



GLADSTONE CITY COMMISSION REGULAR MEETING

City Hall Chambers – 1100 Delta Avenue
September 22, 2025
6:00 PM

AGENDA

CALL TO ORDER

1. Invocation
2. Pledge of Allegiance
3. Roll Call

PUBLIC HEARINGS

PUBLIC COMMENT

CONFLICTS OF INTEREST

CONSENT AGENDA

- [4.](#) City Commission Regular Meeting Minutes of September 8, 2025
- [5.](#) DDA Regular Meeting Minutes of August 19, 2025
- [6.](#) Meca invoice # I12300351 Safety Program

UNFINISHED BUSINESS

NEW BUSINESS

- [7.](#) EDC Reappointment of Gary Maynard
- [8.](#) Authorize City Clerk to Appoint Election Inspectors for November 4, 2025 Election
- [9.](#) Cemetery Lot Transfer - Herbert Rau and Glenda (Rau) Mock to Rebecca Herbert
- [10.](#) Agreement for Professional Services for Water Intake Project - Coleman Engineering
- [11.](#) Wastewater Collection System Improvements Request for Disbursement of Funds #1.
- [12.](#) Public Safety K9 Disposition
- [13.](#) South Hill Road Project Professional Services - Coleman Engineering

CITY MANAGER'S REPORT

CITY COMMISSION & COMMITTEE REPORTS

BOARDS & COMMISSIONS REPORTS

CITY COMMISSIONER COMMENTS

CITY CLERK COMMENTS

CLOSED SESSION

ADJOURNMENT

The City of Gladstone will provide all necessary, reasonable aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting to

individuals with disabilities at the meeting/hearing upon five days notice to the City of Gladstone. Individuals with disabilities requiring auxiliary aids or services should contact the City of Gladstone by writing or calling City Hall at (906) 428-2311.

Posted: 09-16-2025

Kimberly Berry, MiPMC
906-428-2311
kberry@gladstonemi.gov

RULES FOR PUBLIC COMMENT/ PUBLIC HEARINGS

(Excerpt from City Commission Rules of Procedure Adopted: 11-25-2019)

A. Public Comment / Public Hearings

At regular and special meetings of the commission, individuals wishing to be heard may address the commission during the public comment/public hearing periods as set forth in the agenda under the following rules:

1. Each speaker shall state name and address for the record.
2. Each speaker is limited to three (3) minutes of comment unless the presiding officer decides more time is necessary
3. Each speaker shall try to be concise and refrain from repeating comments already addressed by the commission.
4. Speakers who do not cease speaking when asked to do so will be deemed out of order and will not be allowed to address the commission again for the remainder of the meeting; continued disruption will warrant removal from the meeting.
5. The commission shall not decide issues that arise during public comment.
6. Speakers should address the commission through the presiding officer.
7. Commissioners and staff will not debate with the public.
8. Speakers will not verbally attack City Commissioners, City Staff or members of the public attending the meeting. Any such behavior will not be tolerated and any person presenting in this manner will be warned by the Mayor and shall be removed by Public Safety for noncompliance.
9. No vulgar or obscene language will be used by the speakers.
10. Any information the speaker wants to distribute to the Commission must first ask the Chair (Mayor) if they may present the Commission written comments at the meeting.
11. Speakers may not ask questions of the board during this time as the Commission or Staff will not address them during this public comment period.



GLADSTONE CITY COMMISSION REGULAR MEETING

Item 4.

City Hall Chambers – 1100 Delta Avenue
September 08, 2025
6:00 PM

MINUTES

Mayor Thompson called the meeting to order and gave the Invocation, followed by the Pledge of Allegiance.

Clerk Berry called the roll:

PRESENT

Mayor Joe Thompson
Commissioner Judy Akkala
Mayor Pro-Tem Brad Mantela
Commissioner Robert Pontius
Commissioner Steve O'Driscoll

No public comment offered

Motion made by Commissioner O'Driscoll, Seconded by Mayor Pro-Tem Mantela to approve the consent agenda as presented.

MOTION CARRIED UNANOMOUSLY

Motion made by Commissioner Akkala, Seconded by Mayor Pro-Tem Mantela to appoint Jennifer Harding to the Gladstone Planning Commission with a term expiration of October 2026.

MOTION CARRIED UNANIMOUSLY

Motion made by Mayor Pro-Tem Mantela, Seconded by Commissioner Pontius to grant a waiver of the requirement for the property owners of 209 27th Street to utilize city water and sanitary sewer services with the waiver set to expire within two years if construction of the home is not completed in that time.

MOTION CARRIED UNANIMOUSLY

Motion made by Commissioner O'Driscoll, Seconded by Mayor Thompson to approve request for disbursement of funds draw #38 totaling \$12,455.00 for the Wastewater Upgrades Project.

MOTION CARRIED UNANIMOUSLY

CITY OF GLADSTONE PROCLAMATION
National See Tracks? Think Train® Week

WHEREAS See Tracks? Think Train® Week is to be held across the U.S. from September 15 to 21, 2025;

WHEREAS, 2,252 rail grade crossing collisions resulted in 749 personal injuries and were responsible for 268 fatalities in the United States during 2024; and

WHEREAS, 1,465 pedestrian trespassing casualties have occurred in the United States resulting in 821 pedestrians being killed and another 644 injured while trespassing on railroad property rights of way during 2024; and

WHEREAS, educating and informing the public about rail safety (reminding the public that railroad right of ways are private property, enhancing public awareness of the dangers associated with highway rail grade crossings, ensuring pedestrians and motorists are looking and listening while near railways, and obeying established traffic laws) will reduce the number of avoidable fatalities and injuries caused by incidents involving trains and citizens; and

WHEREAS, the International Association of Chiefs of Police, National Operation Lifesaver Inc., United States Department of Transportation, and all local, state, county, and railroad law enforcement officers, first responders, and railroad corporations commit to partnering together in an effort to educate at a national level all aspects of railroad safety, to enforce applicable laws in support of National See Tracks? Think Train® Week;

THEREFORE, I, Joe Thompson, City of Gladstone Mayor, do hereby attest my full support proclaiming September, 15 to 21, 2025, National See Tracks? Think Train® Week and I encourage all citizens to recognize the importance of rail safety education.



