



TOWN OF ASHLAND CITY

Regularly Scheduled Workshop Meeting

March 01, 2022 6:00 PM

Agenda

Mayor: Steve Allen

Vice Mayor: JT Smith

Council Members: Tim Adkins, Gerald Greer, Chris Kerrigan, Kevin Thompson, Tony Young

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES

- [1.](#) February 01, 2022 Workshop Meeting Minutes

REPORTS

OLD BUSINESS

- [2.](#) Ashland Market Package Liquor Application
3. Court Discussion
- [4.](#) Ordinance: Temporary Use Permit
- [5.](#) Ordinance: Budget Amendment #6 (Red light)
- [6.](#) Ordinance: Amend Title 8, Chapter 2: Beer

NEW BUSINESS

- [7.](#) Fireworks Display Contract for Summerfest
- [8.](#) Clarke Maintenance Agreements for Town of Ashland City
- [9.](#) Sewer Plant Increase Discussion
- [10.](#) Mid Cumberland Agreement
11. Hotel/Motel Tax
- [12.](#) Resolution: Updating Section III Leave - Contagious Disease
- [13.](#) Resolution: Updating Section III Leave - Inclement Weather
- [14.](#) Ordinance: Amend Residence Requirements
- [15.](#) Ordinance: Amend Parking Spaces
- [16.](#) Ordinance: Budget Amendment #7 (Flood Relief Funds)

SURPLUS PROPERTY NOMINATIONS

17. Surplus Mower

EXPENDITURE REQUESTS

- [18.](#) Award Bid: PW and PD Roof Replacement
19. Award Bid: New Fire Hall
20. Request to Bid: ADA Improvements for Johns Park
- [21.](#) Purchase new lawn mower for Parks and Recreation.
- [22.](#) Seal and Stripe upper parking lot at Riverbluff Park/Professional Services

**OTHER
ADJOURNMENT**

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 615-792-7553, M-F 8:00 AM – 4:00 PM. The town will make reasonable accommodations for those persons.



TOWN OF ASHLAND CITY
Regularly Scheduled Workshop Meeting
February 01, 2022 6:00 PM
Minutes

CALL TO ORDER

Mayor Allen called the meeting to order at 6:00 p.m.

ROLL CALL

PRESENT

Mayor Steve Allen

Vice Mayor JT Smith

Councilman Tim Adkins

Councilman Gerald Greer

Councilman Chris Kerrigan

Councilman Kevin Thompson

Councilman Tony Young

APPROVAL OF AGENDA

A motion was made by Vice Mayor Smith, seconded by Councilman Young, to approve the agenda with additions and changes. All approved by voice vote.

APPROVAL OF MINUTES

1. January 4, 2022 Workshop Meeting Minutes

A motion was made by Councilman Adkins, seconded by Councilman Kerrigan, to approve the January 4, 2022 Workshop Meeting Minutes as written. All approved by voice vote.

REPORTS

None.

OLD BUSINESS

2. Events Policy

Mr. Sampson stated that he sat down with Ms. Noe and they pulled some policies that other cities have in place. He stated that this was something to start with and was wanting input from the council. Councilman Adkins asked about evening events and if there were requests for something like that. Mr. Sampson stated that he believes the Revival is the only one. Councilman Adkins asked if this covers everything that the Chamber would need. Mr. Sampson stated that Ms. Noe included an alcohol policy. Councilman Greer stated that the prices needed to be discussed. Councilman Thompson stated that he liked the idea of renting out sections. Councilman Greer stated there should be a specific policy that covers the entire park and set aside certain areas that are out of bounds. Ms. Noe asked what they would like to do about alcohol. Councilman Kerrigan stated that he didn't think it should be limited as long as they have the correct permits. Ms. Noe asked if they would want to allow alcohol throughout the park or be designated to a certain area. Councilman Greer stated that he would like a designated area.

3. Copier for City Hall/Public Works

Ms. Martin stated that the current contract with Xerox is up. She stated she received a quote from Xerox and another from Canon after a recommendation from Ms. Batts to check into it. Ms. Martin stated that they currently pay Xerox \$421.81 monthly and the new contract would be \$295.52 monthly. She stated that for the same services, Canon would cost \$74.67 monthly.

4. Ordinance: Budget Amendment #5 (Senior, Fire, and Codes)

Ms. Bowman stated that this would be for a second reading. She stated that this is an amendment for the TCAD Grant and Kathy's Kitchen for the Senior Center, FEMA Covid funds for the Fire Department, and salary increases for the Codes Department.

5. Ordinance: Moving City Election

Ms. Noe stated that a charter amendment would need to be done by Resolution in order to change the election to August and coincide with the County election. She stated that newly elected board members would then be sworn in at the September Council meetings instead of in December. Ms. Noe stated that the State Legislature had this on their agenda last year to make this a State Law, but it did not pass. She stated that it will be on their agenda again this year. Ms. Noe stated that this was brought up due to the low turnout and costs of the last election.

6. Ordinance: Rezone Parcel 062 035.06.000

Mr. Nicholson stated that this was for a second reading. He stated that this is to rezone the parcel across from Station II from R-1 to R-4.

NEW BUSINESS

7. Ashland Market Package Liquor Application

Ms. Martin stated that she received this application and she sent it to Ms. Noe to review. Ms. Noe stated that the applicant had applied before and was told that he was denied because he is not a resident here. She stated that currently in the alcohol section of our code we have a residence requirement. Ms. Noe stated that she did look up the TCA code regarding this and it does state that there may be a residence requirement. She stated that the board can change our code if they wanted to remove the requirement.

8. Summerfest Carnival Contract 2022

Mr. Sampson stated that this is the agreement for Amusement Attractions. He stated that last year Ms. Noe had struck some items out and it should be the same as last year. Mr. Sampson stated that he recommended going with the same carnival as last year.

9. Caldwell Park-Trail Update

Mr. Sampson stated that they have rubbed out a trail and they are doing more work out there.

10. Resolution: Check Signers

Ms. Bowman stated that this was to remove Daniel Anderson from all bank accounts.

11. Resolution: Authorization to Participate in AFG Grants

Chief Walker stated that this is for authorization to apply for the FEMA grants they apply for every year. He stated that they would have a 5% match.

12. Ordinance: Budget Amendment #6 (Red light)

Ms. Bowman stated that this is a pass-through for the red light at Hampton Inn.

SURPLUS PROPERTY NOMINATIONS

None

EXPENDITURE REQUESTS

None.

OTHER

GNRC Contract - Ms. Martin stated that this is the same contract we get every year. She stated that this is already budgeted and we are reimbursed for services and programs at the Senior Center.

Request to Bid - Mr. Biggers stated that this is a request to bid paving in the spring.

ADJOURNMENT

A motion was made by Councilman Greer, seconded by Councilman Thompson, to adjourn the meeting and the meeting adjourned at 7:04 p.m. All approved by voice vote.

MAYOR STEVE ALLEN

CITY RECORDER ALICIA MARTIN, CMFO

TOWN OF ASHLAND CITY

Application for Limited Certificate of Compliance for State Licensure for Sale of Package Liquor
 \$500.00 Additional \$100.00 fee for each additional background check.

THIS SECTION FOR CITY USE ONLY:

Date Application Filed: <u>1/18/22</u> Time: <u>2:57 PM</u> Receipt No. <u>R00143354</u> Amount Paid: <u>\$500.00</u> Cash: _____ Check# <u>1821</u> Application for: <input checked="" type="checkbox"/> Retail sale of packaged alcoholic beverages <input type="checkbox"/> Renewal	City Attorney review completed by: _____ on: _____ Police Chief review completed by: _____ on: _____ BOARD ACTION: Granted: <u> / / </u> Issued: <u> / / </u> Denied: <u> / / </u> Deferred: <u> / / </u> Withdrawn: <u> / / </u>	Zoning: _____ Map No. _____ Parcel No. _____ Street Address: _____ Property inspection completed by: _____ on: _____ Location Approved: _____
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ANSWER ALL OF THE FOLLOWING QUESTIONS:

APPLICANT IS SEEKING A PERMIT WHICH WOULD ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR:

OFF-PREMISES PACKAGED LIQUOR SALES ONLY

I hereby make application for a Limited Certificate of Compliance from the Town of Ashland City, Tennessee as provided for in the Tennessee Code Annotated 57-3-208, et seq., and the Town's Retail Alcoholic Beverage Ordinance#340 and the amendments thereto and base my application upon the answers of the following questions:

- Name of Applicant: MF, LLC (EMAD AZER, SOLE MEMBER)
- Birth date of applicant: [REDACTED] Age at time of applicant: 47
- Residential address of applicant: [REDACTED]
 City: BRENTWOOD State: TN Zip: 37027
- How long a resident of Cheatham County: _____
- Does applicant presently hold and elected office or is seeking an elected office in the next election? NO
- Other states of residency: N/A
- Present occupation or business: OWNER--ASHLAND MARKET How long? 5 YRS
 If employed, name and address of employer: ASHLAND MARKET
303 N. MAIN ST. ASHLAND CITY, TN 37015
 Phone: 615-424-1339 Contact person: EMAD AZER
- Name of business for which permit is sought: ASHLAND MARKET



9. Address of the location of the business for which a permit is sought: _____
 303 N. MAIN STREET; ASHLAND CITY, TN 37015 _____

10. Name(s) of the owner of the property: _____

Deed Book and Page No. _____ Lease Expiration Date: _____
 (Attach a copy of the executed lease or recorded deed of ownership hereto)

11. List persons, firms, corporations, joint stock companies, syndicates, or associations, having at least a five (5%) percent ownership interest in the applicant. Complete in detail. Attach a separate sheet if necessary. If corporation, give address of applicant's principal place of business.

Name of Individual Applicant Partners, or Officers and Directors	Title Percentage	Home address and Telephone Number	Date and Place of Birth	Race and Sex	SSN	U.S. Citizen Y or N
EMAD AZER	100%	[REDACTED]	[REDACTED]	male	[REDACTED]	Yes
		Brentwood, TN				
		37027				

12. Previous Address of Applicant: _____

13. If Applicant is an individual, give name and date and place of birth of spouse: n/a

14. If Applicant is a corporation, give name and date and place of birth of any spouse of anyone having a 5% or greater interest in the business corporation or partnership:

Name: n/a Date/Place of Birth: _____

Name: _____ Date/Place of Birth: _____

15. For corporations that are not publicly traded:

Registered Name of Corporation: MF, LLC (EMAD AZER, SOLE MEMBER)

Date and Place of Incorporation: JULY 18, 2016 TENNESSEE

If foreign corporation, give date of certificate of authority: N/A

16. List stockholders having five (5%) percent or more ownership interest in the business: (attach a separate sheet if necessary)

Name of Stockholder	Home Address	Date and	Race	U.S.
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== d3e 2 G3 5



First, Middle, Last	%	and Telephone Number	Place Birth	and Sex	SSN:	Citizen Y or N
EMAD AZER	100	[REDACTED]	[REDACTED]	MALE	[REDACTED]	YES
		[REDACTED]				
		Brentwood, TN				

17. FOR CORPORATION ONLY:

At regular or special meeting held on the 1ST day of DECEMBER, 200, by the Applicant, it was resolved that said application be filed with the Town of Ashland City and that EMAD AZER (name or officer and title) or N/A (name of officer and title) is/are hereby authorized to execute said application and any other papers required by the Board.

18. Designate the person or persons who will be in charge of the operations on the premises including in the absence of the Applicant.

