-US sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin. Raw materials, such as

iron ore, limestone, scrap iron, and scrap steel, can come from non-U.S. sources.

“Mechanical equipment” is typically that which has motorized parts and/or is powered by a motor. “Electrical equipment” is typically any machine powered by electricity and includes components that are part of the electrical distribution system. AIS does apply to mechanical equipment.

“Minor components” are components *within* an iron and/or steel product otherwise compliant with the American Iron and Steel requirements. This is different from the de minimis definition where de minimis pertains to the entire project and the minor component definition pertains to a single product. This waiver, would allow non-domestically produced miscellaneous minor components comprising up to five percent of the total material cost of an otherwise domestically produced iron and steel product to be used. However, unless a separate waiver for a product has been approved, all other iron and steel components in said product must still meet the AIS requirements. This waiver does not exempt the whole product from the AIS requirements only minor components within said product and the iron or steel components of the product must be produced domestically. Valves and hydrants are also subject to the cost ceiling requirements described here. Examples of minor components could include items such pins and springs in valves/hydrants, bands/straps in couplings, and other low cost items such as small fasteners etc.

“Municipal castings” are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and solid waste infrastructure.

“National Office” refers to the office responsible for the oversight and administration of the program nationally. The National Office sets policy, develops program regulations, and provides training and technical assistance to help the state offices administer the program. The National Office is located in Washington, D.C.

“Owner” is the individual or entity with which the general contractor has contracted regarding the work, and which has agreed to pay the general contractor for the performance of the work, pursuant to the terms of the contract for water and waste projects funded by the programs subject to AIS requirements. For the purpose of this Bulletin, this term is synonymous with the term “applicant” as defined in 7 CFR 1780.7 (a) (1), (2) and (3) and is an entity receiving financial assistance from the programs subject to the AIS requirements.

“Pass through Entities” is an entity that provides a subaward to a loan and/or grant recipient to carry out part of a Federal program. Examples are grantees utilizing the Revolving Loan Program and Household Water Well Program and Alaska Native Tribal Health Consortium (ANTHC) or the State of Alaska from the RAVG Program.

“Primarily iron or steel” is defined as a product made of greater than 50 percent iron or steel, measured by cost. The cost should be based on the material costs. An exception to this definition is reinforced precast concrete (see Definitions). All technical specifications and applicable industry standards (e.g. NIST, NSF, AWWA) must be met. If a product is determined to be less than 50 percent iron and steel, the AIS requirements do not apply.

For example, the cost of a fire hydrant includes:

- (1) The cost of materials used for the iron portion of a fire hydrant (e.g. bonnet, body and shoe); and
- (2) The cost to pour and cast to create those components (e.g. labor and energy).

Not included in the cost are:

- (1) The additional material costs for the non-iron and steel internal workings of the hydrant (e.g. stem, coupling, valve, seals, etc.); and
- (2) The cost to assemble the internal workings into the hydrant body.

“Produced in the United States” means that the production in the United States of the iron or steel products used in the project requires that all manufacturing processes must take place in the United States, with the exception of metallurgical processes involving refinement of steel additives.

“Project” is the total undertaking to be accomplished for the applicant by consulting engineers, general contractors, and others, including the planning, study, design, construction, testing, commissioning, and start-up, and of which the work to be performed under the contract is a part. A project includes all activity that an applicant is undertaking to be financed in whole or part by programs subject to AIS requirements. The intentional splitting of projects into separate and smaller contracts or obligations to avoid AIS requirements is prohibited.

“Reinforced Precast Concrete” may not consist of at least 50 percent iron or steel, but the reinforcing bar and wire must be produced in the United States and meet the same standards as for any other iron or steel product. Additionally, the casting of the concrete product must take place in the United States. The cement and other raw materials used in concrete production are not required to be of domestic origin. If the reinforced concrete is cast at the construction site, the reinforcing bar and wire are

considered to be a construction material and must be produced in the United States.

“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements. Metallic elements such as chromium, nickel, molybdenum, manganese, and silicon may be added during the melting of steel for the purpose of enhancing properties such as corrosion resistance, hardness, or strength. The definition of steel covers carbon steel, alloy steel, stainless steel, tool steel, and other specialty steels.

“Structural steel” is rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees, and zees. Other shapes include but are not limited to, H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.

“Ultimate recipient” is a loan or grant recipient receiving funds from a pass-through entity. Examples include: (1) a loan recipient from the Revolving Loan Fund; (2) a loan recipient from the Household Water Well Program; and (3) a grant recipient from ANTHC or the State of Alaska from the RAVG Program.

“United States” means each of the several states, the District of Columbia, and each Federally Recognized Indian Tribe.

c Purchase Agreements

Add award language from Section 17 a not including 17 a (1).

17 PROVISIONS OF LETTERS OF CONDITIONS, LOAN RESOLUTIONS, GRANT AGREEMENTS, AND CONDITIONAL COMMITMENTS

a Standard Award Language for WWD, ECWAG, Guaranteed Loan Program, 306C, RAVG Administered by USDA, and REAP

**Add** the following language:

“Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies a new American Iron and Steel (AIS) requirement to obligations made after May 5<sup>th</sup>, 2017:

(1) No Federal funds made available for this fiscal year for the rural water, waste water, waste disposal, and solid waste management programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 et seq.) shall be used for a project for the construction, alteration, maintenance, or repair of a public water or wastewater system unless all of the iron and steel products used in the project are produced in the United States.

(2) The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(3) The requirement shall not apply in any case or category of cases in which the Secretary of Agriculture (in this section referred to as the “Secretary”) or the designee of the Secretary finds that—

- (a) applying the requirement would be inconsistent with the public interest;
- (b) iron and steel products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (c) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.”

(1) Additional Language (not to be included in purchase agreements)

**Add:** “Owners are ultimately responsible for compliance with AIS requirements and will be responsible for the following:

- (a) **Signing** loan resolutions, grant agreements and letters of intent to meet conditions which include AIS language, accepting AIS requirements in those documents and in the letter of conditions.
- (b) **Signing** change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC) and thereby **acknowledging** responsibility for compliance with American and Iron Steel requirements.
- (c) **Obtaining** the certification letters from the consulting engineer upon substantial completion of the project and **maintaining** this documentation for the life of the loan.
- (d) Where the owner provides their own engineering and/or construction services, **providing** copies of engineers’, contractors’, and manufacturers’ certification letters (*as applicable*) to the Agency to insert into the Agency file. All certification letters must be kept in the engineer’s project file and on site during construction. For Owner Construction (Force Account), all clauses from Section 17 must be included in the Agreement for Engineering Services.
- (e) Where the owner directly procures AIS products, **including** AIS clauses in the procurement contracts and **obtaining** manufacturers’ certification letters and **providing** copies to consulting engineers and contractors.

b Standard Award Language for Revolving Loan Funds, RAVG Administered by ANTHC or the State of Alaska, Guaranteed Loan Program and Household Water Well Program

*Add* the following language to award agreements to ultimate recipients:  
 “Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies a new American Iron and Steel requirement to obligations made after May 5<sup>th</sup>, 2017:

(1) No Federal funds made available for this fiscal year for the rural water, waste water, waste disposal, and solid waste management programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 et seq.) shall be used for a project for the construction, alteration, maintenance, or repair of a public water or wastewater system unless all of the iron and steel products used in the project are produced in the United States.

(2) The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(3) The requirement shall not apply in any case or category of cases in which the Secretary of Agriculture (in this section referred to as the “Secretary”) or the designee of the Secretary finds that—

- (a) applying the requirement would be inconsistent with the public interest;
- (b) iron and steel products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (c) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.”

18 PURCHASE OF EQUIPMENT AND MATERIALS

Irrespective of who purchases AIS products, owner, contractor or other parties must ensure that the products were produced in the United States as defined in this Bulletin. It is the manufacturers’ responsibility to provide manufacturers’ certification letters to ensure compliance with AIS requirements. The AIS requirements supersede any regulation on full and open competition stated in 7 CFR 1780.70(b) and (d) and 2 CFR Part 200.319. For example, if an iron and steel product that is compliant with AIS is made by only one manufacturer, sole source procurement of said product may be used.

19 WAIVER PROCESS

a General

Each entity that receives financial assistance for the construction, alteration, maintenance, or repair of water and waste infrastructure from programs mandated to comply with the statute, must use iron and steel products produced in the United States. A waiver is a legal document granting a project an exception to AIS requirements, to use iron and steel products of non-domestic origin specified in the waiver(s). More than one waiver could be applied to a project.

Any funding recipient including the ultimate recipients subject to AIS requirements are eligible to apply for waivers as outlined in the statute which states:

“A waiver may be granted by the Secretary of Agriculture or designee, if one or more of the following conditions are met:

1. Applying the American Iron and Steel requirements of the Act would be inconsistent with the public interest;
2. Iron and steel products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
3. Inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.”

Until a waiver is granted by USDA, the AIS requirement stands except with respect to municipalities covered by international agreements (see Section 22).

One public interest waiver has been granted by the Secretary of Agriculture or designee that addresses: (1) de minimis items and (2) minor components. This waiver is national in scope and applies to all projects. The term de minimis applies to products when they occur as de minimis incidental components and is intended for assistance recipients to use for their projects. The term minor components applies to minor components *within* an iron and/or steel product and is intended for manufacturers to certify that their products comply with the AIS requirements. For definitions of de minimis and minor components see Definitions.

b Application

To request a project specific waiver, proper and sufficient documentation must be provided by the assistance recipient (see Exhibit H).

To apply for a waiver under *condition one (public interest)*, applicants and their consulting engineers must demonstrate definitive impacts on the community if a specified product is not utilized. Information must be submitted to the National

Office (via [ESEEngineering@wdc.usda.gov](mailto:ESEEngineering@wdc.usda.gov)), copy the RD State Engineer and approved by the Administrator of RUS. Public interest waivers national in scope will be identified and approved by the Administrator of RUS.

To apply for a waiver under *condition two (quantity or quality)*, applicants and their consulting engineers must submit the information outlined in Exhibit I to the National Office (via [ESEEngineering@wdc.usda.gov](mailto:ESEEngineering@wdc.usda.gov)).

To apply for a waiver under *condition three (25 percent of project cost)*, applicants and their consulting engineers must submit the information in Exhibit I and J to the National Office (via [ESEEngineering@wdc.usda.gov](mailto:ESEEngineering@wdc.usda.gov)).

All waiver applications must be submitted to National Office. If a RD State Office receives any waiver requests, the request must be submitted to National Office for approval.

c Timing

Waivers should be submitted prior to and no later than with the submission of final plans, specifications, and bidding documents for any iron and steel products of known foreign origin. All waivers requests must be approved by the Agency prior to authorization to advertise for bids. In the event that a waiver is requested post award, it must be approved by the Agency prior to construction. In the event that a waiver is requested during construction such as via a change order, it must be approved by the Agency prior to installation.

d Evaluation by USDA

After receiving an application for a waiver of the AIS requirements, USDA National Office will publish the request on its website for 15 days and receive informal comment. National Office will evaluate whether the application adequately documents the statutory basis cited for the waiver. The Secretary or designee will determine whether or not to grant the waiver. Approved and disapproved waivers will be posted on the USDA AIS website.

For project specific waivers where EPA and USDA are co-funding and the applicant has already submitted a request to and received an approved waiver from EPA, USDA will review said waiver for the co-funded project. Applicants/owners or their representatives are required to submit the *approved* waiver to [ESEEngineering@wdc.usda.gov](mailto:ESEEngineering@wdc.usda.gov) for USDA RD review and concurrence.

All approved waivers must be included in the bidding documents, any bid addenda, change orders, and partial estimates. All information presented in waiver requests are subject to verification. Waiver requests deliberately containing false information will be rejected.



## 20 MONITORING

In order to comply with the Executive Order 13788 “Buy American, Hire American”, dated April 18, 2017, and AIS requirements, monitoring activities will be completed by the State Office and/or the National Office.

## 21 NON-COMPLIANCE

No Federal funds made available for the rural water, waste water, waste disposal, and solid waste management programs authorized by sections 306, 306A, 306C, 306D, 306E, and 310B of the Consolidated Farm and Rural Development Act ([7 U.S.C. 1926](#) et seq.) shall be used for a project for the construction, alteration, maintenance, or repair of a public utility system unless all of the iron and steel products used in the project are produced in the United States.

Noncompliance occurs when funds are used from these programs for construction, alteration, maintenance, or repair using non-domestic iron or steel products and the product is not covered by either a project-specific or a national waiver. Loan and grant recipients should avoid noncompliance at all times as it is a violation of a Federal statute.

### Process for Noncompliance

- (1) Identify the noncompliant product.
- (2) The loan or grant recipient or pass through entity notifies appropriate USDA RD State or National Office contact.
- (3) If USDA RD State Office is notified, the Program Director will notify the National Office, Director of EES.
- (4) USDA will apply remedies for noncompliance as per 2 CFR 200 §§338 – 342.

## 22 INTERNATIONAL AGREEMENTS

The AIS requirements apply in a manner consistent with United States obligations under international agreements. In the few cases where such an agreement exists between a loan and/or grant recipient and an international entity, that recipient is under the obligation to determine the applicability of the AIS requirements and document the actions taken to comply with these requirements.

## 23 USE OF EXHIBITS

The following explains the purpose of each Exhibit to this Bulletin:

- a **AMERICAN IRON & STEEL COMPLIANCE STATEMENT:** Exhibit A consists of a statement to be read by the Rural Development representative during the preconstruction conference. In addition, the RD representative should read Sections 5, 6, and 7 of this Bulletin to remind the owner, consulting engineer, and general contractor of their roles and responsibilities to comply with AIS.
- b **ENGINEER’S CERTIFICATION OF COMPLIANCE:** Exhibit B consists of a letter to be completed and signed by the consulting engineer certifying that he/she will ensure that

plans, specifications, and bidding documents and associated bid addenda, executed contracts and change orders for this project will comply with the AIS requirements. This certification letter is to be submitted to the Agency for approval prior to approval of the Advertisement for Bids and must be kept in the engineers project file and on-site during construction.

- c **GENERAL (PRIME) CONTRACTOR'S CERTIFICATION OF COMPLIANCE:** Exhibit C consists of a letter to be completed and signed by the general contractor certifying that he/she will ensure that all iron and steel products installed for this project by their company and by any and all subcontractors and manufacturers their company has contracted with comply with the AIS requirements. This certification letter is to be submitted upon substantial completion of the project to the project engineer.
- d **EXAMPLE OF A MANUFACTURER'S CERTIFICATION LETTER OF COMPLIANCE:** Exhibit D is an example of a letter to be completed and signed by the manufacturer certifying that he/she will ensure that all iron and steel products and/or materials shipped or provided for the subject project are in full compliance with the American Iron and Steel requirement. This includes listing each individual item/product/material provided to the project and providing the location of this/these item(s) being manufactured including assembly. All manufacturers' certification letters must be kept in the engineer's project file and on site during construction.
- e **EXAMPLES OF MUNICIPAL CASTINGS:** Exhibit E provides a sample list of iron and steel products that are subject to the AIS requirements. This list is not exhaustive and is meant to provide examples.
- f **EXAMPLES OF CONSTRUCTION MATERIALS:** Exhibit F provides a sample list of construction materials that are subject to the AIS requirements. This list is not exhaustive and is meant to provide examples.
- g **EXAMPLES OF NON-CONSTRUCTION MATERIALS:** Exhibit G provides a sample list of items that are not subject to the AIS requirements. This list is not exhaustive and is meant to provide examples.
- h **INFORMATIONAL CHECKLIST FOR PROJECT SPECIFIC WAIVER REQUEST:** Exhibit I is a checklist that is to be completed by the applicant and/or consulting engineer to help ensure that all appropriate and necessary information is submitted with the request to USDA. This checklist should not be used for a public interest waiver, is for informational purposes only and does not need to be included as part of a waiver application. Project specific waivers may be requested if one or more of the following conditions applies: (1) The iron and/or steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; (2) The inclusion of iron and/or steel products produced in the United States will increase the cost of the overall project by more than 25 percent. All approved waivers must be included in the bidding documents, any bid addenda, change orders, and partial estimates.

All information presented in waiver requests are subject to evaluation. Waiver requests deliberately containing false information will be rejected.

- i **EXAMPLE COST TABLE FOR A PROJECT COST WAIVER:** This exhibit is an example of a table that must be included with any cost based project waiver request. Information included in the table: product reference in the specification, brief description of the product, quantity, unit, unit price and two costs of the item: (1) cost of an AIS compliant product and (2) cost of a non-domestic product. The total cost for all items will be part of the evaluation for the project cost waiver. Note: Information in this table is subject to evaluation. Waiver requests deliberately containing false information in order to receive a project cost waiver will be rejected.
  
- j **CHECKLIST FOR STATE ENGINEERS:** This exhibit is a checklist that should be completed by the RD State Engineer for each project during active construction. It is important to note items being stored on-site for installation are compliant with AIS. Please ask the Resident Project Representative (RPR) if it is unclear whether or not the items in question are compliant with AIS (e.g. via manufacturer's certification letters). For checklists, RD field staff should take pictures of visible items subject to AIS. Pictures should include the manufacturer's label. If there is no label, please ask to be shown the manufacturer's certification for the item in question from the RPR or consulting engineer if on-site to verify that the items in question are compliant. These checklists and attached pictures are to be submitted to National Office upon final payment.

## AMERICAN IRON & STEEL COMPLIANCE STATEMENT

“Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies an American Iron and Steel requirement to this project.

All parties are required to comply with these requirements and to ensure that all iron and steel products used in this project must be produced in the United States. The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.”

ENGINEER'S CERTIFICATION OF COMPLIANCE WITH PROVISIONS OF THE AMERICAN IRON AND STEEL REQUIREMENTS OF SECTION 746 OF TITLE VII OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2017 (DIVISION A - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2017) AND SUBSEQUENT STATUTES MANDATING DOMESTIC PREFERENCE

DATE:

**RE: PROJECT NAME  
APPLICANT  
CONTRACT NUMBER**

I hereby certify that to the best of my knowledge and belief all iron and steel products referenced in the Plans, Specifications, and Bidding Documents for this project comply with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference or are the subject of a waiver approved by the Secretary of Agriculture or designee. This certification is not intended to be a warranty in any way, but rather the designer's professional opinion that to the best of their knowledge the documents comply.

I hereby commit that to the best of my ability all iron and steel products that will be referenced in the Bid Addenda, Executed Contracts, and Change Orders will comply with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference or will be the subject of a waiver approved by the Secretary of Agriculture or designee.

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Name of Engineering Firm (PRINT)

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By Authorized Representative (SIGNATURE)

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Title

This letter is to be submitted prior to Agency authorization of Advertisement for Bids.

GENERAL (PRIME) CONTRACTOR'S CERTIFICATION OF COMPLIANCE WITH PROVISIONS OF THE AMERICAN IRON AND STEEL REQUIREMENTS OF SECTION 746 OF TITLE VII OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2017 (DIVISION A - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2017) AND SUBSEQUENT STATUTES MANDATING DOMESTIC PREFERENCE

DATE:

**RE: PROJECT NAME**  
**APPLICANT**  
**CONTRACT NUMBER**

I hereby certify that to the best of my knowledge and belief all iron and steel products installed for this project by my company and by any and all subcontractors and manufacturers my company has contracted with for this project comply with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference or are the subject of a waiver approved by the Secretary of Agriculture or designee.

This certification is to be submitted upon completion of the project to the project engineer.

\_\_\_\_\_  
Name of Construction Company (PRINT)

\_\_\_\_\_  
By Authorized Representative (SIGNATURE)

\_\_\_\_\_  
Title

EXAMPLE OF A MANUFACTURER'S CERTIFICATION LETTER OF COMPLIANCE WITH PROVISIONS OF THE AMERICAN IRON AND STEEL (AIS) REQUIREMENTS OF SECTION 746 OF TITLE VII OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2017 (DIVISION A - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2017) AND SUBSEQUENT STATUTES MANDATING DOMESTIC PREFERENCE

Date:

Company Name:

Company Address:

Subject: AIS Step Certification for Project (X), Owner's Name, and Contract Number

I, (company representative), certify that the (melting, bending, galvanizing, cutting, etc.) processes for (manufacturing or fabricating) the following products and/or material shipped or provided for the subject project is in full compliance with the AIS requirement as mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.

Item, Products and/or Materials, and location of delivery (City, State):

- 1.
- 2.

Such processes for AIS took place at the following location:

---

(City, State)

This certification is to be submitted upon request to interested parties (e.g. municipalities, consulting engineers, general contractors, etc.)

If any of the above compliance statements change while providing materials to this project, please immediately notify the person(s) who is requesting to use your product(s).

---

Authorized Company Representative Signature

(Note: *Authorized signature shall be manufacturer's representative not the material distributor or supplier*)

EXAMPLES OF MUNICIPAL CASTINGS (*includes but not limited to*):

Access Hatches;  
Ballast Screen;  
Benches (Iron or Steel);  
Bollards;  
Cast Bases;  
Cast Iron Hinged Hatches, Square and Rectangular;  
Cast Iron Riser Rings;  
Catch Basin Inlet;  
Cleanout/Monument Boxes;  
Construction Covers and Frames;  
Curb and Corner Guards;  
Curb Openings;  
Detectable Warning Plates;  
Downspout Shoes (Boot, Inlet);  
Drainage Grates, Frames and Curb Inlets;  
Inlets;  
Junction Boxes;  
Lampposts;  
Manhole Covers, Rings and Frames, Risers;  
Meter Boxes;  
Service Boxes;  
Steel Hinged Hatches, Square and Rectangular;  
Steel Riser Rings;  
Trash receptacles;  
Tree Grates;  
Tree Guards;  
Trench Grates; and  
Valve Boxes, Covers and Risers.



EXAMPLES OF CONSTRUCTION MATERIALS (*includes but not limited to*):

Wire rod, bar, angles  
Concrete reinforcing bar, wire, wire cloth  
Wire rope and cables  
Tubing  
Framing  
Joists  
Trusses  
Fasteners (i.e., nuts and bolts)  
Welding rods  
Decking  
Grating  
Railings  
Stairs  
Access ramps  
Fire escapes  
Ladders  
Wall panels  
Dome structures  
Roofing  
Ductwork  
Surface drains  
Cable hanging systems  
Manhole steps  
Fencing and fence tubing  
Guardrails  
Doors  
Stationary screens

EXAMPLES OF NON-CONSTRUCTION MATERIALS – *(includes but not limited to):*  
(NOTE: *includes appurtenances necessary for their intended use and operation and are not subject to AIS*)

Pumps

Motors

Gear reducers

Drives (including variable frequency drives (VFDs))

Electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators)

Mixers

Gates (e.g. sluice and slide gates)

Motorized screens (such as traveling screens)

Blowers/aeration equipment

Compressors

Meters (flow and water meters)

Sensors

Controls and switches

Supervisory control Data acquisition (SCADA)

Membrane bioreactor systems

Membrane filtration systems (includes RO package plants)

Filters

Clarifier arms and clarifier mechanisms

Rakes

Grinders

Disinfection systems

Presses (including belt presses)

Conveyors

Cranes

HVAC (excluding ductwork)

Water heaters

Heat exchangers

Generators

Cabinetry and housings (such as electrical boxes/enclosures)

Lighting fixtures

Electrical conduit

Emergency life systems

Metal office furniture

Shelving

Laboratory equipment

Analytical instrumentation

Dewatering equipment.

**INFORMATIONAL CHECKLIST FOR PROJECT SPECIFIC WAIVER REQUEST**

Please reference the specifications of the product.

<b>Information</b>	<input type="checkbox"/>	<b>Note</b>
<p>General</p> <ul style="list-style-type: none"> <li>• Waiver request includes the following information:               <ul style="list-style-type: none"> <li>– Description of the foreign and domestic construction materials</li> <li>– Unit of measure</li> <li>– Quantity</li> <li>– Price</li> <li>– Date that product is needed (e.g. time of delivery or availability)</li> <li>– Location of the construction project</li> <li>– Name and address of the proposed supplier</li> <li>– A detailed justification for the use of foreign construction materials</li> </ul> </li> <li>• Waiver request was submitted according to the instructions in the memorandum</li> <li>• Assistance recipient made a good faith effort to solicit bids for domestic iron and steel products, as demonstrated by language in requests for proposals, contracts, and communications with the prime</li> </ul>		
<p>Cost Waiver Requests</p> <ul style="list-style-type: none"> <li>• Waiver request includes the following information:               <ul style="list-style-type: none"> <li>– Comparison of overall cost of project with domestic iron and steel products to overall cost of project with foreign iron and steel products (Exhibit J)</li> <li>– Relevant excerpts from the bid documents used by the contractors to complete the comparison</li> <li>– Supporting documentation indicating that the contractor made a reasonable survey of the market, such as a description of the process for identifying suppliers and a list of contacted suppliers</li> </ul> </li> </ul>		
<p>Availability Waiver Requests</p> <ul style="list-style-type: none"> <li>• Waiver request includes the following supporting documentation necessary to demonstrate the availability, quantity, and/or quality of the materials for which the waiver is requested:               <ul style="list-style-type: none"> <li>– Supplier information or pricing information from a reasonable number of domestic suppliers indicating availability/delivery date for construction materials</li> <li>– Documentation of the assistance recipient’s efforts to find available domestic sources, such as a description of the process for identifying suppliers and a list of contacted suppliers.</li> <li>– Date that product is needed (e.g. time of delivery or availability) to provide justification</li> <li>– Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of construction materials</li> </ul> </li> <li>• Waiver request includes a statement from the prime contractor and/or supplier confirming the non-availability of the domestic construction materials for which the waiver is sought</li> <li>• Has the State received other waiver requests for the materials described in this waiver request, for comparable projects?</li> </ul>		

EXAMPLE COST TABLE FOR A PROJECT COST WAIVER

<b>AIS/Non-AIS Cost Comparison Table</b>						
<b>Specification</b>	<b>Item or Description</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Cost if applying AIS</b>	<b>Cost if a waiver to AIS is applied</b>
					\$ -	\$ -
					\$ -	\$ -
					\$ -	\$ -
					\$ -	\$ -
					\$ -	\$ -
					\$ -	\$ -
					\$ -	\$ -
					\$ -	\$ -
					\$ -	\$ -

**TOTAL COST:**

**\$0.00**

**\$0.00**

CHECKLIST FOR STATE ENGINEERS

Date \_\_\_\_\_ Project Name \_\_\_\_\_

Project Type: \_\_Water\_\_ Wastewater\_\_ Stormwater\_\_ Solid Waste

Applicant/Owner Name:

Project % Completion (*estimated*):

Total Project Cost:

Estimated Materials Cost:

<u>Items</u>	<u>Stored</u>	<u>OR</u>	<u>Installed?</u>	<u>US Made (Y/N)/Manufacturer Name</u>
Ductile Iron Pipe	<input type="checkbox"/>		<input type="checkbox"/>	_____
Reinforced Conc. Pipe	<input type="checkbox"/>		<input type="checkbox"/>	_____
Other Steel Pipe	<input type="checkbox"/>		<input type="checkbox"/>	_____
Fittings	<input type="checkbox"/>		<input type="checkbox"/>	_____
Valve Boxes	<input type="checkbox"/>		<input type="checkbox"/>	_____
Hydrants	<input type="checkbox"/>		<input type="checkbox"/>	_____
Valves	<input type="checkbox"/>		<input type="checkbox"/>	_____
Fittings/Bends/etc.	<input type="checkbox"/>		<input type="checkbox"/>	_____
Manholes	<input type="checkbox"/>		<input type="checkbox"/>	_____
Manhole Frames/Covers	<input type="checkbox"/>		<input type="checkbox"/>	_____
Other Municipal Castings	<input type="checkbox"/>		<input type="checkbox"/>	_____
Detection Plates	<input type="checkbox"/>		<input type="checkbox"/>	_____
Grates	<input type="checkbox"/>		<input type="checkbox"/>	_____
Manholes/Precast Conc.	<input type="checkbox"/>		<input type="checkbox"/>	_____
Steel Roofing Materials	<input type="checkbox"/>		<input type="checkbox"/>	_____
Steel Doors & Frames	<input type="checkbox"/>		<input type="checkbox"/>	_____
Steel Tanks/Pressure Vessels	<input type="checkbox"/>		<input type="checkbox"/>	_____
Reinforcing Bar/Wire	<input type="checkbox"/>		<input type="checkbox"/>	_____
Steel Stairs/Catwalks/Railings	<input type="checkbox"/>		<input type="checkbox"/>	_____
Unknown Iron/Steel Item	<input type="checkbox"/>		<input type="checkbox"/>	_____

Deminimis Waiver

General contractor maintains an itemized list of incidental components and the cost is less than 5% of total materials cost for project. YES  NO

Minor Components Waiver

General contractor maintains a list of products to which the minor components waiver applies and the cost of the non-domestically produced component is less than 5% of total materials cost of that product. YES  NO

Project Specific Waiver

Is there an approved waiver for this project? Is so, please list. YES  NO   
 Inconsistent with public interest YES  NO   
 Not produced in U.S. in sufficient and reasonable available quantities or of a satisfactory quality. YES  NO   
 Cost of the overall project increased by more than 25%. YES  NO

Miscellaneous

Is there a project file that includes all manufacturers' certifications on site? If yes, please review the project file for compliance. YES  NO

This inspection form was prepared by:

\_\_\_\_\_

(Print and sign name)

Consulting Engineer/RPR present (If yes, print name):

General Contractor present (If yes, print name):

Owner/Applicant present (If yes, print name):

Others (If yes, print name):

**SCHEDULE OF TERMS AND CONDITIONS  
GEOTECHNICAL, CIVIL ENGINEERING AND SURVEYING SERVICES**

**1.0 PROPOSAL ACCEPTANCE**

The following terms and conditions ("TERMS") shall apply to and are an integral part of the attached proposal between Civil & Environmental Consultants, Inc. ("CEC") and the CLIENT named in the attached proposal ("CLIENT"). CLIENT's acceptance of the proposal includes acceptance of the TERMS and any terms and conditions proposed by the CLIENT will be deemed to materially alter the TERMS and are hereby objected to and rejected by CEC. Acceptance of this proposal, including acceptance of the TERMS, shall occur upon the notification of CEC by CLIENT, in writing or orally, to commence performance in accordance with the proposal and the TERMS.

CEC shall perform its services consistent with the professional skill and care ordinarily provided by professionals, such as CEC, practicing in the same or similar locality under the same or similar circumstances. There are no warranties provided whether express or implied.

**2.0 SUBSURFACE CONDITIONS**

The CLIENT recognizes that subsurface conditions may vary from those observed at locations where borings, surveys, or explorations are made, and that site conditions may change with time. Data, interpretation, and recommendations by CEC will be based solely on information available to CEC. CEC is responsible for those data, interpretations, and recommendations, but will not be responsible for other parties' interpretations or use of the information developed.

**3.0 SUBCONTRACTED SERVICES**

CEC will select reputable subcontractors for test borings and/or other explorations or services based on oral or written competitive prices. The contractor's invoices shall be billed in accordance with our proposal. Nothing in this paragraph shall require that services or equipment be obtained through competitive bidding or be available from more than one source.

**4.0 SITE ACCESS AND SITE CONDITIONS**

CLIENT will grant or obtain free access to the site for all equipment and personnel for CEC to perform the work set forth in this AGREEMENT. The CLIENT will notify any and all possessors of the project site that CLIENT has granted CEC free access to the site. CEC will take reasonable precautions to limit damage to the site, but it is understood by CLIENT that, in the normal course of work, some damage may occur and the correction of such damage is not part of this AGREEMENT unless so specified in the PROPOSAL.

CLIENT shall provide CEC with all information in CLIENT's possession concerning the Project Site or information which would materially affect performance of the work. CLIENT shall cooperate fully with CEC and shall timely provide CEC with all decisions, choices, criteria, or other determination necessary to the prosecution of the work. CLIENT shall designate a Project Manager who shall act on CLIENT's behalf.

The CLIENT is responsible for the accuracy of locations for all subterranean structures and utilities. CEC will take reasonable precautions to avoid known subterranean structures, and the CLIENT waives any claim against CEC, and agrees to defend, indemnify, and hold CEC harmless from any claim or liability for injury or loss, including costs of defense, arising from damage done to subterranean structures and utilities not identified or accurately located. In addition, CLIENT agrees to compensate CEC for any time spent or expenses incurred by CEC in defense of any such claim with compensation to be based upon CEC's prevailing fee schedule and expense reimbursement policy.

## **5.0 SAMPLE DISPOSAL**

CEC will dispose of all remaining soil and rock samples 60 days after submission of report covering those samples. Further storage or transfer of samples can be made at CLIENT's expense upon CLIENT's prior written request.

## **6.0 CONSTRUCTION OBSERVATION**

If CEC is retained by the CLIENT to provide a site representative for the purpose of observing specific portions of the construction work as set forth in the PROPOSAL then this section applies.

For the specified assignment, CEC will report observations and professional opinions to the CLIENT. No action of CEC or CEC's site representative can be construed as altering any AGREEMENT between the CLIENT and others. CEC will report any observed work to the CLIENT which, in CEC's professional opinion, does not conform with plans and specifications. CEC has no right to reject or stop work of any agent of the CLIENT. Such rights are reserved solely for the CLIENT. Furthermore, CEC's presence on the site does not in any way guarantee the completion or quality of the performance of the work of any party retained by the CLIENT to provide construction related services.

CEC will not be responsible for and will not have control or charge of specific means, methods, techniques, sequences or procedures of construction selected by any agent or AGREEMENT of the CLIENT, or safety precautions and programs incident thereto.

CEC disclaims any and all responsibility and liability for damages that result from implementation of CEC's plans, specifications, or recommendations when CEC is not retained to observe such implementation.

## **7.0 BILLING AND PAYMENTS**

7.1 General: Invoicing for labor will be performed in accordance with the provisions outlined in the proposal to which these Terms and Conditions are a part. Invoices shall generally be submitted every four weeks for services performed during the previous four weeks. Payment shall be due within 30 days of invoice date. Payment shall be made as follows:

1. Lockbox (regular mail):  
Civil & Environmental Consultants, Inc.  
P.O. Box 644246  
Pittsburgh, PA 15264-4246



2. Electronic Payments:  
Bank Wire Information:  
Bank: PNC Bank  
Pittsburgh, PA 15222

Account Name: Civil & Environmental Consultants, Inc.  
333 Baldwin Road  
Pittsburgh, PA 15205

PNC Bank Routing #043000096      Bank telephone Number: 412-762-1836

Civil & Environmental Consultants, Inc. – Account #2272405

If CLIENT objects to all or any portion of any invoice, CLIENT will so notify CEC in writing within fourteen (14) calendar days of the invoice, identify the cause of disagreement, and pay within thirty (30) days that portion of the invoice, if any, not in dispute. The parties will immediately make every effort to settle the disputed portion of the invoice. In the absence of written notification described above, the balance as stated on the invoice will be paid.

Invoices are delinquent if payment has not been received within thirty (30) days from date of invoice. CLIENT will pay an additional charge of 1-1/2 (1.5) percent per month (or the maximum percentage allowed by law, whichever is lower) on any delinquent amount, excepting any portion of the invoiced amount in dispute and resolved in favor of CLIENT. Payment thereafter will first be applied to accrued interest and then to the principal unpaid amount. All time spent and expenses incurred (including any attorney's fees) in connection with collection of any delinquent amount will be paid by the CLIENT to CEC per CEC's current fee schedules. In the event CLIENT fails to pay CEC within thirty (30) days after invoices are rendered, CLIENT agrees that CEC will have the right to suspend this AGREEMENT, without incurring liability to CLIENT, after giving seven (7) days written notice to CLIENT.

- 7.2 Litigation Services: If litigation services are not part of the proposal to which these Terms and Conditions are attached and are requested by CLIENT, the scope and invoicing terms for the requested litigation services will be identified in a separate proposal. The labor rate paid for senior CEC personnel (project manager, senior project manager, principal, or officer) for direct litigation support services shall generally be invoiced at a minimum rate of 1.5 times typical CEC rates, as specified in a separate proposal for those services.

## **8.0 REIMBURSABLE EXPENSES**

The following items of direct non-salary expenses shall be billed according to the terms of our proposal.

- 8.1 Transportation and living expenses incurred for assignments outside the area.  
8.2 Automobile expenses for personal or company vehicles at the allowable IRS mileage rate, plus parking and toll charges. For company vehicles, a minimum of \$85/day will be charged for use, unless the daily mileage charge for the vehicle in question exceeds \$85/day, in which case the actual daily mileage charge applies. Rental vehicles will be charged at cost.  
8.3 Long distance telephone calls, telegrams, and cables.  
8.4 Field survey equipment usage at \$10.00/hr.  
8.5 Computer usage and word processing at \$5.00/hr. and CADD at \$15.00/hr connect time.

- 8.6 Shipping charges for soil and rock samples, field equipment, etc.
- 8.7 Project photographs and reproduction of drawings and reports.
- 8.8 Test borings, laboratory services, and other subcontracted services.
- 8.9 Other items directly identifiable to the project.

Our proposal does not include gross receipts taxes, business or occupation taxes or assessments that the municipality where the project is located may assess upon CEC or its subcontractors. If such taxes are or become a liability of CEC, the CLIENT agrees to reimburse CEC at cost. This tax cost reimbursement will not be subject to mark-up.

## **9.0 TERMINATION**

This AGREEMENT may be terminated by either party seven (7) days after written notice in the event of any breach of any provision of this AGREEMENT or in the event of substantial failure of performance by the other party, or if the CLIENT suspends the work for more than three (3) months. In the event of termination, CEC will be paid for services performed prior to the date of termination plus reasonable termination expenses, including the cost of completing analyses, records and report necessary to document job status at the time of termination.

## **10.0 SAFETY**

When CEC provides construction observation or management services on the job site during project construction, it is understood that, in accordance with generally accepted practices, the contractor shall be solely and completely responsible for working conditions on the job site, including safety of all persons and property during the performance of the work and compliance with OSHA regulations, and that these requirements will apply continuously and not be limited to normal working hours. Any observations of the contractor's performance conducted by our personnel will not include review of the adequacy of the contractor's safety measures in, on or near the construction site.

## **11.0 INSURANCE**

CEC will maintain Workmen's Compensation Insurance as required by state law and General Liability Insurance for bodily injury and property damage with an aggregate limit of \$1,000,000 per occurrence. CEC will furnish certificates of such insurance upon request. In the event the CLIENT desires additional coverage of this type CEC will, upon the CLIENT's written request, obtain additional insurance (if possible) at the CLIENT's expense. Our liability to the CLIENT for bodily injury or property damage arising out of work performed for the CLIENT for which legal liability may be found to rest upon us, other than for professional errors or omissions, shall be limited to our General Liability Insurance coverage.

## **12.0 ALLOCATION OF RISK**

- 12.1 Limitation of Remedies: Subject to all otherwise applicable statutes of limitations and repose, CLIENT agrees to limit CEC's liability to CLIENT, and to any other person or entity, for any claim arising from, or alleged to arise from any acts, errors or omissions in the performance of services under this AGREEMENT whether such claim sounds in negligence, breach of contract, strict liability, or other legal theory, except for willful misconduct or gross negligence and including any legal fees or costs awarded under this AGREEMENT, to an aggregate limit of the amount of fees paid to CEC under this AGREEMENT, or \$50,000, whichever is greater.

If CLIENT prefers not to limit our professional liability to this sum, we shall waive this limitation upon CLIENT's written request, provided that CLIENT agrees to pay for this waiver at a negotiated fee. CLIENT's request for this option must be made at the time CLIENT accepts our proposal. In the event CLIENT makes a claim against us for any act arising out of the performance of our professional services, and fails to prove such claim, then CLIENT agrees to pay all legal and other costs incurred by us in defense of such claim.

- 12.2 Waiver of Consequential Damages: CEC and CLIENT agree to waive any claim against each other for consequential damages.
- 12.3 Indemnification: CEC shall indemnify and hold harmless CLIENT from and against any and all claims, damages, or liability arising from the negligent performance of services under this AGREEMENT by CEC, including injuries to employees of CEC.
- 12.4 Continuing Agreement: The obligations of this section shall survive notwithstanding termination of this AGREEMENT. In the event that CLIENT requests that CEC provide additional services, CLIENT's obligations under this section shall apply to such additional services as if such additional services had to be performed as part of this AGREEMENT.