Joe Thompson

Mayor

City of Gladstone

Motion made by Mayor Pro-Tem Mantela, Seconded by Commissioner Akkala to approve Coleman Engineering Company - Gladstone Marina Renovation - Phase II Amendment 1 in the amount not to exceed \$4,200.00 for sub-consultant work by Flotation Docking Systems.

MOTION CARRIED UNANIMOUSLY

Motion made by Mayor Pro-Tem Mantela, Seconded by Commissioner Pontius to authorize a City Manager Personnel Committee of Mayor Thompson and Commissioner Judy Akkala to review and present to the full Commission a job description, salary range and proposed timeline to post within the City of Gladstone Department Heads for any interested candidates for promotion to City Manager as current City Manager Eric Buckman would like to retire this year.

MOTION CARRIED UNANIMOUSLY

Manager Eric Buckman reported on the following:

- Attended the Planning Commission, Gladstone Library Board meeting
- Attended the Historic Homes Committee Meeting where 54 signs in process need to slow down and make a map and 11 more are ready for installation.
- Work on the Pram Shack is progressing, roofing and paneling done this weekend all by volunteers
- Met with Mark Radford last week and they are revising their deed and starting on a lease
- Working on the sale of gravel pit and Transitions Property

Clerk Berry reported that absent ballot ballots for the November 4, 2025 General Election will be mailed and available at City Hall beginning on Thursday, September 25, 2025 if the ballots are received on time.

There being no further business before the Commission, Mayor Thompson adjourned the meeting at 6:31 PM.

Mayor Joe Thompson

Clerk Kimberly Berry



GLADSTONE DOWNTOWN DEVELOPMENT AUTHORITY REGULAR MEETING

City Hall Chambers – 1100 Delta Avenue
August 19, 2025
8:15 AM

MINUTES

CALL TO ORDER

Board Chair, Jay Bostwick, called the meeting to order at 8:19 AM ET.

1. Roll Call

PRESENT	ABSENT
Daniel Becker	Jacob Taylor (Excused)
Jay Bostwick	Joe Thompson (Excused)
Jason Lippens	
Kyle Closs	
Nathan Neumeier	
Robert LeDuc (Departed at 9:31 AM)	
Parker Grzybowski	

Staff Present: Renee Barron and Patricia West

2. Recognition of Renee Barron

The DDA congratulated Renee Barron on her recent retirement from Community Development. They thanked her for all of the service she provided to both the City of Gladstone and the DDA.

PUBLIC COMMENT

None.

APPROVAL OF MINUTES

3. DDA Regular Meeting Minutes - July 15, 2025

Motion made by Closs, seconded by Neumeier to approve the DDA Regular Meeting Minutes of July 15, 2025.

Voting Yea: Becker, Bostwick, Lippens, Closs, Neumeier, LeDuc, Grzybowski

MOTION CARRIED.

FINANCIALS

4. June Revenue & Expense Report

West provided an overview of the June financials, the most recent budget month reconciled. Becker asked for clarification on the funding split between the Farmers Market Square line item and Capital Outlay in relation to the permanent structures at the Farmers Market Square. West committed to providing additional detail at the next meeting.

5. 2025 Farmers Market Internal Audit

West provided an overview of spending for the 2025 Farmers Market season. The Farmers Market line item is currently over budget for the year; however, the market has experienced significant growth compared to previous years and has also generated increased revenue through vendor fees.

The board expressed support for additional purchases needed to ensure successful operations through the remainder of the season, specifically the replacement of wagons.

The board also discussed potential funding sources and sponsorship opportunities to consider in future years to help offset the cost of bands and other expenses. It was encouraged that the Farmers Market Subcommittee meet during the off-season to determine what investments in the market's future would provide the most impactful returns for downtown.

CONFLICTS OF INTEREST

None.

ADDITIONS TO THE AGENDA

None.

UNFINISHED BUSINESS

None.

NEW BUSINESS

6. 2025 Facade Grant Application Round Scoring Rubric

West reported that the Facade Grant Subcommittee met to review the proposed scoring rubric for the upcoming grant cycle. An overview of the rubric was provided, and the subcommittee noted that it helped them easily identify the strongest applicants. The rubric is intended as a tool for application review, with final grant awards remaining at the discretion of the DDA.

Motion made by Closs, seconded by LeDuc to approve the 2025 Facade Grant Scoring Rubric as presented. Voting Yea: Becker, Bostwick, Lippens, Closs, Neumeier, LeDuc, Grzybowski

MOTION CARRIED.

7. DDA Subcommittee Review

A review of existing DDA subcommittees was conducted to fill vacancies. Chairperson Bostwick appointed Parker Grzybowski to both the DDA Business Subcommittee and the Vision & Opportunity Subcommittee.

West will bring the Redevelopment Ready Subcommittee to the City Commission to determine whether it remains a priority for the city as a whole.

8. Downtown Day Booth Assignments & Volunteers

West presented a volunteer opportunity for our DDA to participate in Downtown Day. With some of the authority absent, she will coordinate by email to fill volunteer spots.

CITY COMMENTS & REPORTS

West provided updates on the following items.

9. Bench Improvements by Parks & Rec

Robert Brown of Parks & Recreation has restored the benches at 701 Delta Ave.

10. City Hall Staffing Updates

With Renee Barron's retirement, West has accepted the position of Community Development Director and will continue to fulfill her administrative role with the DDA. Barron will be staying involved with the City of Gladstone, and has signed a contract to oversee Property Maintenance in a part-time capacity.

11. DTE Community Promotion Funding | Old-Fashioned Christmas

DTE has committed an additional \$800-\$900 of financial support to Gladstone's Old-Fashioned Christmas in November.

12. DTE Energy Tree Planting Grant Extension

The DDA was granted a two-month extension on the DTE Energy Tree Planting Grant to allow the planting of the trees to take place after the first frost of the season, expected in October.

13. Downtown Ambassador Upcoming Evaluation

Samantha Gaudino's one year anniversary with the City of Gladstone is approaching in September. The board was encouraged to share any feedback with West in preparation for the review.

14. Downtown Survey Results

The board reviewed the results of the 2025 Annual Downtown Survey. This feedback will be carried forward in future planning, and West intends to work closely with Property Maintenance and Public Works in the coming months on many of the items brought to our attention, specifically with missing street signs and snow removal issues.