Name of Stockholder First, Middle, Last	Home Address and Telephone Number	Date and Place Birth	Race and Sex	SSN:	U.S. Citizen Y or N
EMAD AZER	[REDACTED]	[REDACTED]	male	[REDACTED]	yes
	brentwood, tn				
	37027				
	[REDACTED]				

19. Conviction Record: Has any person, firm, joint-stock company, syndicate or association having at least a five (5%) percent ownership interest in the Applicant been convicted of any violation of the laws against possession, sale, manufacture, or transportation of alcoholic beverages, or any crime either a felony or misdemeanor?

Yes No

If yes, list below:

Name First Middle Last	Charge(s)	Date of Conviction	Disposition	Location, Court, County and State
n/a				

Page 3 of 5

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20. Name and address of representative to receive the annual tax notice and other communications: EMAD AZER; 303 N. MAIN STREET; ASHLAND CITY, TN 37015

21. Is the building to be licenses located within 300 feet of any church, school, public institution or public meeting place? Yes No

22. Has the Applicant ever had a liquor permit revoked, suspended or denied in the State of Tennessee? Yes No

If yes, explain: N/A

23. Does applicant hold a license for Liquor-by-the-Drink with the State of Tennessee? Yes No

24. Are you familiar with the laws of the State of Tennessee governing the retail sale of package liquor? Yes No

25. Does applicant hold a license or permit to sell beer? Yes No

Applicant hereby solemnly swears that each and every statement in the foregoing application is true and correct; that the Town of Ashland City will be notified promptly if there is a change in circumstances that affect the responses provided in this application; that (1) no sale shall be made to anyone under twenty-one (21) years of age; (2) no person, firm, corporation, joint-stock company, syndicate or association having at least a five (5%) percent ownership interest in the Applicant has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of alcoholic beverages or any crime involving moral turpitude within the past ten (10) years; (3) no person employed by the Applicant in such distribution or sale has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of any alcoholic beverages or any crime involving moral turpitude within the past ten (10) years; and (4) the Applicant is not a specially designated national and has legal status to hold a permit of any other U.S. Citizen might possess.

If any statement herein is false, the Application shall become void in its entirety and a new

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application will not be accepted for a minimum of 90 days .

Attached to this application form is the following required documentation:

- Copy of application to the Tennessee Alcoholic Beverage Commission
- Copy of valid Tennessee Driver's License or other photo identification
- Copy of utility bills for the past 50 months to prove residency or statement from utility provider.
- Actual newspaper ad and certification of publication
- Copy of lease, Bill of Sale or deed on property to be used for retail sales
- List of personal referenced (non-related)-form provided

Sworn to and subscribed before me this the 3 day of JAN, 2027.

Signature of Applicant: [Signature]

[Signature]
NOTARY PUBLIC

My Commission Expires: 8/27/22

Note: State law allows up to 60 days to process this application.



5 3 5 5



STATE OF TENNESSEE
ALCOHOLIC BEVERAGE COMMISSION



Davy Crockett Tower
500 James Robertson Parkway, 3rd Floor
Nashville, TN 37243
615-741-1602

One Commerce Square
40 South Main Street
4th Floor, Suite 415
Memphis TN 38103
901-543-7284

www.tn.gov/abc

4420 Whittle Springs Road
Knoxville, TN 37917
865-594-6342

540 McCallie Avenue, Suite 341
Chattanooga, TN 37402-2055
423-634-6434

Business Check, Money Order or Cashiers Check ONLY

APPLICATION FEE
NON-REFUNDABLE

APPLICATION FOR PERMIT TO SELL
ALCOHOLIC BEVERAGES

ALL signature spaces MUST
be signed and notarized.

RETAIL PACKAGE STORE

Date: 12-28-21, 20

Name of Corp./LLC/LP, SP, etc.: MF, LLC (EMAD AZER, SOLE MEMBER)

hereby make application for a permit to sell alcoholic beverages at the following location.

Doing Business As: ASHLAND MARKET

Business Address: 303 N. MAIN ST Business Tel () Fax: ()

City: ASHLAND CITY State TN Zip Code: 37015 County: CHEATHAM

Mailing Address (if different from Business Address) _____
Street Address City State Zip

Email Address: MF.MARKET@YAHOO.COM Web-Site Address: _____

1. Have you and all partners (if any) been legal residents of the State of Tennessee for at least the preceding two years?
YES
2. Are you and all partners (if any) United States Citizens? YES All applicants must complete Form AB-0116 – Declaration of Citizenship.
3. Do you hold a public office (either appointive or elective), or are you a public employee (either National, State, City or County)? NO
4. Have you, partners, or any other person having any kind of interest in your business ever been convicted of any criminal offense under the laws of the State of Tennessee or of any other State or of the United States? If yes, please specify
NO
5. Have you, partners, or any other person having any kind of interest in this business ever been convicted of any offense under the laws of the State of Tennessee, or of any other State or of the United States prohibiting, or regulating the sale, possession, transportation, storing, manufacturing or otherwise handling intoxicating liquors within ten (10) years preceding the date of this application? NO If yes, please explain on an additional sheet of paper and attach.
6. Have you or your partners (if any) ever been cited to appear before the Commissioner of Revenue or the Tennessee Alcoholic Beverage Commission and charged with a violation of the law or rules and regulations made pursuant to law?
NO

7. In whose name is the Alcohol Dealer Registration (TTB F 5630.5d) as a retail liquor dealer issued at this location?
MF, LLC
8. Give the names and addresses of persons related to you by blood, marriage, or otherwise who own, operate, or have any interest either in a licensed Retail Store, Wholesale Distributor, Distillery, Supplier or Liquor-By-The-Drink establishment?
N/A
9. Give the names and addresses of all persons other than those shown on this application who have any kind of interest, financial, stock ownership, loans, gifts, or securing loans, or otherwise, made for carrying on said business:
N/A
10. Give the names and addresses of all persons other than those shown on the application who share in the profits from this business and state their interest:
NONE
11. Give the name and address of the owner of the premises on which the business is to be located and the amount of the rental, if any. Also submit a copy of any lease agreement which has or may be entered into for this business. _____
12. Do you sub-lease or allow anyone to occupy any of the space covered in this lease? NO
If so, state the name of the person and the type of business being operated. _____
N/A
13. Who will be in active control in the management of this business? _____
EMAD AZER
14. Give the name and address of any other business in which you or your partners, if any, are actively engaged.
ASHI AND MARKET (CONVENIENCE STORE NOW-TO BE CONVERTED TO LIQUOR STORE)
15. Do you employ some person not otherwise connected with your store to keep your books? NO
If the answer is yes, give name and address of person. _____
N/A
16. Do you agree to accept full responsibility for the action of any member of the partnership or any person employed by you in the conduct of your business? YES
17. If this is an application for a renewal license, state whether you received any additional or new financial assistance, loans, or otherwise, during the previous year? N/A
18. If the answer to question 17 is "yes", state all facts and details in connection with said financial assistance, loans, etc.
N/A
19. If you are indebted to the State of Tennessee for any tax, state the tax and amount. _____
NO
20. Furnish Tennessee Sales Tax Registration Number: [REDACTED]
21. Give name and address of any relative employed by the Tennessee Alcoholic Beverage Commission _____
NONE




All data, written statements, affidavits, evidence or other documents submitted in support hereof, or upon bearing hereon, shall be deemed to be a part of this application.

The applicant or applicants agrees that the place for which application is made will be operated in conformity with Chapter 257, Public Acts of 1963, and in conformity with all applicable rules and regulations made pursuant to law, which are now, or may hereafter be, in force.

WARNING: "YOUR STATEMENT IS MADE UNDER OATH OR AFFIRMATION. PROVIDING OR INCOMPLETE INFORMATION ARE GROUNDS FOR REJECTION OF APPLICATION OR SUSPENSION OR REVOCATION OF PERMIT IF ISSUED. FALSE STATEMENTS OR INCOMPLETE INFORMATION ARE ALSO SUBJECT TO THE PENALTIES OF PERJURY UNDER TENNESSEE LAW"

"THE ACCEPTANCE OF FEES DOES NOT GUARANTEE THE ISSUANCE OF A LICENSE OR PERMIT"

Application authorized by EMAD AZER
Print Name, Owner of Establishment


SIGNATURE, Owner of Establishment

EMAD AZER
Print Name, Applicant


Signature of Applicant

Subscribed and sworn to before me this 3 day of July

My Commission Expires 8/27/22 
Notary Seal



The State of Tennessee and the Tennessee Alcoholic Beverage Commission are Equal Opportunity Employers. Discrimination, in any of its practices, which is based on age, race, sex, color, religion, national origin, disabling condition or any other non-merit factor is prohibited. Thus, the Tennessee Alcoholic Beverage Commission is an equal opportunity, equal access, affirmative action public entity.

FOR ADDITIONAL INFORMATION:

Contact the agency ADA Coordinator for this state agency: Assistant Director at 615-741-1602 or the Tennessee Office of Americans with Disabilities, Department of Personnel. Alternate formats of this notice are available on request.

Town of Ashland City, Tennessee
Public Safety Department

APPLICANT BACKGROUND CHECK

For Application for Limited Letter of Compliance for License to Sell Retail/Alcohol

CITY USE ONLY

Address of Location of Proposed Store: 303 N. MAIN ST; ASHLAND CITY, TN 37015

Use a separate form for each applicant.

Applicant's Full Name: MF, LLC (EMAD AZER, SOLE MEMBER)

Current Address: [REDACTED] BRENTWOOD, TN 37027

Social Security Number: [REDACTED]

1. Convicted of felony, misdemeanor or any offense of the alcohol laws of the State or the U.S. in the past 10 years: Yes No

2. Has been engaged in business with anyone who was in violation of the laws mentioned above:
 Yes No

If "yes" under questions 1 or 2, explain offense: _____
N/A

Any other information that was revealed in background check that is relative: _____
N/A

I have conducted a background search for all applicants for the above described retail liquor establishment.

MARC COULON, Police Chief
Town of Ashland City, Tennessee

Date

Resources used for background search: TBI ACCity Cheatham County NCIC

_____ Other



WAIVER FOR BACKGROUND CHECK

I by signing this document have applied for a package liquor store/beer permit and as such understand that part of the requirement for a package liquor store/beer permit is that the applicant can not have a criminal record of a felony, a crime involving moral turpitude, or a violation of any laws dealing with the possession, sale, manufacture, or transportation of beer or any other alcoholic beverage within the last ten years. This applies to anyone with an interest in the business of five percent (5%) or more. By signing this document, I hereby consent to myself as well as the other individuals listed that have a five percent (5%) or more interest in the business to have a background check run by the local police department including a criminal check. I fully release the Town of Ashland City from any and all liability from conducting the search and understand and release them from the reliability of the information that they receive in that they are relying on third parties for the supply of the information. I hereby consent to the Town of Ashland City to conduct a background check.

12-29-21
Date

EMAD AZER
Applicant

[REDACTED]
Social Security Number

[REDACTED]
DOB

List of other individuals who own at least a five percent (5%) or more in the business:

N/A
Owner's Name

DOB

Social Security Number

[REDACTED]

[REDACTED]

N/A
Owner's Name

DOB

Social Security Number

Receipt #R00143354

No-Reply <No-Reply@ashlandcitytn.gov>

Thu 1/27/2022 1:59 PM

To: Alicia Martin <ayoung@ashlandcitytn.gov>

The Town of Ashland City would like to thank you for your payment!