### **13.0 DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS**

CLIENT warrants that a reasonable effort to inform CEC of known or suspected Biological Pollutants or Hazardous Materials on or near the project site has been made by the CLIENT. The term "Biological Pollutants" includes, but is not limited to, molds, fungi, spores, bacteria, and viruses, and the by-product of any such biological organisms. The term Hazardous Materials shall mean any toxic substances, chemicals, pollutants, or other materials, in whatever form or state, including but not limited to smoke, vapors, soot, fumes, acids, alkalis, minerals, toxic chemicals, liquids, gases or any other material, irritant, contaminant or pollutant, that is known or suspected to adversely affect the health and safety of humans or of animal or plant organisms, or which are known or suspected to impair the environment in any way whatsoever and shall include, but not be limited to, those substances defined, designated, or listed in Section 404 of the Solid Waste Disposal Act (42 USC Subsection 6903); Section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act (42 USC Subsection 9601(14)); as listed or designated under Sections 1317 and 1321(b)(2)(a) of the Title 33 (33 USC Subsections 1317 and 1321(b)(2)(a)) or as defined, designated, or listed under any other federal, state, or local law, regulation or ordinance concerning hazardous wastes, toxic substances, or pollution.

Hazardous Materials may exist at a site where there is no reason to believe they could or should be present. CEC and CLIENT agree that the discovery of unanticipated Hazardous Materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. CEC and CLIENT also agree that the discovery of unanticipated Hazardous Materials may make it necessary for CEC to take immediate measures to protect health and safety. CLIENT agrees to compensate CEC for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous waste.

CEC agrees to notify CLIENT when unanticipated Hazardous Materials or suspected Hazardous Materials are encountered. CLIENT agrees to make any disclosures required by law to the appropriate governing agencies. CLIENT also agrees to hold CEC harmless for any and all consequences of disclosures made by CEC which are required by governing law. In the event the project site is not owned by CLIENT, CLIENT recognizes that it is the CLIENT's responsibility to inform the property owner of the discovery of unanticipated Hazardous Materials or suspected Hazardous Materials.

Notwithstanding any other provision of the AGREEMENT, CLIENT waives any claim against CEC, and to the maximum extent permitted by law, agrees to defend, indemnify, and save CEC harmless from any claim, liability, and/or defense costs for injury or loss arising from CEC's discovery of unanticipated Biological Pollutants, Hazardous Materials or suspected Hazardous Materials including any costs associated with possible reduction of the property's value. CLIENT will be responsible for ultimate disposal of any samples secured by CEC which are found to be contaminated.

#### **14.0 CHANGES**

- 14.1 Unforeseen Site Conditions: CLIENT reserves the right to make reasonable changes in the work to be performed after acceptance of this AGREEMENT. CLIENT understands that unforeseen site conditions may require changes in the Scope of Work to be performed.
- 14.2 Unauthorized Changes: If changes are made in CEC work products by CLIENT or persons other than CEC, and these changes affect our work, any and all liability against CEC arising out of such changes is waived and you assume full responsibility for such changes unless you have given us prior notice and have received from us written consent for such changes.
- 14.3 CLIENT Requested Changes: Upon receipt of a change requested by CLIENT, CEC will obtain price quotations from the contractors and shall provide CLIENT with a quotation of the cost of having the change performed, and any increase in contract time caused by the change. CLIENT shall authorize the requested change by amending the contract price and contract time.

#### **15.0 MEDIATION AND ARBITRATION**

- 15.1 Scope of Clause: Any claim arising out of or related to this AGREEMENT, except claims which are specifically excluded from mediation and arbitration as set forth in the "Exclusions" paragraph of this section of the AGREEMENT, shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party. With the exception of the claims set forth in the "Exclusions" paragraph of this section of the AGREEMENT, the mediation and arbitration provisions of this section shall apply to any and all disputes between CLIENT and CEC which arise from or which are in any way related to this AGREEMENT, including, but not limited to, the interpretation of this AGREEMENT, the enforcement of its terms, and any acts, errors, or omissions of CEC in the performance of this AGREEMENT.
- 15.2 Notice of Dispute: Within forty-five (45) days of the occurrence of any incident, action, or failure to act upon which a claim for relief is based, the party seeking relief shall serve the other party with a written notice specifying the nature of the relief sought, the amount of relief sought, a description of the reason relief should be granted, and a citation of the appropriate portions of this AGREEMENT that authorize the relief requested. The Notice of Dispute requirement under this paragraph does not pertain to the claims excluded from mediation and arbitration as described in the "Exclusions" paragraph of this section of the AGREEMENT.

15.3 Meet and Confer: Within ten (10) days of receipt of the Notice of Dispute, the parties shall meet and confer in a good faith attempt to resolve the dispute. Participants in the meet and confer must have the authority to enter into a resolution on behalf of each party. Attorneys representing the parties may not be present at this meeting. The Meet and Confer requirement under this paragraph does not pertain to the claims excluded from mediation and arbitration as described in the "Exclusions" paragraph of this section of the AGREEMENT.

If, as a result of the parties having met and conferred, an agreement is reached resolving the dispute, the parties shall immediately execute an addendum to this AGREEMENT setting forth the terms of their agreement.

15.4 Facilitated Mediation: If no agreement is reached, or if the agreement does not resolve all of the issues encompassed by the Notice of Dispute, the parties shall resolve their claims by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this AGREEMENT and the American Arbitration Association. The Request for Mediation may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

15.5 Fees and Location: The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Pittsburgh, Pennsylvania, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

15.6 Arbitration: Prior to arbitration, the parties shall endeavor to resolve disputes by mediation in accordance with the paragraphs set forth above. Claims not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. Demand for arbitration shall be filed in writing with the other party to this AGREEMENT and with the American Arbitration Association.

15.7 Demand for Arbitration: A demand for arbitration shall be made within a reasonable time after the claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim would be barred by the applicable statute of limitations.

15.8 Limitation on Consolidation or Joinder: Except by written consent of the person or entity sought to be joined, no arbitration arising out of or relating to this AGREEMENT shall include, by consolidation or joinder or in any other manner, any person or entity not a party to this AGREEMENT under which such arbitration arises, unless it is shown at the time the demand for arbitration is filed that (1) such person or entity is substantially involved in a common question of fact or law, (2) the presence of such person or entity is required if complete relief is to be accorded in the arbitration, and (3) the interest or responsibility of such person or entity in the matter is not insubstantial. This agreement to arbitrate and any other written agreement to arbitrate with an additional person or persons referred to herein shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

- 15.9 Claims and Timely Assertion of Claims: The party filing a notice of demand for arbitration must assert in the demand all claims then known to that party on which arbitration is permitted to be demanded.
- 15.10 Judgment on Final Award: The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.
- 15.11 Non-Admissibility and Confidentiality: The Meet and Confer and the Facilitated Mediation are conducted under the provision that evidence may not be introduced at any later proceeding of any communication, statement, document provided, expert opinion, expert report, or offer to compromise unless such was made, provided, or disposed outside of, and not in connection with, the Meet and Confer or Facilitated Mediation. Under no circumstances may the mediator, or any documents created or maintained by the mediation, be subpoenaed, nor shall the mediator testify in any subsequent proceedings.

All communications, statements, documents provided, expert opinions, expert reports, or offers to compromise are confidential and may not be disclosed without the written consent of the party making the statement or offering the information.

- 15.12 Cross-Claims: If a party contends that all or part of a claim described in the Notice of Dispute is offset by a cross-claim, or if a party contends that it has a claim which arises out of the same factors upon which the Notice of Claim is based, the party must, within seven days after receipt of the Notice of Claim, provide a written Notice of Cross-claim setting forth the same information as required in a Notice of Claim. The cross-claim shall be resolved in the Meet and Confer or the Facilitated Mediation in the same manner as the claim described in the Notice of Dispute.

Any agreement reached in the Meet and Confer or the Facilitated Mediation shall bar the later assertion in any action, arbitration, or other proceeding of any cross-claim which was required to be asserted by this section unless the parties' written resolution agreement explicitly reserves such cross-claim.

- 15.13 Exclusions: The mediation and arbitration provisions of this section **do not apply** to claims which arise out of or relate to disputes between CEC and CLIENT concerning amounts owed CEC for performance of services and/or disputes between CEC and CLIENT concerning the payment of CEC's invoices as provided in the "Billing and Payments" section of this AGREEMENT. Rather, CEC and CLIENT agree that any court of record of Allegheny County, Pennsylvania, shall have jurisdiction and venue over any claims excluded from mediation and arbitration as provided herein.

## 16.0 GOVERNING LAW AND SURVIVAL

The law of the State of Pennsylvania will govern the validity of these TERMS, their interpretation and performance.

If any of the provisions contained in this AGREEMENT are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired. Limitations of liability and indemnities will survive termination of this AGREEMENT for any cause.

#### **17.0 DESIGN/BUILD SERVICES**

If Client requests CEC-led design-build services, those design-build services will be performed in accordance with separate terms and conditions that specifically address design-build services.

#### **18.0 BIOLOGICAL POLLUTANTS**

CEC's scope of services does not include the investigation or detection of the presence of any Biological Pollutants in or around any structure. CLIENT agrees that CEC will have no liability for any claim regarding bodily injury or property damage alleged to arise from or be caused by the presence of or exposure to any Biological Pollutants, in or around any structure. In addition, CLIENT will defend, indemnify, and hold harmless Consultant from any third party claim for damages alleged to arise from or be caused by the presence of or exposure to any Biological Pollutants in or around any structure, except for damages arising from or caused by CEC's sole negligence.

#### **19.0 CONSENT TO ASSIGN**

CLIENT and CEC, respectively, each binds itself and its successors and assigns to the other and its successors and assigns with respect to all covenants of these TERMS. Neither CLIENT nor CEC shall assign, sublet or transfer any rights under or interest in these TERMS without the prior written consent of the other party, including, but not limited to (a) any interest in the proceeds of these TERMS, or any proceeds of claims arising from or under these TERMS; (b) any claims, causes of action or rights against the other party arising from or under these TERMS; (c) the control of claims or causes of action against the other party arising from or under these TERMS; and (d) any proceeds from claims or causes of action as security, collateral, or the source of payment for any notes or liabilities to any third party. This section shall not, however, apply to any subrogation rights (if any) of any insurer of either party. This section shall survive the completion or termination of these TERMS for any reason and shall remain enforceable between parties.

#### **20.0 FILE RETENTION**

After this project is concluded, our file on the project will be closed. All documents and information within the project file will be retained by CEC, and may be sent offsite for storage. Unless you make other arrangements with us, CEC reserves the right to destroy all file information seven (7) years after the project is closed.

### **END OF TERMS AND CONDITIONS**

State of Tennessee  
Cheatham County

**RESOLUTION NO. 2020-**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF  
ASHLAND CITY UPDATING A PERSONNEL POLICIES AND  
PROCEDURE MANUAL GOVERNING EMPLOYMENT WITH THE  
TOWN OF ASHLAND CITY**

**WHEREAS**, the City Council for the Town of Ashland City has adopted an ordinance establishing a personnel system designed to provide a means to select, develop and maintain an effective municipal work force; and

**WHEREAS**, the personnel system ordinance authorizes the Mayor to develop personnel rules and regulations in the form of an Employee Manual; and

**WHEREAS**, the personnel system ordinance requires that the Employee Manual shall be updated with the attached changes.

**NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF ASHLAND CITY, TENNESSEE**, that the Employee Manual updates and changes, attached hereto, is hereby approved and adopted and shall replace any previously adopted sections of the Employee Manual and shall become effective immediately following passage of this resolution.

We, the undersigned City Council members, meeting in Regular Session on this 14th day of April 2020 move the adoption of the above Resolution.

Councilmember \_\_\_\_\_ moved to adopt the Resolution.

Councilmember \_\_\_\_\_ seconded the motion.

Voting in Favor \_\_\_\_\_

Voting Against \_\_\_\_\_

Attest:

\_\_\_\_\_  
Mayor Steve Allen

\_\_\_\_\_  
City Recorder Kellie Reed, CMC, CMFO



# **Town of Ashland City** **Personnel Manual**



**Updated 2020**

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# TOWN OF ASHLAND CITY, TENNESSEE

## PERSONNEL POLICIES AND PROCEDURES MANUAL

### SECTION I – PERSONNEL POLICIES

These personnel policies and procedures are for information only. This manual is not an employment contract. Employment with the City is at-will. No employee or representative of the City can change any employee's at-will status. This document is a statement of current policies, practices, and procedures. Each department may have more specific department policies. Nothing in this document is to be interpreted as giving employees any more property rights in their jobs than may already be given by the city charter, this document, and/or the ordinances of the local government. These personnel policies, rules, and regulations shall be reviewed periodically. The Town of Ashland City reserves the right to change any or all such policies, practices, and procedures in whole or in part at any time, in accordance with the procedures included herein. The policies and procedures in this manual will remain in effect until changes are considered necessary. Any changes once adopted by Mayor and City Council supersede the previous copy. This manual has been approved by the Mayor and City Council. No member of supervision is authorized to change orally or in writing any of the policies and practices described in this manual without the express approval of the Mayor and City Council.

### PURPOSE AND OBJECTIVES

The main purpose of these policies and procedures is to establish a high degree of understanding, cooperation, efficiency, and unity among municipal government employees fostered by a systematic application of good procedures in personnel administration. Another purpose is to provide uniform policies for all employees with all the benefits such a program ensures, without regard to race, gender, age, national origin, creed, ancestry, military status, gender identity and disability.

The fundamental objectives of these personnel administration policies and procedures are to:

1. Promote and increase efficiency and economy among employees of the Town of Ashland City;
2. Provide fair and equal opportunity to all qualified citizens on the basis of demonstrated merit and fitness as ascertained through fair and practical methods of selection;
3. Develop a program of recruitment and advancement that will make employment with the city attractive as a career and encourage each employee to render the best service;
4. Establish and promote high morale among the employees by providing good working relationships, a uniform personnel policy, opportunity for advancement, and consideration for employee needs and desires.

## PERSONNEL POLICY STATEMENT

It is the policy of the Town of Ashland City to apply and foster a sound program of personnel management. The policies of the municipal government are established for:

1. **Employment and Placement**
  - a. Fill all positions without undue delay in accordance with job qualifications and requirements without discrimination as to race, gender, age, national origin, creed, ancestry, military status, gender identity and disability.
  - b. Establish programs for the promotion, transfer, demotion, dismissal, and reassignment of personnel.
2. **Position Classification and Pay Administration**
  - a. Establish and maintain job descriptions for every position with the descriptions maintained on file with the Human Resources Director and Department Head;
  - b. Review position descriptions periodically and systematically with the employee to ensure currency and accuracy;
  - c. Establish appropriate position standards and to group positions in classes with similar standards; and
  - d. Conduct area wage and salary surveys periodically to provide competitive wage and salary scales.
3. **Employee Relations and Services**
  - a. Develop a system of job performance standards and evaluation and inform each employee periodically and systematically of the status of his/her job performance;
  - b. Establish rules and standards governing employee conduct both on and off the job;
  - c. Administer a uniform leave program;
  - d. Provide and maintain a safe and healthful work environment.
4. **Employee Development and Training**
  - a. Establish training standards and requirements for all positions; and
  - b. Motivate and stimulate employees to achieve their highest potential usefulness.
5. **Records**
  - a. Establish and maintain comprehensive uniform personnel records.

## COVERAGE

These rules and regulations shall cover all employees in the city service unless specifically exempt by this document, the city charter, and/or the ordinances of the municipality without regard to race, gender, age, national origin, creed, ancestry, military status, gender identity and disability. All municipal government offices and positions are divided into the classified service and the executive service. The classified service shall include all regular full-time and regular part-time positions in the city's service unless specifically placed in the executive service. All offices and positions of the municipal government placed in the executive service and not subject to these policies are:

1. All elected officials;
2. Members of appointed boards and commissions;
3. Consultants, advisers, and legal counsel rendering temporary professional services;
4. The city attorney;
5. Independent contractors;

6. People employed by the municipality for not more than six (6) months during a fiscal year;
7. Part-time employees paid by the hour or the day who are not considered regular part-time;
8. Volunteer personnel appointed without compensation or who only receive incentive pay and/or compensation for special events;
9. The city judge;
10. Part-time District Attorney;
11. Probation services for Municipal Court;
12. Reserve officers.

All employment positions of the municipal government not expressly exempted from coverage by this section shall be subject to the provisions of the city charter.

## ADMINISTRATION

These rules shall be administered by the Mayor in conformity with the ordinance establishing a personnel system. Amendments to the rules and regulations shall be made in accordance with the procedure herein.

## SECION II – EMPLOYMENT

### APPLICATIONS

The Town of Ashland City shall make every effort to attract qualified applicants for various types of positions. When a vacancy occurs or a position is made available, the department head is to notify the City Recorder by email of the department vacancy. Salary and or other considerations need to be discussed prior before posting vacancies.

Applications are only accepted when vacancies exist and will only be considered for specific positions applied. The Mayor may also provide notice of vacancies in alternate media, including taped messages, radio announcements, or other methods to ensure effective communication to someone with disabilities.

Open positions may be advertised internally and externally concurrently. In no situation will an open position be advertised externally prior to being advertised internally. Open positions will be sent out via email to all town employees and will also be posted in breakrooms of city buildings. Employees will have one (1) week prior the position being advertised externally to submit applications. External advertisements may include publication in the officially designated newspaper, social media, the town website, and/or other websites based on the position in order to attract qualified applicants.

All employment applications are received at Workforce Essentials in Ashland City. Applications are given a beginning and end date for receiving and given thorough consideration by the Mayor and/or Department Head. The Mayor will make reasonable accommodations in the application process to applicants with disabilities making a request for such accommodations.



An applicant may be removed from consideration if he/she:

1. Declines an appointment when offered;
2. Cannot be located by the postal authorities – it shall be deemed impossible to so locate an applicant when a communication mailed at the last known address is returned unclaimed;
3. Moves out of the area;
4. Is currently using narcotics, or his/her excessive use of intoxicating liquors will pose a direct threat to the health and safety of others;
5. Is found to have been convicted of a felony or a misdemeanor involving moral turpitude as the term is defined by law;
6. Has made a false statement of material fact on the application;
7. Does not file the application within the period specified in the application/examination announcement or does not use the prescribed form or uses a different format than allowed as a reasonable accommodation; and/or
8. Does not possess the minimum qualifications.

Once all applications have been reviewed, an applicant will be notified by either email, telephone, or mail to set an interview time or notified that their application is not being considered.

## RECRUITMENT BY EXAMINATION

All appointments in the municipal government service shall be made according to merit and fitness and may be subject to competitive examination. All such examinations shall fairly and impartially test those matters relevant to the capacity and fitness of the applicant to efficiently discharge the essential functions of the position to be filled.

### A. TYPES OF EXAMINATIONS

The examinations held to establish eligibility and fitness for any class may consist of one or more of the following parts as determined by the Mayor. The Mayor will make reasonable accommodations in the examination process to disabled applicants requesting such accommodations.

1. **Written Test** – This part, when required, shall include a written demonstration designed to show the applicant's familiarity with the knowledge involved in the class of positions to which he/she is seeking appointment.
2. **Oral Test** – This part, when required, shall include a personal interview where the ability to deal with others, to meet the public, and/or other personal qualifications are to be evaluated. An oral interview may also be used in examinations where a written test is unnecessary or impractical or as a reasonable accommodation to someone unable to take a written test due to a disability.
3. **Performance Test** – This test, when required, shall involve performance tests as would aid in determining the ability and manual skills of applicants to perform the work involved. The performance test may be given a weight in the examination process or may be used to exclude from further consideration applicants who:

- a. Cannot perform the essential functions of a specific position due to a disability that cannot reasonably be accommodated;
  - b. Pose a direct threat to themselves or others;
  - c. Are unable to perform the essential functions of a specific position due to a temporary condition or disability not protected by the ADA.
4. **Physical Agility Test** – When required, this consists of job-related tests of bodily conditioning, muscular strength, agility, and physical fitness of job applicants for a specific position. This test may be given a weight in the examination process or may be used to exclude from further consideration applicants who do not meet the minimum required standards.
  5. **Mental Test** – When required, this shall include any test to determine mental alertness, general capacity of the applicant to adjust his/her thinking to new problems, or to ascertain special character traits and attitudes.
  6. **Pre-employment Drug Test** – When required under these rules and regulations applicants receiving a conditional offer of employment for certain positions will be required to undergo a drug test. A confirmed positive result on the drug test will result in an applicant being denied employment.

## NOTIFICATION AND INSPECTION OF EXAMINATION RESULTS

Each person who takes an examination shall be notified of his/her passing or failing. Each person in an examination may inspect his/her rating and the examination papers within 14 days of notification of the results. These inspections shall be permitted only during regular business hours and at the office of the City Clerk/Recorder.

## MEDICAL EXAMINATIONS AND GENERAL PHYSICALS

1. **Pre-employment** – Following a conditional offer of employment, every prospective employee, when required, may be examined by a licensed medical physician designated by the municipal government. This exam will determine whether prospective employees can perform the essential functions of the position offered. The cost of this medical examination shall be borne by the city. Prospective employees who are unable to successfully perform the essential functions tested for in the medical examination shall have their offer of employment by the city withdrawn only if they:
  - a. Cannot perform the essential functions due to a disability that cannot reasonably be accommodated;
  - b. Pose a direct threat to themselves and/or others; or
  - c. Are unable to perform the essential functions due to a temporary condition or disability not protected by the ADA.
2. **Post-employment** – All employees of the city may, during their employment, be required by their department head, with the approval of the Mayor, to undergo periodic examinations to determine their physical and mental fitness to continue to perform the work of their positions. This periodic examination shall be at no expense to the employee. Determination of physical or mental fitness will be made by a physician designated by the city.

When a city employee is reported by the examining physician to be physically or mentally unfit to perform work in the position for which he/she is employed, the

employee may, within five (5) days from the date of his/her notification of such determination, indicate in writing to the Mayor, his/her intention to submit the question of his/her physical or mental unfitness to a physician of his/her own choice.

In the event there is a difference of opinion between the examining physician and the physician chosen by the employee, a physician shall be mutually agreed upon and designated by both physicians. The third physician's decision shall be final and binding as to the physical or mental fitness of the employee. The municipal government shall pay its physician, the employee shall pay his/her physician, and the third physician shall be paid by the city.

Employees determined to be physically or mentally unfit to continue in their positions may be demoted according to these rules, or they may be separated from the municipal government service only after it has been determined that they:

- a. Cannot perform the essential functions due to a disability that cannot reasonably be accommodated;
- b. Pose a direct threat to themselves and/or others;
- c. Are unable to perform the essential functions due to a temporary condition or disability not protected by the ADA.

#### **Additional Exams**

Other exams may be required for specific jobs. An example is a psychological exam for police officers.

### **EQUAL EMPLOYMENT OPPORTUNITY**

The Town does not discriminate in its employment practices and complies with applicable State and Federal Laws regarding equal employment opportunities. The Town will continually strive to hire, train and promote individuals based on their qualifications without regard to race, gender, age, national origin, creed, ancestry, military status, gender identity and disability.

### **MINIMUM AGE**

The FLSA requires that employees of state and local governments be at least sixteen (16) years old for most non-farm jobs and at least eighteen (18) years old for non-farm jobs declared hazardous by the Secretary of Labor. Minors fourteen (14) and fifteen (15) years old may work outside school hours under certain conditions.

### **TYPES OF EMPLOYEES**

1. **Regular Full-time Employee** – A regular full-time employee is an employee who works a minimum of thirty-five (35) hours per week, has completed a 90-day probationary period, is subject to all conditions of employment, and receives all benefits offered by the city unless specifically excluded by the city charter, code, or ordinance.
2. **Regular Part-time Employee** – A regular part-time employee is an employee who works an average of fewer than thirty-five (35) hours during the work week, but at least twenty (20) hours per week. Regular part-time employees are eligible for some city benefits on a prorated basis according to the actual hours worked (except health and/or life insurance benefits).

3. **Volunteer Firefighter** – Volunteer firefighters are appointed by the Fire Chief when necessary. Volunteer firefighters are compensated per fire-call with no other benefits except Worker’s Compensation coverage under the Volunteer Firefighters’ Insurance Coverage Policy.
4. **Temporary Part-time Employee** – A temporary part-time employee is an employee who works less than thirty-five (35) hours during the work week. The position may be one year or longer but works fewer than an average of twenty (20) hours during the week and/or no more than one thousand hours in a calendar year. Temporary part-time employees are not eligible for city benefits.
5. **Reserve/Auxiliary Police Officer** – Reserve officers are appointed by the Police Chief. Reserve officers will not have any benefits except Worker’s Compensation coverage while acting in the capacity of a Reserve officer.

## NEW HIRES, PROMOTIONS, DEMOTIONS, AND TRANSFERS

1. **New Hires**– Pursuant to the Town’s charter, the Mayor has the authority to appoint, promote, demote, transfer, suspend, and remove any/all employees of the Town of Ashland City, except for the City Clerk/Recorder and City Attorney, who shall be appointed by the City Council. All vacancies in the municipal government service shall be filled by original appointment, re-employment, promotional appointment, provisional appointment, transfer, or demotion.
2. **Promotions** – A promotion is assigning an employee from one position to another that has a higher maximum pay rate, rank, and responsibility. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation. A 90-day probationary period is automatic to assess competency for any promotion. Under Section 25 of the city charter, the Mayor, or the appropriate department head, if so designated by the Mayor, has the authority to make promotions.
3. **Transfers** – The Mayor, or appropriate department head if so designated by the Mayor, has the authority to transfer employees among positions within the municipal government. An employee who transfers from one municipal government department to another will retain and carry forward all benefits earned, accrued, or both as of the date of transfer, and are not necessarily given preference in the hiring process. As a general rule, lateral transfers require no increase in compensation.
4. **Demotions** – A demotion is assigning an employee from one position to another that has a lower pay rate, rank, and responsibility. The Mayor, or appropriate department head if so designated by the Mayor, has the authority to demote an employee. When an employee in one classification is demoted to a position in a lower classification and the employee pay rate is higher than the minimum rate for the new position, the employee’s salary shall be reduced to the lower rate.
5. **Evaluations** – Evaluations will be conducted by the department head/immediate supervisor no less than one time per year.
6. **Rehires-** A former employee rehired within six months from the effective date of their previous termination may, upon approval of the Mayor, be given credit for the previous service. After six months, the former employee will be considered a new hire. A re-hire with less than one year of prior service will be considered a new hire.

7. **Employee Type Changes-** When any employee type becomes a regular full-time employee, a period of non-eligibility for health-related employee benefits must be satisfied. Sick time and vacation time will begin accruing on the first day of full-time employment.

## CITIZENSHIP AND IMMIGRATION STATUS VERIFICATION

The city will not discriminate on the basis of a person's race, gender, age, national origin, creed, ancestry, military status, gender identity and disability in regard to recruitment, hiring, or discharge. However, the city will not knowingly employ any person who is or becomes an unauthorized immigrant. In compliance with the Immigration Reform and Control Act, all employees hired after November 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three (3) days of employment or the individual will be terminated.

## PROBATIONARY PERIOD

The probationary period for all newly hired, promoted and/or laterally transferred employees will be 90 days. During the probationary period, the supervisor will inform the employee when his/her performance is unsatisfactory. A performance evaluation/appraisal will be completed at 90 days after employment. After each evaluation, the department head shall notify the Mayor if the employee's service has been satisfactory and whether he/she will continue to employ the individual. The probationary period does not change the at-will status.

Department heads may request an extension of any employee's probationary period with the prior approval of the Mayor. In no event may a probationary period be extended beyond six (6) months.

An employee may be terminated or demoted during the probationary period for any reason without respect or reference to the procedures set forth in this document, the charter or other ordinances that do not violate the federal or state law. If the employee's work performance during the probationary period is satisfactory, the employee shall be recommended for regular full-time status.

### Performance Appraisal/evaluation

The performance of all employees will be appraised and reviewed at least annually by their immediate supervisor. Written appraisals will be discussed with the employees so they will know how they are progressing and what they may do to improve their performance.

## FIRST DAY OF EMPLOYMENT

After an applicant has been appointed to fill a job vacancy by the Mayor, the new employee shall be required to complete or provide the following documents and forms before beginning work:

1. W-4 form;
2. Signed acknowledgement form from the employee handbook/personnel manual
3. Immigration Control and Reform Act form (I-9);

4. A copy of educational certification, professional license, or certificate required per the job description;
5. Emergency telephone numbers;
6. A copy of driver's license and social security card;
7. List of dependents as required by Consolidated Omnibus Budget Reconstruction Act (COBRA); and others.

In order for new employees to be successful, it is imperative that they understand the overall environment in which they will be operating. Employees who understand the organizations history, scope of operation, economic goals and future prospects will identify more readily with the entire organization. They should develop a sense of belonging more quickly than other employees who are left to search our needed information on their own.

New employees are required to attend a new employee orientation. At this orientation, employees will be provided with relevant documentation which may include:

1. City organization chart and department functions
2. Map of the city
3. Copy of policy handbook and other city pamphlets
4. Benefit handout
5. Detailed outline of emergency and accident-prevention procedures;
6. Telephone numbers and locations of key personnel and operations; and/or
7. Safety requirements and accident procedures.

## OUTSIDE EMPLOYMENT

No full-time employee of the Town of Ashland City shall accept any outside employment without written authorization from the Mayor or appropriate department head. The Mayor or appropriate department head shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the employee's duties, or is incompatible with the employee's municipal employment, or is likely to cause discredit upon or create embarrassment for the Town of Ashland City. Each department head is responsible to report the opportunity for outside work to the Mayor.

Before outside employment begins, employees must present a written request describing the work to be performed.

Employees missing work because of sickness or injury that can be attributed to a second job will not receive pay or other normal benefits for time lost from their municipal government job.

Approval of a second job may be withdrawn for any of the above reasons.

## WORKDAY/WORKWEEK

The Mayor shall establish the hours of work per week for each position in the service of the town. All designated workdays and workweeks shall be in accordance with the FLSA.

Some departments allow irregular workweeks. The Department Head has the authority to schedule arrival and departure times and specific workdays for employees depending upon departmental need and approval of the Mayor. The use of flex and compressed work weeks is also subject to the approval of the Mayor.

An employee on an irregular work schedule must revert to a normal work week schedule when using a prolonged period of annual, sick and compensatory leave, when placed on extended leave without pay status, when paid through the sick leave bank, and when a holiday falls within a work week.

## ATTENDANCE

Punctual and regular attendance is necessary for the city to operate efficiently. Employees unavoidably late or absent from work due to illness or other causes must notify their supervisor within the time frame established by each department, unless unusual circumstances prevent the employee from making proper notification. Employees must explain the reason for the absence and, if possible, the anticipated time and date they will return to work. Failure to notify one's supervisor of absences may result in disciplinary action. Employees found cheating on their time sheets will be subject to immediate dismissal. Excessive tardiness is regarded as sufficient reason for termination.

## BREAKS

Employees working at least an eight (8) hour shift shall have thirty (30) minutes of employer paid break time. Employees working at least an eight (8) hour shift are required to take an unpaid thirty (30) minute lunch break during their work day. Employees can choose to take a thirty (30) minute meal break and two (2) fifteen (15) minute breaks or combine their breaks with their unpaid lunchbreak for a total of one (1) sixty (60) minute meal break. Employees working at least a four (4) hour shift shall have a fifteen (15) minute employer paid break.

## NEPOTISM

No member of an employee's immediate family, which is defined as spouse, mother or stepmother, father or stepfather, children, sister, brother, grandparents, grandchildren, current mother-in-law and father-in-law, son-in-law, daughter-in-law, current brother or sister-in-law, step-grandparents, step-grandchildren, aunt, uncle, niece/nephew, 1<sup>st</sup> cousin will be hired as an employee under the same line of supervision.

No immediate family member (as defined above) of a municipal official will be hired as an employee by the Town of Ashland City.

## SECTION III – LEAVE

### LEGAL HOLIDAYS

All offices and shops of the Town of Ashland City, Tennessee, except emergency and necessary operations, will be closed and employees excused on the following legal holidays:

New Year's Day	January 1
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Good Friday	Friday before Easter Sunday
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving Day	Fourth Friday in November
Christmas Eve	December 24
Christmas Day	December 25

When a holiday falls on Saturday, offices will be closed on the preceding Friday. When a holiday falls on Sunday, it shall be observed on the following Monday.

To receive compensation for a holiday, employees eligible for holidays must be in a pay status (not on leave without pay or on worker's compensation) on their last regular shift scheduled before a holiday and their first regularly scheduled shift after a holiday.

Employees required to work on one of the above listed holidays shall receive his regular pay for the holiday worked and an additional days pay as holiday pay. Further, if on an on-call status during a holiday week when called out the employee will be paid at the overtime rate of 1 ½ times the employee's regular rate. This includes those employees called in by the dept. head to help the on-call person during a holiday week. Employees are only paid overtime if they have exceeded forty (40) hours in the work week. It shall be the department heads responsibility to report to payroll the names, hours, and dates of employees who work holidays. This shall be reported as soon as possible, but in no case, later than three workdays after the holiday.

Any employee on sick leave before and after a holiday is assumed to be sick on the holiday and will receive holiday pay.

Legal holidays falling within an employee's vacation period are not to be counted as vacation days.

## VACATION LEAVE

Annual/vacation leave will be granted to regular full-time and part time employees. An employee will earn annual vacation leave during his/her probationary period after completing 30 days. Annual vacation time will not accrue if an employee is not working for 30 consecutive days. Annual vacation leave will be given in January of every year. For new hires, vacation leave will be prorated from the first day of eligibility to the end of the calendar year. This shall also be applied for employees who have an increase in their leave based upon years of service and this shall be prorated as well. For all employees a



maximum of 100 hours may be carried forward into the next year. Any remaining hours over 100 at the end of the year (December) will be transferred to sick time.

Annual Vacation time will be added to employee's first paycheck in January (new hires will be prorated thru end of calendar year) according to the following schedule:

<u>Years of Service Employees</u>	<u>Full Time Employees</u>	<u>Regular Part time</u>
0-5 years per paycheck)	2 weeks (3.08 hours per paycheck)	1 week (1.54 hours
6-15 years hours per paycheck)	3 weeks (4.62 hours per paycheck)	1-1/2 weeks (2.31
16+ years per paycheck)	4 weeks (6.15 hours per paycheck)	2 weeks (3.08 hours

Definitions of regular full time and regular part-time employees can be found in Section III, Subsection H of this manual.

Vacations of one week or more consecutive days will be scheduled at least one (1) month in advance for the mutual convenience of the employee and the city government so proper adjustments can be made in the work schedules. No employee may begin his/her annual leave until his/her request has been approved by the Mayor and/or Department Head.

All annual vacation leave must be used prior to the employee receiving long term disability benefits.

An employee who is separated from city employment shall be paid for his/her unused vacation leave. The termination date shall coincide with last day of pay. In no event will an employee who has not completed at least 90 days of satisfactory service receive terminal annual vacation pay.

Legal holidays falling within a vacation period are not to be counted as vacation days. There shall be no pay in lieu of vacation. When an employee is on "leave without pay" for 15 days during any calendar month, no vacation leave will accumulate. Employees may not borrow against future annual vacation or transfer earned leave to another employee.

If the employee has accrued compensatory time, the employee may be required to use compensatory time before using vacation leave or other types of leave.

Vacation leave can be taken in minimum increments of one hour. Vacation can only be used if vacation hours are available.

Vacation does not accrue while on short term or long-term disability, leave without pay status, or FMLA, with the exception of Employees on Workers Compensation, who will continue to accrue vacation during the period of absence.

After twenty (20) working days of full compensation, members of any reserve component of the armed forces of the United States, including members of the Tennessee army and national guard, may use up to five (5) days of sick leave in lieu of annual leave for the purposes of not having to take leave without pay. (T.C.A. 8-33-109)

## SICK LEAVE

Each regular full-time employee and regular part-time will accrue sick leave bi-weekly beginning on the first day after 30 days of employment and continuing until their termination. An employee shall not accumulate sick time if the employee does not work 30 consecutive regularly scheduled work days. Sick leave benefits will commence on the first day of such absence and shall continue for as long as sick leave credit remains.

Generally, employees become eligible to use sick leave in the situations outlined below.

1. Employees are incapacitated by sickness or a non-job-related injury.
2. Employees are seeking medical, dental, optical, or other professional diagnosis or treatment.
3. Necessary care and attendance of a member of the employee's immediate family, as defined in the nepotism section of this employee manual, if approved by the Mayor, department head, and/or immediate supervisor so authorized to approve such leave.
4. Employees may jeopardize the health of others because they have been exposed to a contagious disease. This must be certified by a qualified doctor's certificate.

Employees shall notify their immediate supervisor via text message, phone call, or email at the earliest possible time prior to the start of their shift but at least one (1) hour prior to the beginning of their regular work day of their absence due to illness. Every effort shall be made to notify the supervisor at the earliest possible time.

To prevent abuse of sick leave privilege employees are required to obtain and turn in a doctor's note to their immediate supervisor, department head, or mayor for any absence in excess of three (3) workdays.

Leave deducted from an employee's sick leave accumulation shall be for a regular workday and shall not include holidays and scheduled days off. Employees claiming sick leave while on annual leave must support their claim by a doctor's statement. When an employee is on "leave without pay" for fifteen (15) days during any calendar month, no sick leave accumulates. An employee shall not accumulate sick time if the employee does not work 30 consecutive regularly scheduled work days.

After employees have exhausted their accrued sick leave, "leave without pay" may be granted at the discretion of the Mayor. Also, employees may be placed on special "leave without pay", or they may be terminated if unable to perform their job or another job with or without a reasonable accommodation. Should employees later be able to return to work, upon presentation of certification by a doctor, they shall be given preference for employment in a

position for which they are qualified, with a recommendation by the department head and the approval of the Mayor.

Sick leave does not accrue while on short term or long term disability.

Employees may not borrow against future sick leave or transfer earned sick leave to another employee. The only allowable transfer would be for the approval of sick bank hours.

## Shared Sick Leave

### **1. Purpose**

City employees accumulate paid time off (sick leave) to be used for absences caused by non-occupational illness or injury. The City realizes that because of serious and prolonged illness, an employee may exhaust all available paid leave and may be placed on leave without pay. Employees forced to go on leave without pay could be without income at a very critical point in their work life. This Shared Sick Leave Policy establishes guidelines as to how fellow employees may voluntarily share some of their sick leave in order to provide assistance to another employee. This policy is not intended to apply to incidental, normal, or short-term conditions.

Unless differently specified in this policy, the use of shared sick leave by employees will comply with all uses, criteria and requirements of the City's Sick Leave Policy.

### **2. Eligibility to Receive Shared Sick Leave**

An employee with twelve (12) months or more of continuous service who has exhausted all paid leave due to a serious illness or injury and has entered a leave-without-pay status for at least forty (40) consecutive regularly scheduled work hours may submit a request to the Human Resources Director for sharing of sick leave. Accompanying the request must be a doctor's statement explaining the nature of the illness or injury and an anticipated return-to-work date, provided this information has not already been received.

Shared sick leave shall not be utilized retroactively except to cover the period between the date the request was submitted to the employee's department head and the date of approval by the City.

### **3. Eligibility to Share Sick Leave**

An employee must maintain a minimum personal sick leave balance of eighty (80) hours after sharing sick leave to be eligible to share. An eligible employee may voluntarily share up to forty (40) sick leave hours in one calendar year.

### **4. Approval of Request for Shared Sick Leave**

Upon receipt of a request for shared sick leave, the Human Resources Director will submit the request to the standing Mayor and Department Head meeting on the following Tuesday. If the request is determined to be valid, the Human Resources Director will send a request to all City employees asking for sick leave sharing. Employees wishing to voluntarily honor the request should contact the Human Resources Director to complete the sick leave sharing process. The City will attempt to protect the confidentiality of the medical condition of the

employee, but the requesting employee's name will be published in the request for shared sick leave.

#### **5. Maximum Allowable Received Shared Sick Leave**

Employees may receive up to six hundred forty (640) shared sick leave hours while in employment service to the City.

#### **6. Use of Shared Sick Leave**

Shared sick leave shall be used:

- a) In the order in which it is shared in eight (8) hour increments; and
- b) On consecutive regularly scheduled work hours.

NOTE: Any paid leave that an employee accrues while using shared sick leave shall be used before shared sick leave.