15. Facade Grant | 709 Delta Ave

709 Delta Avenue has formally transferred ownership, allowing the facade grant process to proceed. West plans to contact the recipient in the coming weeks to initiate the paperwork.

16. Holiday Garland Delivery

West updated the authority that the holiday garland the DDA purchased during the 2025/2026 fiscal year that was on back order has shipped and is expected to arrive within the week.

17. New Business | Mancave Dave (1017 Delta Ave)

Mancave Dave, a vintage and collectable toy retailer, will be opening in downtown Gladstone this fall.

18. New Business | Lavender Co (1010 Delta Ave)

Lavender Co, a farmers market vendor of handmade lavender scented gifts, will be opening a retail shop in the Rialto Center this fall.

19. Upcoming Vision & Opportunity Subcommittee Meetings

West will be scheduling a meeting for the Vision & Opportunity subcommittee in September to help guide the DDA's planning and direction ahead of the 2026/2027 budget planning season.

20. Yoga in the Farmers Market Square

West provided an update on the event's low attendance, noting that it may not be worthwhile for the DDA to invest staff time in coordinating such events in the future. However, the board will consider ways to support these events through the market square rental fee schedule to encourage use of the square for privately facilitated events.

BOARD COMMENTS & REPORTS

Neumeier inquired about the status of Old Glory Firearms. It was confirmed that their storefront has relocated one building down and is still operating.

Chair Bostwick shared his interest in coordinating a DDA volunteer clean-up day in downtown. West noted that the shed at the Market Square could benefit from attention and organization if the DDA wished to take on that project. Additional information is expected at the September meeting.

Becker asked for an update on the North Shore property, and it was confirmed that there is no new information.

Neumeier provided an update on behalf of the Gladstone School Board in preparation for the start of the new school year.

PUBLIC COMMENT

None.

ADJOURNMENT

Motion made by Neumeier, seconded by Grzybowski to adjourn at 9:42 AM ET.

Voting Yea: Becker, Bostwick, Lippens, Closs, Neumeier, Grzybowski

MEETING ADJOURNED.



10125 W. Watergate Road, Cadillac, MI 49601
Phone: (231) 775-5700 Fax:

Bill To: City of Gladstone Electric Department **Customer ID:** 10013
1100 Delta Avenue **Internal ID:** 10090
Gladstone, MI 49837

Invoice Date	Invoice Number	Due Date	Total Due
September 5, 2025	II2300351	December 1, 2025	\$ 13,028.00

Period	Description	Amount
2026	MECA Safety Dues (Yearly)	\$ 13,028.00

Tax	\$ 0.00
Total	\$ 13,028.00

ACH Payment Instructions

Bank Name: Mercantile Bank of Mich.
Routing Number: 072413829
Account Number: 4100379683

Check Payment Instructions

Michigan Electric Cooperative Association
c/o Accounts Receivable
10125 W. Watergate Road
Cadillac, MI 49601

Contact Information

Accounting services for MECA are managed by Wolverine Power Cooperative. For questions regarding this invoice, contact Tricia DesJardins

tdesjardins@wpsci.com

(231) 779-3398



Board:	City Commission
Agenda Date:	September 22, 2025
Department:	Community Development
Presenter:	Patricia West

Staff Report

Agenda Item Title:

EDC Reappointment of Gary Maynard

Background:

The EDC has recommended Gary Maynard for reappointment, with a new term expiration of April 2031.

Fiscal Effect:

None.

Supporting Documentation:

None.

Recommendation:

Reappoint Gary Maynard to the Gladstone Economic Development Corporation with a term ending of April 2031.



Board:	City Commission
Agenda Date:	09-22-2025
Department:	City Clerk
Presenter:	Kim Berry, City Clerk

Staff Report

Agenda Item Title:

Authorize City Clerk to Appoint Election Inspectors for the November 4, 2025 General Election

Background:

Election inspectors must be appointed for the November 4, 2025 General Election for Precincts 1, 2 Absent Voter Counting Board for Precincts 1 & 2, Receiving Board and Public Accuracy Testing.

Fiscal Effect:

Budgeted Election Payroll

Supporting Documentation:

None

Recommendation:

Authorize City Clerk, Kim Berry to appoint the necessary election inspectors as needed for the November 4, 2025 General Election for Precincts 1, 2 Absent Voter Counting Board for Precincts 1 & 2, Receiving Board and Public Accuracy Testing.



Board: City Commission
Agenda 09-22-2025
Date: _____
Department: City Clerk
Presenter: Kim Berry, City Clerk

Staff Report

Agenda Item Title:

Cemetery Lot Transfer – Herbert Rau and Glenda Rau Mock to Rebecca Herbert

Background:

It is a requirement to have cemetery lot transfers within Fernwood Cemetery recorded in the permanent record of the City when a transfer occurs between two private individuals.

Herbert Rau and Glenda (Rau) Mock came to me to have the official process completed in the Commission minutes.

Fiscal Effect:

None

Supporting Documentation:

Transfer Form

Recommendation:

Approve cemetery lot transfer seven (7) full size casket burial spaces of Section P-A Lot 4 from Herbert Rau and Glenda (Rau) Mock to Rebecca Herbert.

THIS INDENTURE was made and entered into this 8th day of September, 2025 between Herbert Rau and Glenda (Rau) Mock, as party of the first part and Rebecca Herbert, as party of the second part.

WITNESSETH, that upon receipt of one dollar (\$1.00) and other valuable considerations, the receipt of which is hereby acknowledged, the said party of the first part hereby grants, conveys, bargains, sells, remises, releases and quit-claims unto the said party of the second part all and singular that certain piece and parcels of land, known and described as Section P-A Lot(s) 4, seven (7) full burial spaces, Perpetual Care Section of Fernwood Cemetery of the City of Gladstone, a municipal corporation of the City of Gladstone, Delta County, Michigan, said parcels of land being situated in the County of Delta and State of Michigan; subject, however, to the consent of the City of Gladstone to such conveyance. To have and to hold the same unto the said party of the second part, his heirs, executors, administrators, and assigns, forever, subject to the consent of the City of Gladstone, aforesaid.

IN WITNESS WHEREOF, the party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered
In presence of:

Herbert K Rau
Herbert Rau

9-8-2025
Date

Glenda Mock
Glenda (Rau) Mock

9-8-2025
Date

The City of Gladstone hereby consents to the above conveyance pursuant to a Resolution passed by the City Commission on the ____ day of _____, 2025.