Town of Ashland City Water & Sewer

PO Box 36

Ashland City, TN 37015

(615)792-4211

DATE : 1/18/2022 2:57 PM

OPER : AB

TKBY : ALYSSA BARNHILL

TERM : 1

REC# : R00143354

LIQUOR TAX - 31720 WHOLESALE LIQUOR TAX

303 N MAIN LIQUOR APP FEE 500.00

LIQUOR TAX - 31720 WHOLESALE LIQUOR TAX

303 N MAIN BACKGROUND FEE 100.00

Paid By:303 N MAIN LIQUOR APP FEE

6-110 GEN CHECK 600.00 REF:1821

ORDINANCE #

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE TOWN OF ASHLAND CITY, TENNESSEE BY AMENDING ARTICLE III., SECTION 4.030(F) TEMPORARY USE REGULATIONS

WHEREAS, the Ashland City Planning Commission wishes to establish guidelines for temporary use permits; and

WHEREAS, the Ashland City Municipal Regional Planning Commission has recommended that the Zoning Ordinance of Ashland City be amended; and

WHEREAS, the Mayor and Council has given due consideration to said recommendation and has conducted a Public Hearing as required by law, now,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF ASHLAND CITY, TENNESSEE that the Zoning Ordinance be amended as follows:

- 4.030. Temporary use regulations. The following regulations are necessary to govern the operation of certain necessary or seasonal uses which are non-permanent in nature. Application for a Temporary Use Permit shall be made to the Building Inspector. Said application shall contain a graphic description of the property to be utilized and a site plan, to determine yard requirements, setbacks, sanitary facilities, and parking spaces for the proposed temporary use. The following uses are deemed to be temporary uses and shall be subject to the specific regulations and time limits which follow, and to the regulations of any district in which such use is located:
- A. Carnival or Circus: May obtain a Temporary Use Permit in the C-2, I-1 or I-2 Districts; however, such permit shall be issued for a period of not longer than fifteen (15) days. Such use shall only be permitted on lots where adequate off-street parking can be provided, only after a licensed mechanical engineer officially certifies in writing that all pertinent rides are safe.
 - B. Christmas Tree Sale: May obtain a thirty (30) day Temporary Use Permit for the display and sale of Christmas trees on open lots in any district.
 - C. Temporary Buildings: In any district, a Temporary Use Permit may be issued for contractor's temporary office and equipment sheds incidental to construction project. Such permit shall not be valid for more than one (1) year but may be renewed for six-month extensions; however, not more than three (3) extensions for a particular use shall be granted. Such use shall be removed immediately upon expiration of the Temporary Use Permit, whichever occurs sooner.

D. Religious Tent Meetings: In any district, except the C-1, Central Business District, a temporary structure may be permitted to house a religious meeting. Such permit shall be issued for not more than a thirty (30) day period. Such activity shall be permitted only on lots where adequate off-street parking can be provided.

E. Temporary Dwelling Unit In Cases of Special Hardship: In any residential district, a Temporary Use Permit may be issued to place a mobile home (double-wide excluded) temporarily on a lot in which the principal structure was destroyed by fire, explosion or natural phenomenon. The purpose of such placement temporarily shall be to provide shelter for only the residents of the principal structure during the period of reconstruction and to prevent an exceptional hardship on the same. Placement of such temporary structure must not represent a hazard to the safety, health, or welfare of the community. An applicant for a Temporary Use Permit as provided under this subsection must produce a written statement from the Ashland City Utilities System and the Cheatham County Health Department when applicable, approving the water supply and sewerage disposal systems of the temporary structure. Such a permit may be initially issued for six (6) months. A permit may be renewed for up to six (6) months at a time, the total time for all permits not exceeding a total of eighteen (18) months.

F. Temporary Use Permits: In any district other than industrial, a Temporary Use Permit may be Issued according to the following guidelines:

1. Only one permit, per location, shall be issued during a calendar year. Permit shall be issued only to the property owner of the location provided on the application. Permit is valid only for the location provided on the application.
2. Permit is valid for a period beginning no earlier than April 1st and ending no later than November 1st for each calendar year.
3. Permit limits sales beginning no earlier than 7:00 am and ending no later than 7:00 pm each day.
4. All structures utilized for such sales shall be removed when not in use. All temporary structures vacant for seven days must be removed by the end of the 8th day.
5. All temporary structures must be located no less than thirty (30) feet from the roadway.
6. Adequate off-road parking must be provided.
7. A current business license from Cheatham County and the Town of Ashland City must be provided for the permit to be issued.
8. Cost of the Temporary Use Permit shall be \$25.00.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect 20 days after its final passage, the public welfare requiring it.

1st reading:
Public hearing:
2nd reading:

Mayor Steve Allen

City Recorder Alicia Martin, CMFO

ORDINANCE #

**AN ORDINANCE BY THE MAYOR AND CITY COUNCIL TO ACCEPT A
BUDGET AMENDMENT FOR THE 21/22 FISCAL YEAR**

WHEREAS, the Mayor and Council appropriate \$120,860 in the General Fund, Streets Department for the pass through cost of red light at Hampton Inn.

NOW THEREFORE, BE IT ORDAINED, by the 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>	<u>Beginning Departmental Budget</u>	<u>Ending Departmental Budget</u>
Streets Department	\$864,745	\$985,605

1st reading _____
Public Hearing _____
2nd reading _____

Attest:

Mayor Steve Allen

City Recorder Alicia Martin, CMFO

ORDINANCE #

**AN ORDINANCE BY THE TOWN OF ASHLAND CITY, TENNESSEE TO
AMEND TITLE 8, CHAPTER 2: BEER**

WHEREAS, the Mayor and City Council, have determined that the special event permit for the sale of beer needs to be amended to apply to all organizations

WHEREAS, the Mayor and City Council, have determined that it is in the Town's best interest to allow festivals and other types of activities to serve beer at said functions in designated areas.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF ASHLAND CITY, TENNESSEE, that Title 8, Chapter 2, Section 8-206 (4) be amended to read in its entirety as follows:

(4). Special event permit. A "special events" permit is required to be issued to any organization engaged in the sale of such beverages where they are to be consumed by the purchaser or his/her guests upon the premises and are for the limited purpose of a limited engagement or special event. The permit shall require prior notification in writing ten days prior to the event with the organization holding the event and location of where the event is to be held and shall be approved by the Beer board ten days prior to the event. Each permit will be issued for a specific date and a specific period of time. A special event permit shall not exceed more than seventy-two (72) consecutive hours. An organization is limited to four (4) special event permits per year. Any special events permit to be used on the Town's property or existing right away shall be used in a segregated area that is blocked off with temporary barriers to be approved by the Town unless the use is inside a designated building.

BE IT FURTHER ORDAINED, this Ordinance shall be effective twenty (20) days after the final passage, to the public welfare requiring it.

1st reading February 8, 2022

2nd reading March 8, 2022

Attest:

Mayor Steve Allen

City Recorder

CONTRACT AGREEMENT

This Agreement, made this February 18, 2022, by and between IMPACT PYRO INC., a Tennessee Corporation, whose business address is P.O. BOX 989, Goodlettsville, TN 37072, and hereinafter shall be referred to as IMPACT PYRO and Town of Ashland City, whose business address is 233 TENNESSEE WALTZ PARKWAY, ASHLAND ITY, TN 37015, and hereinafter referred to as CUSTOMER.

WITNESSETH

In consideration of the mutual promises and undertakings set forth herein, receipt of said consideration being acknowledged, the parties hereby agree as follows:

- I. **FIREWORKS DISPLAY:** IMPACT PYRO agrees to furnish to CUSTOMER a fireworks display (hereinafter referred to as SHOW) pursuant to proposal number 220611-ASHLANDCITY-1.3, dated February 18, 2022 and per specifications and requirements provided by CUSTOMER. The SHOW will take place on June 11, 2022 at the John C. Poole Recreation Area off Tennessee Waltz Parkway unless IMPACT PYRO or CUSTOMER shall determine that weather conditions (or other hazards) prohibit IMPACT PYRO from proceeding with the SHOW; in which case, IMPACT PYRO agrees to present the SHOW on a mutually agreed upon future date. In the event that conditions do not allow the SHOW to proceed on the scheduled date, CUSTOMER shall remit the actual expenses IMPACT PYRO may incur in presenting the SHOW on subsequent occasion. If in anticipation of inclement weather or other foreseen dangerous conditions, the SHOW is postponed prior to delivery of product/equipment and setup of SHOW, additional expenses will be considered zero and there will be no additional charge for presenting SHOW on future date.
- II. **CANCELLATION:** Should CUSTOMER elect to cancel the SHOW for any reason, CUSTOMER must provide IMPACT PYRO with a written notice by certified mail, return receipt to IMPACT PYRO'S address as set forth above no later than thirty (30) days before the scheduled date of the SHOW. Customer agrees that IMPACT PYRO shall incur substantial expense in preparation for the SHOW and, accordingly, agrees to pay 50% of the full contract price of the show (as set forth in paragraph XIII herein) to IMPACT PYRO as liquidated damages for cancellation of the SHOW. If CUSTOMER does not provide IMPACT PYRO with notice as set forth herein, CUSTOMER shall pay IMPACT PYRO 100% of the full contract price for the SHOW as liquidated damages.
- III. **MUTUAL CANCELLATION:** In the event of fire, accidents, lightning strikes, flood, acts of God, or causes beyond the control of IMPACT PYRO, which preclude IMPACT PYRO from presenting the SHOW, the parties hereto release each other from any and all performance of the covenants herein and from damages resulting from breach hereof.
- IV. **SECURITY AREA:** CUSTOMER agrees to furnish sufficient space for IMPACT PYRO to properly conduct the SHOW as determined by NFPA 1123 (hereinafter referred to as SECURITY AREA). CUSTOMER agrees to provide adequate security protection to preclude unauthorized persons from entering the SECURITY AREA. For the purposes of the Agreement, "unauthorized persons" shall mean anyone other than

CONTRACT AGREEMENT

employees of IMPACT PYRO or persons specifically designated in writing, submitted to IMPACT PYRO, and approved prior to the event. Policing of SECURITY AREA is the responsibility of the CUSTOMER.

- V. **INDEMNIFICATION AND HOLD HARMLESS:** CUSTOMER agrees to hold IMPACT PYRO harmless from any damages caused to CUSTOMER which result as a consequence of unauthorized persons entering the SECURITY AREA. Furthermore, CUSTOMER agrees to defend and indemnify IMPACT PYRO from any and all claims brought against IMPACT PYRO for damages caused wholly or in part by unauthorized persons who have entered the SECURITY AREA.
- VI. **AMENDMENT AND ASSIGNMENT:** This agreement (including all attachments related to show) is deemed personal and confidential to CUSTOMER and its executors and administrators only, and may not be sold, assigned, transferred, or shared without the prior written consent of IMPACT PYRO.
- VII. **COMPLIANCE WITH THE LAWS AND REGULATIONS:** Promptly upon the execution of this AGREEMENT, CUSTOMER shall apply for the approval hereof to any agency, officer, or authority of any government if such approval is required by any applicable law, ordinance, code, or regulation. CUSTOMER agrees to indemnify and hold harmless IMPACT PYRO against all claims, suits, causes of action, demands, penalties, losses, or damages, which may arise or accrue because of the failure or neglect of CUSTOMER to obtain such approval. This AGREEMENT is made expressly subject to and CUSTOMER expressly agrees to comply with and abide by all applicable laws, ordinances, codes, and regulations insofar as the same may be applicable to the terms and conditions of this AGREEMENT, including all rules and regulations now existing or that may be promulgated under and in according with any such law or laws.
- VIII. **PERMITS AND LICENSES:** IMPACT PYRO shall obtain and maintain all permits and licenses necessary to perform fully hereunder unless otherwise forbidden by any other applicable statute, rule, or otherwise. It is hereby stipulated that this AGREEMENT is to be construed and governed by the laws of the State of Tennessee, and any suit involving this contract shall be brought in the Courts of Sumner County in the State of Tennessee, and the CUSTOMER hereby submits itself to the jurisdiction of said Courts and waives its rights to proceed against IMPACT PYRO in and other actions, in any jurisdiction.
- IX. **LATE PAYMENT:** IMPACT PYRO shall charge, and CUSTOMER agrees to pay, one and one half percent (1 1/2%) per month late payment fee for each month until IMPACT PYRO is paid the amount set forth in Paragraph XIII herein, unless this provision is prohibited by law.
- X. **ADVERTISEMENT AND PROMOTIONS:** CUSTOMER agrees to allow IMPACT PYRO to use CUSTOMER'S name in IMPACT PYRO'S list of clients and any IMPACT PYRO advertisements or promotions.
- XI. **COMPLAINTS:** In the event that the CUSTOMER has complaint concerning the SHOW, or any material or product used in or pursuant to the SHOW, or any conduct of the SHOW by IMPACT PYRO, or any act or omission of IMPACT PYRO or its agents, either directly or indirectly, without limitation, CUSTOMER shall

IMPACT PYRO
P.O. BOX 989
GOODLETTSVILLE, TN 37070

CONTRACT AGREEMENT

EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE.