#### **7. Unused Shared Sick Leave**

When the recipient of shared sick leave returns to work, unused shared sick leave will be restored to the donors in reverse order of donation. Donating employees will be informed by the Human Resources Director of the amount of shared time he/she donated and used by the requesting employee.

#### **8. Conformity with Provisions of the City's Family and Medical Leave Act (FMLA) Policy**

Use of shared sick leave hours by an employee will be treated the same as if the employee was using his/her own accumulated paid leave as it relates to FMLA leave. Just as with other types of paid leave, shared sick leave hours will be used concurrently with leave provided under FMLA.

## **FAMILY AND MEDICAL LEAVE ACT**

### **Purpose**

The Town of Ashland City in compliance with Public Law 103-3, titled Family and Medical Leave Act (FMLA) of 1993. The policy also provides the changes to FMLA that come as part of the National Defense Authorization Act of 2008.

### **Eligibility**

The Family and Medical leave policy is applicable to employees who have worked at least 12 months for the City and who have worked at least 1,250 hours during the preceding 12-month period. Such employees are eligible for a maximum of 12-26 weeks leave under the act. Special rules apply for husbands and wives employed by the same employer, for highly compensated employees, and for local educational agencies. People who are *not* covered include elected officials, political appointees, volunteers, independent contractors, and legal advisors.

### **FMLA Circumstances**

Employees may be eligible for Family and Medical Leave for one or more of the following reasons:

1. For the birth and care of the newborn child of the employee;
2. For placement with the employee of a son or daughter for adoption or foster care;
3. To care for an immediate family member (spouse, dependent child, or parent) with a serious health condition;
4. Medical leave when the employee is unable to work because of a serious health condition.
5. To care for an immediate family member (spouse, child or parent) injured while on active military duty if that injury renders the service member unfit for military duty. Eligible employees can take up to 26 weeks of unpaid leave or may substitute vacation or sick leave.
6. To handle a “qualifying exigency” relating from an employee’s spouse, child or parent being called to active duty through the National Guard. Eligible employees can take up to 12 weeks of unpaid leave for a qualifying exigency or may use vacation leave (not sick leave).

### **Paid / Unpaid Leave**

Family Medical Leave may be paid or unpaid. Family Medical Leave runs concurrently with paid time off (i.e. sick, vacation time). If the employee has the time available, he/she must use all balances of paid time prior to an unpaid leave beginning. If the employee does not have the time available or he/she exhausts paid time while out on FML, the remainder of the approved leave will be unpaid. During periods of unpaid leave, an employee may not accrue any additional leave.

The combination of sick leave, vacation leave, floating holidays, and unpaid leave may not exceed the total allowable leave under FMLA.

### **Guidelines**

An eligible employee may take up to 12 weeks (480 hours) of FML in a 12-month period for the birth of a child or the placement of an adopted or foster care child. Leave may also be taken to care for one’s self, a child, spouse, or parent who has a serious health condition. The right to take leave applies equally to male and female employees who are eligible. Eligible employees may take up to 12 weeks of unpaid leave to deal with family issues resulting from a spouse, son, daughter or parent being called to active duty (including being notified of an impending call to active duty).

Eligible family members of military personnel defined as the spouse, son, daughter, parent or next of kin of a covered service member may take a maximum of 26 weeks leave under FML to care for a wounded member of the armed forces. This includes family members of the National Guard or Reserves who are undergoing medical treatment, recuperation, therapy or other medical treatment for a “serious injury or illness”.

Serious health condition means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. Inpatient care in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment.
2. A period of incapacity of more than three consecutive calendar days that also involves treatment two or more times by a health care provider or treatment which results in a regimen of continuing treatment under the supervision of the health care provider.
3. Any period of incapacity due to pregnancy or for prenatal care.
4. A chronic condition that requires periodic treatments, continues over an extended period of time, and may cause episodic rather than a continuous period of incapacity.
5. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective, requiring continuing supervision of a health care provider.
6. Multiple treatments either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention or treatments, such as cancer, severe arthritis or kidney disease.

Serious Injury or Illness for an Injured Service member is defined as a covered service member's injury or illness incurred in the line of duty on active duty in the Armed Forces that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating. This could include medical treatment, recuperation, therapy, outpatient care and other treatments for a serious injury or illness.

During periods of unpaid leave, an employee may not accrue any additional seniority or similar employment benefits during the leave period.

#### **Spouse / Same Employer**

If spouses are employed by the same employer and eligible to take leave for the birth or adoption of a child, their aggregate leave under FMLA is limited to 12 weeks. For example, if the father takes four weeks leave to care for a child, the mother would be entitled to eight weeks leave, for a total of 12 weeks. If, however, the spouse experiences her own serious health condition as a result of the pregnancy, both employees are entitled to the full 12 weeks.

#### **Right to Return to Work**

On return from FML, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his/her position has been restructured to accommodate the employee's absence.

If the employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. The employer, however, may be required by the Americans with Disabilities Act to offer the employee an accommodation.

#### **Notification and Scheduling**

An eligible employee must provide the employer at least 30 day's advance notice of the need for leave for birth, adoption, or planned medical treatment when it is foreseeable. This 30-day advance notice is not required in cases of medical emergency or other unforeseen events, such as premature birth or sudden changes in a patient's condition that require altering scheduled medical treatment.

Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this 30-day notice.

Employees may not retroactively claim that leave was for FMLA. Failure to provide notification will result in the leave not being designated as FMLA.

The employer will, if necessary, provide the FMLA leave notice in alternate formats.

Until FML is approved, the employee must follow the City's call in procedures for sick leave absences. Failure to do so will cause the absences to fall under the sick leave policy.

### **Certification**

The employer reserves the right to verify an employee's request for family/medical leave. If an employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the employer may require that the request be supported by certification from the health care provider of either the eligible employee or the family member, as appropriate. Failure to submit proper certification may result in a delay of FML approval. If the employer has a reason to question the original certification, the employer may, at the employer's expense, require a second opinion from a different health care provider chosen by the employer. The health care provider may not be employed by the employer on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.

Payment for the second opinion shall be borne by the employer. This certification must contain the date on which the serious health condition began; its probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the family member. Medical certifications will be treated as confidential and privileged information under HIPAA and the State's Open Records laws as appropriate.

An employee may be required to report periodically to the employer the status and the intention of the employee to return to work. Before return is granted, employees who have taken leave under this policy may be required to furnish the employer with a medical certification from the employee's health care provider that the employee is able to resume work.

Failure to provide certification in a timely manner may result in delay or denial of FMLA.

### **Reduced and Intermittent Leave**

FMLA Leave may be taken intermittently or on a reduced schedule when medically necessary as certified by the health care provider. Minimum intermittent leave is one hour. Intermittent or reduced leave schedules for routine care of a new child can be taken only with the employer's approval. The schedule must be mutually agreed upon by the employee and the employer. Employees on intermittent or reduced leave schedules may be temporarily transferred by the employer to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule.

Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but it will not exceed the equivalent of 480 hour's total leave in a 12-month period.

Each time intermittent leave is used, the supervisor must be contacted and FMLA leave requested. Otherwise, the absence will fall under the sick leave policy.

### **Restoration**

Employees who are granted leave under the FMLA policy will be reinstated to an equivalent or the same position held prior to the commencement of their leave. Certain highly compensated key employees, who are salaried and among the 10 percent highest paid workers, may be denied restoration.

Restoration may be denied if:

1. the employer shows that such denial is necessary to prevent substantial and grievous economic injury to the employer's operations;
2. the employer notifies the employee that it intends to deny restoration on such basis at the time the employer determines that such injury would occur; and
3. in any case in that the leave has commenced, the employee elects not to return to work within a reasonable period of time after receiving such notice

Employees voluntarily accepting a light duty assignment in lieu of continuing FMLA leave maintain their right to restoration to the original or an equivalent job until the twelve (12) weeks of FMLA leave has passed.

### **The 12-Month FMLA Period**

The 12-month period during which an employee is entitled to 480 hours of Family and Medical Leave Act (FMLA) leave is a rolling twelve-month period and is measured as follows: An employee is entitled to 12-26 weeks of leave during the 12-month period after the leave begins. The next FML period will begin the first time the employee requests FML after the completion of the previous 12-month period.

### **Denial of FMLA Leave**

If an employee fails to give timely, advance notice when the need for FMLA leave is foreseeable, the employer may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the employer of the need for FMLA leave.

If an employee fails to provide, in a timely manner, a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, an employer may delay continuation of FMLA leave until an employee submits the certificate. If the employer never produces the certification, the leave is not designated as FMLA.

If an employee fails to provide a requested fitness-for-duty certification to return to work, an employer may delay restoration until the employee submits the certification.

### **Employee Benefits While on FMLA**

During periods of FMLA, the City will continue to provide health insurance benefits at the employee rate. If premiums are current, the employer will maintain health insurance benefits during periods of unpaid leave without interruption. Any payment for premiums or other payroll deductible insurance policies must be paid by the employee or the benefits may be terminated.

The employer is obligated to reinstate benefits upon an employee's return to work.

The employer has the right to recover from the employee all health insurance premiums paid during the unpaid leave period if the employee fails to return to work after leave. Employees



who fail to return to work because they are unable to perform the functions of their job because of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from this recapture provision at the local government's discretion.

FMLA Leave under this policy does not constitute a qualifying event that entitles an employee to Consolidated Omnibus Budget Reconstruction Act (COBRA) benefit; however, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work. At that point, the employee ceases to be entitled to leave under this policy and may be offered COBRA.

**Workers' Compensation While on FMLA**

Workers' Compensation injury/illness meets the criteria for a serious health condition; the workers' compensation absence and the FMLA leave entitlement may run concurrently.

**TENNESSEE MATERNITY LEAVE ACT**

Maternity/paternity leave is granted to male and female employees for a maximum of sixteen (16) weeks, with the first twelve (12) weeks of leave falling under the Family Medical Leave Act (FMLA) and the remaining four (4) weeks as maternity/paternity leave. Eligible employees must be employed full-time for at least twelve (12) months (and 1250 hours) to receive maternity/paternity leave.

The employee must provide at least four to six (4-6) weeks advance notice of his/her anticipated date of departure, except in those cases where medical emergency prevents this notice. The employee should state the length of his/her requested leave and detail the intention to return to fulltime employment after the leave.

Employees will be required to use accrued leave (vacation, sick, comp) during maternity/paternity leave. Accrued leave and maternity/paternity leave are used at the same time—employees do not take accrued leave first and then take maternity/paternity leave. The purpose of this leave is to provide time off for pregnancy, childbirth, nursing, and/or bonding with the infant. If the City finds that the employee pursued other employment opportunities or worked part-time or full-time for another employer during the period of maternity/paternity leave, then the City does not have to reinstate the employee at the end of the leave period.

These four months includes the 12-weeks allowable under FMLA.

<u>Leave Position</u>	<u>Maximum Time Allowed</u>
FMLA	<i>12 weeks</i>
TN Maternity Act	<i>4 weeks</i>
<b>TOTAL</b>	<b><i>16 weeks</i></b>

An employee, upon exhausting all earned sick leave, must use earned annual vacation leave, comp time or take leave without pay. Upon exhausting all sick leave and annual/vacation leave, an employee can request time from the sick bank. Sick bank is the accumulated leave of city employees. Upon sick bank board (department heads) approval time can be given to an individual up to 90 days. (See Human Resources Director for sick bank procedures.) Only the governing body, by a majority vote in a regular meeting, may make exceptions to leave policy due to unusual and/or extenuating circumstances.

The Town of Ashland City will follow the guidelines set out by the Family and Medical Leave Act of 1993. If an employee meets the eligibility requirements of FMLA, the employee will be provided the required notices and form letters. City Recorder along with Mayor will make determination of approval.

Upon receiving long term disability, the employee will update medical documentation as to their continued disability.

**RETIREMENT-** An employee who retires under the city retirement plan shall have all unused sick leave credited as additional time worked when calculating the employee's retirement benefits.

**Retiree Health Coverage**

A retiree who reaches 59 1/2 with 25 years or more of service, the city shall pay 25% of the cost of the employee coverage for the employer provided health insurance. All dependent coverage will be the retiree's responsibility. At age 65, all employer provided health insurance benefits will cease.

**BEREAVEMENT LEAVE**

Regular full-time and regular part-time employees shall be allowed three (3) days, twenty-four (24) hours pay for full-time and twelve (12) hours for part time employees, leave with pay for the death of an employee's spouse, parents, child, stepchild, grandchild, grandparents, siblings, stepparents, foster parents, or parents-in-law. An extra day may be allowed when out of state travel is required, as approved by the employee's department head and supervisor or the mayor. Any employee who wishes to take time off for death of family or friends not defined within this section will be allowed to take any accumulated paid time off, as defined as compensatory time, vacation time, or sick leave, for a period not to exceed three (3) days. In the event the employee does not have enough paid time off employees may seek approval from the mayor for temporary "leave without pay."

**CIVIL LEAVE**

Civil leave with pay may be granted to employees for the following reasons:

1. Serve on jury duty. In the event of release from jury duty during work hours, employees are expected to return to work.
2. Answer a subpoena to testify for the city. Employees may use any available vacation leave for court appearances for non-city purposes.
3. Perform emergency duty for National Defense.

## MILITARY RESERVE DUTY LEAVE

Any employee who has successfully completed the probationary period, and who is a member, or may become a member of any reserve component of the armed forces of the United States or of the Tennessee Army and Air National Guard, will be entitled to a leave of absence from their respective duties for periods of military service during which they are engaged in the performance of duty or training in the service of this state, or of the United States, under competent orders. While on such leave, the employee will be granted paid leave up to twenty (20) days in any one (1) calendar year. Qualified employees who seek paid leave under this policy must provide the official order calling for their service or training to their supervisor. It is the responsibility of the employee to make arrangements with their department head for leave to attend monthly meetings on regular off-time, with the expectation that the paid leave granted herein will be applied to the annual training periods required for reservists.

Any employee who has successfully completed their probationary period and who is a member in the armed forces of the United States who is called to active duty will be placed on military leave. Such employee must present their supervisor or department head with advance notice of their active duty orders. The employee's seniority, status and pay will remain unchanged during their time of military leave. Continued health insurance coverage will be offered up to 18 months, with the employee paying premiums due for such policy. An employee wishing to continue health insurance coverage during their military leave shall provide a mailing address where notices of premium payments due may be sent. The returning employee will be re-employed in the position they would have attained had they not been absent for military service, with the same seniority, status and pay.

Any regular employee who is a member of the United States Army Reserve, Air Force Reserve, Marine Reserve or any of the Armed Forces of the United States, will be granted military leave for any field training or active duty required (excluding extended active duty). Such leave will be granted upon presentation of the employee's official order to his/her jurisdictional official. Compensation for such leave will be paid pursuant to Section T.C.A. 8-33-109 and shall not exceed twenty (20) working days per calendar year. After the 20 working days the employee may use up to five (5) days of sick leave in lieu of annual leave for the purposes of not having to take leave without pay. The employee may take more than the allotted time in which he has acquired leave but it will be without pay. Employees entering an extended active duty will be given two week's pay when placed on military leave. All sick and vacation benefits will continue to accrue.

## VOTING

When elections are held in the State, leave for the purpose of voting shall be in accordance with T.C.A. 2-1-106 herein reprinted:

**“EMPLOYERS MAY DESIGNATE PERIOD OF PERMISSIBLE ABSENTEEISM.**

Any person entitled to vote in an election held in this state may be absent from any service

or employment on the day of the election for a reasonable period of time, not to exceed three (3) hours, necessary to vote during the time the polls are open in the county where he/she is a resident. A voter who is absent from work to vote in compliance with this section may not be subjected to any penalty or reduction in pay for his absence. If the tour of duty of an employee begins three (3) or more hours after the opening of the polls or ends three (3) or more hours before the closing of the polls of the county where he/she is a resident, he/she may not take time off under this section. The employer may specify the hours during which the employee may be absent. Request for such an absence shall be made to the employer before twelve noon of the day before the election.”

## DEATH OF AN EMPLOYEE

Upon the death of a full-time employee, his/her beneficiary shall receive his/her next due payroll check and pay for accrued vacation time. Further, his/her beneficiary shall be given complete assistance by the City Clerk/Recorder in settling pension, life, and hospital insurance benefits.

## JURY SERVICE LEAVE

When an employee receives a summons to report for jury duty, the employee is required to provide a copy of the summons to his/her immediate supervisor within 2 business days of receiving the summons. Upon presentation of the summons, the employee will be excused from employment for the day or days required of the employee while serving as a juror in any court of the United States or the state of Tennessee. The employee is expected to report for work for any time they are excused from active jury duty.

Upon release from jury duty during the employee’s normal working hours, he/she will be expected to return to duty. Employees will receive full pay during jury service. The City will pay the employee such employee’s usual compensation and the employee will sign over the check issued from the jury duty service to the City.

This policy also applies to employees who are summoned by the Court by subpoena as a witness in a legal proceeding.

## INCLEMENT WEATHER POLICY

Per resolution 2016-03, Employees who are required to work when City offices have been otherwise closed shall be granted compensatory time for hours actually worked during the period of closing up to their regularly scheduled hours for the workday. Hours worked in excess of regularly scheduled hours are compensated as overtime based on each employee’s status under the Fair Labor Standards Act. Part-time employees are paid for hours worked and are not eligible for discretionary leave with pay or compensatory time. Employees on previously approved leave during the effected period must continue to charge the appropriate leave and will not be eligible for discretionary leave under this policy.

## SECTION V – BENEFITS

The City recognizes that employee benefits are a critical component in career decisions. The City intends to provide a comprehensive benefits package that remains affordable and value based.

The plan document for each plan is available upon request.

### **Eligibility**

Employees are eligible for benefits when employees work a minimum of 32 hours per week. These benefits may include: medical coverage, dental coverage, and vision benefit options. If employees' hours drop below 32 hours per week on a regular basis, employees will lose eligibility for health insurance. If this occurs, the employee and all covered dependents will be offered COBRA.

Employees are responsible to list only dependents that are eligible for coverage as defined by the plan rules. If a covered dependent becomes ineligible based on the plan rules, it is the employee's responsibility to notify Human Resources immediately. Employees must notify Human Resources of any changes in status within 30 days of the status change. This includes: dependent status change, address changes, divorce, marriage, birth, adoption, reduction in work hours, or any other change that could affect benefit plan eligibility.

### **Benefit Effective Dates**

Medical, dental and vision insurance will be effective the 1st day of the month following 30 days of continuous full-time employment.

## Health Coverage

Eligible employees must enroll for coverage within 30 days of employment or a qualifying event. Temporary employee and part-time employees are **not** eligible for medical coverage.

The city pays the full premium for eligible employees only, and 10% of the premium cost for spouse, children and families.

### **Annual Enrollment / Transfer Period**

Health plans, benefit designs, eligibility rules, and premiums are subject to change each plan year based on the previous year's claims experience. Pre-taxed deductions can only be changed with a qualifying event during the plan year or at annual open enrollment.

### **Contribution**

The City may elect to contribute toward the cost of health benefits. The City's contributions, if any, are subject to change.

### **Qualifying Events**

Employees are responsible to notify the City if they experience any significant life event such as birth, marriage, divorce, legal separation, adoption, legal placement of a child, change of address, reduction in employee's regularly scheduled work hours, or a dependent change in status (i.e., school status). Some events will allow changes to benefits including adding or dropping dependents or terminating / adding coverage. Employees should notify the City within 30 days of experiencing a qualifying event or may be required to wait until the following open enrollment to make any changes.

Documentation must be provided such as a marriage certificate, birth certificate, divorce decree, court order, etc.

**Retiree Health Coverage**

A retiree who reaches 59 1/2 with 25 years or more of service, the city shall pay 25% of the cost of the employee coverage for the employer provided health insurance. All dependent coverage will be the retiree’s responsibility. At age 65, all employer provided health insurance benefits will cease.

**COBRA – CONTINUATION COVERAGE**

Under the federally mandated Consolidated Omnibus Budget Reconciliation Act, the City offers employees and their families the opportunity to temporarily extend their health insurance coverage in certain instances in which coverage under the group health plan would normally end.

Some examples of triggering events could be: reduction in employee’s hours resulting in loss of eligibility, termination of employment (voluntary or involuntary), dependent eligibility changes (age/student status), divorce, and legal separation.

Employees covered under the City plan have a right to continue coverage if they lose it through reduction in regular work hours or employment termination for reasons other than gross misconduct.

A spouse of a covered employee also has a right to continue coverage if coverage would be lost because the employee dies, employment is terminated, the employee and spouse become divorced or legally separated, or the employee becomes eligible for Medicare benefits.

Dependent children may also continue coverage if the employee dies, employment is terminated, the parents become divorced or legally separated, the employee becomes eligible for Medicare, or the child ceases to be a “dependent child” under the terms of the plan.

If termination or reduction in hours is the qualifying event that triggers lost coverage, continuation coverage can be in effect for 18 months. All other qualifying events will trigger continuation coverage that lasts up to 36 months. Coverage will end before 18 or 36 months, however, if certain other events take place (i.e. if the employee becomes eligible for coverage under another group health plan).

Employees and family members have the responsibility to inform the plan administrator about any change in status. Failure to do so may terminate rights to elect continued coverage. Those eligible for continuation coverage have 60 days from the date they would normally lose coverage to elect to continue under the plan.

**Premium Payments**

Failure to make timely premium payments may result in termination of coverage.

**LIFE INSURANCE**

The City provides Term Life Insurance with Accidental Death & Dismemberment to employees. The face value of the policy is \$15,000.

Additional life insurance is available for employees and dependents, the cost of which is born by the employee.

## WORKERS' COMPENSATION

**Compensation.** Employees on occupational disability will only be compensated in accordance with the provisions for the Tennessee Worker's Compensation Law (T.C.A. 50-6-101 through 50-6-623). No compensation shall be paid for the first seven (7) days of disability resulting from the injury, excluding the day of injury. However, if disability extends beyond that period, compensation shall commence with the eighth (8th) day after the injury. In the event, however, the disability from the injury exists for a period as long as fourteen (14) days, then compensation shall be allowed beginning with the first day after the injury. The rate of compensation through worker's compensation is 66 2/3 percent of the employee's average weekly wages.

Vacation and sick leave will continue to accrue while on worker's compensation leave.

Employees may choose to use sick and/or vacation time in order to be paid for the unpaid time under worker's compensation (up to the first seven (7) days).

Employees must report the work-related accident to the immediate supervisor during the shift in which they occur. Failure to do so may result in benefits being denied.

Worker's compensation leave will be denied if the post-incident Alcohol/Drug test is failed.

The employee is responsible for the employee's portion of insurance premiums while out on workers' compensation leave if deductions cannot be made from a paycheck.

**Return to Maximum Medical Improvement.** Upon reaching Maximum Medical Improvement (MMI), the employee's medical condition shall be assessed as to the permanent medical restrictions and their ability to perform the duties of their normal work assignment.

If the injured employee cannot return to their regular position, the Human Resources

Department in conjunction with the department head shall attempt to find employment within the employee's department or within another department. Reasonable accommodation will be provided to qualified disabled individuals unless the accommodation would pose an "undue hardship" or is impractical due to the position the employee held at the time of the injury.

Such attempts are not a guarantee that a position will be offered or that future employment is assured.

## UNEMPLOYMENT COMPENSATION

The state of Tennessee offers unemployment benefits through the Employment Security Division. Unemployment insurance benefits provide income to individuals who have lost work through no fault of their own. The benefits are intended to partially offset the loss of wages while an unemployed worker searches for suitable work, or until his employer can recall him/her to work.

## TENNESSEE CONSOLIDATED RETIREMENT SYSTEM (TCRS)

The City contributes to the Tennessee Consolidate Retirement System for all qualified full-time employees. Employees are vested after five (5) years of service. The plan document issued by TCRS controls specific employee eligibility and benefits. For more information, contact TCRS at 615-741-1971 or [www.treasury.tn.gov/tcrs](http://www.treasury.tn.gov/tcrs).

## OTHER BENEFITS

### Employee Assistance Program

The City provides an Employee Assistance Program at no direct expense to employees. The Town of Ashland City's EAP Program is operated by outside consultants and available free of charge to employees and family members living in the immediate household.

The EAP is a confidential service guaranteed by state and federal laws as well as professional licensing regulations. Confidentiality will be maintained regarding all contacts to the extent allowed by law. Appointments are kept confidential and information is not included in personnel records nor revealed to supervisors, coworkers, family or friends. Should an employee be referred to the EAP by a supervisor, the EAP can only confirm for the supervisor, upon their request, if the contact was made and the dates on which meetings took place. No other information will be released to the supervisor without the consent of the employee or a legal requirement to do so. Specific information is released only when the employee has signed specific written consent, the law requires it, or there is concern for client safety or the safety of others. Employees can contact their supervisors or the Human Resources Manager for more information.

#### **Deferred Compensation Plan**

Voluntary contributions can be made by the employee at a pre-taxed rate.

#### **Long Term Disability Benefits**

Premiums for long term disability insurance are paid by the City. There is a 6-month exclusionary period.

## **SECTION VI CODE OF ETHICS**

This Title is the Code of Ethics for personnel of the Town of Ashland City. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities.

#### **Definition of "Personal Interest"**

(1) For purposes of this Title, "personal interest" means:

- a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
- b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
- c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren); or
- d) Any such financial, ownership, or employment interest of the official's or employee's spouse's parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

The words "employment interest" include:

- (a) Any job, occupation, consultation, or other position for which the employee or official is compensated, whether by a third party/entity or in a self-employed capacity, other than the Town of Ashland City; and



- (b) Any situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of a vote of any Town of Ashland City board, committee, or commission, or that is to be regulated or supervised by the Town of Ashland City.

In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter.

#### Disclosure of Personal Interest by Official with Vote

An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself/herself from voting on the measure.

#### Disclosure of Personal Interest in Non-Voting Matters

An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that it affects, or that would lead a reasonable person to infer that it affects, the exercise of the discretion, or is in a reasonably apparent position of influence over such matter, shall disclose, before the exercise of the discretion or influence, when possible, the interest on a form provided by and filed with the Recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter.

#### Acceptance of Gratuities

An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality over the amount of \$50.00:

- (1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or
- (2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business.

#### Use of Information

- (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.
- (2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity.

#### Use of Municipal Time or Facilities

- (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself or herself. An official or employee may use a facility of the Town of Ashland City for his or her own personal use only upon express permission by the Mayor.
- (2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality.

#### Use of Position or Authority

- (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.
- (2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for him/her or others that are not authorized by the charter, general law, or ordinance or policy of the municipality.

#### Outside Employment or Other Position of Financial Interest

- (1) Outside employment, or other position of financial interest, shall be defined as any job, occupation, consultation, or other position for which the employee is compensated, whether by a third party/entity or in a self-employed capacity, other than the Town of Ashland City.
- (2) All positions of outside employment, or other position of financial interest, must be submitted on the Outside Employment form provided by the city and approved on an annual basis by the employee's respective department head prior to the acceptance, or continuance, of such outside employment, or other position of financial interest.
- (3) No employee of the Town of Ashland City shall be permitted to continue in, commence, or accept any position of outside employment, or other position of financial interest, if such outside employment, or other position of financial interest:
  - a. Will unreasonably inhibit the performance of any affirmative duty of the city position or conflict with any provision of the city's charter or any ordinance or policy;
  - b. Is likely to interfere with the employee's satisfactory performance of his or her duties and responsibilities; or
  - c. Is incompatible with city employment in any way, including the appearance of any conflict of interest or impropriety.

#### Ethics Complaints

- (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, they city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.
- (2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his

own initiative when he acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(b)The city attorney may request that the governing body hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(c)When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants a further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.

- (3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.
- (4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation, or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics.

Any complaint filed with malice or under false statements of fact or, in an obvious attempt to embarrass, shall be the subject of proper sanctions or disciplinary action. However, any city employee shall be able to file a valid complaint without fear of retaliation. Any supervisor, or any other employee, who harasses or retaliates against an employee filing a complaint shall be subject to disciplinary action, including dismissal.

- (1) The interpretation that a reasonable person in the same circumstances would apply shall be used in interpreting and enforcing this code of ethics.
- (2) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics.

### Violations

An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action.

### Appearance of Impropriety

At all times, every Town of Ashland City employee or official, whether elected or appointed, shall conduct himself or herself in a manner so as to avoid even the appearance of any impropriety.

## SECTION VII – NARCOTICS AND INTOXICATING LIQUORS

### PURPOSE

The Town of Ashland City recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the Town of Ashland City to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the Town of Ashland City are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the Town of Ashland City has adopted this drug and alcohol testing policy effective February 13, 1996. This policy complies with the: Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol- and drug-free environment and to work with persons free from the effects of alcohol and drugs. Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests that may be required are: pre-employment, transfer, reasonable suspicion, post-accident (post-incident), random, return-to-duty, and follow-up.

It is the policy of the Town of Ashland City that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to termination of employment. Prohibited and/or illegal conduct includes but is not limited to:

1. Being on duty or performing work in or on city property while under the influence of drugs and/or alcohol;
2. Engaging in the manufacture, sale, distribution, use, or unauthorized possession of drugs at any time and of alcohol while on duty or while in or on city property;
3. Refusing or failing a drug and/or alcohol test administered under this policy;
4. Providing an adulterated, altered, or substituted specimen for testing;
5. Use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and
6. Use of alcohol or drugs within eight hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely

and efficiently perform his/her duties. It is the employee's responsibility to inform the proper supervisory personnel of his/her use of any legally prescribed medication THAT IS LISTED UNDER Section F before the employee goes on duty or performs any work. The use of legally prescribed medication will be reviewed by the Dept. Head and Mayor on a case by case basis. before the employee goes on duty or performs any work.

In order to educate the employees about the dangers of drug and/or alcohol abuse, the city shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work, and personal life; the city's policy regarding drugs and/or alcohol; and the availability of counseling. The Mayor has been designated as the municipal official responsible for answering questions regarding this policy and its implementation.

All Town of Ashland City property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property. Property includes, but is not limited to, vehicles, desks, containers, files, and lockers.

## SCOPE

Certain aspects of this policy may apply to all full-time, part-time, temporary, and volunteer employees, of the Town of Ashland City. The pre-employment drug testing requirements of this policy apply to all applicants including positions requiring CDL and safety sensitive employees, who have been given a conditional offer of employment from the Town of Ashland City.

## CONSENT FORM

Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, medical review officer (MRO), and Mayor, or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug and alcohol testing policy.

The consent form shall set forth the following information:

1. The procedure for confirming and verifying an initial positive test result;
2. The consequences of a verified positive test result; and
3. The consequences of refusing to undergo a drug and/or alcohol test.

The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system.

## COMPLIANCE WITH SUBSTANCE ABUSE POLICY

Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or

other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for termination.

## GENERAL RULES

These are the general rules governing the Town of Ashland City's drug and alcohol testing program:

1. City employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician. Employees who are required to take prescription and/or over-the-counter medications shall notify the proper supervisory personnel before the employees go on duty.
2. City employees are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on city property.
3. All Town of Ashland City property is subject to inspection at any time without notice. There should be no expectation of privacy in or on such property. City property includes, but is not limited to, vehicles, desks, containers, files, and lockers.
4. Any employee convicted of violating a criminal drug statute shall inform the director of his/her department of such conviction (including pleas of guilty and nolo contendere) within five (5) days of the conviction occurring. Failure to so inform the city subjects the employee to disciplinary action up to and including termination for the first offense. The city will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act.

## PROHIBITED SUBSTANCES

All test results will be reported to the medical review officer (MRO). If verified by the MRO, they will be reported to the Mayor. The following is a list of substances for which tests will be routinely conducted (see Appendix A for cutoff levels):

1. Amphetamines
2. Marijuana
3. Cocaine
4. Opiates
5. Phencyclidine (PCP)

The city may test for additional substances listed under the Tennessee Drug Control Act of 1989.

## DRUG TESTING

An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test.

### **1. Types of Drug Tests**

Employees and applicants may be required to submit to drug testing under six separate conditions:

- a. **Pre-employment:** All applicants for employee status who have received a conditional offer of employment with the Town of Ashland City, must take a drug test before receiving a final offer of employment.
- b. **Transfer:** Employees transferring to another position within the city that requires a CDL or safety sensitive position, excluding volunteer firefighters, shall undergo drug testing.
- c. **Post-Accident/Post-Incident Testing:** Following any workplace accident (incident) determined by supervisory personnel of the Town of Ashland City to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring immediate medical treatment away from the scene, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible drug use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) drug test. This applies to all Town of Ashland City employees.

Post-accident (post-incident) testing shall be carried out within 32 hours following the accident (incident). (Note – DOT regulations allow up to 32 hours for drug tests. A lesser time provision is optional.) Urine collection for post-accident (post-incident) testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident (post-incident) testing is to be performed, the Town of Ashland City reserves the right to direct the medical review officer (MRO) to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cut-off level that is normally used for those specific substances by the laboratory selected.

(1) Post-Accident (Post-Incident) Testing for Ambulatory Employees

Following all workplace accidents (incidents) where drug testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisory or designated personnel of the Town of Ashland City to the designated urine specimen collection site within 32 hours following the accident. (Note-DOT regulations allow up to 32 hours for drug tests. A lesser time provision is optional.) In the event an accident (incident) occurring after regular work hours, the employee(s) will be taken to the testing site within 32 hours. No employee shall consume drugs prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the Town of Ashland City and shall result in administrative action up to and including termination of employment.

(2) Post-Accident (Post-Incident) Testing for Injured Employees

An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the Town of Ashland City appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the Town of Ashland City or upon hiring following the implementation date.

Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously-injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within 32 hours must be fully documented by the attending medical personnel.

d. **Testing Based on Reasonable Suspicion**

A drug test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol. This applies to all employees of the Town of Ashland City.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used drugs. This belief should be based on recent, physical, behavioral, or performance indicators of possible drug use. One supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the Town of Ashland City making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the Mayor within 24 hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

e. **Random Testing**

Only employees of the Town of Ashland City requiring a CDL or who are safety sensitive employees, excluding volunteer firefighters, are subject to random urine drug testing. In accordance with Federal law, it is the policy of the Town of Ashland City to annually random test for drugs at least 50 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.



Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work related causes, etc.) to produce a specimen on the date random testing occurs, the Town of Ashland City may omit that employee from that random testing or await the employee's return to work.

**f. Return-to-Duty and Follow-Up**

Any employee of the Town of Ashland City who has violated the prohibited drug conduct standards and is allowed to return to work must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee in a position requiring a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

**2. Drug Test Collection Procedures**

Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of the Town of Ashland City to a drug test collection facility selected by the city (see Appendix B), where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the Town of Ashland City to perform the analysis on collected urine samples.

**3. Drug Test Laboratory Standards and Procedures**

All collected urine samples will be sent to a laboratory that is certified and monitored by the Federal Department of Health and Human Services (DHHS) (see Appendix C). As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the testing site within 32 hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has 72 hours to request sending the split specimen to another Federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and MRO will notify the Mayor.

#### **4. Drug Test Reporting and Reviewing**

The city Mayor shall designate a medical review officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders (see Appendix D).

- a. The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the Town of Ashland City.
- b. Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.
- c. The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the Mayor, and the employee.
- d. Neither the Town of Ashland City, the laboratory, nor the MRO shall disclose any drug test results to any other person excepted under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the city attorney.

## **ALCOHOL TESTING**

An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test.

### **1. Types of Alcohol Tests**

Employees may be required to submit to alcohol testing under four separate conditions.

#### **a. Post-Accident/Post-Incident Testing**

Following any workplace accident (incident) determined by supervisory personnel of the Town of Ashland City to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring immediate medical treatment away from the scene, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible alcohol use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) alcohol test. This applies to all employees of the Town of Ashland City.

Post-accident (post-incident) testing shall be carried out within two hours following the accident (incident).

#### **(1.) Post-Accident (Post-Incident) Testing for Ambulatory Employees**

Following all workplace accidents (incidents) where alcohol testing is to be performed, unless otherwise specified by the department head, affected employees

who are ambulatory will be taken by a supervisor or designated personnel of the Town of Ashland City to the designated breath alcohol test site for a breath alcohol test within two (2) hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the testing site within two hours. No employee shall consume alcohol prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the Town of Ashland City and shall result in administrative action up to and including termination of employment.

**(2.) Post-Accident (Post-Incident) Testing for Injured Employees**

An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the Town of Ashland City appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the Town of Ashland City or upon hiring following the implementation date.

Post-accident (post-incident) breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if alcohol was present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within two (2) hours must be fully documented by the attending medical personnel.

**b. Testing Based on Reasonable Suspicion**

An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol. This applies to all employees of the Town of Ashland City.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol use. One supervisor who has received alcohol detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the Town of Ashland City making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the Mayor within eight (8) hours of the decision to test and before the results of the tests are received by the city.

**c. Random Testing**

Only employees of the Town of Ashland City in positions requiring a CDL or who are safety sensitive employees, excluding volunteer firefighters, are subject to random alcohol testing. It is the policy of the Town of Ashland City to annually random test for alcohol at least 25 percent of the total number of drivers required to possess a CDL.

A minimum of fifteen (15) minutes and a maximum of two (2) hours will be allowed between notification of an employee’s selection for random alcohol testing and the actual presentation for testing.

Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work related causes, etc.) to be tested on the date random testing occurs, the Town of Ashland City may omit that employee from that random testing or await the employee’s return to work.

**d. Return-to-Duty and Follow-Up**

Any employee of the Town of Ashland City who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test. Follow-up test will be unannounced and at least six (6) tests will be conducted in the first twelve (12) months after an employee returns to duty. Testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee required to possess a CDL returning from leave or special assignment in excess of six (6) months. In this situation, the employee will not be required to pay for the testing.

**2. Alcohol Testing Procedures**

All breath alcohol testing conducted for the Town of Ashland City shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA). The city’s police department cannot do this testing unless the test is required because of a traffic accident (incident).

Alcohol testing is to be performed by a qualified technician as follows:

a. Step One:

An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent breath alcohol level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

b. Step Two:

Fifteen minutes shall be allowed to pass following the completion of Step One above. Before the confirmation test or Step Two is administered for each employee, the breath alcohol technician shall insure that the evidential breath testing device registers 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician shall conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then Step One shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step Two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of the Town of Ashland City up to and including termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of 24 hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of up to 0.02 percent before returning to duty with the Town of Ashland City.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the Town of Ashland City, when possible.

The completed breath alcohol test form shall be submitted to the Mayor.

## EDUCATION AND TRAINING

### **1. Supervisory Personnel Who Will Determine Reasonable Suspicion Testing**

Training supervisory personnel who will determine whether an employee must be tested based on reasonable cause will include at the minimum two (2) 60-minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One 60-minute period will be for drugs and one will be for alcohol.

The Town of Ashland City will sponsor a drug-free awareness program for all employees.

### **2. Distribution of Information**

The minimal distribution of information for all employees will include the display and distribution of:

- a. Informational material on the signs and symptoms of drug and/or alcohol abuse;
- b. Informational material on the effects of drug and alcohol abuse;
- c. An existing community services hotline number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;

- d. The Town of Ashland City policy regarding the use of prohibited drugs and/or alcohol; and
- e. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

#### CONSEQUENCES OF A CONFIRMED POSITIVE DRUG AND/OR ALCOHOL TEST RESULT AND/OR VERIFIED POSITIVE DRUG AND/OR ALCOHOL TEST RESULT

Job applicants subject to pre-employment drug testing will be denied employment with the Town of Ashland City if their initial positive pre-employment drug test results have been confirmed/verified.

If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and referral to the Substance Abuse Professional. The employee may be subject to disciplinary action up to and including termination. Factors to be considered in determining the appropriate disciplinary response include: the employee's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions. However, the city reserves the right to allow employees to participate in an education and/or treatment program approved by the Town Employee Assistance Program as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.

No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through the city's employee physician or breath alcohol technician who shall provide a written statement to the city indicating a refusal to test.

#### VOLUNTARY DISCLOSURE OF DRUG AND/OR ALCOHOL USE

In the event that an employee of the Town of Ashland City is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head in private.

Such voluntary desire for help with a substance abuse problem will be honored by the Town of Ashland City. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment.

Affected employees of the Town of Ashland City are entitled to up to 30 consecutive calendar days for initial substance abuse treatment as follows:

1. The employee must use all vacation, sick, and compensatory time available.
2. In the event accumulated vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of 30 consecutive calendar days, the employee will be provided paid leave for the difference between the

amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum 30-day treatment period.

Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the substance abuse professional (SAP) of the Town of Ashland City. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The Mayor of the Town of Ashland City will consider each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the Town of Ashland City. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy.

## EXCEPTIONS

This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoxilyzer demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use, or provision of alcohol.

## MODIFICATION OF POLICY

This statement of policy may be revised by the Town of Ashland City at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy of the Town of Ashland City.

## DEFINITIONS

For purposes of the drug and alcohol testing policy, the following definitions are adopted:

**Alcohol** – The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

**Alcohol Concentration** – The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

**Alcohol Use** – The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

**Breath Alcohol Technician (BAT)** – An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

**Chain of Custody** – The method of tracking each urine specimen to maintain control from initial collection to final disposition for such samples and accountability at each stage of handling, testing, storing, and reporting.

**Collection Site** – A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen that will be analyzed for the presence of alcohol and/or drugs. Collection site may also include a place for the administration of a breath analysis test.

**Collection Site Personnel** – A person who instructs donors at the collection site.

**Commercial Driver’s License (CDL)** – A motor vehicle driver’s license required to operate a commercial motor vehicle (CMV).

**Commercial Motor Vehicle (CMB)** – Any vehicle or combination of vehicles meeting the following criteria: weighing more than 26,000 pounds; designed to transport more than 15 passengers; transporting hazardous materials required by law to be placarded, regardless of weight; and/or classified as a school bus.

**Confirmation Test** – A drug testing, a second analytical procedure that is independent of the initial test to identify the presence of a specific drug or metabolite that uses a different chemical principle from that of the initial test to ensure reliability and accuracy. In breath alcohol testing, a second test following an initial test with a result of 0.02 or greater than provided quantitative data of alcohol concentration.

**Confirmed Positive Result** – The presence of an illicit substance in the pure form or its metabolites at or above the cutoff level specified by the National Institute of Drug Abuse identified in two consecutive tests that utilize different test methods and that was not determined by the appropriate medical, scientific, professional testing, or forensic authority to have been caused by an alternate medical explanation or technically insufficient data. An EBT result equal to or greater than 0.02 is considered a positive result.

**Consortium** – An entity, including a group or association of employers or contractors, which provides alcohol or controlled substances testing as required by this part or other DOT alcohol or drug testing rules and that acts on behalf of the employers.

**Department Director** – The director or chief of a city department or his/her designee. The designee may be an individual who acts on behalf of the director to implement and administer these procedures.



**DHHS** – The Federal Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

**DOT Agency** – An agency of the United States Department of Transportation administering regulations related to alcohol and/or drug testing. For the Town of Ashland City, the Federal Highway Administration (FHWA) is the DOT agency.

**Driver** – Any person who operates a commercial motor vehicle.

**EAP** – Employee Assistance Program.

**Employee** – An individual currently employed by the Town of Ashland City.

**Evidential Breath Testing Device (EBT)** – An instrument approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA’s “Conforming Products List of Evidential Breath Measurement Devices.”

**FHWA** – Federal Highway Administration.

**Initial Test** – In drug testing, an immunoassay test to eliminate negative urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

**Medical Review Officer (MRO)** – A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer’s drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test result together with his/her medical history and any other relevant biomedical information.

**Negative Result** – The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial test or confirmation test.

**NHTSA** – National Highway and Traffic Safety Administration.

**Refuse to Submit** – Refusing to submit to an alcohol or controlled substances test means that a driver: (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part; (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or (3) engages in conduct that clearly obstructs the testing process.

**Safety-Sensitive Drivers** – Employees in the aviation, motor carrier, railroad, and mass transit industries.

**Safety Sensitive Police and Fire Employees** – Includes all police officers, firefighters, and dispatchers, excluding volunteer firefighters.

**Split Specimen** – Urine drug test sample will be divided into two parts. One part will be tested initially, the other will remain sealed in case a retest is required or requested.

**Substance Abuse Professional** – A licensed physician (medical doctor or doctor of osteopathy), or a licensed/certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

**Safety-Sensitive Employees** – Any employee of the Town of Ashland City that drives any city vehicle, truck or equipment or works with chemicals and machinery.

**A. 1994 DRUG AND ALCOHOL TEST STANDARDS**

<u>Drug</u>	<u>Cutoff Level Screen (ng/ml)</u>	<u>Cutoff Level Confirmation (ng/ml)</u>
Amphetamine (speed)	1000.00	
Amphetamine		500.00
Methamphetamine		500.00
Cannabinoid (marijuana)	50.00	15.00
Cocaine (benzoylecgonine)	300.00	150.00
Opiate	300.00	
Codeine		300.00
Morphine		300.00
Phencyclidine (PCP)	25.00	25.00
Alcohol	.04 percent BAL	.04 percent BAL

(Note – Additional substances listed under the Tennessee Drug Control Act of 1989 may be tested at the cutoff level customarily used by the selected laboratory. Cutoff levels are subject to change as DOT rules change.)

**B. DESIGNATED DRUG TESTING COLLECTION FACILITY**

Workforce Essentials  
202 N. Main St., Unit #4  
Ashland City, TN 37015  
615-792-2520  
Emergency Phone 1-800-905-3123 (Pager)

**C. DESIGNATED DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS)  
CERTIFIED LABORATORY**

EMPLOYEE ACKNOWLEDGEMENT FORM

**Town of Ashland City  
Employee Acknowledgement**

As an applicant or an employee, I have carefully read the Town of Ashland City Drug and Alcohol Testing Policy. I have received a copy of the Town of Ashland City Drug and Alcohol Testing Policy, understand its requirements and agree without reservation to follow this policy. As an applicant, I am aware that my offer of employment is conditional upon the results of a drug and/or alcohol test. As an employee, I am aware that I may be required to undergo drug and/or alcohol tests, that I will be informed prior to the drug and/or alcohol test, and that I may be subject to immediate dismissal if I refuse to take the test.

\_\_\_\_\_  
Name of Applicant or Employee

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Department

\_\_\_\_\_  
Supervisor

\_\_\_\_\_  
(Signature of Applicant or Employee)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Signature of Witness)

\_\_\_\_\_  
Date

CONSENT AND ACKNOWLEDGEMENT FORM

**Town of Ashland City**  
**DRUG/ALCOHOL TESTING PROCEDURES**  
**CONSENT AND ACKNOWLEDGEMENT FORM**

As an applicant or an employee with the Town of Ashland City, I hereby consent to and acknowledge that I am scheduled to undergo drug and/or alcohol testing. The test for alcohol will be a breath analysis test. The drug test will involve an analysis of a urine sample, which I will provide at a designated site. The purpose of the test will be to test for the presence of the following substances: amphetamines, marijuana, cocaine, opiates, PCP, alcohol, and/or any additional drugs listed in the Tennessee Drug Control Act.

I authorize qualified personnel to take and have analyzed appropriate specimens to determine if drugs and/or alcohol are present in my system. I acknowledge that the drug/alcohol screen test results will be made available to the testing laboratory, medical review officer (MRO), the Mayor, or his/her designee.

As an applicant, I am aware that a confirmed and verified positive drug/alcohol test result will rescind my conditional offer of employment. As an employee, I am aware that a confirmed and verified positive test result may lead to disciplinary action up to and including immediate dismissal. I understand that failure or refusal to submit to any test or any procedure under the City’s Drug and Alcohol Testing Policy in a timely manner will be grounds for refusal to hire or for termination.

I will present a copy of this form to the collection site when I report for my scheduled drug/alcohol test. I also understand that failure to provide adequate breath for testing without a valid medical explanation, failure to provide adequate urine for controlled substances testing without a valid medical explanation, and engaging in conduct that clearly obstructs the testing process are the same as refusing to test.

I understand that if the urinalysis confirms the presence of drugs, I have the option to request that the split sample be sent to another certified laboratory for analysis at my expense. I understand that a failed breath alcohol test will be confirmed by a second test administered in accordance with the City’s Drug and Alcohol Testing Policy.

Name of Applicant or Employee: \_\_\_\_\_

Department Name: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Applicant or Employee)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Signature of Witness)

\_\_\_\_\_  
Date

## SECTION VII - HARRASSMENT POLICY

The Town of Ashland City is committed to providing a professional work environment that maintains employee equality, dignity, and respect. In keeping with this commitment, the City strictly forbids discriminatory practices, including sexual harassment and other forms of harassment, as defined in this policy. Any harassment prohibited by this policy, whether verbal, physical or environmental, is unacceptable and will not be tolerated, whether it occurs in the workplace or at outside work-sponsored activities. The City will take immediate, positive steps to stop such harassment when it occurs.

The City prohibits any verbal, physical or visual conduct which could offend, intimidate or create a hostile working environment for any individual on the basis of race, color, religion, national origin, sex (including gender identity and pregnancy), age, disability, genetic information, sexual orientation, or parental status or any other characteristics protected by federal, state or local law. The City also specifically prohibits sexual harassment, which is defined in this policy as sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, directed towards employees of either sex.

The conduct prohibited by the preceding paragraph will not be tolerated under any circumstances, including cases where the conduct is unwelcome, and /or:

1. Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or
3. The conduct has the purpose or effect of unreasonably interfering with the individual's performance or of creating an intimidating, hostile or offensive working environment.

The types of behavior that may constitute prohibited harassment include, but are not limited to:

1. Making derogatory, vulgar, or graphic written or oral statements or jokes regarding race, color, religion, national origin, disability, gender, sexuality, sexual experience or any other characteristics protected by federal, state or local law;
2. Sexual harassment or unwelcome sexual advances;
3. Requesting sexual favors;
4. Verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting or propositioning;
5. Making explicit or implied job threats or promises in return for submission to sexual favors;
6. Making inappropriate sex-oriented comments on appearance;
7. Stating embarrassing sex-oriented stories;
8. Displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or
9. Sexual assault on the job by supervisors, fellow employees, or, on occasion, non-employees.
10. Sending and/or displaying sexually explicit text messages and/or emails.

Note: Sexual harassment, for purposes of this policy, includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women.

Scope. This policy applies to all officers and employees of the City, including but not limited to full-time and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel rules or regulations of the City, and employees working under contract for the City. Additionally, it applies to conduct directed towards a City employee in the City workplace by someone who is not directly related to the City, such as a vendor, consultant, client, customer, or other City contact.

Responsibility: It shall be the joint responsibility of managers and supervisors of the City to ensure adherence to this policy. All managers and supervisors will assist in the coordination and the implementation of this policy. All supervisors and managers have the duty of ensuring that no individual or employee is subjected to sexual harassment or any other form of unlawful workplace harassment, and of maintaining a workplace free of such harassment. Supervisors and managers shall discuss this policy with employees and assure them that they are not required to endure any form of unlawful harassment.

Complaint Procedure The City encourages employees to report all perceived incidents of harassment, regardless of the position of the alleged offender. ***Any employee who has a harassment complaint against a supervisor, coworker, visitor, customer or other person, must bring the problem to the employer's attention.***

Any employee who feels he/she is subject to workplace harassment should immediately contact one of the people listed below with whom the employee feels most comfortable. Employees have the right to circumvent the employee chain-of-command when selecting the person to complain to about workplace harassment. Complaints may be made verbally or in writing to his/her immediate supervisor, Department Head, Human Resources Manager, or City Recorder. If an employee is uncomfortable reporting harassment to any of these people, or if the employee believes that the complaint was not properly addressed, the employee should report the incident to the Mayor or the City Attorney.

When filing his/her complaint, the employee should be prepared to provide the following information:

1. His/her name, department, and position title;
2. The name of the person or people committing the harassment, including title(s), if known;
3. The specific nature of the harassment, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;
4. Witnesses to the harassment, if any; and
5. Whether the employee has previously reported the harassment and, if so, when and to whom.

### Reporting and Investigating Complaints:

The Human Resources Director is the person the City designates as the investigator of workplace harassment complaints against the employees. In the event the harassment complaint is against the Human Resources Director, the investigator shall be an employee appointed by the Mayor. The City may elect to use an investigator not employed by the City to conduct factual investigations otherwise performed by the Human Resources Director.

When any employee makes an allegation of workplace harassment, the person to whom the complaint is made shall:

1. Immediately prepare a report of the complaint according to the complaint procedure section and submit it to the Human Resources Director.
2. Make and keep a written record of the investigation at the time the verbal interview is in progress, including notes on:
  - a. Verbal responses made to the investigator by the person complaining of harassment;
  - b. Witnesses interviewed during the investigation;
  - c. The person against whom the complaint of harassment was made; and
  - d. Any person contacted by the investigator in connection with the investigation.
3. Within five (5) days of receiving the complaint, prepare and present the findings to the Human Resources Director in a report, which will include:
  - a. The written statement of the person complaining of harassment,
  - b. The written statement of witnesses,
  - c. The written statement of the person against whom the complaint of harassment was made,
  - d. All the investigator's notes connected to the investigation.

### Action on Complaints of Workplace Harassment

Upon receiving an investigation report of a workplace harassment complaint, the Human Resources Director shall immediately review the report. If the Human Resources Director determines that the report is not complete in some respect, he/she may question the person complaining of workplace harassment, the person against whom the complaint has been made, witnesses to the conduct in question, or any other person who may have knowledge about the harassment.

Based upon the report and his/her own investigation (where a separate investigation is made), the Mayor shall, within a reasonable time, determine whether the conduct in question constitutes harassment. In making that determination, he/she shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct, the context in which the alleged actions occurred, and the behavior of the person complaining. Whether harassment took place or not will be determined on a case-by-case basis.

If the Human Resources Director determines that the harassment complaint is founded, he/she may recommend discipline the employee consistent with his/her authority under the municipal charter, ordinances, resolutions, or rules governing employee discipline.

The disciplinary action shall be consistent with the nature and severity of the offense, the employee's rank, and any other factors the Human Resources Director believes relate to fair and efficient administration of the municipal government. This includes, but is not limited to, the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the City. The disciplinary action may include warning, reprimand, suspension, demotion, or dismissal. Determining the level of disciplinary action shall also be made on a case-by-case basis. **A written record shall be kept of imposed disciplinary actions.**

In all events, an employee found guilty of workplace harassment shall be warned not to retaliate in any way against the person making the complaint, witnesses, or any other person connected with the investigation.

In cases where workplace harassment is committed by a non-employee against a city government employee in the workplace, the Mayor shall take whatever lawful action is necessary against the non-employee to bring the harassment to an immediate end.

The employee will be notified of a decision or of the status of the investigation as soon as possible.

There will be no discrimination or retaliation against any individual who files a good-faith harassment complaint, even if the investigation produces insufficient evidence to support the complaint, and even if the charges cannot be proven.

There will be no discrimination or retaliation against any other individual who participates in the investigation of a harassment complaint.

Disciplinary action (up to discharge) will also be initiated against employees who make false or frivolous accusations, such as those made maliciously or recklessly, and against employees who knowingly fail to report instances of workplace harassment or fail or refuse to cooperate in a harassment complaint investigation.

Actions taken by the City to investigate and resolve harassment complaints shall be conducted confidentially to the extent practicable and appropriate, and consistent with the Tennessee Open Records Act, in order to protect the privacy of persons involved.

## WORKPLACE VIOLENCE

The City maintains a zero-tolerance policy toward workplace violence, or the threat of violence, by any of its employees, customers, the general public, and/or anyone who conducts business with the City. The City recognizes that each employee is entitled to a safe and secure work environment that is free from intimidation, threats, or violent acts.

Workplace violence includes, but is not limited to harassment, threats, physical attacks, or property damage. A threat is the expression of intent to cause physical and/or mental harm regardless of whether the person communicating the threat has the present ability to carry out the threat. Physical attack is intentional hostile physical contact with another person such as hitting, fighting, pushing, shoving, or throwing objects. Property damage is intentional damage to property, which includes property owned by the City, employees, or others.

Each incident of violent behavior, whether it is committed by an employee or external entity, must be reported to the supervisor and Human Resources. The Human Resources Director is the party designated to investigate any claims of workplace violence.

Upon completion of an investigation, a written report will be presented to the City Manager. If it is determined that the information is correct, immediate and appropriate disciplinary action will be taken against the employee guilty of workplace violence. It is in direct violation of this policy to engage in any act of workplace violence.

Employees who have knowledge of an act of workplace violence or of another employee's intent to commit an act of violence against a co-worker, supervisor or citizen have an obligation to report such information to their supervisor. Failure to report or refusal to cooperate in an investigation regarding workplace violence may result in disciplinary action. Any employee who acts in good faith by reporting real or implied violent behavior will not be subject to any form of retaliation or harassment. Any action of this type resulting from a report of violent behavior must be reported to Human Resources for investigation.



The Town of Ashland City is firmly committed to the principle of fair and equal employment opportunities for its citizens and strives to protect the rights and opportunities of all people to seek, obtain, and hold employment without being subjected to illegal discrimination and harassment in the workplace. It is the State's policy to provide an environment free of discrimination and harassment of an individual because of that person's race, color, national origin, age (40 and over), sex, pregnancy, religion, creed, disability, veteran's status or any other category protected by state and/or federal civil rights laws.

In the absence of an agency-specific policy, employees or applicants for employment who believe they have been discriminated against or harassed on any of these bases should utilize the procedures set forth in this policy.

In the absence of an agency-specific policy, employees or applicants for employment who believe they have been discriminated against or harassed on any of these bases should utilize the procedures set forth in the city's grievance procedure.

## Definitions of Discrimination and Harassment in the Workplace

### A. Workplace Discrimination and Harassment

This policy prohibits unequal and unlawful treatment of an individual on the basis of a person's race, color, national origin, age (40 and over), sex, pregnancy, religion, creed, disability, or veteran's status or any other category protected by state and/or federal civil rights laws. This policy further prohibits any unwelcome verbal, written, physical conduct, or electronic communication that either degrades or shows hostility or aversion towards a person because of that person's race, color, national origin, age (40 and over), sex, pregnancy, religion, creed, disability, or veteran's status or any other category protected by state and/or federal civil rights laws.

To aid employees in identifying prohibited behavior, the following specific examples of workplace discrimination and harassment are provided. These examples are not exhaustive; they illustrate, however, the types of conduct that violate this policy:

- Undermining a person's authority or work performance because of the person's protected characteristics, such as age or religion;
- Using stereotypes or assumptions to guide decision-making about a person's career;
- Unwelcome touching or near-touching, which can encompass leaning over, cornering, hugging, or pinching, sexual innuendos, teasing and other sexual talk such as jokes, personal inquiries, persistent unwanted courting and sexist put-downs;
- Slurs and jokes about a class of persons, such as disabled persons or a racial group;
- Distributing via electronic means epithets, slurs, jokes or remarks that are derogatory, demeaning, threatening or suggestive to a class of persons or a particular person or that promote stereotypes of a class of persons;
- Display of explicit or offensive calendars, posters, pictures, drawings or cartoons that are sexually suggestive or that reflect disparagingly upon a class of persons or a particular person; or
- Derogatory remarks about a person's national origin, race, language, or accent.

## B. Hostile environment

Hostile environment harassment occurs when a victim is subjected to comments based on race, color, national origin, age (40 and over), sex, pregnancy, religion, creed, disability, veteran's status or any other category protected by state and/or federal civil rights laws. A hostile work environment may also be created by innuendoes, touching, electronic communications or other conduct.

## C. Sexual Harassment

Sexual harassment involves any unwelcome sexual advance, request for sexual favors, or verbal, written, electronic, or physical conduct of a sexual nature by a manager, supervisor, co-worker, or non-employee (third party). Managerial harassment occurs when a manager or a supervisor gives or withholds a work-related benefit in exchange for sexual favors from the victim or takes an adverse action against an employee for refusing a request for sexual favors. In some circumstances, threatening to take such actions may also be a violation of this policy. Certain actions may also create a hostile work environment. (See the definition for "hostile work environment" above.)

## D. Retaliation

Retaliation is *any* act of reprisal, interference, restraint penalty, discrimination, intimidation, or harassment against an individual or individuals exercising rights under this policy.

### A. Third Parties

Third parties are individuals who are not city employees but who have business interactions with city employees. Such individuals include, but are not limited to, customers, such as applicants for city employment or services, vendors, contractors, or volunteers.

## Conduct Prohibited by the Town of Ashland City

The Town strictly forbids and will not tolerate discrimination or harassment of any employee, applicant for employment, or third party on the basis of an individual's race, color, national origin, age (40 and over), sex, pregnancy, religion, creed, disability, veteran's status or any other category protected by state and/or federal civil rights laws. The fact that an alleged offender meant no harm or was teasing will not excuse conduct that violates this policy.

The State of Tennessee strictly forbids and will not tolerate any form of retaliation directed against an employee, applicant for employment, or third party who either complains about discrimination or harassment or who participates in any investigation concerning discrimination or harassment.

## How to Report Incidents of Discrimination or Harassment

If an employee, applicant for employment, or third party believes he/she has been subjected to discriminatory or harassing conduct that violates this policy, he/she must report those incidents as soon as possible after the event occurs and follow the grievance policy section IX, segment J of the policy manual.

## How to Report a Retaliation Incident

If an employee, applicant for employment, or third party believes he/she has been subjected to retaliation for engaging in protected conduct under this policy, he/she must report those incidents as soon as possible after the event occurs and follow the grievance procedure set forth in section IX, segment J of the policy manual.

## **SECTION IX – MISCELLANEOUS POLICIES**

### **ASHLAND CITY DRESS CODE**

This document sets forth the policy of the Town of Ashland City with respect to the Business Dress Policy. Customers and the general public judge our city on the basis of the appearance of our employees. The general dress code of our employees is business casual. Dress and personal grooming must be appropriate for the business environment in which you work.

The dress policy pertains to all full-time, part-time or temporary employees.

Office Dress – Business Casual includes business suits and dresses as well as more casual clothing such as short-sleeved shirts, polo style shirts, sweaters, Capri pants and khaki slacks. Clothing issued to employees with the Ashland City logo, such as polo shirts and sweatshirts, is also considered appropriate business casual dress.

Not in the definition of Office Dress-Business Casual are the following: sports or workout attire, leggings, t-shirts, tank tops, halter tops, short shorts, short skirts, tight fitting clothing, torn, tattered, wrinkled or dirty clothing. This list is not all inclusive.

Field Dress: An employee who must visit/work at current and potential construction site/location may dress appropriately for the work environment. Appropriate dress includes jeans, work uniforms, work jackets and work or protective boots/shoes.

However, at all times, common sense and good taste must apply towards any clothing worn.

To further clarify our business dress policy, please keep in mind the following when considering what is acceptable.

#### **Examples of Acceptable Attire for Work:**

- (1) Casual dresses and skirts that are split at or below the knee;
- (2) Casual shirts, golf shirts, dress shirts, sweaters, tops and turtlenecks;
- (3) Slacks, dress slacks, or pant suits;
- (4) Loafers, boots, flats, clogs, dress heels;
- (5) Ashland City apparel;
- (6) Dress sandals (except in the field)
- (7) Jeans without holes, tears or fading are allowed by decision of each Department Head

#### **Examples of Inappropriate Attire at Work:**

- (1) Miniskirts, sun dresses, spaghetti-straps, or strapless tops or dresses/skirts split above the knee;
- (2) T-shirts, sweatshirts, midriff tops, shirts with potentially offensive words, logos, pictures, cartoons, or slogans;
- (3) Tank tops, halter tops, and t-shirts unless worn under another blouse, shirts, sweater or jacket;
- (4) Exercise pants, sweatpants, bib overalls, shorts, leggings, and any spandex or other form fitting pants;
- (5) Flip flops, slippers;
- (6) Torn, dirty or frayed clothing;
- (7) Clothing that is tight fitting, low cut, reveals stomach, cleavage, or undergarments (undergarments are required but should not be visible);
- (8) Jewelry, make-up, perfume and cologne should be in good taste;
- (9) No visible body piercing (other than ears).

**Please keep in mind that no dress code can cover all contingencies so employees must use a certain amount of judgment in their choice of clothing to wear to work.**

The department head is responsible for:

- (1) Ensuring employees under his or her supervision are informed of this policy.
- (2) Notifying an employee when his or her dress and personal grooming fall outside the provisions of the city's business dress policy.

An employee is responsible for:

- (1) Complying with Ashland City's Business Dress Policy;
- (2) Avoiding unprofessional dress and/or unprofessional personal grooming while in the workplace or on Ashland City business;
- (3) Understanding that fashion trends may have to yield to more traditional, conservative business dress;
- (4) Using good judgment when deciding dress in the workplace.

**An employee should direct questions regarding this policy to his or her department head or the Mayor.**

## PROTECTIVE FOOTWEAR

It is the responsibility of Police, Dept. of Fire & Life Safety and Public Works to perform a workplace hazard assessment to determine the need for specific foot protection. Each affected employee shall wear protective footwear during employee work hours. They shall wear the approved foot protection as part of their work uniform.

Police, Dept. of Fire & Life Safety, and Public Works will purchase the footwear for all affected employees. Each affected employee shall wear protective footwear during regular working hours. Police, Dept. of Fire & Life Safety and Public Works will purchase the footwear for all affected employees.

## TRAVEL/TIP REIMBURSEMENT POLICIES

This policy applies to all city employees and/or elected city officials who may have reasons to travel out of town on official city business. No expenses shall be reimbursed unless travel is authorized and approved in advance by department head and/or Mayor of the Town of Ashland City.

### 1. Transportation

- a. **Air Transportation:** The city will pay for regular class or business class air travel as a general rule and will only pay for first class travel where the need is clearly indicated and approved in advance. Air travel will be utilized when the distance involved in the travel indicated is the mode travel of more economical.
- b. **City Vehicles:** If a city vehicle is generally available and does not otherwise interfere with the regular utilization of said vehicle, it should be used in lieu of a personal/private automobile. Arrangements for these vehicles should be made in advance through the appropriate department head. Proof of actual gasoline purchase must be presented for reimbursement.
- c. **Private Automobile:** The use of a private automobile for travel on official business may be authorized by department head, but only with the concurrence of the Mayor of the city. The Department Head or Mayor shall be notified prior to the employee's use of his/her personal vehicle for city business. Authorized to use their personal vehicles, employees shall be reimbursed *at the current federal per mile reimbursement rate* for actual miles driven. Only mileage on official business may be claimed; from origin to destination of official business and return by the most direct route, together with the mileage incurred at the destination. The cost of other related expenses, such as tolls, parking, and other vehicular expenses will be reimbursed.
- d. **Non-Reimbursable Vehicular Expenses:** The employee will NOT be reimbursed for any fines, traffic violations, or parking tickets incurred while on official business.
- e. **Rental Vehicles Associated with Air Travel:** The cost of a rental vehicle will be paid for by the city, if and when reasonably incurred by the employee as a result of traveling by air to the destination. Rental car authorization must be AUTHORIZED IN ADVANCE by the department head and the Mayor. The City Recorder must also be notified in advance of the anticipated travel. Receipts for the cost of rental cars should accompany the request for reimbursement.
- f. **Other Considerations:** The selected mode of travel will be based on the best interest of the city. Additional factors to be considered in determining the most economical mode of transportation will include distance, length of travel time, salary, fuel, meals, etc.

### 2. Lodging

Reimbursement for lodging will be based upon the locality, purpose of travel, and availability of accommodations. Lodging shall be approved in advance of securing reservations by the department head/Mayor/City Recorder. A signed receipt from the place of lodging is required for appropriate reimbursement.

### 3. Meal Cost and Allowances

The meals and incidentals rate is \$59.00 per day, and is intended to cover the costs of a single days' worth of meals and incidental costs (such as tips and parking) based on the average cost for these expenses in the Nashville area. If meals and incidentals should total more than this rate, receipts must be turned in to department head and or mayor for approval. If excess is not approved, employee may be responsible for the difference between the per diem rate and total cost submitted.

A higher amount than allowed per diem shall be authorized for meals when traveling to a place that is generally known to be more expensive; receipts must be kept. Any expenditure in excess of the daily allowed per diem must be documented by appropriate receipts for reimbursement. For officials attending the annual Tennessee Municipal League meeting, National League of Cities meeting or other official conferences of the city, reimbursement of meals in excess of the per diem will require receipts to be submitted with the travel form.

#### **4. Miscellaneous Expenditures**

- a. Expenditures of a personal nature, movie theaters, etc. will not be approved for reimbursement.
- b. All charges for long distance and local business calls will be allowed while traveling. Two personal calls are allowed each day provided the charges are reasonable. Use your cell phones IF you have nationwide coverage.
- c. All registration fees for employee/officials attending approved workshops, seminars, conventions, and other business meetings will be allowed, including cost of any breakfast, luncheon, banquet or other associated meeting programs.
- d. NO expense of spouses or related parties accompanying the employee/official on travel will be reimbursed.
- e. An individual combining travel on official city business and travel for another organization or for personal reasons will be reimbursed ONLY for the appropriate part of the city's costs. The basis for reimbursement will be arranged in advance of travel.
- f. BEFORE traveling, a "Request to Travel" form must be filled in and submitted to the department head/Mayor/City Recorder for approval. This form combines a request for travel advance and authorization to travel, which must be granted in each case.
- g. A travel advance shall not be granted more than three (3) working days prior to travel. Such request must be made three (3) days in advance to allow for processing and approval. Upon return from travel, an employee/official shall submit a completed expense report within twenty (20) days detailing actual expenditures due for reimbursement. The city will pay travel expenses promptly upon receipt of completed travel expense report supported by proper receipts.
- h. It is recognized that individual departments may have special travel restrictions, requirements, or policies which apply to that department's travel. These may apply to such things as the Tennessee Law Enforcement Academy or other special training special training programs which employees may be required to attend from time to time. Any special department policy applicable to travel is authorized upon approval of the City Council.

- i. Other necessary and reasonable expenses will be reimbursed subject to approval of the department head/Mayor/City Clerk/Recorder.

## USE OF CITY VEHICLES

A “city owned vehicle” is any vehicle to which the Town of Ashland City holds title. This includes, but is not limited to: police cars, dump trucks, pick-up trucks, fire department trucks and service vehicles, and the Director of Public Works vehicle.

Certain jobs require that employees be “on call” 24 hours a day, and for that reason, the city currently provides a “take home” vehicle for selected employees. The list of employees authorized to possess a “take home” vehicle shall be maintained by the Mayor and may be revised as needed.

A city vehicle is for the employee’s official use as a representative of the Town of Ashland City, and will not be used at any time as a personal vehicle. Any and all persons riding in a city vehicle must have official business with the city.

All vehicles shall be permanently marked as property of the Town of Ashland City. The driver of each vehicle shall have a valid Tennessee Driver’s License and a copy of this license shall be on file in the City Clerk/Recorder’s office.

City owned “take home” vehicles are allowed travel outside the corporate limits of Town of Ashland City. If the employee lives outside the corporate city limits or official business requires travel beyond the city limits with approval of the Mayor or Department Head.

While operating a moving vehicle, cell phone conversations should be kept to an absolute minimum. No cell phone usage, even with a headset, is allowable for any off-road (maintenance/construction type) equipment. No texting while driving or operating any city vehicle on or off the road. Personal cell phones will not be used while operating a city vehicle.

City vehicles may be fitted with location devices. The employee will be subject to disciplinary action up to termination, if a city vehicle is found to not be conducting city business while in their possession.

City employees should wear seatbelts at all times when driving city vehicles.

No smoking in city vehicles.

This policy applies to any employee with a need to use any city vehicle.

## USE OF CITY COMPUTERS AND CELL PHONES and related technology items devices such as iPads, laptops etc.

Computers, phones and related items furnished by the Town of Ashland City are city property, intended for use by employees for city business only. Computers, phones, and

related items include, but are not limited to, hardware, software, (including e-mail and internet software), computer files, documents and cell phones. The city has the right, but not the duty, to monitor any and all of its computers, cell phones, and related items, included but not limited to: monitoring employee's visits on the Internet, reviewing material downloaded or uploaded by employees, reviewing e-mail sent and received by employees, and cell phone messages and usage.

#### Waiver of Privacy:

Employees have no expectation of privacy in e-mail or cell phone messages, data accessed through the internet, or any other data or information created or stored on city computers or cell phones, nor does the use of passwords by employees create any privacy rights in this information. The city may access, monitor, or reproduce these messages and data, without the consent of the employees, when it is deemed necessary in the sole discretion of the city. All passwords must be provided to the department head upon request. The use of undisclosed passwords is prohibited.

#### Prohibited Uses:

The sending, displaying, disseminating or storing inappropriate or sexually explicit material is prohibited, unless the employee can demonstrate a legitimate city interest in such conduct (such as a police investigation of criminal activity). "Sexually explicit material" means any printed or written material or any audio, film, video recording or pictorial representation of graphic depiction, produced in any medium, which depicts or describes nudity, including sexual or excretory activities or organs, in a manner which is lewd and intended to elicit a sexual response. No city employee shall use city computers in a manner that is disruptive or offensive to others or in violation of any provision of the city's personnel policy. Other prohibited uses include but are not limited to any material containing ethnic slurs, racial comments, off-color jokes or material that may be construed as sexual, racial, or other harassment, or the showing of disrespect for others. The use of social media is discouraged while on shift unless the employee can demonstrate a legitimate city interest.

No software, hardware, applications or devices may be installed, downloaded or placed on the city network or any city owned technology without the written permission of the IT Committee and approval of the Mayor.

The e-mail system or cell phone should not be used to solicit or to conduct personal business ventures.

Personal email access is prohibited on any city device. Personal email should not be linked to any city device (ex. auto forwarding) Any information on city property should have no expectation of privacy, and is subject to audit at any time.



City phones, I-pads, laptops, any city device should be returned to the Department Head or City Recorder when an employee is terminated, receives an updated phone or device or changes position where a phone or device is no longer required.

All passwords should be changed every 6 months. A list of passwords should be maintained by a designated person within the department.

Any suspicious emails should not be opened. If employees are unsure, they should contact their department head immediately who in turn may contact IT for further investigation.

While operating a moving vehicle, cell phone conversations should be kept to an absolute minimum. No cell phone usage, even with a headset, is allowable for any off-road (maintenance/construction type) equipment. No texting while driving or operating any city vehicle on or off the road. Personal cell phones will not be used while operating a city vehicle.

Personal phone calls should be kept to a minimum and may be restricted by an employee's supervisor in such situations that use may present a safety hazard.

#### **COMPLIANCE WITH APPLICABLE LAWS AND LICENSES:**

Employees must comply with all software licenses, copyrights and all other state and federal laws governing intellectual property and online activity. No city employee may duplicate such software without the written permission of IT.

#### **VIOLATIONS – DISCIPLINARY ACTION:**

Employees who violate this policy shall be subject to legal and/or disciplinary actions, up to and including termination of employment. Employees should notify their immediate supervisor or department head upon receiving any inappropriate or sexually explicit material or upon learning of violations of this policy.

#### **USE OF MUNICIPAL TIME, FACILITIES, ETC.**

No employee of the Town of Ashland City shall use or authorize the use of municipal time, facilities, equipment or supplies for private gain or advantage to oneself or any other private person or group without prior approval of the Det. Head and/or Mayor. No city employee shall have in his/her possession tools or equipment that should obviously belong on city property (i.e. bulldozers, truck, etc.) unless acting in his/her capacity as a city employee.

#### **DRIVING RECORDS**

Any employee who is required as an employment condition to possess and maintain a valid Tennessee driver's license or commercial driver's license must **immediately**, before reporting for duty the next workday, inform his/her supervisor should his/her license become denied, expired, restricted, suspended, or revoked any time during employment with the city. Failure to inform his/her supervisor of any restrictions on their license may

be a basis for discipline. Periodic review of employees driving records will be conducted by the department head to assure adherence to this policy.

Driver's license information is to be provided during open enrollment each year to the Human Resources Director.

### ACCEPTING GRATUITIES

No employee shall accept, directly or indirectly, any gift, gratuity, or favor of any kind that might reasonably be interpreted as an attempt to influence his/her actions with respect to city business. See ethics policy.

### USING TOBACCO PRODUCTS

In light of the fact that using tobacco products poses a threat not only to the user but to non-users as well, the city has adopted a policy that prohibits using tobacco products in city facilities. The policy states that no person, including employees, shall, in a city facility, smoke or use any tobacco products. However, the city may provide a designated smoking area outside public buildings of at least 25 feet from the city facility.

### BUSINESS INTEREST

No employee shall have any financial interest in the profits of any contract, service, or other work performed by the city. No department head or supervisor shall personally profit directly or indirectly from any contract, purchase, sale, or service between the city and any person or company. No department head or supervisor shall personally, or as an agent, provide any surety, bail, or bond required by law or is subject to approval by the City Council.

No city employee shall enter into a contract with the city or perform any work or function under any contract with the city if he/she has a direct or indirect financial interest in the contract, unless:

1. The contract is awarded through a process that complies with the city's purchasing requirements; or
2. The City Council waives this section's requirements after making a formal finding that it is in the best financial interest of the city to do so after full disclosure on the part of the city employee of his/her direct or indirect financial interest in the contract, and the City Council's finding and waiver and the employee's full financial disclosure are recorded on the minutes of the City Council in open session.

### PERSONNEL RECORDS

Personnel records for each employee are kept on file and maintained by the Human Resources Director. Any changes of address, telephone number, marital status, draft status, beneficiaries, number of dependents, or completed education/training should be turned in to the supervisor for transmittal to the personnel file.

The accounting office maintains the vacation, pension, retirement and sick leave records for each employee. The Human Resources Director maintains the personnel file and all benefits to include medical, dental, life insurance. The Human Resources Director will advise employees of their eligibility so that they may take full advantage of all the benefits available. All medical records shall be kept in a separate confidential file for each employee.

It is the responsibility of each employee to update personnel information in his/her personnel file by notifying the Human Resources Director if any information changes. The city shall not be held liable when incorrect withholding, wrong beneficiaries, or loss of employee benefits result from the failure of any employee to keep personnel records current.

## **SOCIAL MEDIA USE AND INTERNET POSTING POLICY**

### **(1) Applicability**

- (a) This policy applies to every employee, whether part-time, full-time, currently employed by the city in any capacity who posts any material whether written, audio, video or otherwise on any web site, blog or any other medium accessible via the internet.
- (b) For purposes of this policy social media is content created by individuals using accessible and scalable technologies through the internet. Examples include: Facebook, blogs, My Space, RSS, YouTube, Second Life, Twitter, Linked In, Google Wave, etc.

### **(2) City-Owned or Created Social Media**

- (a) The City maintains an online presence. An employee may not characterize him or herself as representing the city, directly or in-directly, in any online posting unless pursuant to a written policy of the city or the direction of a supervisor.
- (b) All city social media sites directly or indirectly representing to be an official statement of the city must be created pursuant to this policy and be approved by the Mayor.
- (c) The city's primary and predominant internet presence shall remain ashlandcitytn.gov and no other website, blog or social media site shall characterize itself as such, unless approved by the Mayor.
- (d) The Mayor's appointee (see appendix) is responsible for the content and upkeep of any social media sites created pursuant to this policy. The Appendix may change as needed.
- (e) Whenever possible a social media site shall link or otherwise refer visitors to the city's main website.
- (f) In addition to this policy all social media sites shall comply with any and every other applicable city policy including but not limited to:
  - i. Open records policy
  - ii. Internet Use policy
  - iii. IT Security policy
  - iv. Ethics policy
  - v. Records retention policy

- (g) A social media site is subject to Tennessee’s Public Records Act (T.C.A. 10-7-101, et seq) and Open Meetings Act (T.C.A. 8-44-101, et seq) and no social media site shall be used to circumvent or otherwise in violation of these laws. All information posted on a social media site shall be a public record and subject to public inspection. All lawful records request for information contained on a social media site shall be fulfilled by (See Appendix) and any employee whose assistance is necessitated. Every social media site shall contain a clear and conspicuous statement referencing the aforementioned state laws. All official postings on a social media site shall be preserved in accordance with the city’s records retention schedule.
- (h) A social media site shall also contain a clear and conspicuous statement that the purpose of the site is to serve as a mechanism for communication between the city and its constituents and that all postings are subject to review and deletion by the city. The following content is not allowed and will be immediately removed and subject the poster to banishment from all city social media sites:
1. Comments not topically related to the particular social media article being commented upon;
  2. Comments in support of or opposition to political campaigns or ballot measures;
  3. Profane language or content;
  4. Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;
  5. Sexual content or links to sexual content;
  6. Solicitations of commerce;
  7. Conduct or encouragement of illegal activity;
  8. Information that may tend to compromise the safety or security of the public or public systems; or
  9. Content that violates a legal ownership interest of any other party.