Kimberly Berry
City Clerk



Board:	City Commission
Agenda	09/22/2025
Date:	
Department:	Water
Presenter:	Robert Spreitzer

Staff Report

Agenda Item Title:

AGREEMENT FOR PROFESSIONAL SERVICES FOR WATER INTAKE PROJECT – COLEMAN ENGINEERING

Background:

Approval was given by the commission on March 25, 2024, to apply for Federal Financial Assistance with USDA RD. On June 23, 2025, the City signed a LETTER OF INTENT TO MEET CONDITIONS with USDA for a loan in the amount of \$7,927,000 to fund our Water Intake Project. As one of the first steps moving forward in meeting conditions, the commission adopted the Resolution Authorizing Publication of Intent to Issue Revenue Bonds and Declaration of Intent to Reimburse (Water Supply Improvements) at the August 25th, 2025, Commission Meeting. The next condition we are seeking commission approval for is under **SECTION III-REQUIREMENTS PRIOR TO ADVERTISING FOR BIDS, 11. Engineering Services**

The Water Department is seeking commission approval to sign an AGREEMENT FOR PROFESSIONAL SERVICES with Coleman Engineering for The Water Intake/Watermain Distribution Project. Coleman Engineering is the firm the Water Department has worked with throughout this project.

Fiscal Effect:

Total Engineering Fees for this project will be \$770,000.

Supporting Documentation:

Coleman Engineering Agreement

Recommendation:

Make motion to approve signing Engineering Services agreement with Coleman Engineering with an amount not to exceed \$770,000.

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.

EJCDC® E-500, Agreement between Owner and Engineer for Professional Services, is published in two parts: (1) this part, the E-500 Agreement form, and (2) the Exhibits to Agreement between Engineer and Subconsultant for Professional Services. This first part contains a Guidelines for Use section that pertains to both the Agreement form and the Exhibits.

AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

Prepared by



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American Council of Engineering Companies
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AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

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AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

This is an Agreement between **City of Gladstone** (Owner) and **COLEMAN ENGINEERING COMPANY** (Engineer). Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as **City of Gladstone – Water Intake/Water Main Distribution Project** (Project). Other terms used in this Agreement are defined in Article 7. Engineer's services under this Agreement are generally identified as **Basic Services, Resident Project Representation and Additional Services**.

Owner and Engineer further agree as follows:

ARTICLE 1—SERVICES OF ENGINEER

1.01 Scope

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.
- B. All phases of service will include Management of Engineering Services as shown in Exhibit A.

ARTICLE 2—OWNER'S RESPONSIBILITIES

2.01 Project Information

- A. To the extent Owner has not already provided the following, or has new, additional, or revised information from that previously provided, Owner shall provide Engineer with information and data needed by Engineer in the performance of Basic and Additional Services, including Owner's:
 1. design objectives and constraints;
 2. space, capacity, and performance requirements;
 3. flexibility and expandability needs;
 4. design and construction standards;
 5. budgetary limitations; and
 6. 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.
- B. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, Owner shall obtain, furnish, or otherwise make available (if necessary through 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; or, with consent of Engineer, Owner may authorize the Engineer to obtain or provide all or part of such additional information as Additional Services. Such additional information or data may include the following:
 1. Property descriptions.
 2. Zoning, deed, and other land use restrictions.
 3. Surveys, topographic mapping, and utility documentation.
 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; 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.
- C. Owner shall 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.
 - D. Owner shall furnish to Engineer data as to Owner's anticipated costs for services to be provided to Owner by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) so that Engineer may assist Owner in collating the various cost categories that comprise Total Project Costs.
 - E. Owner shall advise Engineer if any invention, design, process, product, or device that Owner has requested, required, or recommended for inclusion in the Drawings or Specifications will be subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights.
 - F. Owner shall inform Engineer as to whether Engineer's assistance is requested with respect to Owner's evaluation of the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
 - G. Owner shall inform Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- 2.02 Owner's Instructions Regarding Bidding/Proposal and Front-End Construction Contract Documents
- A. Owner shall 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) and Owner's construction contract practices and requirements, and furnish to Engineer (or give specific directions requesting Engineer to use copies already in Engineer's possession) the following:
 1. Owner's standard contract forms, general conditions (if other than the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract), supplementary conditions, text, and related documents and content for Engineer to include in the draft Bidding/Proposal Documents, and in draft Front-End Construction Contract Documents;
 2. insurance and bonding requirements;
 3. protocols for electronic transmittals during bidding and construction;

4. Owner's safety and security programs applicable to Contractor and other Constructors;
 5. diversity and other social responsibility requirements;
 6. bidding and contract requirements of funding, financing, or regulatory entities;
 7. other specific conditions applicable to the procurement of construction or contract documents;
 8. any other information necessary for Engineer to assist Owner in preparing its Bidding/Proposal Documents and Front-End Construction Contract Documents.
- B. Owner shall have responsibility for the final content of (1) such Bidding/Proposal Documents, and (2) such Front-End Construction Contract Documents, other than content furnished by Engineer concerning the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters.
1. 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. If there will be an advertisement soliciting bids for construction, Owner shall place and pay for such advertisement.

2.03 Owner-Furnished Services

- A. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, Owner shall obtain, as required for the Project:
1. Accounting, bond and financial advisory services (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, including attorney review of proposed Construction Contract Documents, legal services required by Owner, legal services needed as a result of issues raised by Contractor, and Project-related legal services reasonably requested by Engineer.
 3. Auditing services, including those needed by Owner to ascertain how or for what purpose Contractor has used money paid to it.
- B. Owner shall 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. Owner shall provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- C. Owner shall acquire or arrange for acquisition of the Site(s) and any temporary or permanent rights of access, easements, or property rights needed for the Project.
- D. With respect to the portions or phases of the Project designed or specified by Engineer, Owner shall provide, obtain, or arrange for:

1. all required reviews, approvals, consents, and permits from governmental authorities having jurisdiction, and
 2. such reviews, approvals, and consents from others as may be necessary for completion of each portion or phase of the Project.
- E. Owner may delegate to Contractor or others the responsibilities set forth in Paragraphs 2.03.C and D.