No representation of affirmation of fact including but not limited to statement regarding capacity, suitability for use, or performance of equipment or product shall be, or be deemed to be, a warranty by IMPACT PYRO for any purpose, nor give rise to any liability or obligation of IMPACT PYRO whatsoever.

IN NO EVENT SHALL IMPACT PYRO BE LIABLE FOR ANY LOSS OF PROFITS OR OTHER ECONOMIC LOSS, INDIRECT, SPECIAL, CONSEQUENTIAL, OR OTHER SIMILAR DAMAGES ARISING OUT OF ANY CLAIMED BREACH OF OBLIGATIONS HEREUNDER.

ADDENDUM

(If applicable)



P.O. Box 989
Goodlettsville, TN 37070
615.423.0296
impactpyro.com

February 18, 2022

Scott A. Sampson
Director of Parks and Recreation
Town of Ashland City
233 Tennessee Waltz Parkway, Suite 103
Ashland City, TN 37015

Mr. Sampson, please see below for proposed fireworks display options for your fireworks display to be held on June 11, 2022. Please note that proposal offer (220611-ASHLANDCITY-1.3) is based on availability at time of acceptance of offer.

Proposed Display Options

BUDGET / DISPLAY OVERVIEW

\$15,000 – Aerial display consisting of shells up to 6" in diameter. Show duration approximately 15 minutes. Minimum shell count is as follows:

- 3" – 480 min
- 4" – 120 min
- 5" – 72 min
- 6" – 54 min

Summary

Display will feature an opening segment, main body, and a spectacular grand finale. The display will be custom designed, pre-scripted and can be choreographed to music at the customer's request (Impact Pyro will prepare a custom track for the display). Impact Pyro will provide all necessary racks and display equipment, electrical firing system, and required electrical matches to fire the show. Customer will provide a deposit of 50% with the signed contract and will pay the remainder of the fee on or before the day of the display. Display will be in accordance with NFPA 1123 standards and includes all products, insurance, permitting fees, transportation of equipment and products to the display site, labor and professional services. Customer is responsible for any required security, sound system, and applicable taxes.

Our credentials and references are available upon request. Please let me know if you have any questions or if I can be of further assistance. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Joey Bassham".

Joey Bassham
CEO
joey@impactpyro.com

The information contained in this document is intended for the addressee and other related officials and employees only.

Thank you.



Cust. # 145700

Ashland City - Water Dept
Clint Biggers; Water Dept
P.O. Box 36
Ashland City, TN 37015
615-792-4211 x230
cbiggers@ashlandcitytn.gov

Preventive Maintenance Agreement
Emergency Standby Generator
Location: **WTP**
S/N: 2096398
M/N: 350REOZVC

1- 12 Month Period of Preventive Maintenance Consisting of:

- 1- Annual Service \$ 600.00
- 1- Annual & 1 Semi-Annual \$ 775.00
- 1- Annual & 3 Quarterly \$ 1,125.00

Emergency Service Available 24 Hours a Day.

Please indicate service(s) accepted and return a signed copy of this proposal to the address shown below.

- 1 Annual Service _____
- 1 Annual & 1 Semi-Annual _____
- 1 Annual & 3 Quarterly _____

Signature _____ Date _____

Labor Rates for Services Not Covered by Maintenance Agreement are:

\$ 104.00 / hr. (regular hours) - \$ 156.00 / hr. (overtime hours).

Mileage Rate for Repair Calls \$ 2.25/ Mile

Prices Quoted are good for 90 Days. – Terms: Net 30 days.

Prices Quoted do not include any Sales or User Tax that may be Applicable.

See PM Maintenance Schedule Enclosed.

Teresa Tilley
Service Administrator
Date: 2/7/2022
Proposal # 19782



Cust. # 145700

Ashland City Fire Department
Chief Walker; Fire Dept
P.O. Box 36
Ashland City, TN 37015
615-792-4211 x230
cwalker@ashlandcitytn.gov

Preventive Maintenance Agreement
Emergency Standby Generator
Location: **Town Hall** Generator
S/N: 648397
M/N: 40ROZJ

1- 12 Month Period of Preventive Maintenance Consisting of:

- 1- Annual Service \$ 425.00
- 1- Annual & 1 Semi-Annual \$ 600.00
- 1- Annual & 3 Quarterly \$ 950.00

Emergency Service Available 24 Hours a Day.

Please indicate service(s) accepted and return a signed copy of this proposal to the address shown below.

- 1 Annual Service _____
- 1 Annual & 1 Semi-Annual _____
- 1 Annual & 3 Quarterly _____

Signature _____ Date _____

Labor Rates for Services Not Covered by Maintenance Agreement are:

\$ 104.00 / hr. (regular hours) - \$ 156.00 / hr. (overtime hours).

Mileage Rate for Repair Calls \$ 2.25/ Mile

Prices Quoted are good for 90 Days. – Terms: Net 30 days.

Prices Quoted do not include any Sales or User Tax that may be Applicable.

See PM Maintenance Schedule Enclosed.

Teresa Tilley
Service Administrator
Date: 2/7/2022
Proposal # 19806



Cust. # 145700

4Ashland City – Water Dept
Clint Biggers; Water Dept
P.O. Box 36
Ashland City, TN 37015
615-792-4211 x230
CBIGGERS@ashlandcitytn.gov

Preventive Maintenance Agreement
Emergency Standby Generator
Location: Sewer Plant
S/N: SGM328X9W
M/N: 250REOZJE

1- 12 Month Period of Preventive Maintenance Consisting of:

- 1- Annual Service \$ 675.00
- 1- Annual & 1 Semi-Annual \$ 925.00
- 1- Annual & 3 Quarterly \$ 1,425.00

Emergency Service Available 24 Hours a Day.

Please indicate service(s) accepted and return a signed copy of this proposal to the address shown below.

- 1 Annual Service _____
- 1 Annual & 1 Semi-Annual _____
- 1 Annual & 3 Quarterly _____

Signature _____ Date _____

Labor Rates for Services Not Covered by Maintenance Agreement are:

\$ 104.00 / hr. (regular hours) - \$ 156.00 / hr. (overtime hours).

Mileage Rate for Repair Calls \$ 2.25 / Mile

Prices Quoted are good for 90 Days. – Terms: Net 30 days.

Prices Quoted do not include any Sales or User Tax that may be Applicable.

See PM Maintenance Schedule Enclosed.

Teresa Tilley
Service Administrator
Date: 2/7/2022
Proposal # 19780



Cust. # 119210

Town of Ashland City
Attn: G Batts
P.O. Box 36
Ashland City, TN 37015

Preventive Maintenance Agreement
Emergency Standby Generator
Location: Senior Citizens Center
S/N: 238623
M/N: 6CTA8.3GC

Gbatts@ashlandcitytn.gov

1- 12 Month Period of Preventive Maintenance Consisting of:

- 1- Annual Service \$ 495.00
- 1- Annual & 1 Semi-Annual \$ 695.00

Emergency Service Available 24 Hours a Day.

Please indicate service(s) accepted and return a signed copy of this proposal to the address shown below.

- 1 Annual Service _____
- 1 Annual & 1 Semi-Annual _____

Signature _____ Date _____

Labor Rates for Services Not Covered by Maintenance Agreement are:

\$ 104.00 / hr. (regular hours) - \$ 156.00 / hr. (overtime hours).

Mileage Rate for Repair Calls \$ 2.25 / Mile

Prices Quoted are good for 90 Days. – Terms: Net 30 days.

Prices Quoted do not include any Sales or User Tax that may be Applicable.

See PM Maintenance Schedule Enclosed.

Teresa Tilley
Service Administrator
Date: 2/7/2022
Proposal # 19308



Cust. # 145700

Ashland City – Water Dept
Clint Biggers; Water Dept
P.O. Box 36
Ashland City, TN 37015
615-792-4211 x230
cbiggers@ashlandcitytn.gov

Preventive Maintenance Agreement
Emergency Standby Generator
Location: Raw Water
S/N: 2138074
M/N: 60REOZJB

1- 12 Month Period of Preventive Maintenance Consisting of:

- 1- Annual Service \$ 415.00
- 1- Annual & 1 Semi-Annual \$ 590.00
- 1- Annual & 3 Quarterly \$ 940.00

Emergency Service Available 24 Hours a Day.

Please indicate service(s) accepted and return a signed copy of this proposal to the address shown below.

- 1 Annual Service _____
- 1 Annual & 1 Semi-Annual _____
- 1 Annual & 3 Quarterly _____

Signature _____ Date _____

Labor Rates for Services Not Covered by Maintenance Agreement are:

\$104.00 / hr. (regular hours) - \$156.00 / hr. (overtime hours).

Mileage Rate for Repair Calls \$ 2.25 / Mile

Prices Quoted are good for 90 Days. – Terms: Net 30 days.

Prices Quoted do not include any Sales or User Tax that may be Applicable.

See PM Maintenance Schedule Enclosed.

Teresa Tilley
Service Administrator
Date: 2/7/2022
Proposal # 19778



Cust. # 145700

Ashland City – Water Dept
Clint Biggers; Water Dept
P.O. Box 36
Ashland City, TN 37015
615-792-4211 x230
@ashlandcitytn.gov

Preventive Maintenance Agreement
Emergency Standby Generator
Location: Pumping Station
S/N: 366583
M/N: 50ROZJ

1- 12 Month Period of Preventive Maintenance Consisting of:

- 1- Annual Service \$ 415.00
- 1- Annual & 1 Semi-Annual \$ 590.00
- 1- Annual & 3 Quarterly \$ 940.00

Emergency Service Available 24 Hours a Day.

Please indicate service(s) accepted and return a signed copy of this proposal to the address shown below.

- 1 Annual Service _____
- 1 Annual & 1 Semi-Annual _____
- 1 Annual & 3 Quarterly _____

Signature _____ Date _____

Labor Rates for Services Not Covered by Maintenance Agreement are:

\$ 104.00 / hr. (regular hours) - \$ 156.00 / hr. (overtime hours).

Mileage Rate for Repair Calls \$ 2.25 / Mile

Prices Quoted are good for 90 Days. – Terms: Net 30 days.

Prices Quoted do not include any Sales or User Tax that may be Applicable.