The city will approach the use of social media tools, software, hardware and applications in a consistent, citywide manner. All new tools, software, hardware and applications must be approved by IT.

- Administration of city social media sites. The IT Committee will maintain a list of social media tools which are approved for use by the city departments and staff.

Each Department will maintain a list of all city social media sites, including login and password information. Employees and officials will inform the Mayor and IT Committee of any new social media sites or administrative changes to existing sites.

The city must be able to immediately edit or remove content from social media sites.

For each social media tool approved for use by the city the following documentation will be developed and adopted:

- a. Operational and use guidelines
- b. Standards and processes for managing accounts on social media sites
- c. City and departmental branding standards

- d. Enterprise-wide design standards
- e. Standards for the administration of social media sites

### **(3) Non-City Social Media Sites**

An employee may not characterize him or herself as representing the city, directly or indirectly, in any online posting unless pursuant to a written policy of the city or the direction of a supervisor.

The use of a city email address, job title, official City name, seal or logo shall be deemed an attempt to represent the city in an official capacity. Other communications leading an average viewer to conclude that a posting was made in an official capacity shall also be deemed an attempt to represent the city in an official capacity.

Any postings on a non-city social media site made in an official capacity shall be subject to the Tennessee Open Records Act and the Tennessee Open Meetings Act.

An employee or official posting on a social media site shall take reasonable care not to disclose any confidential information in any posting.

When posting in a non-official capacity an employee or official shall take reasonable care not to identify themselves as an official or employee of the city. When the identity of an employee or official posting on a non-city social media site is apparent, the employee or official shall clearly state that he or she is posting in a private capacity.

## **SECTION X – SEPARATIONS AND DISCIPLINARY ACTIONS**

### **TYPES OF SEPARATIONS**

All separations of employees from positions with the municipal government shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, layoff, disability, death, retirement, suspension and dismissal. At the time of separation and prior to final payment, all records, assets and other city property in the employee's custody must be transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation.

This is not an employment contract. This document is a statement of current policies, practices, and procedures. Nothing in this document is to be interpreted as giving employees any more property rights in their jobs than may already be given by the city charter. The town of Ashland City reserves the right to change any or all such policies, practices, and procedures in whole or in part at any time, in accordance with the procedures included herein.

### **RESIGNATION**

In the event an employee decides to leave the municipal government's employ, a two (2) –week notice shall be given to his/her supervisor so that arrangements for a replacement can be made. An unauthorized absence from work for a period of three consecutive working days may be considered by the department head as a resignation.

On an employee's last day of work, the Department Head, Mayor and/or Human Resources Director is to complete the following process:

1. Contact police department to discontinue access to any city buildings.
2. Collect any city property such as cell phones, city badge, computers, tablets, etc.
3. Contact IT to set end date for city email.
4. Interview employee to determine reason for resignation, if applicable.
5. Contact HR by email to inform them of the employee's last day of employment.

If a former employee returns to municipal government employment, after 6 months, his/her status of seniority, pay, leave, etc., will be the same as any new employee beginning work for the first time.

## LAYOFF

The Mayor or department head, if so designated by the Mayor, may lay off an employee in municipal government service when he/she deems it necessary by reason of a shortage of funds, abolishing a position, other material changes in the duties of organization of the employee's position, or related reasons that are outside the employer's control and that do not reflect discredit upon the employee's service.

A laid-off employee who is reinstated as a city employee within 90 days from the date he/she was laid off shall be reinstated with full benefits as if he/she had not been laid off.

## DISABILITY

An employee may be separated due to a disability when he/she cannot perform the essential functions of the job because of a physical or mental impairment that cannot be accommodated without undue hardship or that poses a direct threat to the health and safety of others. Reasonable accommodations may include transfer to a comparable position for which the individual is qualified. Action may be initiated by the employee or the municipality, but in all cases it must be supported by medical evidence acceptable to the Mayor and City Council, and the disability must prevent the employee from performing the essential functions of the job. The city may require an examination at its expense to be performed by a licensed physician of its choice.

## DEATH

Separation shall be effective as of the date of death of an employee. All compensation due in accordance with these rules shall be paid to the estate of the employee, except for such sums as by law must be paid to the surviving spouse.

## RETIREMENT

Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate retirement system.

## SUSPENSION

Pursuant to Chapter 25 of the Town of Ashland City Charter, an employee may be suspended without pay by the Mayor or department head if such authority is delegated by the Mayor, for reasonable cause. For suspensions of more than fifteen (15) days, a written statement of the reason for suspension shall be submitted to the employee. This notice shall also include notification that the employee may appeal to the City Council by filing with the City Clerk/Recorder, within 10 days, a written notice of his/her intention to appeal. The City Council shall hold a hearing within twenty (20) days after the notice of appeal is delivered by the employee. The votes of four (4) councilpersons, excluding the Mayor's vote, shall be required to override the suspension, and the action of the City Council shall be the final determination in the matter. If the suspension is overruled by the City Council, any loss of salary shall be paid to the employee. All records associated with a suspension shall become a permanent part of the employee's personnel file.

## DISMISSAL

Pursuant to Chapter 25 of the Town of Ashland City Charter, an employee may be dismissed by the Mayor or department head if such authority is delegated by the Mayor, for reasonable cause. Reasons for dismissal may include, **BUT SHALL NOT BE LIMITED TO:** misconduct, negligence, incompetence, and insubordination, unauthorized absences, falsifying records, or violating any of the charter provisions, ordinances or these rules. Examples include:

1. Incompetency or inefficiency in performing duties;
2. Conviction of a criminal offense or of a malfeasance involving moral turpitude;
3. Violating any lawful and reasonable regulation, order, or direction made or given by a superior, or insubordination that constitutes a serious breach of discipline;
4. Being intoxicated, drinking any intoxicating beverages, or being under the influence of a drug or narcotic while on duty;
5. Theft, destruction, carelessness, or negligence of city property;
6. Disgraceful personal conduct or language toward the public, fellow officers, or employees;
7. Unauthorized absences or abuse of leave privileges;
8. Incapacity to perform the essential functions of a job because of a permanent or chronic physical or mental defect that cannot be accommodated;
9. Accepting any valuable consideration that was given with the expectation of influencing the employee in performing his/her duties;
10. Falsifying records or using official position for personal advantage;
11. Loss of an employee's driver's license and driving privileges by due process of law when the employee's position makes operating a motor vehicle necessary in performing his/her duties.

Prior to an employee's dismissal, a written statement of the reason for dismissal shall be submitted to the employee. This notice shall also include notification that the employee may appeal to the City Council by filing with the City Clerk/Recorder, within ten (10) days, a written notice of his/her intention to appeal. The City Council shall hold a hearing within twenty (20) days after the notice of appeal is delivered by the employee. The votes of four

councilpersons, excluding the Mayor's vote, shall be required to override the dismissal, and the action of the City Council shall be the final determination in the matter. If the dismissal is overruled by the City Council, the employee shall be reinstated to his/her previous position, and any loss of salary shall be paid to the employee. All records associated with a dismissal shall become a permanent part of the employee's personnel file.

This is not an employment contract. This document is a statement of current policies, practices, and procedures. Nothing in this document is to be interpreted as giving employees any more property rights in their jobs than may already be given by the city charter. The town of Ashland City reserves the right to change any or all such policies, practices, and procedures in whole or in part at any time, in accordance with the procedures included herein.

## EXIT INTERVIEWS

All separating employees are encouraged to attend an exit interview with the Mayor. The main purpose of this interview is to ascertain whether the reason for an employee's separation is founded on a misunderstanding that might be corrected by either the city or the employee. Any information that may improve future working conditions in the city is always welcome.

## GRIEVANCE PROCEDURES

A grievance is defined as an employee's feeling of dissatisfaction and any differences, disagreements, or disputes arising between an employee and his/her supervisor and/or employer regarding some aspect of his/her employment, application or interpretation of regulations and policies, or some management decision affecting him/her. **A grievance can be something real, alleged, or a misunderstanding** concerning rules and regulations or an administrative order involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, transfer, layoff, recall, and any other related items. Such misunderstandings, complaints, points of view and opinions will be considered a grievance, except in cases where they relate to personnel actions arising out of pay, suspension and dismissal.

It is the city's desire to address grievances informally. Both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be occasional grievances that will be resolved only after a formal appeal and review. Employees who have a grievance may discuss it with their immediate supervisor, a higher-level supervisor, and/or the department head.

Employees must remember that there is no grievance until the department head or other appropriate person has been made aware of the dissatisfaction. Every employee may present a complaint or grievance under the provisions of the grievance procedures free from fear, interference, restraint, discrimination, coercion or reprisal.

Steps of the grievance procedure are as follows:

1. **STEP ONE:** The employee makes an oral or written presentation of the complaint or grievance to the immediate supervisor. It shall be the supervisor's responsibility to



- promptly investigate the circumstances surrounding the grievance, discuss the matter with the appropriate department head and take action, if possible. The supervisor shall inform the employee of the decision and any action taken. The supervisor shall prepare a written report of the complaint or grievance and provide a copy of it to the department head. Any supervisor in the chain-of-command shall attach his/her recommendation regarding the unresolved complaint or grievance if it proceeds to a higher level.
2. **STEP TWO:** If the grievance cannot be resolved on an informal basis between the employee and supervisor, the employee may proceed to the second procedural step. Before proceeding, an employee must reduce the complaint or grievance to writing and request that the written statement be delivered to the department head. If an employee wishes a hearing, the department head will hold such hearing and provide a written response to the employee and the immediate supervisor within five (5) days of being notified of the grievance.
  3. **STEP THREE:** If the grievance is not resolved with the department head, the employee may request in writing a hearing with the Mayor. The Mayor's decision shall be communicated to the employee, department head and all other supervisory personnel involved in steps one and two. The Mayor's decision is the final step and shall be binding to all parties involved.

## GRIEVANCE AND APPEAL RESPONSIBILITIES

The Mayor is responsible for acting on appeals promptly and assisting employees in expediting appeals through the process. Only employee suspensions and dismissals may be appealed to the City Council. Only the Mayor and City Council may make the final decision to deny an appeal.

### A. POLICIES GOVERNING GRIEVANCE AND APPEALS PROCEDURES

An employee with a grievance shall be notified in writing of his/her rights to:

1. A grievance or appeals hearing as specified in this policy;
2. Receive written notification of the reason for the action that led to the grievance;
3. Be represented at all stages of the grievance proceedings by legal counsel retained at the employee's expense;
4. Present witnesses in his/her own behalf and cross-examine witnesses in support of the municipal government's action;
5. Examine and copy all documents that will be used by the municipality as justification for its actions;
6. Be free from threats, coercion, intimidation, or discrimination from other employees because he/she has made complaints, testified, or assisted in any manner in the above-stated grievance and appeals procedures.

### B. RECORDS

Records shall be made of all procedures pertaining to all grievance actions and these records shall be maintained in the city's permanent files by the City Clerk/Recorder.

## **SECTION XI – AMENDMENTS TO THE PERSONNEL RULES**

### **AMENDMENTS**

Amendments or revisions of these rules may be recommended for adoption by the Mayor. Such amendments or revisions of these rules shall become effective after public hearing and approval by resolution of the governing body.

### **SEVERABILITY**

Each section, subsection, paragraph, sentence and clause of this policy document is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence or clause shall not affect the validity of any other portion of these rules and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted.

### **SPECIAL NOTE**

These personnel policies are believed to be written within the framework of the charter of the Town of Ashland City, but, in case of conflict, the charter takes precedence.

These personnel rules and regulations are for information only. This is not an employment contract. This document is a statement of current policies, practices and procedures. Nothing in this document is to be interpreted as giving employees any more property rights in their jobs than may already be given by the city charter. These personnel policies, rules and regulations shall be reviewed periodically. The employer reserves the right to change any or all such policies, practices and procedures in whole or in part at any time, with or without notice to employees.

### **WAGE & SALARY POLICY**

A copy of the city's wage & salary policy is on file with the city recorder's office. The content within the wage & salary policy is detailed for accounting purposes and is the standing policy on wage & salary.

**Resolution 2020-**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ASHLAND CITY  
UPDATING THE WAGE AND SALARY POLICY GOVERNING EMPLOYMENT  
WITH THE TOWN OF ASHLAND CITY**

**WHEREAS**, the City Council for the Town of Ashland City has previously adopted Resolution 2017-31 establishing a Wage and Salary Policy designed to provide a means to select, develop and maintain an effective municipal work force; and

**WHEREAS**, the City Council for the Town of Ashland City wishes to amend the policy and the attached exhibit; and

**WHEREAS**, the Personnel System requires that the Wage and Salary Policy shall be updated and approved by City Council.

**NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF ASHLAND CITY, TENNESSEE** that the Wage and Salary Policy, attached hereto, is hereby amended and approved and shall become effective immediately following passage of this resolution.

We, the undersigned City Council members, meeting in Regular Session on this 14th day of April 2020 move the adoption of the above Resolution.

Councilmember \_\_\_\_\_ moved to adopt the Resolution.

Councilmember \_\_\_\_\_ seconded the motion.

Voting in Favor \_\_\_\_\_

Voting Against \_\_\_\_\_

Attest:

\_\_\_\_\_  
Mayor Steve Allen

\_\_\_\_\_  
City Recorder Kellie Reed CMFO, CMC

# **Town of Ashland City Wage and Salary Policy**

## **I. Purpose**

The pay plan is intended to provide fair compensation for all employees in consideration of pay ranges for other employees, general pay rates for similar employment in private establishments and other public jurisdictions in the area, cost of living data, the financial condition of the municipality and other factors. Further this plan is intended to provide guidelines for the administration of employee salaries, including starting pay rates, pay increases, promotional increases, and other salary adjustments.

## **II. Policy Objectives**

This policy is intended to promote the following:

- A. Ensure competitive pay practices to allow the Town of Ashland City to effectively compete in the market for the talent needed to meet and exceed its performance standards.
- B. Ensure fair and unbiased treatment of employees relative to pay administration.
- C. Ensure that Town of Ashland City salary expense is consistent with taxpayers' expectations for reasonable labor costs.

## **III. Composition**

The pay plan for the Town of Ashland City shall consist of minimum and maximum pay rates for comparable positions. The pay plan is documented in the wage & salary policy, see addendums.

## **IV. Maintenance of the Pay Plan**

The Mayor will, from time to time, make comparative studies of all factors affecting the level of salary ranges and will recommend to the City Council such changes in the salary ranges as appear to be in order.

## **V. Job Descriptions**

A written job description is to be developed and maintained for each position recognized by the Town of Ashland City. Job descriptions are to follow the prescribed format (see Exhibit D). Once a year job description is to be reviewed by incumbents and supervisors to ensure they are up to date. Supervisors are responsible for accurate up-to-date job documentation.

## **VI. Employee Classifications**

1. **Exempt Employees** – An employee is exempt from the overtime provisions of the Fair Labor Standards Act, if they are classified as an executive, professional or administrative and meet specific criterion for exemption and must be paid at least \$684 weekly. All salaried positions are required to work a minimum of eighty (80) hours per pay period, at their office or city property, unless otherwise approved by the Mayor. Any time less than eighty (80) hours is to be made up using leave (Vacation, Sick, or Holiday leave) with prior approval by the Mayor. ~~Salaried employees who work additional time above the required eighty (80) hours in a pay period may flex their time.~~

2. **Non-exempt Employee** – An employee who is not exempt from the overtime provisions of the Fair Labor Standards Act. A non-exempt employee is entitled to receive overtime for all hours worked beyond 40 in a workweek (except as FLSA allows for police officers and fire fighters.)

**Overtime-** When it becomes necessary for an employee to work overtime hours, regular employees, part-time employees, and temporary employees shall be paid according to the prevailing salary schedule. Overtime work will be compensated according to the FLSA provisions at a rate of 1 ½ times the employee’s regular rate. Overtime work may also be paid with compensatory time at a rate of 1 ½ times the hours worked in accordance with the FLSA. Non-emergency overtime work must be authorized in advance by the Mayor or department head. Employees exempt from the overtime requirements of the FLSA will not receive overtime compensation, with the exception of emergency pay in the event of a disaster. All compensation time must be paid/used by the end of the fiscal year. Overtime for non-exempt employees is paid for hours worked over 40 per week. Exceptions are made by FLSA for police officers and fire fighters on different shifts. Overtime must be authorized in advance. Sick time is not counted as hours worked for overtime calculations.

**Compensatory Time** – Overtime may be paid as monetary compensation, compensatory time or any combination of money and compensatory time equivalent so long as the premium pay is at least ‘time and one-half’. There must be an agreement of payment before the overtime is worked. An employee may not accrue more than 150 hours of compensatory time. Upon termination, an employee must be paid for compensatory time accrued.

**On-Call Pay-** When an employee is on call, he/she will receive compensation based on the number of days in the weekend. If the employee is on call during a two-day weekend, he/she will receive a payment of forty-eight (48) dollars additional pay on their paycheck. For three-day weekends seventy-two (72) dollars on call pay and for four-day weekends ninety-six (96) dollars on call pay. If the employee is called in to work during the on-call week, they will receive two hours on call pay calculated based on the on-call rate formula set by federal wage policy.

**Call-In Pay-** Employees who are called into work for emergencies, regardless of hours worked during the regularly scheduled workweek, he/she will receive call in pay based on 1 ½ times the employee’s regular pay rate.

3. **On-Duty** – An employee is considered ‘on-duty’ at any time for which the City compensates the employee, which includes lunch and breaks for police officers and fire fighters. All other employees are not compensated for lunch.

**Emergency Pay** – The city shall provide its employees who are considered “exempt” under the Fair Labor Standards Act with emergency pay for every hour worked in excess of forty (40) hours during their normal work when responding to an officially declared local, state or federal disaster or state of emergency. Emergency pay shall only be provided for performing essential services as approved by the Mayor at his or her discretion that the need for disaster or emergency response has ended.

**Documentation** – To assist the Federal Emergency Management Agency (FEMA) reimbursement process, exempt employees receiving emergency pay shall maintain accurate and detailed documentation defining the duties performed and the hours worked.

## VII. Pay Table

**A. Number of Pay Grades**

Pay is to be administered within ten classifications or pay grades.

**B. Pay Ranges**

Each pay grade falls within a pay range. Pay ranges are intended to furnish administrative flexibility in recognizing individual differences among positions allocated to the same class and to provide employee incentives.

**C. Adjustment of Pay Table**

The pay table is subject to review on an annual basis and will be adjusted if necessary to ensure that the Town's pay practices remain competitive with changes in labor market conditions. As appropriate, this review will consist of:

- Gathering comparative salary data for benchmark jobs from published sources or direct contacts with competing employers,
- Comparing market salary data obtained for each benchmark job with the corresponding pay range, and
- If necessary, adjusting the pay ranges approximate market value for jobs in each pay range, or, if appropriate, amending the pay range.

**D. Assignment of Positions**

Each position is to be assigned to the pay grade for which best matches the competitive market value for the job. Deviations may be made if strategic business considerations dictate that certain positions (not employees) should be valued differently than their market value.

**VIII. Rates of Pay**

In accordance with the Fair Labor Standards Act (FLSA), no employee, whether full-time, part-time, or probationary, shall be paid less than the federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations.

**A. Salary Rates**

Salary ranges, as seen in Exhibit II, are intended to furnish administrative flexibility in recognizing individual differences among positions allocated to the same class and to provide employee incentives.

**B. Starting Rates**

The minimum rate established for a class is the normal hiring rate except in those cases where unusual circumstances (such as inability to fill the position at the hiring rate or exceptional qualifications of an applicant) appear to warrant employing an individual at a higher rate in the pay range. Any department head desiring to appoint an applicant to start at a salary above the minimum must submit justification to the Mayor for approval. Such appointments shall be made only in exceptional cases as decided by the Mayor and/or governing body only after the current pay rates, qualifications, and skill levels of existing job incumbents are carefully considered.

**C. Rates Above the Pay Range**

Each pay range is intended to serve as a guideline for management for the highest pay rate the Town of Ashland City will normally pay an employee for a particular job.

**D. Rates Below the Minimum**

It is possible that employees' pay rates, probably for recent hires, will occasionally fall below the pay range upon adjustment of the pay table (see IV C above). Normally, the pay rates of such employees will be immediately adjusted to the new pay range at the time the new pay table becomes effective.

## **E. Hourly Rates**

Employees paid on an hourly rate basis excluding salaried exempt employees as set out by the Department of Labor are paid for all time actually worked. The Mayor and City Council shall appropriate by budget all salaries paid by the city. Due consideration shall be given to duties performed, responsibilities, technical knowledge, and skills required to perform the work satisfactorily, the labor market, and availability of people having the desired qualifications.

## **IX. Timesheets**

It is the responsibility of the employee to complete timesheets accurately reporting hours worked, paid time off taken, overtime, and on call pay. Any unpaid leave should be approved by the mayor or immediate supervisor and will be notated on the timesheet. Employee paychecks are issued by what is reported on the timesheet to the finance department. The immediate supervisor will review and sign the timesheet for accuracy. As stated in the Employee Manual, Section II. Employment Subsection O. Attendance, "Employees found cheating on their timesheets will be subject to immediate dismissal."

## **X. Pay Adjustments**

### **A. Pay Increases**

#### **1. Eligibility**

All non-probationary full-time and part-time employees in good standing whose current pay rate is within pay range are eligible for a pay increase in July each year, subject to appropriation by City Council as part of the annual budget process.

Employees who have been placed on disciplinary status or who have not received a good standing annual evaluation will not receive a pay increase. For recently hired employees still on probationary status, eligibility for pay increase is to be delayed until the end of their probationary period.

Note: Jobs requiring employees earn certification per state regulations- An employee who has **not** earned certification in a job that **requires** it. The employee will be ineligible for any pay increase until after the time frame in which certification is earned as stated in the job description. In such cases an employee's pay rate would be adjusted to the appropriate pay rate once the employee receives certification.

#### **2. Pay Increase Amount**

The base pay rate of employees eligible to receive a pay increase will be increase as determined and at the desecration of the department head and mayor based on evaluation and merit. All pay increases will then be presented to the council for approval and justification during the annual budget appropriation process.

#### **3. Pay Increases-Employees on Leave of Absence**

Scheduled pay increases will be postponed for employees on approved non-job related medical or personal leave of absence until they return to work. Pay increases will be postponed beyond the date of return to work in cases where such absence exceeds four months (will normally be postponed one additional month for every month of leave beyond four). Pay increases will not be delayed for worker's compensation related medical leave of absence.

#### **4. Pay Increases-Employees on Light Duty**

Employees in light duty positions are eligible for a pay increase.

### **B. Pay Table Adjustment Increases**

As indicated in IV C above, the pay table may be adjusted periodically to keep pace with the labor market. This adjustment will be effective July 1 (the beginning of the fiscal year) after receiving City Council approval voted on by resolution.

**C. Longevity Payments**

1. Eligibility

Full-time employees after three years of service will begin receiving a longevity payment of \$100 per year of service, subject to appropriation by City Council as part of the annual budget process.

Part-time employees after three years of service will begin receiving a longevity payment of \$50 per year of service, subject to appropriation by City Council as part of the annual budget process.

2. Payment Date

The longevity payment is to be paid in the month of November.

3. Withholdings

Longevity payments will be subject to standard tax withholding excluding retirement.

**D. Promotional Increases**

1. Definition of Promotion

Placement of an individual in a job which is in a pay grade that is higher than the individual's current pay grade will be considered a promotion. (Temporary job reassignments of less than six months will not normally be considered a promotion.)

2. Increase Amount

Upon promotion the individual's salary is to be adjusted to reflect the increased demands and responsibility of the new position. Normally, the employee's pay rate will be increased to represent at least a 5% increase over his/her current pay rate as determined appropriate by the mayor and department head.

**E. Temporary Reassignment**

Adjustments to pay rates of employees assigned temporarily (for less than six months) to perform work of higher-level jobs will be made at the discretion of management.

**F. Lateral Job Reassignments**

Reassignment from one job to another in the same pay grade will be considered a lateral move. No immediate adjustment to pay will be made.

**G. Demotions or Reassignment to a Lower Pay Grade**

Demotions occur when an employee is returned or transferred to a position in a lower pay grade. Additionally, employees may voluntarily ask to move to a job in a lower pay grade, perhaps through the job posting/bidding process. If an employee was promoted and subsequently returns to the original (lower) job, his/her pay rate would be adjusted to the rate it would equal if the promotion had not occurred. Whether or not a reduction in pay should occur in other situations depends on consideration of the following:

1. Was the demotion related to employee's performance or to a reduction in force or organizational change?
2. How will the employee's pay rate compare with pay rates of other incumbents in a lower graded job or similar jobs?
3. How long has the employee been in the higher-level job?
4. What has been the Town of Ashland City's past practice in similar situations?

It is often sound practice to reduce the employee's pay rate to be consistent with rates of pay of other incumbents in the new job who possess similar skills and tenure.

**H. Re-Classification of Position**



A review of market salary data for the purpose of adjusting the pay table or at any other time may suggest that a job should be re-classified to a higher or lower pay grade. Normally, consistent data obtained for two periods over a span of eighteen to twenty-four months are required to confirm such a trend and justify re-classification. This may occur as the job responsibilities evolve over time. Section "G" above would apply to re-classification of a job to a lower pay grade. For an employee whose position was re-classified to a higher pay grade, the employee's pay would be adjusted in the pay range closest to but no less than his/her current pay rate. Significant changes in job responsibilities within a short time period will normally be treated as a promotion.

## **XI. Paychecks**

All employees of the Town of Ashland City shall be issued pay on a biweekly basis. If you have questions about your work time, salary or paycheck, call it to the attention of the City Clerk/Recorder within the pay period in question or immediately thereafter. Checks are picked up from each department by department head each pay day. If you are absent on payday and wish to have someone else obtain your check for you, you may give a verbal confirmation authorizing the city to give your check to the bearer.

- 1. Final Paycheck** – The final paycheck for a resigning employee will be made available on his/her regular payday.
- 2. Lost Paychecks** – Employees are responsible for their paychecks after they have been issued. Checks lost or otherwise missing should be reported immediately to the City Recorder so that a stop payment order may be initiated. The Recorder will determine if and when a new check should be issued to replace a lost or missing check. Cost of stop payment of check will be paid by the employee.
- 3. Unclaimed paychecks** – Paychecks not claimed by employees within ten (10) days of the date issued must be returned by the supervisor to the City Recorder.

## **XII. Payroll Deductions**

The following deductions will be made when authorized by an employee:

- 1. Federal Income Tax**: Federal taxes are withheld from employees' paychecks based on the number of dependents claimed by each individual. Employees are required to keep on file with the municipal government a copy of the W-4 form. In the event of changes in the employee exemption status, a revised W-4 must be filed before payroll deduction adjustments will be made.
- 2. Social Security/Medicare**: Social Security payments and deductions will be made according to the Social Security Act. The City Recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.
- 3. Other**: Other City authorized deductions will be made from an employee's pay only with the employee's signed consent or as required by law.
  - a. Medical insurance
  - b. Life insurance
  - c. Vision insurance
  - d. Supplemental insurance
  - e. Additional life insurance
  - f. Deferred compensation payments
  - g. Dental insurance
  - h. Child support garnishments
  - i. Any other garnishments or deductions agreed to or required by law
  - j. TCRS Retirement will be taken out of an employee paycheck after 30 day's employment at a rate of 5% of gross total per paycheck.

- k. Any court order for garnishments or child support will be taken as ordered by the court.
- l. Other city-authorized deductions may be made from an employee's pay only with the employee's signed consent.

If all leave has been exhausted, an employee must make arrangements to cover any premiums or deductions not covered by the city's umbrella plan. Additional coverages being paid by the city is done as a courtesy and benefit for the employee but is not the responsibility of the city. These are the responsibility of the employee. Arrangements must be made with the City Recorder before the leave is exhausted. The city will not continue to pay additional premiums or deductions, if the employee has made no arrangement. Any arrangement for repayment will not exceed 6 months without approval from the Mayor.

**EXHIBIT 1**  
**The Town of Ashland City Job Description Format**

**JOB DESCRIPTION**

**Town of Ashland City**  
**(Department)**  
**(Location)**

---

<b>CLASSIFICATION TITLE:</b>	(Job Title)
<b>DEPARTMENT:</b>	(Department)
<b>REVISION DATE:</b>	(Last date of Council Approval)
<b>REPORTS TO:</b>	(Department Head's Title)
<b>EMPLOYMENT STATUS:</b>	(Full-time or Part-time)
<b>FLSA STATUS:</b>	(Exempt or Non-exempt)
<b>PAY RANGE:</b>	(Pay Grade)

---

**JOB SUMMARY**

(A brief one or two sentence description of the purpose of the job)

**ESSENTIAL DUTIES AND RESPONSIBILITIES**

(Brief statements, in descending order of importance based on frequency and impact, of the essential job functions. Essential function are those:)

- (For which the position exists to perform ex: data entry operator job exists to operate computer keyboard to input data)
- (For which there are a limited number of other employees available to perform the function)
- (Highly specialized in nature requiring incumbents to be hired specifically because of the skill or ability to perform them)

**QUALIFICATIONS**

(Brief description of the following job requirements)

- (Education)
- (Experience)
- (Certificates, Licenses, Registrations which include time allowed to become certified)
- (Special Requirements)

**REQUIRED KNOWLEDGE AND ABILITIES**

(Brief description of required knowledge, skills, and abilities)

**EQUIPMENT OPERATED**

- (Computer, printer, various office machines (phone, calculator, copier, etc.)
- (software)
- (Microsoft Office Suites)
- (Cell phone)

**WORKING CONDITIONS**

- (Working conditions are in an office environment)
- (Working environment is office setting with some lifting of office supplies weighing up to 20lbs)
- (Located in a busy office, faced with constant interruptions)

**USUAL PHYSICAL DEMANDS**

(Brief description of requirements for lifting, walking, sitting, seeing, hearing, reaching, feeling, and talking)

**EMPLOYEE AWARENESS**

- Implement and assure adherence to The Town of Ashland City policies and procedures regarding Equal Employment Opportunity.
  - Adheres to The Town of Ashland City initiative on business ethics and conduct.
  - Adheres to federal/state laws and relations regarding MSDA, OSHA and EPA compliance.
- 

This is not necessarily an exhaustive list of all responsibilities, skills, duties, requirements, efforts or working conditions associated with the job. While this is intended to be an accurate reflection of the current job, management reserves the right to revise the job, or to require that other, or different tasks be performed when circumstances change (i.e. emergencies, changes in personnel or workload, etc.).

**MANAGEMENT APPROVAL**

\_\_\_\_\_  
Manager's Signature

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date

**EMPLOYEE UNDERSTANDING AND AGREEMENT**

\_\_\_\_\_  
Employee's Signature

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date



## EXHIBIT II

### Town of Ashland City Pay Table

Pay Grade	Job Title		Pay Range		
			Starting Salary	Midpoint	Highest Salary
10	Public Utilities/Public Works Director		\$66,090.00	\$77,753.00	\$100,107.00
9	City Recorder	Fire and Codes Director	\$59,141.00	\$69,577.00	\$85,998.00
	Police Chief				
8	Deputy Fire Chief	Court Clerk	\$52,923.00	\$62,262.00	\$80,163.00
	Assistant Police Chief	Parks Director			
	Financial Director Manager				
7	Fire Marshal	Wastewater Plant Chief Operator	\$47,358.00	\$55,715.00	\$71,734.00
	Water Plant Chief Operator	Fire Department Captain			
	Police Detective	Building Inspector			
6	Building Codes Officer	Senior Center Director	\$42,378.00	\$49,857.00	\$61,623.00
	Utility Maintenance Supervisor	Waste Water Plant Operator III			
	Water Plant Operator III	Police Sergeant			
	Firefighter II/Paramedic				
5	Street Maintenance Supervisor	Police Corporal	\$37,923.00	\$44,615.00	\$55,145.00
	Mechanic II	Firefighter II			
	Water Plant Operator II	Part-time Firefighter			
	Lead Accounting Clerk	Waste Water Plant Operator II			
4	Administrative Assistant (Fire)	Administrative Assistant (Police)	\$33,935.00	\$39,924.00	\$49,347.00
	Cross Connection Coordinator	PW/PU Administrative Assistant			
	Senior Equipment Operator	Parks Maintenance Supervisor			
	Mechanic I	Building Maintenance Assistant			
	Water Distribution/Waste Water Collection Specialist	Court Officer			
		Police Officer			
	Athletic Supervisor	Firefighter I			
	Lead Deputy Court Clerk	Accounting Clerk II			
Assistant Senior Center Director					
3	Water/Wastewater Distribution/Collections Assistant	Accounting Clerk I		\$35,726.00	\$44,158.00
		Police Clerk			
	Water Plant Operator I (no license)	Streets Maintenance Assistant			
	Judicial Commissioner	Deputy Court Clerk I			
	Waste Water Plant Operator I (no license)	Administrative Assistant (Mayor's Office)			
2	Senior Center Activities Coordinator		\$27,174.00	\$31,969.00	\$39,514.00
1	Janitor		\$21,760.00	\$25,600.00	\$31,642.00

**ORDINANCE #**

**AN ORDINANCE TO ACCEPT A BUDGET AMENDMENT FOR THE 19/20 FISCAL YEAR.**

**WHEREAS**, the Mayor and Council appropriate an additional \$12,000 for construction of the stage cover at River bluff Park.

**NOW THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Town of Ashland City, Tennessee that this ordinance shall become effective 20 days after final passage the public welfare requiring.

**SECTION 1.** A budget amendment consisting of the available funds and appropriations be adopted for the General Fund:

<i>General Fund</i>	<i>Beginning Budget</i>	<i>Ending Budget</i>
Parks Department	\$592,090.00	\$604,090.00

1<sup>st</sup> reading March 10, 2020  
Public Hearing April 14, 2020  
2<sup>nd</sup> reading April 14, 2020

Attest:

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Mayor Steve Allen

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City Recorder Kellie Reed, CMFO, CMC



# Watson Metals, LLC

238 Interstate Dr  
Manchester, Tn 37355

# Quote

Date	Quote #
3/9/2020	325790

Name / Address
ASHLAND CITY PARKS & REC

Ship To
---------



P.O. No.	Rep	Job Name
	David	

Pieces	Length	Item	Description	Qty	Cost	Class	Total
4	40	MT-40	40' METAL TRUSS 18" OVH 8X8" POSTS	4	369.38		1,477.52
		8X8X20 SAKRETE	8X8X20-PT 80 LB. SAKRETE	8 24	121.34 4.75		970.72 114.00
		2X6X12 ... 2X6X20 ...	2X6X12 Y.P. 2X6X20 Y.P.	52 21	5.81 10.53		302.12 221.13
24	22.10	GN-1	#1 GREEN GALVALUME 40 YR-AKZO 1050	547.992	2.10		1,150.78
28	4	GN-1	#1 GREEN GALVALUME 40 YR-AKZO 1050	112	2.10		235.20
		J-GN	FOREST GREEN J CHANNEL	10	7.35		73.50
		5.5-BK	BLACK 1.5" X 5.5" ANGLE	18	11.50		207.00
		OC-GN-14	14' FOREST GREEN OUTSIDE CORNER	4	23.17		92.68
		OC-GN	FOREST GREEN OUTSIDE CORNER	4	15.75		63.00
		UR-GN	FOREST GREEN RIDGE CAP	3	15.75		47.25

Signature	<b>Subtotal</b>
	<b>Sales Tax (9.75%)</b>
	<b>Total</b>

Phone #	Fax #	E-mail	Web Site	
888 638 2581	931-728-8611	NATE@WATSONMETALS.COM	watsonmetalsllc.com	



# Watson Metals, LLC

238 Interstate Dr  
Manchester, Tn 37355

# Quote

Date	Quote #
3/9/2020	325790

Name / Address
ASHLAND CITY PARKS & REC

Ship To
---------



Quality Coil Coatings

P.O. No.	Rep	Job Name
	David	

Pieces	Length	Item	Description	Qty	Cost	Class	Total
		FOIL-F	FOIL ON FOIL INSULATION 4'X125'	4	116.25		465.00
		SC-GN	1.5" GREEN SCREWS/250	7	17.25		120.75
		LABOR - ...	INSTALLATION	1,200	2.91667		3,500.00
		DEL	DELIVERY	1	100.00		100.00

Signature _____	<b>Subtotal</b>	\$9,140.65
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Thank you for the opportunity to quote this order. We hope the price works for you. If you should have any questions feel free to call us to discuss any thing about the price or materials listed. PLEASE REVIEW ALL ITEMS AND PRICES LISTED FOR ACCURACY. PRICES GOOD FOR (7) DAYS ONLY AS COIL PRICES ARE MOVING QUICKLY.	<b>Sales Tax (9.75%)</b>	\$0.00
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	<b>Total</b>	\$9,140.65
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Phone #	Fax #	E-mail	Web Site	
888 638 2581	931-728-8611	NATE@WATSONMETALS.COM	watsonmetalsllc.com	





# Summertown Metals Quote

3864 Summertown Highway Summertown TN 38483

This Building Quote submitted from **Summertown Metals LLC**, hereinafter designated as the Seller, to **SCOTT SAMPSON QUOTE#39855**, hereinafter designated as the Buyer, on 3/2/2020, is valid for a period of 30 days and subject to the following Project Specifications and Terms and Conditions.

## Specifications

<b>Building Type:</b>	POLE BARN	<b>Building Width:</b>	40'
<b>Building Length:</b>	30'	<b>Building Height:</b>	16' @ EVE
<b>Truss Type:</b>	STEEL	<b>Truss OH:</b>	18" EVE ONLY
<b>Post Spacing:</b>	10	<b>Post/Stud Size:</b>	8x8
<b>Wainscoting:</b>	N/A	<b>Insulation:</b>	REFLECTIVE ROOF ONLY
<b>Soffit:</b>	N/A	<b>Trim:</b>	#1 PAINTED 29GA
<b>Roof Metal:</b>	#1 PAINTED 29GA	<b>Upper Gable Metal:</b>	#1 PAINTED 29GA
<b>Fasteners:</b>	PTD	<b>Windows:</b>	N/A
<b>Walk In Doors:</b>	N/A	<b>Concrete:</b>	N/A

**Garage Doors:** N/A

**Sliding Doors:** N/A

**Notes:** INDEPENDENT CONTRACTOR BEN MILLER PHONE #931-797-1922

## Project Cost Itemized

Building Materials/Delivery: ----- \$5,902.94  
 Building Labor BEN MILLER: -----\$4,800.00  
 Concrete Materials/Labor ----- \$N/A

**Building Quote Total: ----- \$10,702.94**

Bid : 20-563 Date : 03/02/20  
 Sales Person : Chris  
 Scott Sampson  
 233 Tennessee Waltz Pkwy Ste 103  
 Ashland City, TN 37015  
 Cell : (615)947-2605



818 North Broadway  
 Portland, TN 37148  
 sales@nationalbarn-ed.com  
 www.nationalbarn.com  
 Office : (615) 325-2700  
 Fax : (615) 325-2701  
 Toll Free : (888) 427-2276

ssampson@ashlandcitytn.gov

Constructed in : Ashland City, TN / Cheatham county

My site will be ready after this date \_\_\_\_\_

**BUILDING DESCRIPTION**

30 X 40 X 16 Building —This refers to outside wall height, inside height varies  
 Poles are 8X8 CCA treated set on 10 Centers. Trusses are set on 5 Centers. Roof pitch is 4/12

**Porches/Sheds Included in Total Price**

STRUCTURE	DESCRIPTION

\* Metal gauge and type : 29 Gauge Painted Max-Rib

If painted is chosen, please write color selection below

Roof Color \_\_\_\_\_ Trim Color \_\_\_\_\_  
 Wall Color \_\_\_\_\_ Sliding Door Color \_\_\_\_\_

Options below are \*NOT INCLUDED\* in Total Price  
 (Please Initial Items you wish to Add to your contract)

**Items below are included in Total Price**

QTY	DESCRIPTION	QTY	DESCRIPTION
1	Hurricane Strapping		

QTY	DESCRIPTION	PRICE	ADD
3	Roof Only Insulation	\$915.00	_____

**Comments :**

- Our buildings are guaranteed for one year for workmanship and material.
- Painted Metal has a Limited warranty from the manufacturer. Galvanized Metal has NO warranty
- Clearance for Sliding Door is approximately 2' lower than the specified wall height
- Clearance for Overhead Doors and Roll-Up Doors are typically 2' less than the specified wall height.
- Building site must be level within 6" for proper construction. Additional digging may apply. See Terms and Conditions for details.
- Trusses will be factory built (Engineered). A Professional Engineered Stamped drawing can be provided if it is requested.
- Please indicate location of Doors and Windows on a separate sheet of paper.
- Buildings with sheds or open sides will require the customer to furnish 80lb bags of concrete for the post holes.
- Some municipalities require concrete in all post holes. Ask your salesperson or Building Codes office for details.
- If Engineered Drawings are Required, a minimum of \$1,550.00 will be charged

\_\_\_ Check here, if you plan on installing gutters.