2.04 Owner's General Responsibilities

- A. Owner shall inform Engineer of the policies, procedures, and requirements of Owner that are applicable to Engineer's performance of services under this Agreement.
- B. Owner shall provide Engineer with Owner's budget for the Project, including type and source of funding to be used, and will promptly inform Engineer if the budget or funding sources change.
- C. Owner shall inform Engineer in writing of any safety or security programs that are applicable to the personnel of Engineer, its Subconsultants, and Engineer's Subcontractors, as they visit the Site or otherwise perform services under this Agreement.
- D. Owner shall 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 this Agreement.
- E. Owner shall provide necessary direction and make decisions, including prompt review of Engineer's submittals, and carry out its other responsibilities in a timely manner so as not to delay Engineer's performance of its services.
- F. 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.
- G. 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.
- H. Owner shall 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 constructability review.
- I. If Owner designates a construction manager, site representative, or any individual or entity other than, or in addition to, Engineer to represent Owner at the Site, Owner shall define and set forth as an exhibit to this Agreement the duties, responsibilities, and limitations of

authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.

J. Owner shall:

1. 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.
2. Primarily communicate with Engineer’s Subcontractors and Subconsultants through the Engineer.
 - a. Promptly inform Engineer of the substance of any communications between Owner and Engineer’s Subcontractors or Subconsultants.
 - b. Refrain from directing the services of Engineer’s Subcontractors or Subconsultants.
3. Authorize Engineer to provide Additional Services as set forth in Article 2 of Exhibit A of the Agreement, as required.
4. Perform or provide the following:
 - a. **None**

K. Owners are responsible for compliance with Domestic Preference Requirements and will be responsible for the following:

1. **Sign agreements for engineering services, construction contracts, and all other appropriate and necessary documents which include Domestic Preference language.**
2. **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 Domestic Preference requirements.**
3. **Where the Owner directly procures products, Owner will obtain Manufacturers’ Certifications and provide copies to Engineer and Contractor.**

2.05 Payment

- A. Owner shall pay Engineer as set forth in Article 4 and Exhibit J.
- B. Engineer’s compensation is summarized as follows; if there is a conflict between the following summary and the contents of Exhibit J, then Exhibit J will prevail.

Description of Service		Amount	Basis of Compensation
1.	Basic Services (Article 1 of Exhibit A)	\$346,635	
2.	Resident Project Representative Services	\$308,120	
3.	Additional Services (Article 2 of Exhibit A)	\$115,545	
	Total Engineering Fees	\$770,300	

Term of the construction schedule will be as provided for in Exhibit B.

1. Compensation items and totals based in whole or in part on Hourly Rates, Direct Labor, or Percentage of Construction Cost are estimates only.
2. Lump sum amounts incorporate Engineer's labor, overhead, profit, and Engineer's Subcontractor and Subconsultants' charges.
3. **Engineer's compensation for each delineated service summarized above will not be exceeded without the concurrence of the Agency.**

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 B, 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, will 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, will be adjusted equitably.
- D. If Engineer fails, for reasons within control of Engineer, 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 to the extent, if any, resulting from such failure by Engineer.

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, the progress reporting and special invoicing requirements (if any) in Exhibit A Paragraph 1.01.A, and the terms of Exhibit J. **Invoices will include a breakdown of services provided.** 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. 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. After a disputed item has been resolved, Engineer shall include the agreed-upon amount on a new invoice.

- C. Failure to Pay: If Owner fails to make any undisputed payment due Engineer 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 7 days' written notice to Owner, suspend services under this Agreement until Owner has paid in full amounts due. Owner waives any and all claims against Engineer for any such suspension.
- D. Sales or Use Taxes: If after the Effective Date any governmental entity takes an 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 will be in addition to the compensation to which Engineer is entitled under the terms of Exhibit J.

ARTICLE 5—OPINIONS OF COST

5.01 Opinions of Probable Construction Cost

- A. Engineer's opinions of probable Construction Cost (if any) 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. **Opinions of probable Construction Cost and any revisions thereof must reflect compliance with Domestic Preference requirements.**

5.02 Opinions of Total Project Costs

- A. The services, if any, of Engineer with respect to Total Project Costs will 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. **Opinions of Total Project Costs and any revisions thereof must reflect compliance with Domestic Preference requirements.**

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. **Engineer's Subcontractors and Subconsultants:** Engineer may retain such Engineer's Subcontractors and Subconsultants 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 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 the 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, and
 - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. **General Conditions of Construction Contract:** The general conditions for any Construction Contract Documents prepared hereunder are to be the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract, prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise.
- G. **Copies of Drawings and Specifications:** If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one complete electronic copy of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations, and one complete printed copy, duly signed and sealed.
- H. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant conditions whose existence Engineer cannot ascertain within the authorized scope of Engineer's services. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to Engineer in any way contingent upon Engineer signing any such document.

- I. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor will 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.
- J. 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.
- K. 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.
- L. 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.
- M. Engineer's services do not include providing legal advice or representation.
- N. 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.
- O. While at the Site, Engineer, its Subconsultants, and Engineer's Subcontractors, and their employees and representatives will comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 Ownership and Use of Documents

- A. All Documents are instruments of service, and Engineer owns the Documents, including all associated copyrights and the right of reuse at the discretion of the Engineer. Engineer shall continue to own the Documents and all associated rights whether or not the Project is completed.
 - 1. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project.
 - 2. 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:
 - a. 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;

- b. 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 Subconsultants;
 - c. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants 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
 - d. such limited license to Owner shall not create any rights in third parties.
- B. 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.
 - C. Engineer shall inform Owner if Engineer is aware of any invention, design, process, product, or device specified in the Drawings, Specifications, or other Documents that is subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights. If Engineer's good-faith inclusion in the Drawings, Specifications, or other Documents of new, innovative, or non-standard technologies, for the benefit of Owner and the Project, results in third-party claims of infringement or violation of intellectual property rights, then Owner and Engineer shall share equally the costs of defending against, settling, or paying such claims.
 - D. Engineer will obtain Owner's consent, which will not be unreasonably withheld, prior to releasing any publicity, including news and press releases, promotional publications, award and prize competition submittals, and other advertising regarding the subject matter of this Agreement. Nothing herein will limit the Engineer's right to include information in statements of qualifications and proposals to others accurately describing its participation and participation of employees in the Project.