See PM Maintenance Schedule Enclosed.

Teresa Tilley
Service Administrator
Date: 2/7/2022
Proposal # 19781



Cust. # 145700

Ashland City Fire Department
Chief Walker; Fire Dept
P.O. Box 36
Ashland City, TN 37015
615-792-4211 X 230
cwalker@ashlandcitytn.gov

Preventive Maintenance Agreement
Emergency Standby Generator
Location: **Fire Station #2**
S/N: OLY00000CNNS00925
M/N: D200P4-1

1- 12 Month Period of Preventive Maintenance Consisting of:

- 1- Annual Service \$ 550.00
- 1- Annual & 1 Semi-Annual \$ 725.00
- 1- Annual & 3 Quarterly \$ 1,025.00

Emergency Service Available 24 Hours a Day.

Please indicate service(s) accepted and return a signed copy of this proposal to the address shown below.

- 1 Annual Service _____
- 1 Annual & 1 Semi-Annual _____
- 1 Annual & 3 Quarterly _____

Signature _____ Date _____

Labor Rates for Services Not Covered by Maintenance Agreement are:

\$ 104.00 / hr. (regular hours) - \$ 156.00 / hr. (overtime hours).

Mileage Rate for Repair Calls \$ 2.25 / Mile

Prices Quoted are good for 90 Days. – Terms: Net 30 days.

Prices Quoted do not include any Sales or User Tax that may be Applicable.

See PM Maintenance Schedule Enclosed.

Teresa Tilley
Service Administrator
Date: 2/7/2021 revised
Proposal # 19779



3 YEAR RENEWAL OPTION:

CLARKE POWER SERVICES IS OFFERING A NEW (36) MONTH PM RENEWAL PLAN. THIS MEANS YOU WILL RECEIVE A NEW AGREEMENT EVERY 36 MONTHS IN LIEU OF 12 MONTHS. YOU CAN STILL STOP YOUR SERVICES AT ANY TIME.

IF YOU WISH TO ACCEPT THIS OFFER PLEASE SIGN AND DATE BELOW AND RETURN WITH YOUR RENEWALS.

Signature _____ Date _____
Company Name _____

Email to: service@clarkegen.com

Fax to: 336.808.9561

Mail to: Clarke Power Services, Inc.
P.O. Box 18949
Greensboro, NC 27419

2020 Rural Development Wastewater Collection and Treatment Improvements

Description/Task	Original Estimate			Revised Estimate			Change		
	Sewer Rehab	WWTP	Total	Sewer Rehab	WWTP	Total	Sewer Rehab	WWTP	Total
Construction	\$1,798,500	\$12,650,000	\$14,448,500	\$1,798,500	\$18,161,000	\$19,959,500	\$0	\$5,511,000	\$5,511,000
Contingency	\$106,342	\$711,000	\$817,342	\$106,342	\$1,020,749	\$1,127,091	\$0	\$309,749	\$309,749
Engineering	\$140,600	\$759,000	\$899,600	\$140,600	\$1,089,700	\$1,230,300	\$0	\$330,700	\$330,700
RPR	\$130,200	\$312,000	\$442,200	\$139,314	\$334,000	\$473,314	\$9,114	\$22,000	\$31,114
Survey	\$20,000	\$10,000	\$30,000	\$20,000	\$10,374	\$30,374	\$0	\$374	\$374
Geotechnical	\$0	\$10,000	\$10,000	\$0	\$5,500	\$5,500	\$0	-\$4,500	-\$4,500
Permits	\$7,740	\$54,000	\$61,740	\$7,740	\$38,000	\$45,740	\$0	-\$16,000	-\$16,000
TDEC Review Fees	\$120	\$1,000	\$1,120	\$120	\$1,000	\$1,120	\$0	\$0	\$0
Legal	\$3,000	\$15,000	\$18,000	\$3,000	\$15,000	\$18,000	\$0	\$0	\$0
Admin & Environmental	\$33,000	\$0	\$33,000	\$33,000	\$0	\$33,000	\$0	\$0	\$0
Interest during Constr.	\$0	\$414,000	\$414,000	\$0	\$590,000	\$590,000	\$0	\$176,000	\$176,000
	\$2,239,502	\$14,936,000	\$17,175,502	\$2,248,616	\$21,265,323	\$23,513,939	\$9,114	\$6,329,323	\$6,338,437

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**

Includes Direction from Bulletin 1780-26 Revised 6/20/2020 for Compliance with Rural
Development Owner and Engineer Contract Requirements

Prepared by



Issued and Published Jointly by



190-269 Engineering Services Agreement
Ashland City – RD Sewer System
Improvements and WWTP

This Agreement has been prepared for use with EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC® E-001, Commentary on the EJCDC Engineering Services Agreements, 2013 Edition.

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National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

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

THIS IS AN AGREEMENT effective as of April 14, 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. This description is herein referred to as the “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. This project has been funded by USDA Rural Development. As such, compliance with RD’s Requirements for design and construction is necessary. Specific items identified in RUS Bulletin 1780-26 updated 6/20/2020 are included in Exhibit L, herein.

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. (INSURANCE CERTIFICATION CAN BE PROVIDED UPON REQUEST)
- H. Exhibit H, Dispute Resolution.
- I. Exhibit I, Limitations of Liability.
- J. Exhibit J, Special Provisions. (NOT USED)
- K. Exhibit K, Amendment to Owner-Engineer Agreement.
- L. Exhibit L, RUS Bulletin 1780-26 USDA RD Amendments to the EJCDC Engineering 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: April 14, 2020

By: _____
Print name: Steve Casey, PE
Title: Vice President
Date Signed: October 19, 2020

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

State of: Tennessee

Address for Owner's receipt of notices:
101 Court Street
Ashland City, TN

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):
Ricky Oakley, PE
Title: Senior Project Manager
Phone Number: 615-440-7961 cell
E-Mail Address: roakley@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 April 14, 2020.

Engineer's Services

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.

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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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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.

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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 ***None Identified***
 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

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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:
None Identified
 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.

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- 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 Two (2) 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.

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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: **Recommendation Regarding Award and Bid Tabulation**
- 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,

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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 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

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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.

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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

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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 Identified

- 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.
 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

Exhibit A – Engineer's Services

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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

Exhibit A – Engineer's Services

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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.

Exhibit A – Engineer's Services

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This is **EXHIBIT B**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2020

Owner's Responsibilities

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.

Exhibit B – Owner's Responsibilities

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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: **None Identified**

Exhibit B – Owner's Responsibilities

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Exhibit C – Compensation Decision Guide.

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This is **EXHIBIT C**, consisting of **6** pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated April 14, 2020.

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

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:

A Lump Sum amount of \$ 1,090,000 for sewer treatment plant and \$140,800 for sewer system rehabilitation based on the following estimated distribution of compensation:

	<u>STP</u>	<u>Sewer Rehab</u>
a. Study and Report Phase	\$100,000	\$19,500
b. Preliminary Design Phase	\$125,000	\$19,500
c. Final Design Phase	\$600,000	\$62,000
d. Bidding and Negotiation Phase	\$30,000	\$6,000
e. Construction Phase	\$200,000	\$29,000
f. Post Construction Phase	<u>\$35,000</u>	<u>\$4,800</u>
Subtotal	\$1,090,000	\$140,800

1. 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.
2. 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.
3. 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

4. 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**

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 \$474,000 based upon full-time RPR services on an eight-hour workday, Monday through Friday, over a 900 day construction schedule (24 months for WWTP and 8 months for Sewer Rehabilitation).

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:

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

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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. *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**

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 April 14, 2020.

Reimbursable Expenses Schedule

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%

This is **Appendix 2 to EXHIBIT C**, consisting of **1** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2020.

Standard Hourly Rates Schedule

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:

Classification	Rate/Hour
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 April 14, 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 April 14, 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

PROJECT:

OWNER:

CONTRACTOR:

OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER:

NOTICE DATE:

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.

Exhibit E – Notice of Acceptability of Work.

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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: _____

Exhibit E – Notice of Acceptability of Work.

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

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This is **EXHIBIT F**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2020.

Construction Cost Limit

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.

Exhibit F – Construction Cost Limit.

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This is **EXHIBIT G**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2020.

Insurance (Insurance Certificate can be provided upon request)

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 by disease, each employee \$1,000,000
- 3) Bodily injury/disease, aggregate: \$1,000,000

c. General Liability --

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

d. ~~Excess or Umbrella Liability~~ -----

- 1) ~~Per Occurrence~~: ----- None
- 2) ~~General Aggregate~~: ----- None

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

\$2,000,000

f. Professional Liability --

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

g. ~~Other (specify)~~: ----- None

2. By Owner:

a. Workers' Compensation: Statutory

Exhibit G – Insurance.

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b. Employer's Liability --

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

d. ~~Excess Umbrella Liability~~

- ~~1) Per Occurrence: _____ None~~
- ~~2) General Aggregate: _____ None~~

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

\$2,000,000

f. ~~Other (specify): _____ None~~

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. Town of Ashland City
Engineer's Consultant
- d. [REDACTED]
[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.

Exhibit G – Insurance.

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This is **EXHIBIT H**, consisting of **1** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2020

Dispute Resolution

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 mutually agreed upon licensed attorney certified as a Rule 31 mediator.** 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.

Exhibit H - Dispute Resolution.

This is **EXHIBIT I**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2020.

Limitations of Liability

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

Exhibit I - Limitations on Liability.

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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.

Exhibit I - Limitations on Liability.

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This is **EXHIBIT K**, consisting of **2** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 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: Civil & Environmental Consultants, Inc.

Project:

Nature of Amendment:

_____ Modifications of payment to Engineer

Description of Modifications:

Amended Professional Fees

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:

By: _____

Exhibit K – Amendment to Owner-Engineer Agreement

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By: _____
Print
name: _____
Title: _____
Date Signed: _____

Print
name: _____
Title: _____
Date Signed: _____

This is **EXHIBIT L**, Attachments 1 and 2 of RUS Bulletin 1780-26 consisting of 9 pages referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2020.

REVISIONS TO EJCDC E-500 (2014)

Modifications to the Main Body of the Agreement

- Article 4.01.A – Insert the following text after the first sentence:

Invoices will include a breakdown of services provided.

- Article 5.01.A – Add the following:

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.

- Article 5.03.A – Add the following:

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.

- Article 6.04.B – Delete “shall” and insert in its place “may”.

- Article 7.01.A.25 – Delete “, as an Additional Service.”

- Article 7.01.A.38 – Add the following:

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

- Article 8.05 – Add the following:

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 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 “Restrictions on Lobbying” 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

- Article A1.01.A.1.b - Replace 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

- Article A1.01.A.1.c. – Delete.

- Article A1.01.A.8 – Insert the following at the end of the paragraph:

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.

- Article A1.01.A.10 – Modify by inserting “and approved by the Agency” after “When mutually agreed.”

- Article A1.01.A.14 – Add the following immediately after paragraph:

Provide an Environmental Report as defined in 7 CFR 1970. The Environmental Report must be concurred in by the Agency.

- Article A1.01.A.16 – Delete the entire paragraph and insert the following:

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 [fill in with # of days] days of receipt of Owner’s and Agency’s comments.

- Article A1.02.A – Modify by inserting “and concurrence by Agency” after the words “acceptance by Owner.”

- Article A1.02.A.2 – Modify by inserting “and Agency” after “authorized by Owner.”

Exhibit L – RUS Bulletin 1780-26 Attachment

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- Article A1.02.A.8 – Add the following to the end of paragraph:

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.

- Article A1.03.A.9 – Add the following immediately after paragraph:

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.