Total Price including material, delivery, and construction ==> **\$12,500.00**  
 Amount to be paid upon delivery of materials to construction site: \$6,250.00  
 Balance to be paid when the construction is completed \$6,250.00

**Notes :**

Site must be level w/6" and all permits must be pulled by customer prior to construction if needed.

Please Check Payment Method Below

Cashier's Check  Money Order

*Pat Sullivan*

Pat Sullivan - Manager

X \_\_\_\_\_  
 Customer / Property Owner Signature Date

BY SIGNING THIS CONTRACT, I AGREE TO THE TERMS AND CONDITIONS AS DESCRIBED ABOVE AND BELOW

Please sign and return white copy with directions to your location.

This proposal is valid for 15 days from date of issue.

**TERMS AND CONDITIONS :**

If rock is encountered, customer will pay an additional fee to the builder of \$50.00 per hole, plus provide a jackhammer. While National Barn strives to be as cautious as possible, damage to driveway, field, yard, or other property is possible. Customer agrees to hold harmless National Barn Company, its owners, employees and contractors in the unlikely event that damage occurs to property. The customer agrees to pay additional delivery charges (not to exceed \$500) in the event that his/her jobsite is inaccessible with conventional delivery equipment and a tow truck must be called or materials have to be dropped more than 100ft from the jobsite. Additional charges for material may apply to buildings requiring sealed drawings, dependent upon the engineer's design. Construction debris will be gathered together, it is customer's responsibility to dispose of debris. CUSTOMER MUST HAVE ELECTRICITY OR PROVIDE A GENERATOR FOR BUILDER'S USE. Any reasonable attorney's fees incurred in connection with litigation to collect funds pertinent to this contract are customer's responsibility. Any cancellation of the contract must be in writing and is subject to a restocking fee of 15%. It is customer's responsibility to obtain the necessary building permits required by the municipality in which the building is erected. National Barn is not responsible for misuse or acts of God. Work may be performed by third party.

**Tennessee Municipal Bond Fund  
Information Regarding Fixed Rate Draw Loan Program for the  
Town of Ashland City, Tennessee**

**March 24, 2020**

The Tennessee Municipal Bond Fund ("TMBF"), can assist the Town of Ashland City (the "Town"), in obtaining fixed rate financing in the amount of either \$9,200,000 or \$10,500,000 to finance all or a portion of the costs of the construction and equipping of a new city hall, a fire hall, and the acquisition of a fire truck for the Town, by means of a fixed rate loan from The Public Building Authority of the City of Clarksville, Tennessee (the "PBA"). The PBA will issue a bond which will be sold as a private placement to a bank, with the proceeds of the sale being used to make a loan to the Town.

Below is a summary of the fixed rate loan program.

**FIXED RATE PROGRAM**

The fixed rate can be locked in for a term of 5, 10, or 15 years – the bank six months prior to the end of the term can adjust the rate based on current market conditions – the bank can either raise, lower, or leave the rate the same or opt out of the loan - the bank has to notify the Town and TMBF 180 days prior to the end of such term of what the new rate will be for the next applicable term – if the Town does not agree to the new rate (if the bank changes the existing rate), TMBF will work with the Town to find another bank to take the loan - the final rate used for the closing of the loan would be locked in at the time of the adoption of the resolutions or just prior to that time and would be good until the closing of the loan – if the closing occurs within a reasonable time

The fixed rate loan can be amortized for 20 or 25 years, which are the terms we understand the Town is considering

The loan can be prepaid in full on a rate adjustment date with no prepayment premium – the loan may be prepaid in full on other dates with the approval of the bank and a 1% prepayment premium – however, the Town may make additional principal payments during the term of the loan with no prepayment premium subject to the restriction that not more than 20% of the outstanding principal balance, in addition to the regular principal payment, may be prepaid in any twelve (12) month period and it must be made with the Town's funds – not borrowed funds

The note will be a general obligation debt of the Town payable from funds of the Town legally available therefor, including ad valorem taxes

The total cost of issuance is 0.60% for the fixed rate loan – this is an all-inclusive cost of issuance - the cost of issuance will be paid from the loan proceeds at the time of closing – \$6,000 per \$1,000,000 – in the case of a \$9,200,000 loan the costs are \$55,200 – in the case of a \$10,500,000 loan the costs are \$63,000

The fixed rate loan will be structured as a draw loan – **the Town can draw on the loan for a three year period with a minimum of one-third of the loan amount being drawn each year** - the Town will only pay interest and fees on the funds as they are drawn - the Town will send in a request for a draw to the bank by the 25<sup>th</sup> of each month and the funds will be wired by the bank to the Town on the first business day of each month

Principal will be payable annually with interest being payable semiannually – the payment dates can be determined at the time of the closing of the loan – if the Town desires principal payments can be delayed for up to two years during the construction period

## **LOAN PROCESS FOR FIXED RATE LOAN:**

The loan would require the adoption of two resolutions, an Initial Resolution and a Loan Resolution, at either a regular or special meeting of the governing body of the Town, after publication of a notice of such meeting. We furnish the resolutions and assist in obtaining all necessary approvals. The loan would require the completion of a loan application and credit approval by the bank.

Below is a summary of the loan process:

1. Submission of Loan Application and necessary financial information to TMBF; submission to Bank by TMBF (approximately 20 day turn-around time)
2. Publication of notice of meeting at least five to seven days prior to meeting or proof of annual meeting notice
3. Adoption of Initial Resolution and Loan Resolution
4. Publication of Initial Resolution (20 day protest period)
5. Submission of necessary information to State to obtain approval of loan
6. Preparation of necessary loan documents
7. Execution of loan documents and receipt of an opinion of the Town's attorney with respect to the loan (the form of which we provide to such attorney)
8. Closing of Loan

## **AMORTIZATION SCHEDULES:**

### **\$9,200,000 Fixed Rate Schedules – 20 Years:**

The first fixed rate schedule is based on an amount of **\$9,200,000** with an indicative fixed rate of **2.42%** for a **20** year term with a **5** year rate adjustment

The second fixed rate schedule is based on an amount of **\$9,200,000** with an indicative fixed rate of **2.92%** for a **20** year term with a **10** year rate adjustment

The 15 year rate for a 20 year term is 3.17% - let me know if you want to see a schedule with the 15 year rate

### **\$9,200,000 Fixed Rate Schedules – 25 Years:**

The first fixed rate schedule is based on an amount of **\$9,200,000** with an indicative fixed rate of **2.42%** for a **25** year term with a **5** year rate adjustment

The second fixed rate schedule is based on an amount of **\$9,200,000** with an indicative fixed rate of **2.94%** for a **25** year term with a **10** year rate adjustment

The 15 year rate for a 25 year term is 3.23% - let me know if you want to see a schedule with the 15 year rate

### **\$10,500,000 Fixed Rate Schedules – 20 Years:**

The first fixed rate schedule is based on an amount of **\$10,500,000** with an indicative fixed rate of **2.42%** for a **20** year term with a **5** year rate adjustment

The second fixed rate schedule is based on an amount of **\$10,500,000** with an indicative fixed rate of **2.92%** for a **20** year term with a **10** year rate adjustment

The 15 year rate for a 20 year term is 3.17% - let me know if you want to see a schedule with the 15 year rate

### **\$10,500,000 Fixed Rate Schedules – 25 Years:**

The first fixed rate schedule is based on an amount of **\$10,500,000** with an indicative fixed rate of **2.42%** for a **25** year term with a **5** year rate adjustment

The second fixed rate schedule is based on an amount of **\$10,500,000** with an indicative fixed rate of **2.94%** for a **25** year term with a **10** year rate adjustment

The 15 year rate for a 25 year term is 3.23% - let me know if you want to see a schedule with the 15 year rate

***Notice: The Tennessee Municipal Bond Fund (“TMBF”) is not a registered municipal advisor and it is TMBF’s intention not to act as a municipal advisor. TMBF is not recommending any course of action to you as the municipal entity or obligated person; TMBF is not acting as an advisor to you and, therefore, does not owe a fiduciary duty to you pursuant to Section 15B of the Securities Exchange Act of 1934 with respect to this or any other information, materials, and communications you receive from TMBF; TMBF is acting for its own business and commercial interests; You should discuss this and any other information, materials, and communications you receive from TMBF with internal advisors and experts that you deem appropriate before acting on such information, materials, and communications.***

***\$9,200,000 FIXED RATE SCHEDULES – 20 YEAR TERM***

BOND DEBT SERVICE

TOWN OF ASHLAND CITY, TENNESSEE  
\$9,200,000 FR LOAN - 20 YEARS

TENNESSEE MUNICIPAL BOND FUND  
FIXED RATE LOAN PROGRAM

\*\*\*BASED ON INDICATIVE RATE FOR 20 YEAR TERM WITH RATE  
5 YEAR RATE ADJUSTMENT\*\*\*

ASSUMES ALL PROCEEDS DRAWN AT CLOSING

Dated date: June 1, 2020

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/01/2020					
12/01/2020			111,320.00	111,320.00	
06/01/2021	363,000	2.420%	111,320.00	474,320.00	585,640.00
12/01/2021			106,927.70	106,927.70	
06/01/2022	372,000	2.420%	106,927.70	478,927.70	585,855.40
12/01/2022			102,426.50	102,426.50	
06/01/2023	381,000	2.420%	102,426.50	483,426.50	585,853.00
12/01/2023			97,816.40	97,816.40	
06/01/2024	390,000	2.420%	97,816.40	487,816.40	585,632.80
12/01/2024			93,097.40	93,097.40	
06/01/2025	400,000	2.420%	93,097.40	493,097.40	586,194.80
12/01/2025			88,257.40	88,257.40	
06/01/2026	409,000	2.420%	88,257.40	497,257.40	585,514.80
12/01/2026			83,308.50	83,308.50	
06/01/2027	419,000	2.420%	83,308.50	502,308.50	585,617.00
12/01/2027			78,238.60	78,238.60	
06/01/2028	429,000	2.420%	78,238.60	507,238.60	585,477.20
12/01/2028			73,047.70	73,047.70	
06/01/2029	440,000	2.420%	73,047.70	513,047.70	586,095.40
12/01/2029			67,723.70	67,723.70	
06/01/2030	450,000	2.420%	67,723.70	517,723.70	585,447.40
12/01/2030			62,278.70	62,278.70	
06/01/2031	461,000	2.420%	62,278.70	523,278.70	585,557.40
12/01/2031			56,700.60	56,700.60	
06/01/2032	472,000	2.420%	56,700.60	528,700.60	585,401.20
12/01/2032			50,989.40	50,989.40	
06/01/2033	484,000	2.420%	50,989.40	534,989.40	585,978.80
12/01/2033			45,133.00	45,133.00	
06/01/2034	496,000	2.420%	45,133.00	541,133.00	586,266.00
12/01/2034			39,131.40	39,131.40	
06/01/2035	507,000	2.420%	39,131.40	546,131.40	585,262.80
12/01/2035			32,996.70	32,996.70	
06/01/2036	520,000	2.420%	32,996.70	552,996.70	585,993.40
12/01/2036			26,704.70	26,704.70	
06/01/2037	532,000	2.420%	26,704.70	558,704.70	585,409.40
12/01/2037			20,267.50	20,267.50	
06/01/2038	545,000	2.420%	20,267.50	565,267.50	585,535.00
12/01/2038			13,673.00	13,673.00	
06/01/2039	558,000	2.420%	13,673.00	571,673.00	585,346.00
12/01/2039			6,921.20	6,921.20	
06/01/2040	572,000	2.420%	6,921.20	578,921.20	585,842.40
	9,200,000		2,513,920.20	11,713,920.20	11,713,920.20

BOND DEBT SERVICE

TOWN OF ASHLAND CITY, TENNESSEE  
\$9,200,000 FR LOAN - 20 YEARS

TENNESSEE MUNICIPAL BOND FUND  
FIXED RATE LOAN PROGRAM

\*\*\*BASED ON INDICATIVE RATE FOR 20 YEAR TERM WITH RATE  
10 YEAR RATE ADJUSTMENT\*\*\*

ASSUMES ALL PROCEEDS DRAWN AT CLOSING

Dated date: June 1, 2020

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/01/2020					
12/01/2020			134,320.00	134,320.00	
06/01/2021	345,000	2.920%	134,320.00	479,320.00	613,640.00
12/01/2021			129,283.00	129,283.00	
06/01/2022	355,000	2.920%	129,283.00	484,283.00	613,566.00
12/01/2022			124,100.00	124,100.00	
06/01/2023	366,000	2.920%	124,100.00	490,100.00	614,200.00
12/01/2023			118,756.40	118,756.40	
06/01/2024	376,000	2.920%	118,756.40	494,756.40	613,512.80
12/01/2024			113,266.80	113,266.80	
06/01/2025	387,000	2.920%	113,266.80	500,266.80	613,533.60
12/01/2025			107,616.60	107,616.60	
06/01/2026	399,000	2.920%	107,616.60	506,616.60	614,233.20
12/01/2026			101,791.20	101,791.20	
06/01/2027	410,000	2.920%	101,791.20	511,791.20	613,582.40
12/01/2027			95,805.20	95,805.20	
06/01/2028	422,000	2.920%	95,805.20	517,805.20	613,610.40
12/01/2028			89,644.00	89,644.00	
06/01/2029	435,000	2.920%	89,644.00	524,644.00	614,288.00
12/01/2029			83,293.00	83,293.00	
06/01/2030	447,000	2.920%	83,293.00	530,293.00	613,586.00
12/01/2030			76,766.80	76,766.80	
06/01/2031	460,000	2.920%	76,766.80	536,766.80	613,533.60
12/01/2031			70,050.80	70,050.80	
06/01/2032	474,000	2.920%	70,050.80	544,050.80	614,101.60
12/01/2032			63,130.40	63,130.40	
06/01/2033	488,000	2.920%	63,130.40	551,130.40	614,260.80
12/01/2033			56,005.60	56,005.60	
06/01/2034	502,000	2.920%	56,005.60	558,005.60	614,011.20
12/01/2034			48,676.40	48,676.40	
06/01/2035	516,000	2.920%	48,676.40	564,676.40	613,352.80
12/01/2035			41,142.80	41,142.80	
06/01/2036	532,000	2.920%	41,142.80	573,142.80	614,285.60
12/01/2036			33,375.60	33,375.60	
06/01/2037	547,000	2.920%	33,375.60	580,375.60	613,751.20
12/01/2037			25,389.40	25,389.40	
06/01/2038	563,000	2.920%	25,389.40	588,389.40	613,778.80
12/01/2038			17,169.60	17,169.60	
06/01/2039	580,000	2.920%	17,169.60	597,169.60	614,339.20
12/01/2039			8,701.60	8,701.60	
06/01/2040	596,000	2.920%	8,701.60	604,701.60	613,403.20
	9,200,000		3,076,570.40	12,276,570.40	12,276,570.40



***\$9,200,000 FIXED RATE SCHEDULES – 25 YEAR TERM***

BOND DEBT SERVICE

TOWN OF ASHLAND CITY, TENNESSEE  
\$9,200,000 FR LOAN - 25 YEARS

TENNESSEE MUNICIPAL BOND FUND  
FIXED RATE LOAN PROGRAM

\*\*\*BASED ON INDICATIVE RATE FOR 25 YEAR TERM WITH RATE  
5 YEAR RATE ADJUSTMENT\*\*\*

ASSUMES ALL PROCEEDS DRAWN AT CLOSING

Dated date: June 1, 2020

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/01/2020					
12/01/2020			111,320.00	111,320.00	
06/01/2021	287,000	2.420%	111,320.00	398,320.00	509,640.00
12/01/2021			107,847.30	107,847.30	
06/01/2022	294,000	2.420%	107,847.30	401,847.30	509,694.60
12/01/2022			104,289.90	104,289.90	
06/01/2023	301,000	2.420%	104,289.90	405,289.90	509,579.80
12/01/2023			100,647.80	100,647.80	
06/01/2024	309,000	2.420%	100,647.80	409,647.80	510,295.60
12/01/2024			96,908.90	96,908.90	
06/01/2025	316,000	2.420%	96,908.90	412,908.90	509,817.80
12/01/2025			93,085.30	93,085.30	
06/01/2026	324,000	2.420%	93,085.30	417,085.30	510,170.60
12/01/2026			89,164.90	89,164.90	
06/01/2027	331,000	2.420%	89,164.90	420,164.90	509,329.80
12/01/2027			85,159.80	85,159.80	
06/01/2028	340,000	2.420%	85,159.80	425,159.80	510,319.60
12/01/2028			81,045.80	81,045.80	
06/01/2029	348,000	2.420%	81,045.80	429,045.80	510,091.60
12/01/2029			76,835.00	76,835.00	
06/01/2030	356,000	2.420%	76,835.00	432,835.00	509,670.00
12/01/2030			72,527.40	72,527.40	
06/01/2031	365,000	2.420%	72,527.40	437,527.40	510,054.80
12/01/2031			68,110.90	68,110.90	
06/01/2032	374,000	2.420%	68,110.90	442,110.90	510,221.80
12/01/2032			63,585.50	63,585.50	
06/01/2033	383,000	2.420%	63,585.50	446,585.50	510,171.00
12/01/2033			58,951.20	58,951.20	
06/01/2034	392,000	2.420%	58,951.20	450,951.20	509,902.40
12/01/2034			54,208.00	54,208.00	
06/01/2035	401,000	2.420%	54,208.00	455,208.00	509,416.00
12/01/2035			49,355.90	49,355.90	
06/01/2036	411,000	2.420%	49,355.90	460,355.90	509,711.80
12/01/2036			44,382.80	44,382.80	
06/01/2037	421,000	2.420%	44,382.80	465,382.80	509,765.60
12/01/2037			39,288.70	39,288.70	
06/01/2038	431,000	2.420%	39,288.70	470,288.70	509,577.40
12/01/2038			34,073.60	34,073.60	
06/01/2039	442,000	2.420%	34,073.60	476,073.60	510,147.20
12/01/2039			28,725.40	28,725.40	
06/01/2040	452,000	2.420%	28,725.40	480,725.40	509,450.80
12/01/2040			23,256.20	23,256.20	
06/01/2041	463,000	2.420%	23,256.20	486,256.20	509,512.40
12/01/2041			17,653.90	17,653.90	
06/01/2042	475,000	2.420%	17,653.90	492,653.90	510,307.80

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BOND DEBT SERVICE

TOWN OF ASHLAND CITY, TENNESSEE  
\$9,200,000 FR LOAN - 25 YEARS

TENNESSEE MUNICIPAL BOND FUND  
FIXED RATE LOAN PROGRAM

\*\*\*BASED ON INDICATIVE RATE FOR 25 YEAR TERM WITH RATE  
5 YEAR RATE ADJUSTMENT\*\*\*

ASSUMES ALL PROCEEDS DRAWN AT CLOSING

Dated date: June 1, 2020

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
12/01/2042			11,906.40	11,906.40	
06/01/2043	486,000	2.420%	11,906.40	497,906.40	509,812.80
12/01/2043			6,025.80	6,025.80	
06/01/2044	498,000	2.420%	6,025.80	504,025.80	510,051.60
	9,200,000		3,036,712.80	12,236,712.80	12,236,712.80

BOND DEBT SERVICE

TOWN OF ASHLAND CITY, TENNESSEE  
\$9,200,000 FR LOAN - 25 YEARS

TENNESSEE MUNICIPAL BOND FUND  
FIXED RATE LOAN PROGRAM

\*\*\*BASED ON INDICATIVE RATE FOR 25 YEAR TERM WITH RATE  
10 YEAR RATE ADJUSTMENT\*\*\*

ASSUMES ALL PROCEEDS DRAWN AT CLOSING

Dated date: June 1, 2020

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/01/2020					
12/01/2020			135,240.00	135,240.00	
06/01/2021	269,000	2.940%	135,240.00	404,240.00	539,480.00
12/01/2021			131,285.70	131,285.70	
06/01/2022	277,000	2.940%	131,285.70	408,285.70	539,571.40
12/01/2022			127,213.80	127,213.80	
06/01/2023	285,000	2.940%	127,213.80	412,213.80	539,427.60
12/01/2023			123,024.30	123,024.30	
06/01/2024	294,000	2.940%	123,024.30	417,024.30	540,048.60
12/01/2024			118,702.50	118,702.50	
06/01/2025	302,000	2.940%	118,702.50	420,702.50	539,405.00
12/01/2025			114,263.10	114,263.10	
06/01/2026	311,000	2.940%	114,263.10	425,263.10	539,526.20
12/01/2026			109,691.40	109,691.40	
06/01/2027	320,000	2.940%	109,691.40	429,691.40	539,382.80
12/01/2027			104,987.40	104,987.40	
06/01/2028	330,000	2.940%	104,987.40	434,987.40	539,974.80
12/01/2028			100,136.40	100,136.40	
06/01/2029	340,000	2.940%	100,136.40	440,136.40	540,272.80
12/01/2029			95,138.40	95,138.40	
06/01/2030	350,000	2.940%	95,138.40	445,138.40	540,276.80
12/01/2030			89,993.40	89,993.40	
06/01/2031	360,000	2.940%	89,993.40	449,993.40	539,986.80
12/01/2031			84,701.40	84,701.40	
06/01/2032	370,000	2.940%	84,701.40	454,701.40	539,402.80
12/01/2032			79,262.40	79,262.40	
06/01/2033	381,000	2.940%	79,262.40	460,262.40	539,524.80
12/01/2033			73,661.70	73,661.70	
06/01/2034	392,000	2.940%	73,661.70	465,661.70	539,323.40
12/01/2034			67,899.30	67,899.30	
06/01/2035	404,000	2.940%	67,899.30	471,899.30	539,798.60
12/01/2035			61,960.50	61,960.50	
06/01/2036	416,000	2.940%	61,960.50	477,960.50	539,921.00
12/01/2036			55,845.30	55,845.30	
06/01/2037	428,000	2.940%	55,845.30	483,845.30	539,690.60
12/01/2037			49,553.70	49,553.70	
06/01/2038	441,000	2.940%	49,553.70	490,553.70	540,107.40
12/01/2038			43,071.00	43,071.00	
06/01/2039	454,000	2.940%	43,071.00	497,071.00	540,142.00
12/01/2039			36,397.20	36,397.20	
06/01/2040	467,000	2.940%	36,397.20	503,397.20	539,794.40
12/01/2040			29,532.30	29,532.30	
06/01/2041	481,000	2.940%	29,532.30	510,532.30	540,064.60
12/01/2041			22,461.60	22,461.60	
06/01/2042	495,000	2.940%	22,461.60	517,461.60	539,923.20

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BOND DEBT SERVICE

TOWN OF ASHLAND CITY, TENNESSEE  
\$9,200,000 FR LOAN - 25 YEARS

TENNESSEE MUNICIPAL BOND FUND  
FIXED RATE LOAN PROGRAM

\*\*\*BASED ON INDICATIVE RATE FOR 25 YEAR TERM WITH RATE  
10 YEAR RATE ADJUSTMENT\*\*\*

ASSUMES ALL PROCEEDS DRAWN AT CLOSING

Dated date: June 1, 2020

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
12/01/2042			15,185.10	15,185.10	
06/01/2043	509,000	2.940%	15,185.10	524,185.10	539,370.20
12/01/2043			7,702.80	7,702.80	
06/01/2044	524,000	2.940%	7,702.80	531,702.80	539,405.60
	9,200,000		3,753,821.40	12,953,821.40	12,953,821.40

***\$10,500,000 FIXED RATE SCHEDULES – 20 YEAR TERM***

BOND DEBT SERVICE

TOWN OF ASHLAND CITY, TENNESSEE  
\$10,500,000 FR LOAN - 20 YEARS

TENNESSEE MUNICIPAL BOND FUND  
FIXED RATE LOAN PROGRAM

\*\*\*BASED ON INDICATIVE RATE FOR 20 YEAR TERM WITH RATE  
5 YEAR RATE ADJUSTMENT\*\*\*

ASSUMES ALL PROCEEDS DRAWN AT CLOSING

Dated date: June 1, 2020

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/01/2020					
12/01/2020			123,420.00	123,420.00	
06/01/2021	403,000	2.420%	123,420.00	526,420.00	649,840.00
12/01/2021			118,543.70	118,543.70	
06/01/2022	412,000	2.420%	118,543.70	530,543.70	649,087.40
12/01/2022			113,558.50	113,558.50	
06/01/2023	422,000	2.420%	113,558.50	535,558.50	649,117.00
12/01/2023			108,452.30	108,452.30	
06/01/2024	433,000	2.420%	108,452.30	541,452.30	649,904.60
12/01/2024			103,213.00	103,213.00	
06/01/2025	443,000	2.420%	103,213.00	546,213.00	649,426.00
12/01/2025			97,852.70	97,852.70	
06/01/2026	454,000	2.420%	97,852.70	551,852.70	649,705.40
12/01/2026			92,359.30	92,359.30	
06/01/2027	465,000	2.420%	92,359.30	557,359.30	649,718.60
12/01/2027			86,732.80	86,732.80	
06/01/2028	476,000	2.420%	86,732.80	562,732.80	649,465.60
12/01/2028			80,973.20	80,973.20	
06/01/2029	487,000	2.420%	80,973.20	567,973.20	648,946.40
12/01/2029			75,080.50	75,080.50	
06/01/2030	499,000	2.420%	75,080.50	574,080.50	649,161.00
12/01/2030			69,042.60	69,042.60	
06/01/2031	511,000	2.420%	69,042.60	580,042.60	649,085.20
12/01/2031			62,859.50	62,859.50	
06/01/2032	524,000	2.420%	62,859.50	586,859.50	649,719.00
12/01/2032			56,519.10	56,519.10	
06/01/2033	536,000	2.420%	56,519.10	592,519.10	649,038.20
12/01/2033			50,033.50	50,033.50	
06/01/2034	549,000	2.420%	50,033.50	599,033.50	649,067.00
12/01/2034			43,390.60	43,390.60	
06/01/2035	563,000	2.420%	43,390.60	606,390.60	649,781.20
12/01/2035			36,578.30	36,578.30	
06/01/2036	576,000	2.420%	36,578.30	612,578.30	649,156.60
12/01/2036			29,608.70	29,608.70	
06/01/2037	590,000	2.420%	29,608.70	619,608.70	649,217.40
12/01/2037			22,469.70	22,469.70	
06/01/2038	604,000	2.420%	22,469.70	626,469.70	648,939.40
12/01/2038			15,161.30	15,161.30	
06/01/2039	619,000	2.420%	15,161.30	634,161.30	649,322.60
12/01/2039			7,671.40	7,671.40	
06/01/2040	634,000	2.420%	7,671.40	641,671.40	649,342.80
	10,200,000		2,787,041.40	12,987,041.40	12,987,041.40

BOND DEBT SERVICE

TOWN OF ASHLAND CITY, TENNESSEE  
\$10,500,000 FR LOAN - 20 YEARS

TENNESSEE MUNICIPAL BOND FUND  
FIXED RATE LOAN PROGRAM

\*\*\*BASED ON INDICATIVE RATE FOR 20 YEAR TERM WITH RATE  
10 YEAR RATE ADJUSTMENT\*\*\*

ASSUMES ALL PROCEEDS DRAWN AT CLOSING

Dated date: June 1, 2020

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/01/2020					
12/01/2020			148,920.00	148,920.00	
06/01/2021	383,000	2.920%	148,920.00	531,920.00	680,840.00
12/01/2021			143,328.20	143,328.20	
06/01/2022	394,000	2.920%	143,328.20	537,328.20	680,656.40
12/01/2022			137,575.80	137,575.80	
06/01/2023	405,000	2.920%	137,575.80	542,575.80	680,151.60
12/01/2023			131,662.80	131,662.80	
06/01/2024	417,000	2.920%	131,662.80	548,662.80	680,325.60
12/01/2024			125,574.60	125,574.60	
06/01/2025	429,000	2.920%	125,574.60	554,574.60	680,149.20
12/01/2025			119,311.20	119,311.20	
06/01/2026	442,000	2.920%	119,311.20	561,311.20	680,622.40
12/01/2026			112,858.00	112,858.00	
06/01/2027	455,000	2.920%	112,858.00	567,858.00	680,716.00
12/01/2027			106,215.00	106,215.00	
06/01/2028	468,000	2.920%	106,215.00	574,215.00	680,430.00
12/01/2028			99,382.20	99,382.20	
06/01/2029	482,000	2.920%	99,382.20	581,382.20	680,764.40
12/01/2029			92,345.00	92,345.00	
06/01/2030	496,000	2.920%	92,345.00	588,345.00	680,690.00
12/01/2030			85,103.40	85,103.40	
06/01/2031	510,000	2.920%	85,103.40	595,103.40	680,206.80
12/01/2031			77,657.40	77,657.40	
06/01/2032	525,000	2.920%	77,657.40	602,657.40	680,314.80
12/01/2032			69,992.40	69,992.40	
06/01/2033	541,000	2.920%	69,992.40	610,992.40	680,984.80
12/01/2033			62,093.80	62,093.80	
06/01/2034	556,000	2.920%	62,093.80	618,093.80	680,187.60
12/01/2034			53,976.20	53,976.20	
06/01/2035	573,000	2.920%	53,976.20	626,976.20	680,952.40
12/01/2035			45,610.40	45,610.40	
06/01/2036	589,000	2.920%	45,610.40	634,610.40	680,220.80
12/01/2036			37,011.00	37,011.00	
06/01/2037	607,000	2.920%	37,011.00	644,011.00	681,022.00
12/01/2037			28,148.80	28,148.80	
06/01/2038	624,000	2.920%	28,148.80	652,148.80	680,297.60
12/01/2038			19,038.40	19,038.40	
06/01/2039	643,000	2.920%	19,038.40	662,038.40	681,076.80
12/01/2039			9,650.60	9,650.60	
06/01/2040	661,000	2.920%	9,650.60	670,650.60	680,301.20
	10,200,000		3,410,910.40	13,610,910.40	13,610,910.40



***\$10,500,000 FIXED RATE SCHEDULES – 25 YEAR TERM***

BOND DEBT SERVICE

TOWN OF ASHLAND CITY, TENNESSEE  
\$10,500,000 FR LOAN - 25 YEARS

TENNESSEE MUNICIPAL BOND FUND  
FIXED RATE LOAN PROGRAM

\*\*\*BASED ON INDICATIVE RATE FOR 25 YEAR TERM WITH RATE  
5 YEAR RATE ADJUSTMENT\*\*\*

ASSUMES ALL PROCEEDS DRAWN AT CLOSING

Dated date: June 1, 2020

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/01/2020					
12/01/2020			127,050.00	127,050.00	
06/01/2021	328,000	2.420%	127,050.00	455,050.00	582,100.00
12/01/2021			123,081.20	123,081.20	
06/01/2022	336,000	2.420%	123,081.20	459,081.20	582,162.40
12/01/2022			119,015.60	119,015.60	
06/01/2023	344,000	2.420%	119,015.60	463,015.60	582,031.20
12/01/2023			114,853.20	114,853.20	
06/01/2024	352,000	2.420%	114,853.20	466,853.20	581,706.40
12/01/2024			110,594.00	110,594.00	
06/01/2025	361,000	2.420%	110,594.00	471,594.00	582,188.00
12/01/2025			106,225.90	106,225.90	
06/01/2026	369,000	2.420%	106,225.90	475,225.90	581,451.80
12/01/2026			101,761.00	101,761.00	
06/01/2027	378,000	2.420%	101,761.00	479,761.00	581,522.00
12/01/2027			97,187.20	97,187.20	
06/01/2028	388,000	2.420%	97,187.20	485,187.20	582,374.40
12/01/2028			92,492.40	92,492.40	
06/01/2029	397,000	2.420%	92,492.40	489,492.40	581,984.80
12/01/2029			87,688.70	87,688.70	
06/01/2030	407,000	2.420%	87,688.70	494,688.70	582,377.40
12/01/2030			82,764.00	82,764.00	
06/01/2031	416,000	2.420%	82,764.00	498,764.00	581,528.00
12/01/2031			77,730.40	77,730.40	
06/01/2032	426,000	2.420%	77,730.40	503,730.40	581,460.80
12/01/2032			72,575.80	72,575.80	
06/01/2033	437,000	2.420%	72,575.80	509,575.80	582,151.60
12/01/2033			67,288.10	67,288.10	
06/01/2034	447,000	2.420%	67,288.10	514,288.10	581,576.20
12/01/2034			61,879.40	61,879.40	
06/01/2035	458,000	2.420%	61,879.40	519,879.40	581,758.80
12/01/2035			56,337.60	56,337.60	
06/01/2036	469,000	2.420%	56,337.60	525,337.60	581,675.20
12/01/2036			50,662.70	50,662.70	
06/01/2037	481,000	2.420%	50,662.70	531,662.70	582,325.40
12/01/2037			44,842.60	44,842.60	
06/01/2038	492,000	2.420%	44,842.60	536,842.60	581,685.20
12/01/2038			38,889.40	38,889.40	
06/01/2039	504,000	2.420%	38,889.40	542,889.40	581,778.80
12/01/2039			32,791.00	32,791.00	
06/01/2040	516,000	2.420%	32,791.00	548,791.00	581,582.00
12/01/2040			26,547.40	26,547.40	
06/01/2041	529,000	2.420%	26,547.40	555,547.40	582,094.80
12/01/2041			20,146.50	20,146.50	
06/01/2042	542,000	2.420%	20,146.50	562,146.50	582,293.00

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BOND DEBT SERVICE

TOWN OF ASHLAND CITY, TENNESSEE  
\$10,500,000 FR LOAN - 25 YEARS

TENNESSEE MUNICIPAL BOND FUND  
FIXED RATE LOAN PROGRAM

\*\*\*BASED ON INDICATIVE RATE FOR 25 YEAR TERM WITH RATE  
5 YEAR RATE ADJUSTMENT\*\*\*

ASSUMES ALL PROCEEDS DRAWN AT CLOSING

Dated date: June 1, 2020

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
12/01/2042			13,588.30	13,588.30	
06/01/2043	555,000	2.420%	13,588.30	568,588.30	582,176.60
12/01/2043			6,872.80	6,872.80	
06/01/2044	568,000	2.420%	6,872.80	574,872.80	581,745.60
	10,500,000		3,465,730.40	13,965,730.40	13,965,730.40

BOND DEBT SERVICE

TOWN OF ASHLAND CITY, TENNESSEE  
\$10,500,000 FR LOAN - 25 YEARS

TENNESSEE MUNICIPAL BOND FUND  
FIXED RATE LOAN PROGRAM

\*\*\*BASED ON INDICATIVE RATE FOR 25 YEAR TERM WITH RATE  
10 YEAR RATE ADJUSTMENT\*\*\*

ASSUMES ALL PROCEEDS DRAWN AT CLOSING

Dated date: June 1, 2020

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/01/2020					
12/01/2020			154,350.00	154,350.00	
06/01/2021	307,000	2.940%	154,350.00	461,350.00	615,700.00
12/01/2021			149,837.10	149,837.10	
06/01/2022	316,000	2.940%	149,837.10	465,837.10	615,674.20
12/01/2022			145,191.90	145,191.90	
06/01/2023	326,000	2.940%	145,191.90	471,191.90	616,383.80
12/01/2023			140,399.70	140,399.70	
06/01/2024	335,000	2.940%	140,399.70	475,399.70	615,799.40
12/01/2024			135,475.20	135,475.20	
06/01/2025	345,000	2.940%	135,475.20	480,475.20	615,950.40
12/01/2025			130,403.70	130,403.70	
06/01/2026	355,000	2.940%	130,403.70	485,403.70	615,807.40
12/01/2026			125,185.20	125,185.20	
06/01/2027	366,000	2.940%	125,185.20	491,185.20	616,370.40
12/01/2027			119,805.00	119,805.00	
06/01/2028	376,000	2.940%	119,805.00	495,805.00	615,610.00
12/01/2028			114,277.80	114,277.80	
06/01/2029	387,000	2.940%	114,277.80	501,277.80	615,555.60
12/01/2029			108,588.90	108,588.90	
06/01/2030	399,000	2.940%	108,588.90	507,588.90	616,177.80
12/01/2030			102,723.60	102,723.60	
06/01/2031	411,000	2.940%	102,723.60	513,723.60	616,447.20
12/01/2031			96,681.90	96,681.90	
06/01/2032	423,000	2.940%	96,681.90	519,681.90	616,363.80
12/01/2032			90,463.80	90,463.80	
06/01/2033	435,000	2.940%	90,463.80	525,463.80	615,927.60
12/01/2033			84,069.30	84,069.30	
06/01/2034	448,000	2.940%	84,069.30	532,069.30	616,138.60
12/01/2034			77,483.70	77,483.70	
06/01/2035	461,000	2.940%	77,483.70	538,483.70	615,967.40
12/01/2035			70,707.00	70,707.00	
06/01/2036	475,000	2.940%	70,707.00	545,707.00	616,414.00
12/01/2036			63,724.50	63,724.50	
06/01/2037	488,000	2.940%	63,724.50	551,724.50	615,449.00
12/01/2037			56,550.90	56,550.90	
06/01/2038	503,000	2.940%	56,550.90	559,550.90	616,101.80
12/01/2038			49,156.80	49,156.80	
06/01/2039	518,000	2.940%	49,156.80	567,156.80	616,313.60
12/01/2039			41,542.20	41,542.20	
06/01/2040	533,000	2.940%	41,542.20	574,542.20	616,084.40
12/01/2040			33,707.10	33,707.10	
06/01/2041	549,000	2.940%	33,707.10	582,707.10	616,414.20
12/01/2041			25,636.80	25,636.80	
06/01/2042	565,000	2.940%	25,636.80	590,636.80	616,273.60

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BOND DEBT SERVICE

TOWN OF ASHLAND CITY, TENNESSEE  
\$10,500,000 FR LOAN - 25 YEARS

TENNESSEE MUNICIPAL BOND FUND  
FIXED RATE LOAN PROGRAM

\*\*\*BASED ON INDICATIVE RATE FOR 25 YEAR TERM WITH RATE  
10 YEAR RATE ADJUSTMENT\*\*\*

ASSUMES ALL PROCEEDS DRAWN AT CLOSING

Dated date: June 1, 2020

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
12/01/2042			17,331.30	17,331.30	
06/01/2043	581,000	2.940%	17,331.30	598,331.30	615,662.60
12/01/2043			8,790.60	8,790.60	
06/01/2044	598,000	2.940%	8,790.60	606,790.60	615,581.20
	10,500,000		4,284,168.00	14,784,168.00	14,784,168.00



United States Department of Agriculture  
 CPAP - Community Program Application Processing



### CPAP - Bond Schedule Detail

Name of Borrower: Ashland City			
Amount of Loan	15234000	Annual Interest Rate	0.01875
Number of Initial Interest Only Payments	0	Number of principal and/or Interest Payments	480
Payment Frequency	Monthly	This is a split payment bond.	No
Principal Payment Units	1	Interest Payment Units.	1

Year	Period	Number	Payment	Interest	Principal	Balance
2022	1	1	45245	23803	21442	15212558
2022	2	2	45245	23769	21476	15191082
2022	3	3	45245	23736	21509	15169573
2022	4	4	45245	23702	21543	15148030
2022	5	5	45245	23668	21577	15126453
2022	6	6	45245	23635	21610	15104843
2022	7	7	45245	23601	21644	15083199
2022	8	8	45245	23567	21678	15061521
2022	9	9	45245	23533	21712	15039809
2022	10	10	45245	23499	21746	15018063
2022	11	11	45245	23465	21780	14996283
2022	12	12	45245	23431	21814	14974469
2023	1	13	45245	23397	21848	14952621
2023	2	14	45245	23363	21882	14930739
2023	3	15	45245	23329	21916	14908823
2023	4	16	45245	23295	21950	14886873
2023	5	17	45245	23260	21985	14864888
2023	6	18	45245	23226	22019	14842869
2023	7	19	45245	23191	22054	14820815
2023	8	20	45245	23157	22088	14798727
2023	9	21	45245	23123	22122	14776605
2023	10	22	45245	23088	22157	14754448
2023	11	23	45245	23053	22192	14732256
2023	12	24	45245	23019	22226	14710030
2024	1	25	45245	22984	22261	14687769
2024	2	26	45245	22949	22296	14665473
2024	3	27	45245	22914	22331	14643142
2024	4	28	45245	22879	22366	14620776
2024	5	29	45245	22844	22401	14598375
2024	6	30	45245	22809	22436	14575939
2024	7	31	45245	22774	22471	14553468
2024	8	32	45245	22739	22506	14530962
2024	9	33	45245	22704	22541	14508421
2024	10	34	45245	22669	22576	14485845
2024	11	35	45245	22634	22611	14463234
2024	12	36	45245	22598	22647	14440587
2025	1	37	45245	22563	22682	14417905
2025	2	38	45245	22527	22718	14395187
2025	3	39	45245	22492	22753	14372434
2025	4	40	45245	22456	22789	14349645
2025	5	41	45245	22421	22824	14326821
2025	6	42	45245	22385	22860	14303961
2025	7	43	45245	22349	22896	14281065
2025	8	44	45245	22314	22931	14258134
2025	9	45	45245	22278	22967	14235167
2025	10	46	45245	22242	23003	14212164
2025	11	47	45245	22206	23039	14189125

2025	12	48	45245	22170	23075	14166050
2026	1	49	45245	22134	23111	14142939
2026	2	50	45245	22098	23147	14119792
2026	3	51	45245	22062	23183	14096609
2026	4	52	45245	22025	23220	14073389
2026	5	53	45245	21989	23256	14050133
2026	6	54	45245	21953	23292	14026841
2026	7	55	45245	21916	23329	14003512
2026	8	56	45245	21880	23365	13980147
2026	9	57	45245	21843	23402	13956745
2026	10	58	45245	21807	23438	13933307
2026	11	59	45245	21770	23475	13909832
2026	12	60	45245	21734	23511	13886321
2027	1	61	45245	21697	23548	13862773
2027	2	62	45245	21660	23585	13839188
2027	3	63	45245	21623	23622	13815566
2027	4	64	45245	21586	23659	13791907
2027	5	65	45245	21549	23696	13768211
2027	6	66	45245	21512	23733	13744478
2027	7	67	45245	21475	23770	13720708
2027	8	68	45245	21438	23807	13696901
2027	9	69	45245	21401	23844	13673057
2027	10	70	45245	21364	23881	13649176
2027	11	71	45245	21326	23919	13625257
2027	12	72	45245	21289	23956	13601301
2028	1	73	45245	21252	23993	13577308
2028	2	74	45245	21214	24031	13553277
2028	3	75	45245	21176	24069	13529208
2028	4	76	45245	21139	24106	13505102
2028	5	77	45245	21101	24144	13480958
2028	6	78	45245	21063	24182	13456776
2028	7	79	45245	21026	24219	13432557
2028	8	80	45245	20988	24257	13408300
2028	9	81	45245	20950	24295	13384005
2028	10	82	45245	20912	24333	13359672
2028	11	83	45245	20874	24371	13335301
2028	12	84	45245	20836	24409	13310892
2029	1	85	45245	20798	24447	13286445
2029	2	86	45245	20760	24485	13261960
2029	3	87	45245	20721	24524	13237436
2029	4	88	45245	20683	24562	13212874
2029	5	89	45245	20645	24600	13188274
2029	6	90	45245	20606	24639	13163635
2029	7	91	45245	20568	24677	13138958
2029	8	92	45245	20529	24716	13114242
2029	9	93	45245	20491	24754	13089488
2029	10	94	45245	20452	24793	13064695
2029	11	95	45245	20413	24832	13039863
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2061	11	479	12803	19	12784	0
2061	12	480	0	0	0	0
<b>TOTALS</b>			<b>\$21,639,913.00</b>	<b>\$6,405,913.00</b>	<b>\$15,234,000.00</b>	

Warning: This schedule is an estimate of payments. Rural Development calculates interest amounts and principle reduction as of the date the payment is processed. Because over the life of the loan payments will be processed on dates other than the due date, the actual interest amounts and principle reduction will not match the schedule provided here.