6.03 Electronic Transmittals

- A. To the fullest extent practical, Owner and Engineer agree to transmit, and 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 Exhibit F, Electronic Documents Protocol (EDP).
 - 1. Compliance with the EDP by Engineer shall be considered a Basic Service and no direct or separate compensation will be paid to Engineer for such compliance, unless provisions for separate compensation are expressly set forth in the EDP.
 - 2. Engineer's costs directly attributable to changes in Engineer's Electronic Documents obligations, after the effective date of this Agreement, necessitated by revisions to Exhibit F, delayed adoption of Exhibit F, or implementation of other Electronic Documents protocols, will be compensated as Additional Services.
- B. If this Agreement does not include Exhibit F or otherwise does not establish or include protocols for transmittal of Electronic Documents by Electronic Means, then Owner and

Engineer may operate without specific protocols or may jointly develop such protocols at a later date.

- C. Except as stated otherwise in Exhibit F (if included in this Agreement), when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long term compatibility, usability, or readability of the Electronic Documents 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 Electronic Documents, or from those established in applicable protocols.
- D. This Agreement (including the EDP) is not intended to create obligations for Owner or Engineer with respect to transmittals to or from third parties, except as expressly stated in the EDP.

6.04 Insurance

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G.
- B. Additional Insureds: The Engineer's commercial general liability, automobile liability, and umbrella or excess liability policies, must:
 1. include and list as additional insureds Owner, and any individuals or entities identified as additional insureds in Exhibit G;
 2. include coverage for the respective officers, directors, members, partners, and employees of all such additional insureds;
 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations); and
 4. not seek contribution from insurance maintained by the additional insured.
- ~~C. Owner shall procure and maintain insurance as set forth in Exhibit G.~~
- D. 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, its Subconsultants, and Engineer's Subcontractors to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project. Owner shall give Engineer access to any certificates of insurance and copies of endorsements and policies obtained by Owner from Contractor.
- ~~E. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates must be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.~~
 - ~~1. Upon request by Owner or any other insured, Engineer shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subconsultants and Engineer's Subcontractors. In any documentation furnished under this provision, Engineer may redact (a) any confidential premium or pricing information and (b) any wording specific to projects or jurisdictions other than those applicable to this Agreement.~~

- F. All construction contracts entered into by Owner with respect to the Project must require builder's risk or similar property insurance.
- G. ~~All policies of property insurance relating to the Project, including but not limited to any builder's risk or similar policy, must 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, its Subconsultants, or Engineer's Subcontractors. Owner and Engineer waive all rights against each other, Contractor, Engineer's Subcontractors and Subconsultants, 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 such builder's risk or similar 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.~~
- H. All policies of insurance must contain a provision or endorsement that the coverage afforded will not be canceled, 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 primary insured must promptly forward a copy of the notice to the other party to this Agreement and replace the coverage being cancelled or reduced to conform to the requirements of this Agreement.
- I. At any time, Owner may request that Engineer, or Engineer's Subcontractors or Subconsultants, 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 Engineer's Subcontractors or Subconsultants 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.

6.05 Suspension and Termination

A. Suspension

1. By Owner: Owner may suspend Engineer's services for up to 90 days upon 7 days' written notice to Engineer.
2. By Engineer: Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement:
 - a. if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraphs 4.02.B and 4.02.C;
 - b. in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.09.D; or
 - c. if persistent circumstances beyond the control of Engineer have prevented it from performing its obligations under this Agreement.

B. Termination for Cause

1. Either party may terminate the Agreement for cause upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms of the Agreement, through no fault of the terminating party.
 - a. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1 if the party receiving such notice begins, within 7 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 will extend up to, but in no case more than, 60 days after the date of receipt of the notice.
 2. In addition to its termination rights in Paragraph 6.05.B.1, Engineer may terminate this Agreement for cause upon 7 days' written notice:
 - a. if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional;
 - b. if Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control; or
 - c. as the result of the presence at or adjacent to the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.09.E.
 3. Engineer will have no liability to Owner on account of any termination by Engineer for cause.
- C. Termination for Convenience: Owner may terminate this Agreement for convenience, effective upon Engineer's receipt of notice from Owner.
- D. Extension of Effective Date of Termination: If Owner terminates the Agreement for cause or convenience, Owner 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. Engineer shall be entitled to compensation for such tasks.
- E. Payments Upon Termination: In the event of any termination under Paragraph 6.05, 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 will have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.02.A.
1. If Owner has terminated the Agreement for cause and disputes Engineer's entitlement to compensation for services and reimbursement of expenses, then Engineer's entitlement to payment and Owner's rights to the use of the Documents will be resolved in accordance with the dispute resolution provisions of this Agreement or as otherwise agreed in writing.
 2. If Owner has terminated the Agreement for convenience, or if Engineer has terminated the Agreement for cause, then Engineer will be entitled, in addition to the payments

identified above, 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 Subcontractors or Subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit J.

6.06 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 6.06.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, claims arising out of this Agreement or 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. 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.
 - 2. Nothing in this Agreement will 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.
 - 3. Owner agrees that the substance of the provisions of this Paragraph 6.06.C will appear in the Construction Contract Documents.

6.07 Dispute Resolution

- A. Unless otherwise required by Exhibit H, Owner and Engineer shall resolve all disputes in the following manner:
 - 1. 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 mediation.
 - 2. 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. Owner and Engineer agree to participate in the mediation process in good faith. The process will be conducted on a confidential basis, and must be completed within 120 days.
 - 3. If the parties fail to resolve a Dispute through negotiations under Paragraph 6.07.A.1 or mediation under Paragraph 6.07.A.2, then:
 - a. either or both may invoke the applicable dispute resolution procedures of Exhibit H for final resolution of Disputes.

- b. If Exhibit H is not included, or if no final dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.08 Controlling Law; Venue

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.
- B. Venue for any exercise of rights at law will be the state court having jurisdiction at the location of the Project; or at the choice of either party, and if federal jurisdictional requirements can be met, in federal court in the district in which the Project is located.