- Article A1.03.A.10 – Modify by adding the “and Agency” after the word “counsel.”
- Article A1.03.A.12 – Insert the following:

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 Construction Certifications (Exhibit A, Attachment 6) for this purpose.”

- Article A.1.03.A.13 – Add paragraph:

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, and Bidding Documents 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 Plans, Specifications, and Bidding Documents are either produced in the United States or are the subject of an approved waiver under AIS.

- Article A1.03.B – Modify by deleting the period at the end of the paragraph and adding: “and all final design phase deliverables have been accepted by Owner.”
- Article A1.04.A.2 – Add the following to the end of paragraph:

Obtain Agency concurrence on any Addenda that modify the Bidding Documents. Obtain prior concurrence where possible.

- Article A1.04.A.6.a – Replace with the following:

a. 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.

- Article A1.04.A.6.b – Insert the following:

b. Services required to determine and certify that to the best of the Engineer’s knowledge and belief all iron and steel products referenced in Bid Addenda requiring design revisions are either produced in the United States or are the subject of an approved waiver.

- Article A1.04.A.9 – Add the following sentence immediately after paragraph:

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.”

- Article A.1.04.A.10 – Add the following:

Provide copies of Manufacturers' Certifications to the Bidders on any brand name iron and steel products specified as sole-source in the Plans, Specifications and Bidding Documents. Manufacturers' Certifications are to be included in the Bidding Documents and must be kept in the Engineer's project file and on-site during construction.

- Article A.1.04.A.11 – Add the following:

Provide copies of Manufacturers' Certifications to the Contractor on any brand name iron and steel products specified as sole-source in the Plans, Specifications, Bidding Documents including any Bid Addenda and Change Orders. Manufacturers' Certifications must be kept in the Engineer's project file and on-site during construction."

- Article A1.05.A.4 - Insert "and chair" after "Participate in" regarding the preconstruction conference.
- Article A1.05.A.6 – Delete "If requested by Owner to do so" and capitalize "maintain".
- Article A1.05.A.9.c – Insert the following:

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.

- Article A.1.05.A.17 – Add 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, including Applications for Payment, to ensure compliance with AIS. 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' Certifications must be kept in the Engineer's project file and on-site during construction. In the event the Engineer requires an item to be sole-source, the Engineer must furnish the Manufacturers Certification to the Contractor for said item.

- Article A1.05.A.18 – Add the following at the end of paragraph:

Review of substitutes and "or equals" shall be in accordance with the General Conditions of the Contract and applicable Agency regulations. Prior to approval of any substitute "or equal" review Manufacturers' Certifications provided by the Contractor to verify the product(s) meet AIS requirements. Manufacturers' Certifications must be kept in the Engineer's project file and on-site during construction to ensure compliance with AIS.

- Article A.1.05.A.19.d – Add the following:

Receive and review all Manufacturers' Certifications for materials required to comply with AIS. Manufacturers' Certifications must be kept in the Engineer's project file and on-site during construction."

- Article A.1.05.A.20 – Add the following to the end of the paragraph: Review Change Proposals to ensure compliance with AIS.
- Article A1.05.A.22 – Modify the following by deleting the following:

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.

And insert in its place:

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.

- Article A1.05.A.24.a – Insert the following:

a. Upon Substantial Completion, the Engineer shall provide a copy of the Certificate of Substantial Completion to the Agency.

- Article A.1.05.A.25.a – Insert the following:

a. Obtain the Contractors’ Certification letter and copies of Manufacturers’ Certifications from the Contractor for all American Iron and Steel products used in the project. Upon Substantial Completion, provide copies of Contractors’ and Manufacturers’ Certifications to the Owner and a copy of Contractor’s Certification to the Agency.

- Article A2.01.A.1 – Insert “not including preparation of the Environmental Report defined under Basic Services.” after “preparation or review of environmental assessments and impact statements”.
- Article A2.01.A.4 – Delete the period at the end of the paragraph, and insert “, but only if the Owner’s request is made after completion of the Study and Report Phase.”
- Article A2.01.A.17 – Delete paragraph and insert “Deleted”.
- Article A2.02.A.2 – Delete paragraph and insert 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 B of the Agreement

- Article B.2.02 – Add the following:

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. Sign 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. Sign change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC) and thereby acknowledge responsibility for compliance with American Iron and Steel requirements. C. Obtain the certification letters from the Engineer upon Substantial Completion of the project and maintain this documentation for the life of the loan. D. Where the Owner directly procures American Iron and Steel products, 1. Include American Iron and Steel clauses in the procurement contracts; 2. Obtain Manufacturers’ Certifications; and 3. Provide copies to Engineers and Contractors.

Modifications to Exhibit C of the Agreement

- Compensation Packet BC-1 – Modify paragraph C2.01.A.2 by adding “and Agency” after “approved in writing by the Owner.”
- Compensation Packet BC-1 – Modify paragraph C2.01.B.8 by inserting “with concurrence of the Owner and Agency” after “the compensation amount for Engineer’s services shall be appropriately adjusted.”
- Compensation Packet BC-2 – Modify paragraph C2.01.A.5 by inserting “and Agency” after “approved in writing by Owner.”
- Compensation Packet BC-2 – Modify 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.”
- Compensation Packet BC-2 – Modify paragraph C2.03.C.2 by inserting “and Agency” after Owner in “Engineer shall give Owner written notice thereof.”
- Compensation Packet RPR-1 – Modify C2.04.A.3 by adding the following at the end of the paragraph “Changes will not be effective unless and until concurred in by the Owner and Agency.”
- Compensation Packet RPR-2 – Modify C2.04.A.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.

Exhibit L – RUS Bulletin 1780-26 Attachment

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

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

- Article D1.01.A – Add the following to the end of the paragraph: “Full time Resident Project Representation is required unless requested in writing by the Owner and waived in writing by the Agency.”
- Article D.1.01.C.11.g – Add the following after D.1.01.C.11.f:

g. Maintain all Manufacturers’ Certifications in the project file and on-site during construction to ensure compliance with AIS, as applicable.

- Article D1.01.C.12.b – Delete paragraph and insert “Deleted”.

Modifications to Exhibit F of the Agreement

- Article F5.02.D – Add the following to the end of the paragraph:

Engineer’s 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.



CLIENT TRANSPORTATION AGREEMENT

THIS CLIENT TRANSPORTATION AGREEMENT (the “Agreement”) is made and entered into effective as of the 16th day of February, 2022, by and between **Mid-Cumberland Human Resource Agency, Inc.** (“Provider”) and Senior Center at Ashland City (“Contractor”).

RECITALS:

WHEREAS, Contractor needs non-emergent transportation services provided for individuals (“Members”) referred to Provider by Contractor originating in Cheatham County (the “Service Area”); and

WHEREAS, Provider provides non-emergent transportation services; and

WHEREAS, Contractor and Provider have determined to enter into an agreement pursuant to which Provider will provide non-emergent transportation services for Members in the Service Area pursuant to the terms set forth herein.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and the mutual promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. Term. The initial term shall commence March 1, 2022 and continue until June 30, 2023 unless sooner terminated as herein provided.
2. Duties and Responsibilities of the Parties.
 - a. Provider shall receive assignments from Contractor for non-emergent standard transport of Members from locations within the Service Area to locations within the Service Area. Provider shall schedule and provide such standard non-emergent transportation for Members, including, when applicable, scheduling return trips for Members transported to medical appointments.
 - b. Provider may schedule multiple Members per vehicle so long as no Member thereby spends greater than one (1) hour in the vehicle more than such Member would spend on the vehicle if he or she were the only passenger.
 - c. Each Member assigned to Provider shall be allowed one (1) and only one (1) escort to ride with such Member free of charge. Under no circumstances will Provider be required to provide an escort for any Member.

d. Provider shall make non-emergency transportation services provided under this Agreement to be available **[Monday through Friday between the hours of 6 am and 6 pm] [to the Senior Center at Ashland City who agrees to pay General Public Fares for their Clients who are transported by MCHRA Public Transit to/and from the Senior Center at Ashland City after MCHRA's Title IIIB trips have been exhausted per monthly allocations. General Public Fares are \$2.00 per one way trip with the city limits of Ashland City, and are \$3.00 per one way trip within Cheatham County.**

e. Provider shall establish, maintain, equip, and properly supervise a base of operations in order to adequately provide transportation services to Members.

f. Provider agrees to be available and adequately staffed to furnish services to Members.

g. Each party hereto shall provide to the other party hereto upon such other party's request a copy of all appeals and complaints received by such party.

h. Provider shall provide annual minimal training requirements to all drivers of vehicles providing transportation under this Agreement, including new driver training and periodic training covering customer service, health and safety issues, legal requirements and other related subjects.

i. Provider agrees that each driver shall meet at a minimum the following requirements:

- (1) Maintain a current DOT certification card where required.
- (2) Hold a valid Tennessee Class D driver license with an F (For Hire) Endorsement or CDL.

j. Provider agrees to the following maintenance requirements:

- (1) Provider shall monitor maintenance and mileage records for each vehicle.
- (2) Provider shall conduct scheduled preventive maintenance program every 5,000 miles.
- (3) Provider shall repair any unscheduled maintenance failure in a timely manner.

k. Provider agrees to the following vehicle requirements:

- (1) The identification of Provider is decaled on each vehicle including name and telephone number.
- (2) Each vehicle is equipped with safety equipment including First Aid Kit, Bio Hazard Kit, Fire Extinguisher, Seat Belt Cutter, Emergency Triangles and Rail Road Crossing Decals.

(3) Each vehicle is equipped with a communication device, e.g. two-way radio or cell phone.

1. Provider shall ensure that all vehicles, lifts, and other equipment used are maintained at a high level of cleanliness, safety, and mechanical soundness, and any damage to said vehicles, lifts, and/or other equipment shall be repaired promptly and completely.

3. Sub-Contracts. The parties hereby agree that they shall not enter any agreements with other parties to provide the services required to be performed for the other party under this Agreement without the prior written consent of the other party.

4. Payment for Services.

a. As compensation for the transportation services provided hereunder for each Member, Contractor shall pay Provider at the rates set forth in Exhibit A attached hereto and incorporated herein by reference.

b. Provider shall submit bills to Contractor on a monthly basis for services provided hereunder. Contractor shall pay Provider all amounts owed within fifteen (15) days of submission of a valid bill by Provider to Contractor.

5. Advertising and Public Relations. Neither party shall use the name of the other party in any promotional or advertising material unless review and approval of the intended advertisement first shall be obtained from the party whose name is to be used. Both parties shall deal with each other publicly and privately in an atmosphere of mutual respect and support, and each party shall maintain good public and patient relations and efficiently handle complaints and inquiries with respect to transported patients.

6. Independent Contractor Status. The parties are independent contractors. Neither party is authorized or permitted to act as an agent or employee of the other. Neither party, by virtue of this Agreement, assumes any liability for any debts or obligations of either a financial or a legal nature incurred by the other party to this Agreement.

7. No Inducement to Refer. This Section 7 applies only if Contractor is a health care provider. Nothing contained in this Agreement shall require either party to refer any patients to the other party. The parties enter into this Agreement with the intent of conducting their relationship in full compliance with applicable federal, state and local law, including the Medicare/Medicaid Anti-fraud and Abuse Amendments and Physician Ownership and Referral Act (commonly known as the Stark Law). The parties intend to comply with as many requirements as practicable of the Safe Harbor relating to compensation payable in personal service arrangements, as set forth in 42 U.S.C. §1320a-7b and as set forth in the "safe harbor" regulations at 42 C.F.R. §1001.952. Notwithstanding any unanticipated effect of any of the provisions herein, neither party will intentionally conduct itself under the terms of this Agreement in a manner to constitute a violation of these provisions.