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**Tennessee Municipal Bond Fund  
Information Regarding Alternative Loan Program for the  
Town of Ashland City, Tennessee**

**March 24, 2020**

The Tennessee Municipal Bond Fund ("TMBF"), can assist the Town of Ashland City (the "Town"), with the issuance of a capital outlay note in the amount of not to exceed \$1,300,000 for the purpose of financing a fire truck for the Town.

Below is a summary of the alternative loan program:

**ALTERNATIVE LOAN PROGRAM**

The Town can issue a fixed rate capital outlay note in the amount of \$1,300,000 for a term of 12 years, which is the term we understand the Town is considering

The fixed rate on the capital outlay note issue will be locked in for the entire term of the note issue

The note can be prepaid in whole prior to its maturity with a 1% prepayment premium – however, the Town can make additional principal payments during the term of the note at any time with no prepayment premium

The note will be a general obligation debt of the Town payable from funds of the Town legally available therefor, including ad valorem taxes

The total cost of issuance for the \$1,300,000 note issue is \$1,000 which is for legal fees bond and tax counsel - this cost may be paid from the note proceeds or from funds on hand

At the time of the closing of the note issue the Town will receive the entire proceeds - the Town will then be able invest the proceeds and will pay interest on the entire amount from the time of closing

Principal will be payable annually with interest being payable semiannually – the payment dates can be determined at the time of the closing of the note issue

**LOAN PROCESS FOR NOTE ISSUE:**

The note issuance would require the adoption of a note resolution at either a regular or special meeting of the Town Council, after publication of a notice of such meeting. We provide the resolution and assist in obtaining all necessary approvals – consisting of bank and state approvals. The loan would require the completion of a loan application and credit approval by the bank. We obtain at least three bids from banks, prepare the letter to the State requesting note issuance approval, prepare all necessary closing documents, including the CT-0253 and the IRS Form 8038-G, and take care of filing them after the closing.

**AMORTIZATION SCHEDULE:**

**Attached is an amortization schedule with the indicative rate of 2.82% which would be locked in for the 12 year term**

*Notice: The Tennessee Municipal Bond Fund ("TMBF") is not a registered municipal advisor and it is TMBF's intention not to act as a municipal advisor. TMBF is not recommending any course of action to you as the municipal entity or obligated person; TMBF is not acting as an advisor to you and, therefore, does not owe a fiduciary duty to you pursuant to Section 15B of the Securities Exchange Act of 1934 with respect to this or any other information, materials, and communications you receive from TMBF; TMBF is acting for its own business and commercial interests; You should discuss this and any other information, materials, and communications you receive from TMBF with internal advisors and experts that you deem appropriate before acting on such information, materials, and communications.*



BOND DEBT SERVICE

TOWN OF ASHLAND CITY, TENNESSEE  
\$1,300,000 CON - 12 YEARS

TENNESSEE MUNICIPAL BOND FUND  
ALTERNATIVE LOAN PROGRAM

\*\*\*BASED ON BQ INDICATIVE RATE FOR 12 YEAR TERM\*\*\*

Dated date: May 1, 2020

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
05/01/2020					
11/01/2020			18,330.00	18,330.00	
05/01/2021	93,000	2.820%	18,330.00	111,330.00	129,660.00
11/01/2021			17,018.70	17,018.70	
05/01/2022	95,000	2.820%	17,018.70	112,018.70	129,037.40
11/01/2022			15,679.20	15,679.20	
05/01/2023	98,000	2.820%	15,679.20	113,679.20	129,358.40
11/01/2023			14,297.40	14,297.40	
05/01/2024	101,000	2.820%	14,297.40	115,297.40	129,594.80
11/01/2024			12,873.30	12,873.30	
05/01/2025	103,000	2.820%	12,873.30	115,873.30	128,746.60
11/01/2025			11,421.00	11,421.00	
05/01/2026	106,000	2.820%	11,421.00	117,421.00	128,842.00
11/01/2026			9,926.40	9,926.40	
05/01/2027	109,000	2.820%	9,926.40	118,926.40	128,852.80
11/01/2027			8,389.50	8,389.50	
05/01/2028	112,000	2.820%	8,389.50	120,389.50	128,779.00
11/01/2028			6,810.30	6,810.30	
05/01/2029	116,000	2.820%	6,810.30	122,810.30	129,620.60
11/01/2029			5,174.70	5,174.70	
05/01/2030	119,000	2.820%	5,174.70	124,174.70	129,349.40
11/01/2030			3,496.80	3,496.80	
05/01/2031	122,000	2.820%	3,496.80	125,496.80	128,993.60
11/01/2031			1,776.60	1,776.60	
05/01/2032	126,000	2.820%	1,776.60	127,776.60	129,553.20
	1,300,000		250,387.80	1,550,387.80	1,550,387.80

**RESOLUTION 2020-**

**A RESOLUTION OF THE TOWN OF ASHLAND CITY, TENNESSEE TO  
APPLY FOR GRANTS AND LOANS WITH USDA**

**WHEREAS**, the Town of Ashland City has been reviewing funding for several outstanding projects;  
and

**WHEREAS**, the town has compared the interest rates, but has found the USDA funding interest  
rates the best in the market being 1.875% for utility projects and 2.375% for general  
governmental projects; and

**WHEREAS**, the town would like to proceed with application for funding of City Hall construction,  
Fire Hall construction, Sewer Treatment Plant construction, and purchase of fire  
vehicle apparatus through grants and loans available with the USDA.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE  
TOWN OF ASHLAND CITY, TENNESSEE** the following:

**SECTION 1:** That the Town of Ashland City is hereby authorized to submit  
application for grants and loan with the USDA.

**SECTION 2:** That the Town of Ashland City further authorizes Kellie Reed apply  
for and manage this grant application.

We, the undersigned City Council members, meeting in Regular Session on this 14th day of April 2020  
move the adoption of the above Resolution.

Councilmember \_\_\_\_\_ moved to adopt the Resolution.

Councilmember \_\_\_\_\_ seconded the motion.

Voting in Favor \_\_\_\_\_

Voting Against \_\_\_\_\_

Attest:

\_\_\_\_\_  
Steve Allen, Mayor

\_\_\_\_\_  
City Recorder Kellie Reed, CMC, CMFO

**Lindy Murff**  
**Exercise and Fitness Instructor**

*1265 Wiley Pardue Road*  
*Ashland City, Tennessee 37015*  
615.792.4423 h 615.418.7076 c

Town of Ashland City  
Senior Center  
101 Court Street  
P.O. Box 36  
Ashland City, Tennessee 37015

**Contract for Services**

This document shall serve as a contract between Lindy Murff, Exercise Instructor, and the Town of Ashland City, Owner, for instruction of exercise classes held at the Senior Center at Ashland City. Instructor shall maintain qualification and certification as a fitness instructor, as well as maintain CPR and AED certification. Instructor will teach assigned exercise classes at current rate of pay \$35.00 per class. Term of this initial contract shall be July 1, 2020 through June 30, 2021

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Lindy Murff, Exercise Instructor  
Social Security # 409-25-3883

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Steve Allen Mayor

**PROFESSIONAL SERVICES CONTRACT  
BETWEEN  
ASHLAND CITY  
AND THE  
GREATER NASHVILLE REGIONAL COUNCIL  
CONTRACT # ENVIRONMENTAL 20-01**

This Contract, by and between Ashland City ("TOWN") and the Greater Nashville Regional Council ("GNRC") or ("Contractor"), is for the creation of two (2) Environmental Reports related to USDA funding, as further defined in the "SCOPE". The TOWN, and GNRC may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

**BACKGROUND**

The TOWN has requested the assistance of GNRC for performing certain administrative functions as more specifically provided in the Scope of Services. The GNRC is the regional planning and economic development agency for the thirteen (13) counties and fifty-two (52) cities of the upper Middle Tennessee area. The GNRC provides assistance to counties, municipalities, metropolitan governments, and other organizations within the service area with administrative and land use planning services. The GNRC has agreed to assist the TOWN with certain administrative functions described below. The TOWN and the GNRC intend for this Contract to govern each of their rights and obligations with respect to such engagement.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, the parties contract and agree as follows:

**A. SCOPE OF SERVICES:**

**GNRC RESPONSIBILITIES**

- A.1 Assist the TOWN in creating Environmental Reports for the TOWN's City Hall and Fire Station projects to be funded by USDA – Rural Development addressing:
1. Project Description and Location
  2. Land Ownership and Land Use
  3. Complete Section 106 of the National Historic Preservation Act of 1966 (NHPA) process as laid out by USDA – Rural Development
  4. Threatened and Endangered Species/Biological Resources
  5. Wetlands
  6. Floodplains
  7. Coastal Areas
  8. Important Farmland
  9. Environmental Risk Management
  10. Other Resources

## **TOWN RESPONSIBILITIES**

A.2 In order for the GNRC to perform its responsibilities under this Contract, the TOWN shall provide complete and full information to the GNRC as to the Project and shall:

1. Bear all costs incidental to compliance with the requirements of this Project including, but not limited to, necessary postage.
2. Designate, in writing, a person to act as the TOWN's local representative.
3. Provide the GNRC with all available information which is pertinent to the Project including, but not limited to:
  - a. Topo quad map with project site demarcated, topo quad identified
  - b. Site plan map with photos keyed to it.
  - c. Photo pages, 2 per page labeled with direction taken.
  - d. Architecture/Engineering report which includes a project description and any details requested by your guidance in preparing the ER Report, specifically land area disturbed in acres, all project elements as known at time of application.
  - e. After ER packet is comprised and sent out to various agencies awaiting their response, I will then begin to prepare the ER Review Document for submission.
4. Guarantee access to the work and make all provisions for the GNRC to enter upon public and private lands as required to perform surveys, inspections, or other work essential to the development of the Project.
5. Give thorough considerations to all documents presented by the GNRC and inform the GNRC of all decisions within a reasonable time so as not to delay the timely completion of this Project.
6. Hold promptly all required special meetings, serve all public and private notices, receive and act upon all protests and fulfill all requirements necessary in the development of the Project and pay all costs incidental thereto.

## **B. TERM OF CONTRACT:**

The parties agree that this Contract will be effective for the period beginning on April 14, 2020 ("Effective Date") and ending on September 30, 2020 ("Term").

In the event of unforeseen delays caused by the COVID-19 pandemic, the parties agree that the term of this Contract may be extended. If such delay occurs, the TOWN shall provide GNRC with reasonable time to perform the terms of this Contract. If unforeseen delays occur due to the COVID-19 pandemic, GNRC will promptly inform the TOWN of the delay and will provide the TOWN with an estimated date when performance of this Contract will be complete.

## **C. PAYMENT TERMS AND CONDITIONS:**

- C.1. Maximum Liability. In no event will the maximum liability of the TOWN under this Contract exceed FOUR THOUSAND, FIVE HUNDRED DOLLARS (\$4,500.00) ("Maximum Liability"). This Contract does not grant the GNRC any exclusive rights. The TOWN does not guarantee that it will buy any minimum quantity of services under this Contract.

- C.2. Compensation Firm. The maximum liability provided in Section C.1 of this Contract will constitute the entire compensation due the GNRC for work performed under this Contract for all services performed under this Contract regardless of the difficulty. The maximum liability of the TOWN under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended. The payment maximum liability includes all applicable taxes, fees, overhead, costs of insurance, and all other direct or indirect costs incurred or to be incurred by the GNRC.
- C.3. Travel Compensation. The GNRC will not be compensated or reimbursed for travel, meals, or lodging.
- C.4. Invoice Procedure. The GNRC will submit to the TOWN for payment an invoice along with a report of work undertaken, accomplished or progress made in fulfilling the GNRC's work under the "Scope of Services." The amount of payment requested in each invoice can be based on an estimate of the percentage of work accomplished under the "Scope of Services" or upon a payment schedule agreed to by both parties. Starting from the effective date of this Contract, invoices and progress reports made by the GNRC to the TOWN must be submitted to the appropriate party as specified in D.2.

**D. STANDARD TERMS AND CONDITIONS:**

- D.1. Required Approvals. Neither party is bound by this Contract until it is signed by the contracting parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations, and bylaws of the contracting parties.
- D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, will be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

Ashland City:

STEVE ALLEN, MAYOR  
ASHLAND CITY  
101 COURT ST.  
PO BOX 36  
ASHLAND CITY, TN 37015  
SALLEN@ASHLANDCITYTN.GOV  
TELEPHONE #: 615-767-9347

The GNRC:

MICHAEL SKIPPER  
220 ATHENS WAY, SUITE 200  
NASHVILLE, TN 37228  
EMAIL: MSKIPPER@GNRC.ORG  
PHONE # 615-862-8828  
FAX # 615-862-8840

AND

ANGIE HUBBARD  
220 ATHENS WAY, SUITE 200  
NASHVILLE, TN 37228  
EMAIL: MVONLUNEN@GNRC.ORG  
PHONE # 615-862-8849  
FAX # 615-862-8840

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties to this Contract and approved by appropriate officials in accordance with applicable Tennessee laws and regulations, and the bylaws of the Contracting parties.
- D.4. Termination for Convenience. Either party may terminate this Contract for convenience without cause for any reason. A termination for convenience will not be deemed a breach of contract by either party. The TOWN will give the GNRC at least thirty (30) days written notice before the termination date. If the GNRC terminates this Contract for convenience, it will provide the TOWN with thirty (30) days written notice, and will provide the TOWN with any outstanding deliverables and records prior to the termination and prior to receiving final payment from the TOWN. The GNRC will be entitled to compensation for satisfactory, authorized service completed as of the termination date. In no event will the TOWN be liable to the GNRC for compensation for any service which has not been satisfactorily performed by the GNRC.
- D.5. Termination for Cause. If either party fails to properly perform its obligations under this Contract in a timely or proper manner, or if either party violates any terms of this Contract ('Breach Condition), either party will have the right to immediately terminate the Contract. The TOWN will withhold payments in excess of compensation for completed services.
- D.6. Assignment and Subcontracting. The GNRC will not assign this Contract or enter into a subcontract for any of the services provided under this Contract without the prior written approval of the TOWN. Notwithstanding any use of the approved subcontractors, the GNRC will be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The TOWN reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the GNRC's obligations under this Contract.
- D.7. Conflicts of Interest. The GNRC warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the TOWN as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the GNRC in connection with any work contemplated or performed relative to this Contract.
- D.8. Nondiscrimination. The GNRC hereby agrees, warrants, and assures that no person will be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the GNRC on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or state law. The GNRC will, upon request, show proof of nondiscrimination and will post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.9. Records. The GNRC will maintain documentation for all charges under this Contract. The books, records, and documents of the GNRC, for work performed or money received under this Contract, will be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the TOWN, the Department of Economic and Community Development, the Comptroller of the Treasury, or their

duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

- D.10. Monitoring. The GNRC's activities conducted and records maintained pursuant to this Contract will be subject to monitoring and evaluation by the TOWN, the Department of Economic and Community Development, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The GNRC will submit brief, periodic, progress reports to the TOWN as requested.
- D.12. Strict Performance. Failure by any party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract will not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract will be held to be waived, modified, or deleted except by a written amendment signed by the parties to this Contract.
- D.13. Independent Contractor. The parties to this Contract will not act as employees, partners, joint venturers, or associates of one another. The parties to this Contract are independent contracting entities. Nothing in this Contract will be construed to create an employer/employee relationship or to allow either party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party are not the employees or agents of the other party. The TOWN will not provide GNRC with office space, desks, equipment or supplies.

The GNRC, being an independent contractor and not an employee of the TOWN, agrees to carry adequate public liability and other appropriate forms of insurance, including worker's compensation insurance on its employees when required by law, and to pay all applicable taxes incident to this Contract.

- D.14. Limitation of Liability. Neither party will have any liability except as specifically provided in this Contract or otherwise required by law.
- D.15. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the GNRC agrees that if it is later determined that the true nature of the working relationship between the GNRC and the TOWN under this Contract is that of "employee/employer" and not that of an independent contractor, the member of TCRS may be required to repay to TCRS the amount of retirement benefits the member received from TCRS during the Term.
- D.16. Tennessee Department of Revenue Registration. The GNRC will comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.
- D.17. Debarment and Suspension. The GNRC certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
  - a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;



- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The GNRC will provide immediate written notice to the TOWN if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

- D.18. Force Majeure. “Force Majeure Event” means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, epidemics, pandemics, including the COVID-19 pandemic, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party. Except as set forth in this Section, any failure or delay by a party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the party continues to use diligent, good faith efforts to resume performance without delay. GNRC will promptly notify the TOWN of any delay caused by a Force Majeure, and will describe in reasonable detail the nature of the Force Majeure Event.
- D.19. State and Federal Compliance. The GNRC will comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.20. Governing Law. This Contract will be governed by and construed in accordance with the laws of the State of Tennessee. The GNRC agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract.
- D.21. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties’ agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.22. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract will not be affected and will remain in full force and effect. The terms and conditions of this Contract are severable.
- D.23. Headings. Section headings of this Contract are for reference purposes only and will not be construed as part of this Contract.
- D.24. Incorporation of Additional Documents. Each of the following documents are included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the GNRC’s duties, responsibilities, and performance under this Contract, these items will govern in order of precedence below:
  - a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;

b. this Contract with attachments.

**E. SPECIAL TERMS AND CONDITIONS:**

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions will control.
- E.2. Subject to Funds Availability. The TOWN reserves the right to terminate the Contract upon written notice to the Contractor. Said termination will not be deemed a breach of Contract by the TOWN. Upon receipt of the written notice, the GNRC will cease all work associated with the Contract. If the TOWN terminates this Contract due to a lack of funds availability, the GNRC will be entitled to compensation for all satisfactory and authorized services completed as of the termination date.
- E.3. Confidentiality of Records. Strict standards of confidentiality of records and information will be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the GNRC by the TOWN or acquired by the GNRC on behalf of the TOWN that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section will permit GNRC to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the GNRC due to intentional or negligent actions or inactions of agents of the TOWN or third parties. Confidential Information will not be disclosed except as required or permitted under state or federal law. The GNRC will take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section will survive the termination of this Contract.

- E.4. Public Accountability. If the GNRC is subject to Tenn. Code Ann. §§ 8-4-401, *et seq.*, or if this Contract involves the provision of services to citizens by the GNRC on behalf of the TOWN, the GNRC agrees to establish a system through which recipients of services may present grievances about GNRC's operation of the service program. The GNRC will also display in a prominent place, located near the passageway through which the public enters in order to receive contract-supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating the following:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY THAT YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

The sign will be of the form prescribed by the Comptroller of the Treasury.

- E.5. Lobbying. The GNRC certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a

Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the GNRC will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- c. The GNRC will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients will certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, *U.S. Code*.

- E.6. Insurance. The GNRC will carry adequate liability and other appropriate forms of insurance, including worker compensation insurance when required by law.
- E.7. Ownership of Work Product/Assignment of Product Rights. All work performed by GNRC under this Contract is work made for hire and is the property of the TOWN. All work products including but not limited to forms, legal documents, information materials, reports, background check documentation, text, and exhibits produced by GNRC in the performance of this Contract are owned by the TOWN and, on completion or termination of the Contract, GNRC must deliver these materials to the TOWN.

**IN WITNESS WHEREOF:**

**ASHLAND CITY**

---

**STEVE ALLEN, MAYOR**                      **DATE**

**GREATER NASHVILLE REGIONAL COUNCIL:**

---

**ANTHONY HOLT, PRESIDENT**              **DATE**



**DEPARTMENT OF THE ARMY**  
U.S. ARMY CORPS OF ENGINEERS, NASHVILLE DISTRICT  
110 9<sup>TH</sup> AVENUE SOUTH, ROOM A-405  
NASHVILLE, TN 37203-3817

**MAR 17 2020**

Honorable Steve Allen  
Mayor, Town of Ashland City  
101 Court Street  
Ashland City, Tennessee 37015

Dear Mr. Allen:

Enclosed are draft copies of Easement DACW62-2-17-0850, located upon Tract Nos. F-621 and F-622, on the Cheatham Lock and Dam Project, located in Cheatham County, Tennessee.

Please review the enclosed documents. If all the terms and conditions prove satisfactory, please sign all and return to this office. The consideration for this easement is \$1,025.00. Please make check or money order payable to "FAO, USAED, Nashville District in the amount of \$1,025.00. The signed documents and payment should be mailed to District Chief of Real Estate, U.S. Army Corps of Engineers, Attention: Courtney Eason, 110 9<sup>th</sup> Avenue South, Nashville, Tennessee 37203.

Should you have any questions, please contact Courtney Eason of this office at (615) 736-7184. Your continued cooperation is appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael T. Abernathy".

Michael T. Abernathy  
District Chief of Real Estate  
Real Estate Contracting Officer

**DEPARTMENT OF THE ARMY  
EASEMENT FOR PIPELINE RIGHT-OF-WAY  
LOCATED ON  
CHEATHAM LOCK AND DAM  
PROJECT  
Cheatham County, Tennessee  
Tract No. F-621 & F-622**

**THE SECRETARY OF THE ARMY**, under and by virtue of the authority vested in the Secretary by Title 10 United States Code, Section 2668, having found that the granting of this easement will be in the public interest and will not substantially injure the interests of the United States, hereby grants to, **Town of Ashland City** hereinafter referred to as the Grantee, an easement for the operation and maintenance of a 12" diameter ductile iron pipe water main and an 12" sewer force main, hereinafter referred to as the facilities, over, across, in and upon lands of the United States as identified in Exhibits "A", hereinafter referred to as the premises, and which are attached hereto and made a part hereof.

**THIS EASEMENT** is granted subject to the following conditions.

**1. TERM**

This easement is granted for a term of fifty (50) years, beginning August 1, 2018 and ending July 31, 2068.

**2. CONSIDERATION**

a. The Grantee shall pay in advance to the United States the amount of \$1, 025.00 (ONE THOUSAND TWENTY-FIVE AND NO/100 DOLLARS) in full for the term hereof to the order of "F.A.O., USAED, Nashville District and delivered to the District Chief of Real Estate Division, Real Estate Contracting Officer.

b. All consideration and other payments due under the terms of this easement must be paid on or before the date they are due in order to avoid the mandatory sanctions imposed by the Debt Collection Act of 1982, 31 U.S.C. Section 3717. This statute requires the imposition of an interest charge for the late payment of debts owed to the United States, an administrative charge to cover the costs of processing and handling delinquent debts, and the assessment of an additional penalty charge on any portion of a debt that is more than 90 days past due. The provisions of the statute will be implemented as follows:

(1) The United States will impose an interest charge, the amount to be determined by law or regulation, on late payment of debts. Interest will accrue from the due date. An administrative charge to cover the cost of processing and handling each payment will also be imposed.

(2) In addition to the charges set forth above, the United States will impose a penalty charge of six percent (6%) per annum on any payment, or portion thereof, more than ninety (90) days past due. The penalty shall accrue from the date of the delinquency and will continue to accrue until the debt is paid in full.

(3) All payments received will be applied first to any accumulated interest, administrative and penalty charges and then to any unpaid rental or other payment balance. Interest will not accrue on any administrative or late payment penalty charge.

### **3. NOTICES**

All correspondence and notices to be given pursuant to this easement shall be addressed if to the Grantee, to the **Town of Ashland City, 101 Court Street, Ashland City, Tennessee** and, if to the United States to the District Engineer, ATTN: District Chief of Real Estate, Real Estate Contracting Officer, 110 9<sup>th</sup> Avenue North, Room A-405, Nashville, Tennessee 37203, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

### **4. AUTHORIZED REPRESENTATIVES**

Except as otherwise specifically provided, any reference herein to "Secretary", "District Engineer", "Installation Commander", or "said officer" shall include their duly authorized representatives. Any reference to "Grantee" shall include assignees, transferees and their duly authorized representatives.

### **5. SUPERVISION BY THE DISTRICT ENGINEER**

The use and occupation of the premises shall be subject to the general supervision and approval of the District Engineer, Nashville District, hereinafter referred to as said officer, and to such rules and regulations as may be prescribed from time to time by said officer.

### **6. APPLICABLE LAWS AND REGULATIONS**

The Grantee shall comply with all applicable Federal, state, county and municipal laws, ordinances and regulations wherein the premises are located, including but not limited to, the provisions of the latest edition of the National Electrical Safety Code (NESC) and the Environmental Protection Agency regulations on Polychlorinated Biphenyls (PCB's).

## **7. CONDITION OF PREMISES**

The Grantee acknowledges that it has inspected the premises, knows the condition, and understands that the same is granted without any representation or warranties whatsoever and without any obligation on the part of the United States.

## **8. INSPECTION AND REPAIRS**

The Grantee shall inspect the facilities at reasonable intervals and immediately repair any defects found by such inspection or when required by said officer to repair any such defects.

## **9. PROTECTION OF GOVERNMENT PROPERTY**

The Grantee shall be responsible for any damage that may be caused to the property of the United States by the activities of the Grantee under this easement and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed by the Grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Grantee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefor by the Grantee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

## **10. RIGHT TO ENTER**

The right is reserved to the United States, its officers, agents, and employees to enter upon the premises at any time and for any purpose necessary or convenient in connection with government purposes, to make inspections, to remove timber or other material, except property of the Grantee, to flood the premises and/or to make any other use of the lands as may be necessary in connection with government purposes, and the Grantee shall have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof.

## **11. TRANSFERS AND ASSIGNMENTS**

Without prior written approval by said District Engineer, the Grantee shall neither transfer nor assign this easement or any part thereof nor grant any interest, privilege or license whatsoever in connection with this easement. The provisions and conditions of this easement shall extend to and be binding upon and shall inure to the benefit of the representatives, successors and assigns of the Grantee.

## **12. INDEMNITY**

The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property or injuries to the person of the Grantee's officers, agents, or employees

or others who may be on the premises at their invitation or the invitation of any one of them, and the Grantee shall hold the United States harmless from any and all such claims not including damages due to the fault or negligence of the United States or its contractors.

### **13. SUBJECT TO EASEMENTS**

This easement is subject to all other existing easements, or those subsequently granted as well as established access routes for roadways and utilities located, or to be located, on the premises, provided that the proposed grant of any new easement or route will be coordinated with the Grantee, and easements will not be granted which will, in the opinion of said officer, interfere with the use of the premises by the Grantee.

### **14. REQUIRED SERVICES**

The Grantee shall furnish through said facilities such services as may be required from time to time for governmental purposes, provided that payment for such service will be made by the United States at rates which shall be mutually agreeable but which shall never exceed the most favorable rates granted by the Grantee for similar service.

### **15. RELOCATION OF FACILITIES**

In the event all or any portion of the premises occupied by the said facilities shall be needed by the United States, or in the event the existence of said facilities is determined to be detrimental to governmental activities, the Grantee shall from time to time, upon notice to do so, and as often as so notified, remove said facilities to such other location on the premises as may be designated by said officer. In the event said facilities shall not be removed or relocated within ninety (90) days after such notice, the United States may cause such relocation at the sole expense of the Grantee.

### **16. TERMINATION**

This easement may be terminated by the Secretary upon 30 days written notice to the Grantee if the Secretary shall determine that the right-of-way hereby granted interferes with the use or disposal of said land by the United States, or it may be revoked by the Secretary for failure of the Grantee to comply with any or all of the conditions of this easement, or for non-use for a period of two (2) years, or for abandonment.

### **17. SOIL AND WATER CONSERVATION**

The Grantee shall maintain, in a manner satisfactory to said officer, all soil and water conservation structures that may be in existence upon said premises at the beginning of or that may be constructed by the Grantee during the term of this easement, and the Grantee shall take appropriate measures to prevent or control soil erosion within the right-of-way herein granted. Any soil erosion occurring outside the premises resulting from the activities of the Grantee shall be corrected by the Grantee as directed by said officer.



## **18. ENVIRONMENTAL PROTECTION**

a. Within the limits of their respective legal powers, the parties hereto shall protect the premises against pollution of its air, ground, and water. The Grantee shall promptly comply with any laws, regulations, conditions or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the premises is strictly prohibited. Such regulations, conditions, or instructions in effect or prescribed by the said Environmental Protection Agency or any Federal, state, interstate or local governmental agency are hereby made a condition of this easement. The Grantee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The use of any pesticides or herbicides within the premises shall be in conformance with all applicable Federal, state and local laws and regulations. The Grantee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the premises.

c. The Grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from the Grantee's activities, the Grantee shall be liable to restore the damaged resources.

## **19. HISTORIC PRESERVATION**

The Grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the premises, the Grantee shall immediately notify said officer and protect the site and material from further disturbance until said officer gives clearance to proceed.

## **20. NON-DISCRIMINATION**

The Grantee shall not discriminate against any person or persons because of race, color, age, sex, handicap, national origin, or religion in the conduct of operations on the premises.

## **21. RESTORATION**

On or before the expiration or termination of this easement, the Grantee shall, without expense to the United States, and within such time as said officer may indicate, remove said facilities and restore the premises to the satisfaction of said officer. In the event the Grantee shall fail to remove said facilities and restore the premises, the United States shall have the option to take over said facilities without compensation, or to remove said facilities and perform the restoration at the expense of the Grantee, and the Grantee shall have no claim for damages against the United States or its officers or agents for such action.

## 22. EXECUTIVE ORDER 13658

Any reference in this section to “prime contractor” or “contractor” shall mean the grantee and any reference to “contract” shall refer to the easement.

The parties expressly stipulate this contract is subject to Executive Order 13658, the regulations issued by the Secretary of Labor in 29 CFR part 10 pursuant to the Executive Order, and the following provisions:

### (a) Minimum Wages.

(1) Each worker (as defined in 29 CFR 10.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship which may be alleged to exist between the contractor and worker, shall be paid not less than the applicable minimum wage under Executive Order 13658.

(2) The minimum wage required to be paid to each worker performing work on or in connection with this contract between January 1, 2015 and December 31, 2015 shall be \$10.10 per hour. The minimum wage shall be adjusted each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a) (ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a) (ii) of Executive Order 13658 will be effective for all workers subject to the Executive Order beginning January 1 of the following year. If appropriate, the contracting officer, or other agency official overseeing this contract shall ensure the contractor is compensated only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The Secretary of Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on [www.wdol.gov](http://www.wdol.gov) (or any successor Web site). The applicable published minimum wage is incorporated by reference into this contract.

(3) The contractor shall pay unconditionally to each worker all wages due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 10.23), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Executive Order may not be of any duration longer than semi-monthly.

(4) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the Executive Order minimum wage requirements. In the event of any violation of the minimum wage obligation of this clause, the contractor and any subcontractor(s) responsible therefore shall be liable for the unpaid wages.

(5) If the commensurate wage rate paid to a worker on a covered contract whose wages are calculated pursuant to a special certificate issued under 29 U.S.C. 214(c), whether hourly or piece rate, is less than the Executive Order minimum wage, the contractor must pay the

Executive Order minimum wage rate to achieve compliance with the Order. If the commensurate wage due under the certificate is greater than the Executive Order minimum wage, the contractor must pay the 14(c) worker the greater commensurate wage.

(b) Withholding. The agency head shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay workers the full amount of wages required by Executive Order 13658.

(c) Contract Suspension/Contract Termination/Contractor Debarment. In the event of a failure to pay any worker all or part of the wages due under Executive Order 13658 or 29 CFR part 10, or a failure to comply with any other term or condition of Executive Order 13658 or 29 CFR part 10, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 10.52.

(d) The contractor may not discharge any part of its minimum wage obligation under Executive Order 13658 by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Act, the cash equivalent thereof.

(e) Nothing herein shall relieve the contractor of any other obligation under Federal, State or local law, or under contract, for the payment of a higher wage to any worker, nor shall a lower prevailing wage under any such Federal, State, or local law, or under contract, entitle a contractor to pay less than \$10.10 (or the minimum wage as established each January thereafter) to any worker.

(f) Payroll Records.

(1) The contractor shall make and maintain for three years records containing the information specified in paragraphs (g)(1) (i) through (vi) of this section for each worker and shall make the records available for inspection and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:

- (i) Name, address, and social security number;
- (ii) The worker's occupation(s) or classification(s);
- (iii) The rate or rates of wages paid;

(iv) The number of daily and weekly hours worked by each worker;

(v) Any deductions made; and

(vi) Total wages paid.

(2) The contractor shall also make available a copy of the contract, as applicable, for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of 29 CFR part 10 and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of an authorized representative of the Department of Labor, or under its own action, shall take such action as may be necessary to cause suspension of any further payment or advance of funds until such time as the violations are discontinued.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct investigations, including interviewing workers at the worksite during normal working hours.

(5) Nothing in this clause limits or otherwise modifies the contractor's payroll and recordkeeping obligations, if any, under the Davis-Bacon Act, as amended, and its implementing regulations; the Service Contract Act, as amended, and its implementing regulations; the Fair Labor Standards Act, as amended, and its implementing regulations; or any other applicable law.

(g) The contractor (as defined in 29 CFR 10.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts. The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with this contract clause.

(h) Certification of Eligibility.

(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a) (1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(i) Tipped employees. In paying wages to a tipped employee as defined in section 3(t) of the Fair Labor Standards Act, 29 U.S.C. 203(t), the contractor may take a partial credit against the wage payment obligation (tip credit) to the extent permitted under section 3(a) of Executive Order 13658. In order to take such a tip credit, the employee must receive an amount of tips at least equal to the amount of the credit taken; where the tipped employee does not receive sufficient tips to equal the amount of the tip credit the contractor must increase the cash wage paid for the workweek so that the amount of cash wage paid and the tips received by the employee equal the applicable minimum wage under Executive Order 13658. To utilize this proviso:

(1) The employer must inform the tipped employee in advance of the use of the tip credit;

(2) The employer must inform the tipped employee of the amount of cash wage that will be paid and the additional amount by which the employee's wages will be considered increased on account of the tip credit;

(3) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received); and

(4) The employer must be able to show by records that the tipped employee receives at least the applicable Executive Order minimum wage through the combination of direct wages and tip credit.

(j) Anti-retaliation. It shall be unlawful for any person to discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or 29 CFR part 10, or has testified or is about to testify in any such proceeding.

(k) Disputes concerning labor standards. Disputes related to the application of Executive Order 13658 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 10. Disputes within the meaning of this contract clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the workers or their representatives.

(l) Notice. The contractor must notify all workers performing work on or in connection with a covered contract of the applicable minimum wage rate under the Executive Order. With respect to service employees on contracts covered by the Service Contract Act and laborers and mechanics on contracts covered by the Davis-Bacon Act, the contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers performing work on or in connection with a covered contract whose wages are governed by the FLSA, the contractor must post a notice provided by the Department of Labor in a prominent and accessible place at the worksite

so it may be readily seen by workers. Contractors that customarily post notices to workers electronically may post the notice electronically provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

(m) If a duly authorized representative of the United States discovers or determines, whether before or subsequent to executing this contract, that an erroneous determination regarding the applicability of Executive Order 13658 was made, contractor, to the extent permitted by law, agrees to indemnify and hold harmless the United States, its officers, agents, and employees, for and from any and all liabilities, losses, claims, expenses, suits, fines, penalties, judgments, demands or actions, costs, fees, and damages directly or indirectly arising out of, caused by, related to, resulting from or in any way predicated upon, in whole or in part, the erroneous Executive Order 13658 determination. This includes contractor releasing any claim or entitlement it would otherwise have to an equitable adjustment to the contract and indemnifying and holding harmless the United States from the claims of subcontractors and contractor employees.

### **23. EXECUTIVE ORDER 13706**

Any reference in this section to "prime contractor" or "contractor" shall mean the Grantee and any reference to "contract" shall refer to the Easement.

(a) Executive Order 13706. This contract is subject to Executive Order 13706, the regulations issued by the Secretary of Labor in 29 CFR part 13 pursuant to the Executive Order, and the following provisions.

(b) Paid Sick Leave.