6.09 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. Undisclosed Constituents of Concern: For purposes of this Paragraph 6.09, the presence at or adjacent to the Site of Constituents of Concern that were not disclosed to Engineer pursuant to Paragraph 6.09.A, in such quantities or circumstances that such Constituents of Concern may present a danger to persons or property exposed to them, will be referred to as "undisclosed" Constituents of Concern.
 - 1. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of this Agreement or the Construction Contract, are not undisclosed Constituents of Concern.
 - 2. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under this Agreement are not undisclosed Constituents of Concern.
 - 3. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under another professional services contract for Owner, or as part of the work under a construction or remediation contract, are not undisclosed Constituents of Concern if Engineer has been informed of the general scope of such contract.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate authorities having jurisdiction if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, or if encountered, uncovered, or revealed Constituents of Concern are present in substantially greater quantities or substantially different locations than disclosed or anticipated, or if investigative or remedial action, or other professional services, are necessary or required by applicable Laws and Regulations with respect to such Constituents of Concern, then Engineer may, at its option and without liability for direct, consequential, or any other damages, suspend performance of services on the portion of the Project adversely affected thereby until such portion of the Project is no longer so affected; and Owner shall promptly determine whether

to retain a qualified expert to evaluate such condition or take any necessary corrective action.

- E. If the presence at the Site of undisclosed Constituents of Concern, or of Constituents of Concern in substantially greater quantities or in substantially different locations than disclosed or anticipated, adversely affects the performance of Engineer's services under this Agreement, then:
1. if the adverse effects do not preclude Engineer from completing its Project services in general accordance with this Agreement on unaffected or marginally affected portions of the Project, Engineer may accept an equitable adjustment in its compensation or in the time of completion, or both; and the Agreement will be amended to reflect changes necessitated by the presence of such Constituents of Concern; or
 2. if the adverse effects are of such materiality to the overall performance of Engineer that it cannot complete its services without significant changes to the scope of services, time of completion, and compensation, then Engineer may terminate this Agreement for cause on 7 days' written notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and will 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.

6.10 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, and employees, from liabilities and damages, (including reasonable attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such liabilities or damages, are attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, employees, Subconsultants, and others for whom the Engineer is legally liable under this agreement. 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. Environmental Indemnification: To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer, its Subconsultants, Engineer's Subcontractors, and their officers, directors, members, partners, agents, employees, and subconsultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorney's 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 obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- C. No Defense Obligation: The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- D. 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, will 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.
- E. Mutual Waiver: To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's officers, directors, members, partners, agents, employees, subconsultants, and insurers, 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. Such excluded damages include but are not limited to loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; and cost of capital.

6.11 Records Retention

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, or such other period as required by Laws and Regulations, 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.

6.12 Miscellaneous Provisions

- A. Notices: Any notice required under this Agreement will be in writing, and delivered: in person (by commercial courier or otherwise); by registered or certified mail; or by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line. All such notices are effective upon the date of receipt.
- B. Survival: Subject to applicable Laws and Regulations, 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 will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Engineer.
- D. No Waiver: A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will 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 will be deemed to have accrued, and all statutory periods of limitation will commence, no later than the date of Substantial Completion; or, if Engineer's services do not include Construction Phase services, or the Project is not completed, then no later than the date of Owner's last payment to Engineer.

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 Article 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 Article 1 of Exhibit A of this Agreement.
 6. **Bidding/Proposal Documents**—Documents related to the selection of the Contractor, including advertisements or invitations to bid; requests for proposals; instructions to bidders or proposers, including any attachments such as lists of available Site-related documents; bid forms; bids; proposal forms; proposals; bidding requirements; and qualifications documents.
 7. **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.
 8. **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.
 9. **Constituents of Concern**—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

10. Construction Contract—The entire and integrated written contract between Owner and Contractor concerning the Work.
11. Construction Contract Documents—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract. See also definition of “Front-End Construction Contract Documents” below.
12. Construction Contract Price—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
13. Construction Contract Times—The number of days or the dates by which Contractor must: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
14. 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.
15. Constructor—Any person or entity (not including the Engineer, its employees, agents, representatives, or Subconsultants, or Engineer’s Subcontractors), 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, design-builders, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
16. Contractor—The entity or individual with which Owner enters into a Construction Contract.
17. Documents—All documents expressly identified as deliverables in this Agreement, whether in printed or Electronic Document form, required by this Agreement to be provided or furnished by Engineer to Owner. Such specifically required deliverables may include, by way of example, Drawings, Specifications, data, reports, building information models, and civil integrated management models.
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. Electronic Document—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
21. Electronic Means—Electronic mail (e-mail), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or

communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Agreement. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.

22. Engineer—The individual or entity named as such in this Agreement.
23. Engineer's Subcontractor—An individual, firm, vendor, or other entity having a contract with Engineer to furnish general services, equipment, or materials with respect to the Project as an independent contractor.
24. 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.
25. Front-End Construction Contract Documents—Those Construction Contract Documents whose primary purpose is to establish legal and contractual terms and conditions, typically including the Owner-Contractor agreement, bonds, general conditions, and supplementary conditions. The term excludes the Drawings and Specifications, and any Construction Contract Documents delivered or issued after the effective date of the Construction Contract.
26. 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.
27. 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.
28. 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.
29. Record Drawings—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer 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.
30. 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 (RPR) includes any assistants or field staff of the RPR.
31. 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.

32. 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.
33. 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.
34. 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.
35. Subconsultant—An individual, design firm, consultant, or other entity having a contract with Engineer to furnish professional services with respect to the Project as an independent contractor.
36. 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.
37. Submittal—A written or graphic document, prepared by or for Contractor, which the Construction Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Construction Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Construction Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
38. 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.
39. 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.
40. 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 and private utilities (including relocation if not part of Construction Cost), 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.

41. **Underground Facilities**—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
42. **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.
43. **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.
44. **Agency – The Rural Utilities Service or any designated representative of Rural Utilities Service, including USDA, Rural Development.**
45. **Contractor's Certification - A certification submitted by Contractor that, to the best of the Contractor's knowledge and belief, all Work complies with Domestic Preference requirements.**
46. **Domestic Preference – The Build America, Buy America Act (BABA) requirements under Title IX of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, §§ 70901-70953, and in accordance with 2 CFR 184.**
47. **Manufacturer's Certification - Documentation provided by the Manufacturer stating that Domestic Preference requirements have been satisfied for all provided items.**

B. Terminology

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 to Agreement

The following exhibits are incorporated by reference and included as part of this Agreement:

- A. Exhibit A, Engineer's Services.
- B. Exhibit B, Deliverables Schedule.
- C. Exhibit C, Amendment to Owner-Engineer Agreement (form).
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.
- E. Exhibit E, EJCDC® C-626, Notice of Acceptability of Work (form).
- F. ~~Exhibit F, Electronic Documents Protocol (EDP)~~, [NOT USED]
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution.
- I. Exhibit I, Limitations of Liability.
- J. Exhibit J, Payments to Engineer for Services and Reimbursable Expenses.