8. Access to Books and Records of Subcontractor. This Section 8 is applicable only if Contractor is a health care provider. Upon the written request of the Secretary of Health and Human Services or the Comptroller General or any of their duly authorized representatives, Provider will make available those contracts, books, documents and records necessary to verify the nature and extent of the costs of providing services under this Agreement. Such inspection shall be available up to four (4) years after the rendering of such services. If Provider, upon receipt of the express written consent of Contractor, carries out any of the duties of this Agreement through a subcontract with a value of \$10,000 or more over a twelve (12) month period with a related individual or organization, Provider agrees to include this requirement in any such subcontract. This Section is included pursuant to and is governed by the requirements of Public Law 96-499, Sec. 952 (Sec. 1861(v)(1)(I) of the Social Security Act) and the regulations promulgated thereunder. No attorney-client, accountant-client or other legal privilege will be deemed to have been waived by the parties hereto by virtue of this Agreement.
9. Termination. This Agreement may be terminated immediately for cause upon written notice to the defaulting party. This Agreement may also be terminated at any time, with or without cause, by either party, upon thirty (30) days' advance written notice to the other party. Contractor shall pay Provider all fees due and owing Provider for services provided through the date of termination.
10. Confidentiality. Contractor and Provider agree that the Agreement, and any materials and discussions related to the services provided under this Agreement are strictly confidential and that the parties and their agents, servants, employees, or independent contractors will not disclose the contents of or existence of this Agreement and contents of or existence of any related materials or discussions to any outside third parties, without the written consent of the other party, except as required by Federal and State or local laws, or by order of a court of competent jurisdiction.
11. HIPAA. This Section 11 and Exhibit B is applicable only if Contractor is a "covered entity" as defined by the Privacy Regulations (defined below) and provides PHI (defined below) to Provider. Because Contractor may disclose to Provider individually identifiable health information relating to the assigned Members ("Protected Health Information" or "PHI"), Provider may be deemed to be a business associate of Contractor under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), including the federal privacy regulations ("Privacy Regulations") set forth at 45 CFR Part 160 and Part 164 and the federal security regulations ("Security Regulations") set forth at 45 CFR Parts 160, 162, and 164. Provider agrees to comply with the HIPAA requirements set forth in Exhibit B and incorporated herein by reference.
12. Non-discrimination. Provider shall comply with the requirements of Title VI of the Civil Rights Act of 1964 and shall not discriminate on the basis of race, color, sex, age, religion, national origin, or handicap in providing services under this Agreement or in the selection of employees or independent contractors. This Agreement incorporates by reference the contract clauses of Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and the

Vietnam Era Veterans' Readjustment Assistance Act, as amended, 38 U.S.C. Section 4212.

13. Conflicts of Interest. Contractor and Provider warrant that no part of the total amount of fees paid hereunder shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to Contractor or Provider in connection with any work contemplated or performed relative to this Agreement.
14. Nonwaiver. No waiver of any term or condition of this Agreement by either party shall be deemed a continuing or further waiver of the same term or condition or a waiver of any other term or condition of this Agreement.
15. Governing Law. The interpretation and enforcement of the Agreement will be governed by the laws of the State of Tennessee, without regard to any conflicts of law provisions contained therein.
16. Assignment. This Agreement may not be assigned in whole or in part without the express written consent of the other party.
17. Invalid Provision. In the event that any portion of this Agreement shall be determined to be invalid or unenforceable, the remainder of this Agreement shall be deemed to continue to be binding upon the parties hereto in the same manner as if the invalid or unenforceable provision were not a part of this Agreement.
18. Amendment. This Agreement may be amended only by a written agreement signed by the parties hereto.
19. Notice. Any notice required or allowed to be given hereunder shall be deemed to have been given upon deposit in the United States mail, registered or certified, with return receipt request and addressed to the party to this Agreement to whom notice is being given.

If to Contractor: Steve Allen, Mayor
c/o Senior Center at Ashland City
104 Ruth Drive

If to Provider: Anna Perry, Transportation Director
Mid-Cumberland Human Resource Agency, Inc.
1101 Kermit Drive; Suite 300
Nashville, TN 37217

With a copy to: Kim Harvey Looney, Esq.
Waller Lansden Dortch & Davis, LLP
Suite 2700
511 Union Street
Nashville, TN 37219

20. Entire Agreement. This Agreement constitutes the entire agreement between the parties and contains all of the agreements between them with respect to the subject matter hereof and supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof.
21. Binding Agreement. This Agreement shall be binding upon the successors or assigns of the parties hereto.
22. Authorization for Agreement. The execution and performance of this Agreement by each party has been duly authorized by all necessary laws, resolutions, or corporate actions, and this Agreement constitutes the valid and enforceable obligations of each party in accordance with its terms.
23. Force Majeure. No party shall be liable or be deemed in breach of this Agreement for any failure or delay of performance which results, directly or indirectly, from acts of God, civil or military authority, public disturbance, accidents, fires, or any other cause beyond the reasonable control of either party.
24. No Third Party Beneficiary. This Agreement is solely for the benefit of the parties hereto and shall not inure to the benefit of any individual or entity not a party to this Agreement.
25. Headings. The headings to the various sections of this Agreement have been inserted for convenience only and shall not modify, define, limit, or expand express provisions of this Agreement.
26. Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[Signatures follow on next page.]

IN WITNESS WHEREOF, Contractor and Provider have hereunto caused this Agreement to be executed as by law provided, the day and year first above written.

Contractor:

Senior Center at Ashland City

By: Steve Allen
Title: Mayor of Ashland City

Provider:
**Mid-Cumberland Human Resource Agency,
Inc.**

By: Anna Perry
Title: Transportation Director

EXHIBIT A

COMPENSATION SCHEDULE

	Per Participant Per Authorized One Way Trip Leg
AMBULATORY AND WHEELCHAIR PATIENTS	<p><i>Members Transport</i> MCHRA General Public fare rates person in Service Area *Fare are subject to change with agencies Fare policies.</p>
PERSONAL CARE ATTENDANT	<p>One (1) Personal Care Attendant is allowed at no extra charge.</p>
CANCELLATION & NO SHOWS	<p>Cancellations more than 2 hours prior to scheduled pick-up will incur no charge Cancellations less than 2 hours prior to schedule pick-up will be charged a \$20.00 cancellation/no show fee</p> <p>No shows are defined as scheduled trips where client is not at trip origination address, drivers will wait 5 minutes after arrival prior to leaving before marking trip as a no show. There will be a flat \$20.00 no show fee.</p>

EXHIBIT B

HIPAA REQUIREMENTS

1. **Permitted Uses and Disclosures.** Provider shall not use or disclose any PHI other than as permitted by this Agreement in order to perform Provider's obligations hereunder or as required by law. Provider shall not use or disclose the PHI in any way that would be prohibited if used or disclosed in such a way by Contractor.

2. **Minimum Necessary Information.** Provider shall only request from Contractor, and shall only use and disclose, the minimum amount of PHI necessary to carry out the Provider's responsibilities under this Agreement.

3. **Reporting.** If Provider becomes aware of any use or disclosure of PHI in violation of this Agreement, including any "security incident" as defined by the Security Regulations, Provider shall immediately report such information to Contractor. Provider shall also require its employees, agents, and subcontractors to immediately report any use or disclosure of PHI in violation of this Agreement or any security incident. Provider shall cooperate with Contractor to mitigate any harm caused by such improper disclosure.

4. **Agents and Subcontractors.** Provider shall require its employees, agents, and subcontractors to agree not to use or disclose PHI in any manner except as specifically allowed herein, and shall take appropriate disciplinary action against any employee or other agent who uses or discloses PHI in violation of this Agreement. Provider shall require any agent or subcontractor that carries out any duties for Provider involving the use, custody, disclosure, creation of, or access to PHI to enter into a written contract with Provider containing provisions substantially identical to the restrictions and conditions set forth in this Section.

5. **Mid-Cumberland Policies, Privacy Practices, and Restrictions.** Provider shall comply with all Contractor notices, policies, and procedures, including updates thereto provided from time to time by Contractor, and shall assure that each of its agents and employees has received appropriate training regarding HIPAA confidentiality and patient privacy compliance issues.

6. **Patient Rights.** Provider acknowledges that the Privacy Regulations require Contractor to provide patients with a number of privacy rights, including (a) the right to inspect PHI within the possession or control of Contractor, its business associates, and their subcontractors, (b) the right to amend such PHI, and (c) the right to obtain an accounting of certain disclosures of their PHI to third parties. Provider shall establish and maintain adequate internal controls and procedures allowing it to readily assist Contractor in complying with patient requests to exercise any patient rights granted by the Privacy Regulations, and shall, at no additional cost to Contractor, immediately comply with all Contractor requests to amend, provide access to, or create an accounting of disclosures of the PHI in the possession of Provider or its agents and subcontractors. If Provider receives a request directly from a patient to exercise any patient rights granted by the Privacy Regulations, Provider shall immediately forward the request to Contractor.

7. **Safeguards.** Provider shall use appropriate physical, technical, and administrative safeguards to prevent the use or disclosure of PHI other than as provided for by this Agreement and by Contractor's privacy and security policies, including implementing security processes for the protection of electronic PHI during transmission and storage consistent with the requirements of the Security Regulations.

8. **Disclosure to DHHS.** Provider shall make its internal practices, books, and records relating to the use and disclosure of PHI available to the Secretary of Health and Human Services to the extent required for determining Contractor's compliance with the Privacy Regulations. Notwithstanding the above, no attorney-client, accountant-client, or other legal privilege shall be deemed waived by Contractor or Provider by virtue of this provision.

9. **Termination and Return of PHI.** Notwithstanding anything to the contrary in this Agreement, Contractor may terminate this Agreement immediately if, in Contractor's reasonable opinion, Provider breaches any provision of this Section. Upon termination of this Agreement for any reason, Provider shall, if feasible, return or destroy all PHI received from Contractor or created by Provider on behalf of Contractor. If such return or destruction is not feasible, the parties agree that the requirements of this Section shall survive termination of this Agreement and that Provider shall limit all further uses and disclosures of PHI to those purposes that make the return or destruction of such information infeasible.

Resolution

A resolution of the Town of Ashland City, Tennessee to add to Section III Leave of the Employee Manual.

WHEREAS, to add a Contagious Disease Closure Policy;

Contagious Disease Closure Leave

If an outbreak of a contagious disease such as Covid, Flu, etc. affects the majority of an office requiring the closure of that office for the safety of the staff or the public, the Mayor or designee may make a decision not to open, to delay, or to discontinue operations temporarily. It is the intent of the Mayor to remain open each working day unless it is clearly impossible to do so. The Mayor may close only a certain department or building if the issue does not affect the entire City. This policy may also be used in the event of an act of God or other disaster.

Announcements of any closings or delays will be made through social media and on the town’s website. When an employee loses work hours due to an official City delay, early closure or if the Mayor declares a full day closure, you will be paid for the hours you were scheduled to work. You are not required to use earned time to pay for such absences. Employees on previously approved sick or annual leave, travel or training are not affected by the closing and are not eligible for the paid administrative leave.

Time off due to the announced closing shall not be considered as time worked for overtime compensation purposes. Overtime is paid on time worked, not time compensated.

There are certain department and personnel essential to the protection of life and property that do not fall within this policy (**Emergency Personnel -Fire and Police**, Water Treatment Plant, Sewer Treatment Plant).