(1) The contractor shall permit each employee (as defined in 29 CFR 13.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship that may be alleged to exist between the contractor and employee, to earn not less than 1 hour of paid sick leave for every 30 hours worked. The contractor shall additionally allow accrual and use of paid sick leave as required by Executive Order 13706 and 29 CFR part 13. The contractor shall in particular comply with the accrual, use, and other requirements set forth in 29 CFR 13.5 and 13.6, which are incorporated by reference in this contract.

(2) The contractor shall provide paid sick leave to all employees when due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 13.24), rebate, or kickback on any account. The contractor shall provide pay and benefits for paid sick leave used no later than one pay period following the end of the regular pay period in which the paid sick leave was taken.

(3) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the requirements of Executive Order 13706, 29 CFR part 13, and this clause.

(c) Withholding. The contracting officer shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay employees the full amount owed to compensate for any violation of the requirements of Executive Order 13706, 29 CFR part 13, or this clause, including any pay and/or benefits denied or lost by reason of the violation; other actual monetary losses sustained as a direct result of the violation, and liquidated damages.

(d) Contract Suspension/Contract Termination/Contractor Debarment. In the event of a failure to comply with Executive Order 13706, 29 CFR part 13, or this clause, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance, or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 13.52.

(e) The paid sick leave required by Executive Order 13706, 29 CFR part 13, and this clause is in addition to a contractor's obligations under the Service Contract Act and Davis Bacon Act, and a contractor may not receive credit toward its prevailing wage or fringe benefit obligations under those Acts for any paid sick leave provided in satisfaction of the requirements of Executive Order 13706 and 29 CFR part 13.

(f) Nothing in Executive Order 13706 or 29 CFR part 13 shall excuse noncompliance with or supersede any applicable Federal or State law, any applicable law or municipal ordinance, or a collective bargaining agreement requiring greater paid sick leave or leave rights than those established under Executive Order 13706 and 29 CFR part 13.

(g) Record keeping.

(1) Any contractor performing work subject to Executive Order 13706 and 29 CFR part 13 must make and maintain, for no less than three (3) years from the completion of the work on the contract, records containing the information specified in paragraphs (i) through (xv) of this section for each employee and shall make them available for inspection, copying, and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:

(i) Name, address, and Social Security number of each employee;

- (ii) The employee's occupation(s) or classification(s);
- (iii) The rate or rates of wages paid (including all pay and benefits provided);
- (iv) The number of daily and weekly hours worked;
- (v) Any deductions made;
- (vi) The total wages paid (including all pay and benefits provided) each pay period;
- (vii) A copy of notifications to employees of the amount of paid sick leave the employee has accrued, as required under 29 CFR 13.5(a)(2);
- (viii) A copy of employees' requests to use paid sick leave, if in writing, or, if not in writing, any other records reflecting such employee requests;
- (ix) Dates and amounts of paid sick leave taken by employees (unless a contractor's paid time off policy satisfies the requirements of Executive Order 13706 and 29 CFR part 13 as described in § 13.5(f)(5), leave must be designated in records as paid sick leave pursuant to Executive Order 13706);
- (x) A copy of any written responses to employees' requests to use paid sick leave, including explanations for any denials of such requests, as required under 29 CFR 13.5(d)(3);
- (xi) Any records reflecting the certification and documentation a contractor may require an employee to provide under 29 CFR 13.5(e), including copies of any certification or documentation provided by an employee;
- (xii) Any other records showing any tracking of or calculations related to an employee's accrual or use of paid sick leave;
- (xiii) The relevant covered contract;
- (xiv) The regular pay and benefits provided to an employee for each use of paid sick leave; and
- (xv) Any financial payment made for unused paid sick leave upon a separation from employment intended, pursuant to 29 CFR 13.5(b)(5), to relieve a contractor from the obligation to reinstate such paid sick leave as otherwise required by 29 CFR 13.5(b)(4).

(2)(i) If a contractor wishes to distinguish between an employee's covered and noncovered work, the contractor must keep records or other proof reflecting such distinctions. Only if the contractor adequately segregates the employee's time will time spent on non-covered



work be excluded from hours worked counted toward the accrual of paid sick leave. Similarly, only if that contractor adequately segregates the employee's time may a contractor properly refuse an employee's request to use paid sick leave on the ground that the employee was scheduled to perform non-covered work during the time she asked to use paid sick leave.

(ii) If a contractor estimates covered hours worked by an employee who performs work in connection with covered contracts pursuant to 29 CFR 13.5(a)(i) or (iii), the contractor must keep records or other proof of the verifiable information on which such estimates are reasonably based. Only if the contractor relies on an estimate that is reasonable and based on verifiable information will an employee's time spent in connection with non-covered work be excluded from hours worked counted toward the accrual of paid sick leave. If a contractor estimates the amount of time an employee spends performing in connection with covered contracts, the contractor must permit the employee to use her paid sick leave during any work time for the contractor.

(3) In the event a contractor is not obligated by the Service Contract Act, the Davis Bacon Act, or the Fair Labor Standards Act to keep records of an employee's hours worked, such as because the employee is exempt from the FLSA's minimum wage and overtime requirements, and the contractor chooses to use the assumption permitted by 29 CFR 13.5(a)(1)(iii), the contractor is excused from the requirement in paragraph (1)(d) of this section to keep records of the employee's number of daily and weekly hours worked.

(4)(i) Records relating to medical histories or domestic violence, sexual assault, or stalking, created for purposes of Executive Order 13706, whether of an employee or an employee's child, parent, spouse, domestic partner, or other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship, shall be maintained as confidential records in separate files/records from the usual personnel files.

(ii) If the confidentiality requirements of the Genetic Information Nondiscrimination Act of 2008 (GINA), section 503 of the Rehabilitation Act of 1973, and/or the Americans with Disabilities Act (ADA) apply to records or documents created to comply with the recordkeeping requirements in this contract clause, the records and documents must also be maintained in compliance with the confidentiality requirements of the GINA, section 503 of the Rehabilitation Act of 1973, and/or ADA as described in 29 CFR 1635.9, 41CFR60-741.23(d), and 29 CFR 1630.14(c) (1), respectively.

(iii) The contractor shall not disclose any documentation used to verify the need to use 3 or more consecutive days of paid sick leave for the purposes listed in 29 CFR 13.5(c)(1)(iv) (as described in 29 CFR 13.5(e)(1)(ii)) and shall maintain confidentiality about any domestic abuse, sexual assault, or stalking, unless the employee consents or when disclosure is required by law.

(5) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(6) Nothing in this contract clause limits or otherwise modifies the contractor's record keeping obligations, if any, under the Davis-Bacon Act, the Service Contract Act, the Fair Labor Standards Act, the Family and Medical Leave Act, Executive Order 13658, their respective implementing regulations, or any other applicable law.

(h) The contractor (as defined in 29 CFR 13.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts.

(i) Certification of Eligibility.

(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts currently maintained on the System for Award Management Web site, <http://www.SAM.gov>.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(j) Interference/Discrimination.

(1) A contractor may not in any manner interfere with an employee's accrual or use of paid sick leave as required by Executive Order 13706 or 29 CFR part 13. Interference includes, but is not limited to, miscalculating the amount of paid sick leave an employee has accrued, denying or unreasonably delaying a response to a proper request to use paid sick leave, discouraging an employee from using paid sick leave, reducing an employee's accrued paid sick leave by more than the amount of such leave used, transferring an employee to work on non-covered contracts to prevent the accrual or use of paid sick leave, disclosing confidential information contained in certification or other documentation provided to verify the need to use paid sick leave, or making the use of paid sick leave contingent on the employee's finding a replacement worker or the fulfillment of the contractor's operational needs.

(2) A contractor may not discharge or in any other manner discriminate against any employee for:

(i) Using, or attempting to use, paid sick leave as provided for under Executive Order 13706 and 29 CFR part 13;

(ii) Filing any complaint, initiating any proceeding, or otherwise asserting any right or claim under Executive Order 13706 and 29 CFR part 13;

(iii) Cooperating in any investigation or testifying in any proceeding under Executive Order 13706 and 29 CFR part 13; or

(iv) Informing any other person about his or her rights under Executive Order 13706 and 29 CFR part 13.

(k) Waiver. Employees cannot waive, nor may contractors induce employees to waive, their rights under Executive Order 13706, 29 CFR part 13, or this clause.

(l) Notice. The contractor must notify all employees performing work on or in connection with a covered contract of the paid sick leave requirements of Executive Order 13706, 29 CFR part 13, and this clause by posting a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by employees. Contractors that customarily post notices to employees electronically may post the notice electronically, provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to employees about terms and conditions of employment.

(m) Disputes concerning labor standards. Disputes related to the application of Executive Order 13706 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 13. Disputes within the meaning of this contract clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

## **24. DISCLAIMER**

This instrument is effective only insofar as the rights of the United States in the property are concerned, and the Grantee shall obtain such permission as may be required on account of any other existing rights. It is understood that the granting of this easement does not eliminate the necessity of obtaining any Department of the Army permit which may be required pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. § 403), Section 404 of the Clean Water Act (33 U.S.C. § 1344) or any other permit or license which may be required by Federal, state or local statute in connection with use of the premises.

## **25. RIGHT OF WAY**

This easement is granted subject to the perpetual right of the United States to flood the right-of-way as may be necessary by the operation and maintenance of the Cheatham Lock and Dam Project.

**26. SUCCESSION**

This easement supersedes and is in lieu of Easement DACW62-2-98-0129 granted for a twenty (20) year term beginning August 1, 1998 and ending July 31, 2018 covering the same right-of-way herein described.

**THIS EASEMENT** is not subject to Title 10, United States Code, Section 2662, as amended.

**IN WITNESS WHEREOF** I have hereunto set my hand by authority/direction of the Secretary of the Army this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Michael T. Abernathy  
District Chief of Real Estate  
Real Estate Contracting Officer  
U.S. Army Corps of Engineers  
Nashville District

**THIS EASEMENT** is also executed by the Grantee this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

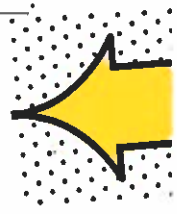
\_\_\_\_\_  
Steve Allen  
Mayor, Town of Ashland City



**CERTIFICATE OF AUTHORITY**

I, \_\_\_\_\_ certify that I am the \_\_\_\_\_ (Clerk) of \_\_\_\_\_, that \_\_\_\_\_, who signed the foregoing instrument on behalf of the grantee, was then \_\_\_\_\_ of \_\_\_\_\_ I further certify that the said officer was acting within the scope of powers delegated to this officer by the governing body of the grantee in executing said instrument.

Date: \_\_\_\_\_ Clerk or Appropriate Official



**ACKNOWLEDGMENT**

STATE OF TENNESSEE            )  
  : ss  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me the undersigned Notary Public, personally appeared Steve Allen, known to me to be the person described in the foregoing instrument, who acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

**IN WITNESS WHEREOF**, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public



My Commission Expires:  
  
\_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )

: ss

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me the undersigned Notary Public, personally appeared Michael T. Abernathy, Chief, Real Estate Division, Real Estate Contracting Officer, U.S. Army Engineer District, Nashville, Tennessee known to me to be the person described in the foregoing instrument, who acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

**IN WITNESS WHEREOF**, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

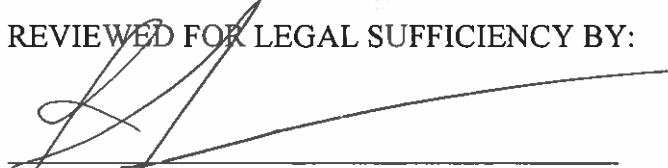
My Commission Expires:

\_\_\_\_\_

THIS INSTRUMENT PREPARED BY:

\_\_\_\_\_  
**Courtney Eason**, Realty Specialist  
U.S. Army Corps of Engineers  
Address  
615-736-7184

REVIEWED FOR LEGAL SUFFICIENCY BY:

  
\_\_\_\_\_  
Kirsten S. Rønholt, Attorney  
615-736-7637

Acreage Per Tract	
F-621	0.13
F-622	0.14
<b>Total</b>	<b>0.27</b>



<b>Legend</b> Tracts Monuments Easement = +/- 0.27 ac Government Boundary Line			<b>US ARMY ENGINEER DISTRICT NASHVILLE DISTRICT CORPS OF ENGINEERS REAL ESTATE DIVISION</b>		<b>Cheatham Lock and Dam Easement DACW62-2-17-0850 Tracts F-621 &amp; F-622 = +/- 0.27 ac to the Town of Ashland City for Sewer Force Main and Water Main <b>Exhibit "A"</b></b>
		<b>SCALE</b> 1" = 300'	<b>COUNTY</b> Cheatham County, Tennessee		
		<b>DATE</b> October 2018	<b>MAPPER</b> Matthew Brunt		



STATE OF TENNESSEE, TREASURY DEPARTMENT  
TENNESSEE CONSOLIDATED RETIREMENT SYSTEM  
15<sup>th</sup> FLOOR ANDREW JACKSON BUILDING  
502 DEADERICK STREET  
NASHVILLE, TENNESSEE 37243-0201

DAVID H. LILLARD, JR.  
STATE TREASURER

JAMIE WAYMAN  
DIRECTOR

March 3, 2020

Dear Tennessee Consolidated Retirement System Employer:

The actuarial valuation at June 30, 2019 is complete. Attached is an actuarial valuation report that reflects your employer contribution rate for July 1, 2020 through June 30, 2021. This report reflects the minimum employer rate that must be paid. **We encourage you to consider electing to pay a higher rate to protect against upward pressure on employer rates in the future.**

Enclosed is important information about the future funding of pension benefits you need to consider. **Please read carefully before indicating your rate selection.** As noted in the enclosed document, we anticipate volatility in investment earnings to continue in the foreseeable future.

Since TCRS is now performing annual actuarial valuations, the next actuarial valuation report will be performed at June 30, 2020 that will establish the employer rate for July 1, 2021 through June 30, 2022. TCRS follows best practices set by the accounting industry which includes annual actuarial valuations. Please note that conducting annual valuations will result in changes in employer contribution rates each year.

Please return the enclosed rate certification to TCRS no later than May 29, 2020. If you have any questions about your rate, please call RetireReadyTN, at 800-922-7772.

Sincerely,

James Wayman  
Director of TCRS

Enclosed Attachments





## **Important Considerations Regarding Financing Retirement Obligations Tennessee Consolidated Retirement System**

### **General Information**

The Tennessee Consolidated Retirement System is recognized as one of the strongest funded pension plans in the nation and was recently ranked as one of the three best funded state plans by Pew Charitable Trust. The retirement system's fiscal health is the result of a long-standing commitment to solvency, sound investment management, and the prudent action of all TCRS stakeholders. Since 1972, the Tennessee General Assembly, Governor and all local governments that participate in TCRS have funded 100 percent of the Actuarial Determined Contribution (ADC) rate in accordance with State law. Additionally, investment earnings represent more than 65 percent of the funding necessary for financing retirement benefits.

Current soundness, however, does not mean there will not be future funding challenges. Pension plans are funded by employee contributions, employer contributions (ADC), and investment earnings. Since employee contributions are set by state statute and the investment earnings, while historically robust, are based upon returns obtained in the world financial markets, the ADC helps to maintain stability by financing costs not covered by the other two sources.

To ensure the assumption used in calculating employer contribution rates are reasonable as compared to actual results, TCRS performs an experience study at least every four years to review the actuarial assumptions for economic factors, including investment return and inflation, and demographic factors, including mortality and the pattern of retirement, adopted by the TCRS Board of Trustees. Acting upon any changes the experience study recommends, including those that may lead to higher employer contribution rates, is what allows TCRS to maintain its high funded status. As a recent example, the TCRS Board of Trustees took prudent action in September 2017 by lowering the long-term investment earnings assumption from 7.5 percent to 7.25 percent and to incrementally recognize improvements in mortality.

Assumption changes for both economic and demographic factors are typically implemented together and impact future actuarial valuations. TCRS is reviewing the economic assumptions separate from demographic assumptions so the impact can be recognized beginning with employer contribution rates effective July 1, 2021. Any changes for demographic assumptions will be implemented to impact the determination of employer contribution rates effective July 1, 2022. This document is intended to address the investment return assumption and other factors that impact future plan health.

### **Potential Impact of the Financial Marketplace**

The investment return assumption is the single most consequential of all actuarial assumptions affecting a pension plan's finances. As described above, investment earnings on TCRS assets historically represent approximately two thirds of the funding necessary for financing retirement benefits. Current actuarial calculations assume a long-term annualized rate of return of 7.25 percent. The actual investment return for the fiscal year ending June 30, 2019 was 7.54 percent. As with any long-term assumption, there can be periods of returns that are higher or lower than the target. Ignoring all other factors addressed within

this document, investment returns below the long-term expected return can put upward pressure on employer contribution rates.

Recognizing interest rates remain historically low as well as the downward trend in assumed returns for pension plans across the nation, the Treasury Department is targeting to complete the next actuarial experience study by the 2020 fiscal year end. This experience study will focus solely on the investment return assumption with its results impacting 2021 employer contribution rates.

#### **Potential Impact due to Improving Mortality**

Following the completion of the review of economic assumptions, the Treasury Department will review the demographic assumptions. The experience study reviewing the demographic assumptions will be completed by the 2020 calendar year end with results impacting employer contribution rates effective July 1, 2022. The mortality assumption will be a significant focus.

As people live longer due to behavioral and public health improvements, retirement benefits are being paid longer. Paying retirement benefits for a longer time period than currently assumed increases the employer contribution rate. Expected improvements in mortality and lifespan resulting from the 2016 actuarial experience study have been fully recognized under the TCRS component of the hybrid plan; however, these improvements were not scheduled to be fully phased in for the legacy plan until 2024.

#### **Other Actuarial Assumptions**

While investment earnings and mortality can impact employer contribution rates to a great degree, other actuarial assumptions also play a role. Employer turnover, salary, early/late retirement and cost of living adjustments are all assumptions that can have positive and/or negative impacts to employer contribution rates and will be considered as part of the actuarial experience study to be completed by 2020 calendar year end.

#### **Impact of Unfunded Liability**

Unfunded liability is part of an employer's contribution rate, and the faster the unfunded liability is paid off, the less impact it has on future rates. Additional contributions above the ADC may lower unfunded liabilities and future employer contribution rates. Furthermore, GASB 68 requires the pension liability to be reflected on the employer's financial statements.

#### **Impact for Employers with few Employees**

Employers with less than 100 employees can expect greater contribution rate volatility each valuation period due to smaller actuarial pools. A smaller number of employees means that each individual employee's impact on plan costs is greater.

#### **Contribution Rate Considerations for Plans Without Cost Controls**

We understand that even small changes to an employer's budget can shift fiscal priorities. TCRS strongly encourages a proactive approach to funding pension obligations and strives to inform you about the

potential for and causes of contribution rate changes. As you review your legacy plan employer contribution rates for this year, we strongly encourage you to consider adopting an employer rate above the minimum amount. Options to consider include:

- If your new employer rate will be lower, consider continuing to contribute at the same level you are at currently
- If you have a relatively low employer rate, i.e., less than 5%, consider paying more than the minimum required rate
- If your rate is increasing, consider future budget years and weigh your options for paying more now

By paying more into TCRS, you help mitigate the risk of increasing employer contributions in future years due to changes in actuarial assumptions and interest rate volatility. Moreover, you reduce any net pension liability that will be reflected as debt in your financial statements.

Should you need further assistance in evaluating your employer contribution rate or wish to discuss alternative plan provisions, please reach out to your regional Outreach Representative.

#### **Treasury Outreach**

Drew Freeman, Director

Cell: (615) 806-4467

[Drew.Freeman@tn.gov](mailto:Drew.Freeman@tn.gov)

East TN Representative: Justin Ball

Cell: (423) 356-1518

[Justin.Ball@tn.gov](mailto:Justin.Ball@tn.gov)

Middle TN Representative: James Armistead

Cell: (615) 289-4447

[James.Armistead@tn.gov](mailto:James.Armistead@tn.gov)

West TN Representative: Tim Joyce

Cell: (901) 233-4517

[Tim.Joyce@tn.gov](mailto:Tim.Joyce@tn.gov)



## Key Terms

**Defined Benefit (DB) Plan** - A pension plan that is designed to provide participants with a defined benefit based on a formula that considers an employee's compensation, years of service, and age, or a combination of those factors. TCRS is a defined benefit plan.

**401(k) and 457 Plans** - Defined contribution plans where an employee can make before or after-tax contributions. The employee selects their own investment options and the amount received in retirement is based on contributions plus any accumulated earnings.

**For purposes of this document all other terms will relate only to a defined benefit plan and NOT a defined contribution plan.**

**Actuarial Accrued Liability** - Represents the portion of the present value of fully projected benefits attributable to service credit earned (or accrued) as of the valuation date.

**Actuarial Assumptions** - Factors used by actuaries for estimating the cost of funding a defined benefit pension plan. Examples include: the rate of return on plan investments; mortality rates; and the rates at which plan participants are expected to leave the system because of retirement, disability, termination, etc.

**Actuarial Valuation** - The determination, as of a specific date, of the normal cost, actuarial accrued liability, actuarial value of assets, and related actuarial present values for a plan.

**Actuarial Value of Assets** - The value of pension plan assets used by the actuary for the purpose of an actuarial valuation. TCRS uses an asset valuation method that smooths the effects of short-term volatility in the investment markets on the market value of assets.

**Actuarially Determined Contribution (ADC)** - The amount actuarially calculated each year that is required to be contributed by an employer in order to ensure there will be enough funds to pay promised pension benefits. The rate changes each year based upon the most recent actuarial valuation.

**Amortization** - Paying off a liability incrementally through a series of installments, as opposed to paying with a lump sum payment. The unfunded accrued liability is amortized and included in the ADC.

**Cost of Living Adjustment (COLA)** - Adjustments made to monthly retirement benefits to help offset inflation. The amount is based on the increase in the Federal Consumer Price Index (CPI). For TCRS, the COLA cannot exceed 3%.

**Contributory** - The employee contributes a portion of salary towards their pension plan (i.e. the employee shares the cost of the plan with the employer).

**Experience Study** - A periodic review and analysis of the actual experience of a plan compared to the actuarial assumptions which may lead to a revision of some assumptions used in the actuarial valuation. Actual investment performance, mortality, retirement, salary

increases, etc. are compared to the assumed values and modified as appropriate. TCRS conducts an Experience Study every four years.

**Hybrid Plan** – Combines elements on a defined benefit plan and a defined contribution plan, such as a 401(k) or 457 plan.

**Non-Contributory** - The employee does not contribute any portion of salary towards their pension plan (i.e. the employee does not share any portion of the cost of the plan with the employer).

**Normal Cost** - The cost of projected benefits allocated to the current fiscal/plan year. The employer normal cost equals the total normal cost of the plan less employee contributions.

**Present Value** - The current value of series of amounts payable in the future, after discounting each amount at an assumed rate of interest.

**Rate of Return Assumption** - The investment rate of return the actuary uses in the actuarial valuation as opposed to the actual rate of return earned by TCRS.

**Unfunded Actuarial Accrued Liability (UAAL)** - The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by current plan assets.

**Vesting** - A defined number of years of service an employee must work to be eligible to receive a pension benefit.

**Tennessee Consolidated Retirement System  
Employer Actuarially Determined Contribution (ADC) Rate**

Department Code(s): 808.00  
ASHLAND CITY

Applicable period for this employer rate	July 1, 2020 through June 30, 2021
Actuarial valuation date	June 30, 2019
Actuarial experience study date	June 30, 2016
Investment rate of return assumption	7.25%

**Key Elements of the Pension Plan (Employer Elections)**

Base plan formula	1.5% formula times years of service
Employee contribution rate	5% of salary
Vesting period	5 years
Retiree COLAs	Provided, CPI based, capped at 3%

<b>Employer ADC Rate</b>		<b>Actuarial Present Value of Benefits (PVB) Summary</b>	
<i>Rate Components:</i>		Actuarial value of assets	\$ 7,261,593
Normal cost	2.81 %	Expected employee contributions	1,410,755
Unfunded accrued liability amortization	2.37 %	Expected employer normal cost	710,832
Administrative cost	<u>0.22 %</u>	Unfunded accrued liability	<u>274,044</u>
Total employer ADC rate	5.40 %	Total PVB	\$ 9,657,224

**Employees Covered by Benefit Terms**

Inactive employees or beneficiaries currently receiving benefits	27
<i>Annualized Retirement Benefit: \$214,340</i>	
Inactive employees entitled to but not yet receiving benefits	47
Active employees	<u>63</u>
<i>Annualized Salary: \$2,982,940</i>	
Total	137

**Amortization of Unfunded Accrued Liability**

Actuarial Valuation Date	Unfunded Accrued Liability (Negative Unfunded Accrued Liability)	Annual Amortization Amount	Amortization Period at June 30, 2019 (in years)
June 30, 2013	\$ 0	\$ 0	0.00
June 30, 2015*	(292,587)	(29,359)	16.00
June 30, 2016	331,956	74,628	5.11
June 30, 2017	393,625	37,147	18.00
June 30, 2018	30,802	2,832	18.98
June 30, 2019	<u>(189,752)</u>	<u>(17,026)</u>	20.00
Total	\$ 274,044	\$ 68,222	

\*Beginning June 30, 2015, valuations are performed annually.







**Employer Contribution Rate Certification  
Tennessee Consolidated Retirement System (TCRS)  
Actuarial Valuation at June 30, 2019**



**Acknowledgement of employer rate effective July 1, 2020 through June 30, 2021**

Department Code: 0080800  
Department Name: ASHLAND CITY

- I hereby acknowledge and agree that I have reviewed the background information on rates provided to me and also located on the Treasury Website at: <https://publicreports.treasury.tn.gov>. I further acknowledge the upward trends concerning future employer contribution rates.

Please select one of the options below

- The Minimum Employer rate: 5.40%
- Optional: We choose to pay a higher contribution of: \_\_\_\_\_

Employer Signature \_\_\_\_\_ Title \_\_\_\_\_

Date \_\_\_\_\_ Phone \_\_\_\_\_ Email \_\_\_\_\_

The first department code listed on the Employer Actuarially Determined Contribution (ADC) Rate sheet is your master code. The master code is responsible for determining the rate and submitting the completed employer contribution rate certification to TCRS. The rate selected will be applicable for **all** department codes listed on the Employer Actuarially Determined Contribution (ADC) Rate sheet. It is the master code's responsibility to notify these departments of the new rates.

**Please return the completed rate certification no later than May 29, 2020 via one of the following methods:**

**By email:** [TCRS.EmployerReporting@tn.gov](mailto:TCRS.EmployerReporting@tn.gov)  
**By mail:** TCRS Employer Reporting  
502 Deaderick Street, 15<sup>th</sup> Fl.  
Nashville, TN 37243





April 13, 2020

Mayor and Board of Aldermen of the  
Town of Ashland Town, Tennessee  
101 Court Street  
Ashland Town, Tennessee 37015

Dear Mayor and Board of Aldermen,

We are pleased to confirm our understanding of the services we are to provide the Town of Ashland City, Tennessee (the "Town") for the years ending June 30, 2020, 2021, and 2022. We will audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements of the Town as of and for the years ending June 30, 2020, 2021, and 2022. Accounting standards generally accepted in the United States of America provide for certain required supplementary information ("RSI"), such as management's discussion and analysis ("MD&A"), to supplement the Town's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Town's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis
2. Schedule of Changes in the Net Pension Liability (Asset) and Related Ratios Based on Participation in the Public Employee Pension Plan of TCRS
3. Schedule of Contributions Based on Participation in the Public Employee Pension Plan of TCRS
4. Notes to Required Supplemental Information



We have also been engaged to report on supplementary information other than RSI that accompanies the Town's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:

1. Capital Assets Used in the Operation of Governmental Funds:
  - a. Schedule Category
  - b. Schedule of Capital Assets by Function and Activity
2. Schedule of Changes in Property Taxes Receivable
3. Schedule of Debt Service Requirements – Water and Sewer Fund
4. Schedule of Changes in Long-Term Debt by Individual Issue
5. Schedule of Salaries and Bonds – Principal Officials – Unaudited
6. Schedule of Property Tax Rates and Assessed Value of Taxable Property – Ten-Year Summary - Unaudited
7. Schedule of Federal and State Financial Assistance
8. Schedule of Expenditure of Federal Awards

The following other information accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and our auditor's report will not provide an opinion or any assurance on that other information.

1. Introductory Section
2. Certain Schedules Required by the Tennessee Comptroller of the Treasury Audit Manual, which will be noted in the auditor's report.

## **AUDIT OBJECTIVES**

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and will include tests of accounting records of the Town and other procedures we consider necessary to enable us to express such opinions. We will issue a written report upon completion of each audit of the Town's financial statements. Our reports will be addressed to the Mayor and Aldermen. We cannot



provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issues reports, or may withdraw from this engagement.

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*. The report on internal control and on compliance and other matters will include a paragraph that states that (1) that the purpose of the report is solely to describe the scope of testing of internal control and compliance, and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control on compliance, and (2) that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Town's internal control and compliance. The paragraph will also state that the report is not suitable for any other purpose. If during our audit we become aware that the Town is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with U.S. generally accepted auditing standards and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

## **AUDIT PROCEDURES - GENERAL**

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors or any fraudulent financial reporting or



misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention. Our responsibility as auditors are limited to the periods covered by our audits and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of each audit, we will require certain written representations from you about your responsibilities for the financial statements; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

#### **AUDIT PROCEDURES - INTERNAL CONTROLS**

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards and *Government Auditing Standards*.

#### **AUDIT PROCEDURES - COMPLIANCE**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Town's compliance with provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.



## **NONAUDIT SERVICES**

We will also assist in preparing the financial statements and related notes of the Town in conformity with U.S. generally accepted accounting principles based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management's responsibilities.

## **MANAGEMENT RESPONSIBILITIES**

Management is responsible for designing, implementing, establishing and maintaining effective internal controls, relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; following laws and regulations; ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees,





former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants and for taking timely and appropriate steps to remedy fraud and noncompliance with provision of laws, regulations, contacts, and grant agreements, or abuse that we report.

You are responsible for the preparation of the supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the financial statements, related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, and related notes and that you have reviewed and approved the financial statements, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

## **AUDIT DOCUMENTATION AND REPRODUCTION OF AUDIT REPORT**

The audit documentation for this engagement is the property of Crosslin, PLLC ("Crosslin") and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to a state or federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or



to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Crosslin's personnel. Upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies. The audit documentation for this engagement will be retained by us in accordance with Crosslin's policies and procedures. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party contesting the audit finding for guidance prior to destroying the documentation.

### **E-MAIL COMMUNICATION**

In connection with this engagement, we may communicate with you or others via email transmission. As emails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party, or may not be delivered to each of the parties to whom they are directed and only to such parties, we cannot guarantee or warrant that emails from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for interception or unintentional disclosure or communication of e-mail transmissions, or for the unauthorized use or failed delivery of e-mails transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of e-mail transmissions, including any consequential, incidental, direct, indirect, or special damages, such as loss of revenues or anticipated profits, or disclosure or communication of confidential or proprietary information.

### **PEER REVIEW REPORTS**

*Government Auditing Standards* require that we provide you with a copy of our most recent external peer review report, and any subsequent peer review reports to the party contracting for the audit, if requested by the client. Our most recent peer review report accompanied our proposal response to your RFP. The peer review letter is also available on the AICPA website.

### **OTHER SERVICES**

We are always available to meet with you and other executives at various times throughout the year to discuss current business, operational, accounting, and auditing matters affecting the Town. Whenever you feel such meetings are desirable, please let us know. We are also prepared to provide services to assist you in any of these areas.

You may request that we perform additional services not addressed in this engagement letter. If this occurs, we will communicate with you regarding the scope of the additional services and the estimated fees. We also may issue a separate engagement letter covering the additional services. In the absence of any other written communication from us documenting such additional services, our services will continue to be governed by the terms of this engagement letter.



## **OFFERING DOCUMENT**

Should the Town wish to include or incorporate by reference these financial statements and our audit report thereon into an offering of exempt securities, prior to our consenting to include or incorporate by reference our report on such financial statements, we would consider our consent to the inclusion of our report and the terms thereof at that time. We will be required to perform procedures as required by the standards of the American Institute of Certified Public Accountants, including, but not limited to, reading other information incorporated by reference in the offering document and performing subsequent event procedures. Our reading of the other information included or incorporated by reference in the offering document will consider whether such information, or the manner of its presentation, is materially inconsistent with information, or the manner of its presentation, appearing in the financial statements. However, we will not perform procedures to corroborate such other information (including forward-looking statements). The specific terms of our future services with respect to future offering documents will be determined at the time the services are to be performed.

Should the Town wish to include or incorporate by reference these financial statements and our audit report thereon into an offering of exempt securities without obtaining our consent to include or incorporate by reference our report on such financial statements, and we are not otherwise associated with the offering document, then the Town agrees to include the following language in the offering document:

“Crosslin, PLLC, our independent auditor, has not been engaged to perform and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. Crosslin, PLLC also has not performed any procedures relating to this official statement.”

## **MANAGEMENT REPRESENTATIONS**

As required by auditing standards generally accepted in the United States of America, we will request certain written representations from management at the close of our audit to confirm oral representations given to us and to indicate and document the continuing appropriateness of such representations and reduce the possibility of misunderstanding concerning matters that are the subject of the representations. Because of the importance of management’s representations to an effective audit, the Town will release and indemnify Crosslin and its personnel from any liability and costs relating to our services under this agreement attributable to any misrepresentations by management.



## **AVAILABILITY OF RECORDS AND PERSONNEL**

The Town agrees that all records, documentation, and information we request in connection with our audit will be made available to us (including those pertaining to related parties), that all material information will be disclosed to us, and that we will have full cooperation of, and unrestricted access to, the Town personnel during the course of the engagement. You also agree to use our document management system Suralink, to provide requested documents to us.

The Town also agrees to ensure that any third party valuation reports that the Town provides to us to support amounts or disclosures in the financial statements 1) indicate the purpose for which they were intended, which is consistent with the Town's actual use of such reports; and 2) do not contain any restrictive language that would preclude us from using such reports as audit evidence.

## **ASSISTANCE BY YOUR PERSONNEL AND INTERNET ACCESS**

We also ask that the Town personnel prepare various schedules and analyses for our staff. However, except as otherwise noted by us, no personal information other than names related to the Town's employees and/or customers should be provided to us. In addition, we ask that the Town provide high-speed Internet access to our engagement team, if practicable, while working on its premises. This assistance will serve to facilitate the progress of our work.

## **DISPUTE RESOLUTION PROCEDURE**

Any dispute, controversy, or claim between you and Crosslin arising out of or relating to the agreement, including, without limitation, claims for breach of contract, professional negligence, breach of fiduciary duty, misrepresentation, fraud, or claims based in whole or in part on any other common-law, statutory, regulatory, legal or equitable theory, and disputes regarding all fees, including attorneys fees of any type, and/or costs charged under this agreement, shall be submitted to binding arbitration administered by the American Arbitration Association ("AAA"), in accordance with its Commercial Arbitration Rules. Arbitration Claims shall be brought in a party's individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding. Arbitration Claims shall be heard by a panel of three (3) arbitrators, to be chosen as follows: within fifteen (15) days after the commencement of arbitration, each party shall select one person to act as arbitrator; thereafter, the two individually selected arbitrators shall select a third arbitrator within ten (10) days of their appointment. If the arbitrators selected by the parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the AAA.



The arbitration panel shall have the power to rule upon its own jurisdiction and authority, including any objection to the initial or continuing existence, validity, effectiveness, or scope of this arbitration agreement. The arbitration panel may not consolidate more than one person's claims and may not otherwise preside over any form of a representative or class proceeding. The arbitration panel shall have no authority to award non-monetary or equitable relief, but nothing herein shall be construed as a prohibition against a party from pursuing non-monetary or equitable relief in a federal or state court. The place of arbitration shall be Nashville, Tennessee, the Town in which the Crosslin office providing the majority of the services involved under this agreement is located, unless the parties agree in writing to a different location. Regardless of where the arbitration proceeding actually takes place, all aspects of the arbitration and the agreement shall be governed by the laws of the State of Tennessee (except if there is no applicable state law providing for such arbitration, then the Federal Arbitration Act shall apply) and the procedural and substantive law of such state shall be applied without reference to conflicts of law rules. The parties shall bear their own legal fees and costs for all arbitration claims. The award of the arbitrators shall be accompanied by a reasoned opinion, and judgment on the award rendered by the arbitration panel may be entered in any court having jurisdiction thereof. Except as may be required by law or to enforce an award, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of the parties to the agreement.

The parties to the agreement acknowledge that by agreeing to this arbitration provision, they are giving up the right to litigate claims against each other, and important rights that would be available in litigation, including the right to trial by judge or jury, to extensive discovery and to appeal an adverse decision. The parties acknowledge that they have read and understand this arbitration provision, and that they voluntarily agree to binding arbitration.

The Government shall bring no arbitration claim more than one (1) year following the completion of the services provided under this agreement to which the arbitration claim relates. This paragraph will shorten, but in no event extend, any otherwise legally applicable period of limitations on such arbitration claims.

## **INDEPENDENCE**

Professional and certain regulatory standards require us to be independent, in both fact and appearance, with respect to the Town in the performance of our services. Any discussions that you have with personnel of Crosslin regarding employment could pose a threat to our independence. Therefore, we request that you inform us prior to any such discussions so that we can implement appropriate safeguards to maintain our independence.



## ENGAGEMENT ADMINISTRATION AND FEES

David Hunt is the engagement principal and Erica Saeger is the concurring reviewer. They are responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our fees are based upon the time required by the individuals assigned to the engagements. The fees are based on anticipated cooperation from your personnel and the assumption that significant unexpected circumstances will not be encountered during the audits. Bills will be submitted as time is incurred and are due upon receipt. Our fees are as follows:

Year Ended	Audit Engagement Fee
June 30, 2020	\$15,000
June 30, 2021	\$15,250
June 30, 2022	\$15,500

If significant additional time is necessary due to specific circumstances beyond our control which increases the scope of the audit, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Specific examples of items requiring additional audit time would be the discovery of fraud or illegal activities, significant changes in the nature of funds or the reporting entity as required by GASB (i.e. component unit), Single Audit under the OMB Uniform Guidance (i.e. federal grant funds), increases in scope as requested by the Mayor and Board and Aldermen. Additionally, fees assume that management will be prepared. Again, all such matters will be discussed with you in advance.

This engagement includes only those services specifically desired in this agreement; any additional services not specified herein will be agreed to in a separate letter. In the event you request us to be object to or respond to, or we receive and respond to, a validly issued third party subpoena, court order, government regulatory inquiry, or other similar request or legal process against the Government or its management for the production of documents and/or testimony relative to information we obtained and/or prepared during the course of this or any prior engagements, you agree to compensate us for all time we expend in connection with such response, at our regular rates, and to reimburse us for all related out-of-pocket costs (including outside lawyer fees) that we incur.

If at least 80% of our requests are not provided at the start of the agreed upon fieldwork dates, a fee of \$2,000 will be charged for our lost time and scheduling changes. If significant additional time is required by us close to the issuance date of the financial statements due to lack of items required to complete the audit on Suralink or additional delays in timing, this time will also be billed to you at 80% of our standard billing rates.



**STATE OF TENNESSEE COMPTROLLER'S OFFICE ADDITIONAL PROCEDURES  
AND REFERRAL LETTERS**

From time to time, the State of Tennessee's Comptroller's Office will send letters to all CPA firms requiring that new, additional procedures are to be performed related to specific topics outside the scope of the audit and/or send letters to CPA firms regarding notifications that they received from local governments, independent certified public accounting firms, private citizens, and other concerned parties regarding potential fraud, waste, and abuse of public funds. Certain notifications received by the Comptroller's Office are referred to the contract auditor summarizing the nature of the concerns addressed in the notification as well as the CPA firm's responsibilities regarding the referral, which may require a detailed investigation that are below our audit scope. In either case, Crosslin will perform the additional work at a reduced rate of \$125 per hour, which will be communicated to you first and then billed separately from the engagement fee noted above.

\* \* \* \* \*

We appreciate the opportunity to be of service to the Town of Ashland City, Tennessee and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. We appreciate your business, and we look forward to many years of pleasant association with you and the Town.

Very truly yours,

David Hunt  
Audit Principal

RESPONSE:

This letter correctly sets forth the understanding of the Town of Ashland City, Tennessee.

By: \_\_\_\_\_

Title: \_\_\_\_\_