This resolution shall take effect as of January 1, 2022 and will cease on June 30, 2022.

Adopted this ____ day of _____, 2022.

Steve Allen, Mayor

Alicia Martin, City Recorder

Resolution

A resolution of the Town of Ashland City, Tennessee to amend Section III Leave of the Employee Manual.

WHEREAS, to replace resolution 2016-03 Closure Due to Inclement Weather;

Inclement Weather Conditions and Leave

If an emergency or severe weather condition exist which affect normal operations, the Mayor or designee may make a decision not to open, to delay, or to discontinue operations temporarily. It is the intent of the Mayor to remain open each working day unless it is clearly impossible to do so.

Announcements of any closings or delays will be made through social media and on the town’s website. When an employee loses work hours due to an official City delay, early closure or if the Mayor declares a full day weather closing, you will be paid for the hours you were scheduled to work. You are not required to use earned time to pay for such absences. Employees on previously approved sick or annual leave, travel or training are not affected by the closing and are not eligible for the paid administrative leave.

If you conclude that you must arrive late or leave work early when no official closing has been announced, with department head approval, you can:

- Make up the time within the pay week from the occurrence of the absence; or
- Take annual leave or compensatory time for lost hours; or
- Take leave without pay for the lost hours upon Mayor approval.

Time off due to the announced closing shall not be considered as time worked for overtime compensation purposes. Overtime is paid on time worked, not time compensated.

There are certain department and personnel essential to the protection of life and property that do not fall within this policy (**Emergency Personnel - Police and Fire**, Water Treatment Plant, Sewer Treatment Plant).

This resolution shall take effect from and after its passage, the public welfare requiring it.

Adopted this ____ day of _____, 2022.

Steve Allen, Mayor

Alicia Martin, City Recorder

ORDINANCE #427

AN ORDINANCE AMENDING THE TOWN OF ASHLAND CITY MUNICIPAL CODE DELETING TITLE 8 SECTION 8-104(2) RESIDENCE REQUIREMENTS IN ITS ENTIRETY

WHEREAS, Tennessee Code Annotated 57-3-101, et seq., allows municipalities to adopt regulations, procedures and inspection fees when engaging in the lawful sale, storing, transporting, distributing, purchasing and possession of intoxicating liquors within the municipal limits; and

WHEREAS, Title 8, Section 8-101 (2) of the Town of Ashland City's Municipal Code should be deleted in its entirety

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF ASHLAND CITY, TENNESSEE that Title 8 Section 8-101 (2) be amended to read in its entirety:

8-104. Restrictions on operators of retail liquor stores. (1) Government employees prohibited from obtaining permit. No person, member of a firm, corporation, or partnership shall operate a retail store for the sale of alcoholic beverages herein defined if he is a holder of a public office, either appointed or elective, or who is a public employee either national, state, city or county except uncompensated appointed members of boards of commissioners who have no duties covering the regulation of permit holders under this chapter. It shall be unlawful for any such person to have any interest in such retail business directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

~~(2) Residence requirements. No person, member or firm, corporation, partnership or association shall own or operate a retail store for the sale of alcoholic beverages as herein defined if he/she shall not have been a resident of Cheatham County as concurrent with state law prior to making application for a license. This requirement as to residence in the case of a corporation, firm, associations, or a partnership shall apply to all of its officers, stockholders, and partners.~~

BE IT FURTHER ORDAINED, this ordinance shall become effective twenty (20) days after its final passage the public welfare requiring it.

1st reading: March 08, 2022
Public hearing: April 12, 2022
2nd reading: April 12, 2022

Mayor Steve Allen

City Recorder Alicia Martin, CMFO

ORDINANCE#

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE TOWN OF ASHLAND CITY, TENNESSEE ARTICLE IV., SECTION 4.010.1.C(1)(k) NUMBER OF PARKING SPACES REQUIRED FOR COMMERCIAL ACTIVITIES REGARDING FINANCIAL AND REAL ESTATE SERVICES

WHEREAS, the Town of Ashland City Planning Commission has reviewed and discussed the amendment and has voted to recommend its passage; and

WHEREAS, the Mayor and Council of Ashland City, Tennessee has given due consideration to amend the Zoning Ordinance of the Town of Ashland City

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF ASHLAND CITY, TENNESSEE, that Article IV., Section 4.010.1 be amended as follows:

4.010.1.C. Commercial Activities

4.010.1.C.(1) Uses Located on Freestanding Sites

The provisions of this subsection shall apply to uses which are located on individual lots of record where no parking is shared with any other use or activity.

<u>ACTIVITY TYPE</u>	<u>GROSS FLOOR AREA (Square Feet) PER PARKING SPACE</u>
(a) Animal Care & Veterinarian Services	300
(b) Retail Trade - Apparel and Accessories	250
(c) Retail Trade - Automotive, Marine Craft and Aircraft Sales, Rental, and Delivery	25% of the gross lot area shall allocated to parking.
(d) Automotive Service and Repair	300
(e) Building Materials & Farm Equipment Sales	1,000

(f)	Contract Construction Sales	500
(g)	Contract Construction Services	300
(h)	Convenience Retail Sales and Services	150
(i)	Equipment Repair Services	500
(j)	Entertainment and Amusement Services:	
	Art Galleries (Commercial)	400
	Motion Picture Theaters	One (1) space per four (4) seats.
	Theaters (Legitimate)	One (1) space per each four (4) permanent seats plus one (1) for every twenty-five (25) Square feet of area where temporary seats are used.
	Bowling Alleys and Billiard Parlors	Five (5) spaces per each alley, or every two (2) tables whichever is applicable.
	Coin Operated Amusement or Arcade	One (1) space per 250
	Commercial Sporting Facilities	One (1) space per employee plus other spaces as determined by the planning commission.
	Dance Halls, Studios and Schools, and Skating Rinks	100

	Exhibition Halls and Commercial Auditoriums	40% of maximum capacity in persons.
	Gardens (Botanical and Zoological)	One (1) space per employee plus other spaces as determined by the planning commission.
	Marinas, Boat Docks Boat Rental	One (1) space per employee plus other Spaces as determined by the planning commission.
	Recording and Motion Picture Productions Studios	One (1) space per three (3) seats.
	Theatrical Producers, Orchestras and Entertainers	One (1) space per each Band, three (3) seats.
	Riding Stables	Minimum of five (5) Spaces plus one (1) per each employee.
	Resorts and Group Camps	One (1) space per each employee at peak season plus other spaces as required by the planning commission.
(k)	Financial and Real Estates Services	400 plus one (1) space per every employee.
(l)	Consulting and Administrative Services	400

(m)	Food and Beverage Service - General (Inside Service Only)	150
(n)	Food and Beverage Service General (Containing Drive- Through Facilities)	100
(o)	Food and Alcoholic Beverage Services	100
(p)	General Business Communications Services	400 plus, one (1) per each employee.
(q)	Communications Services	300
(r)	General Personal Services Funeral and Crematory Services	 One (1) space per (100) square feet of gross floor area or where a chapel is provided, one (1) space for each four (4) seats, plus one (1) space for every twenty-five (25) square feet of floor area where temporary seats are used which ever require the greater number of spaces.
	All Others Personal Services	300
(s)	General Retail Trade Department Store Variety Store Miscellaneous General Merchandise Store	250
(t)	Group Assembly	One (1) space per four (4) permanent seats plus one (1) spaces for every twenty-five square feet of

area where temporary seats are used.

- (u) Professional Services - Medical 300
- (v) Professional Services - Non-Medical 400
- (w) Transient Habitation (Motels and Hotels) One (1) space per lodging unit in each building serving transient guests.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect 20 days after its final passage, the public welfare requiring it.

1st reading March 08, 2022
Public Hearing April 12, 2022
2nd reading April 12, 2022

Mayor Steve Allen

City Recorder Alicia Martin, CMFO

ORDINANCE #

**AN ORDINANCE BY THE MAYOR AND CITY COUNCIL TO ACCEPT A
BUDGET AMENDMENT FOR THE 21/22 FISCAL YEAR**

WHEREAS, the Mayor and Council appropriate \$255,448.23 from the Flood Fund to the Water/Sewer Fund to replace meters.

NOW THEREFORE, BE IT ORDAINED, by the 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>Water/Sewer Fund</i>	<u>Beginning Departmental Budget</u>	<u>Ending Departmental Budget</u>
Water Department	\$2,111,205.00	\$2,366,653.23

1st reading _____
Public Hearing _____
2nd reading _____

Attest:

Mayor Steve Allen

City Recorder Alicia Martin, CMFO



Bid Tabulation

Roof Replacement Public Works and Police Department

Bid Opening: 02/08/2022 at 10:00a.m.

	Company Name	Bid Totals
1.	Timkeeper Roofing	84,910
2.	Porter Roofing	121,258
3.	Penny Roofing	96,400
4.	RSS	129,255
5.		
6.		
7.		
8.		
9.		
10.		

Q U O T A T I O N

CHILTON TURF CENTER
 SIGMA ORGANIC, INC.
 607 CRAIGHEAD STREET
 NASHVILLE, TN 37204 US
 Phone #: (615)254-1637
 Fax #: (615)242-6618

PHONE #: (615)792-7553
 CELL #:
 ALT. #:
 P.O.#:
 TERMS: **Net 30**
 SALES TYPE: **Quote**

DATE: **2/10/2022**
 ORDER #: **39932**
 CUSTOMER #: **131660**
 CP: **GregC**
 LOCATION: **1**
 STATUS: **Active**

BILL TO 131660

TOWN OF ASHLAND CITY
 101 COURT STREET
 P.O.BOX 36
 ASHLAND CITY, TN 37015

SHIP TO

TOWN OF ASHLAND CITY
 101 COURT STREET
 P.O.BOX 36
 ASHLAND CITY, TN 37015

MFR	PRODUCT NUMBER	DESCRIPTION	QTY	PRICE	NET	TOTAL
GRA	992504	Pro-Turn 672 - 38.5hp HP Kawasaki 1000 FX EFI w/ 72" Fabrica	1	\$16,253.00	\$12,514.81	\$12,514.81

Prices reflected on this quote are valid for 30 days and while current supplies last. However, prices are subject to change if the program or promotion the prices were quoted under is no longer in effect.

SUBTOTAL: **\$12,514.81**
 TAX: **\$0.00**

 ORDER TOTAL: **\$12,514.81**

TRI-STATE PAVING & SEALING

February 11, 2022

QUOTE

Bill To		Ship To	
Customer	Town of Ashland City	Recipient	River Bluff Park
Customer ID#	[Customer ID]	Address	[Address] [City, ST ZIP Code]
Address	233 Tennessee Waltz Parkway Ashland City TN 37015	Phone	[Telephone]
Phone	615-792-2265 Scott Sampson		
Payment Due		Delivery Date	[Select Date]
Salesperson	George York	Shipping Method	[Ship Method]
Payment Terms	Within 30 Days	Shipping Terms	[Terms]

Qty.	Item#	Description	Unit Price	Discount	Line Total
S Y	4,954	Clean Parking Lot to Receive 2 Sprayed Coats of Sealer with Sand added.			\$9,909.00
		Restripe Parking lines and Handicaps back.			
		We have changed your address to			
		3170 Lights Chapel Rd Greenbrier TN			
		37073			
Total Discount					
Subtotal					\$ 9,909.00
Sales Tax					
Total					\$ 9,909.00

Thank you for your business!

Tri-State Paving & Sealing

3170 Lights Chapel Road Greenbrier TN 37073
p. 615-512-3947 trist8pavseal@hotmail.com