8.02 Total Agreement

- A. This Agreement (which includes the exhibits listed above) constitutes the entire contractual 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 C to this Agreement.

8.03 Designated Representatives

- A. With the execution of this Agreement, Engineer and Owner shall each designate a specific individual to act as representative under this Agreement. Such an individual must have authority to transmit instructions, receive information, and render decisions with respect to this Agreement on behalf of the party that 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 anything 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.

8.05 Conflict of Interest

- A. Nothing in this Agreement will be construed to create or impose any duty on the part of Engineer that would be in conflict with Engineer's paramount obligations to the public health, safety, and welfare under the professional practice requirements governing Engineer, its Subconsultants, and all licensed professionals employed by Engineer or its Subconsultants.
- B. If during the term of this Agreement a potential or actual conflict of interest arises or is identified:
 - 1. Engineer and Owner together will make reasonable, good faith efforts to avoid or eliminate the conflict of interest; to mitigate any adverse consequences of the conflict of interest; and, if necessary and feasible, to modify this Agreement to address the conflict of interest and its consequences, such that progress under the Agreement may continue.
 - 2. Such efforts will be governed by applicable Laws and Regulations and by any pertinent Owner's policies, procedures, and requirements (including any conflict of interest resolution methodologies) provided to Engineer under Paragraph 2.04.A of this Agreement.

8.06 Federal Requirements

- A. **Agency Concurrence.** 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. Agency concurrence does not constitute a commitment to provide financial assistance or payments hereunder but does signify that this Agreement conforms to Agency's applicable requirements.
- 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.

- E. **Telecommunications and Video Surveillance Services or Equipment Prohibitions.** The telecommunication and video surveillance services and equipment prohibitions under 2 CFR 200.216 apply to this contract. This contract may not be used to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Covered telecommunications equipment is:
1. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such Entities).
 2. Video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 3. Telecommunications or video surveillance services provided by such entities or using such equipment.
 4. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

This Agreement's Effective Date is _____.

Owner:

City of Gladstone

(name of organization)

By: _____
(individual's signature)

Date: _____
(date signed)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Attach evidence of authority to sign.

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Address for giving notices:
1100 Delta Avenue
Gladstone, MI 49837

Designated Representative:

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Address:

Phone: _____

Email: _____

Engineer:

Coleman Engineering Company

(name of organization)

By: _____
(individual's signature)

Date: _____
(date signed)

Name: Scott Nowack, P.E.

(typed or printed)

Title: Principal

(typed or printed)

Attach evidence of authority to sign.

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Address for giving notices:
635 Circle Drive
Iron Mountain, MI 49801

Designated Representative:

Name: Scott Nowack, P.E.

(typed or printed)

Title: Project Manager

(typed or printed)

Address:
635 Circle Drive
Iron Mountain, MI 49801

Phone: 906-774-3440

snowack@coleman-
engineering.com

EXHIBIT A—ENGINEER’S SERVICES

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 2.02 Additional Services Requiring Owner’s Written Authorization 25

Article 1 of the Agreement, Services of Engineer, is supplemented to include the following provisions:

Baseline Information: Owner has furnished the following Project information to Engineer as of the Effective Date. Engineer’s scope of services has been developed based on this information. As the Project moves forward, some of the information may change or be refined, and additional information will become known, resulting in the possible need to change, refine, or supplement the scope of services.

1.

Project Title: Water Intake/Water Main Distribution Project

Type and Size of Facility:

Description of Improvements:

Prior Studies, Reports, Plans: USDA Preliminary Engineering Report

Facility Location(s):

Funding Sources: USDA Water and Environmental Programs

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

ARTICLE 1—BASIC SERVICES

1.01 Management of Engineering Services

- A. All phases of Engineer's services will include management of Engineer's Project-specific responsibilities, including but not limited to the following management tasks, whether separately tracked and itemized or included as being incidental to other phase and scope task items.
1. Develop and submit an Engineering Services Schedule. The Engineering Services Schedule will:
 - a. be consistent with and serve as a supplement to the Schedule of Deliverables set forth in Exhibit B.
 - b. be updated on a regular basis, and as required to reflect any programmatic decisions by Owner.
 - c. include, but not be limited to, an anticipated sequence of tasks; estimates of task duration; interrelationships among tasks; milestone meetings and submittals; anticipated schedule of construction; and other pertinent Project events.
 2. Develop and submit detailed work plans from Exhibit A tasks.
 3. Coordinate services within Engineer's internal team, and with Subconsultants and Engineer's Subcontractors.
 4. Prepare for and participate in meetings with consultants and contractors working on other parts of the Project that may affect, or be affected by, Engineer's services or resulting construction.
 5. Prepare and submit **quarterly** engineering services progress reports to the Owner. Include summary of services performed in period, expected progress in next period, percent completion of current tasks, and a description of major issues or concerns.
 6. Special Invoicing: In addition to, or as a substitute for, Engineer's standard invoicing, provide the specified additional information or documentation, following the invoicing procedures indicated: **Not Applicable**;
 7. Conduct ongoing management tasks, including:
 - a. Maintaining communications records and files pertaining to or arising from Engineer's services;
 - b. With respect to Engineer's services and other directly relevant parts of the Project, prepare for and participate in periodic progress meetings with Owner to discuss progress, schedule, budget, issues, potential problems and their resolution; and
 - c. Preparing agendas prior to and minutes following all Engineer-led meetings.
- B. In all phases of Engineer's services, Engineer shall prepare draft and final Drawings in accordance with **Engineer's CAD standards**, using **current** version **AutoCAD Civil3D** software.

- C. The source documents for the draft and final Specifications in all phases of Engineer's services will be **Engineer's standard specifications**, unless otherwise mutually agreed upon by the parties.
- D. **In all phases of Engineer's services, Engineer is responsible for Domestic Preference compliance documentation for the project. This includes but is not limited to:**
1. **Obtaining manufacturers' certifications for items specified by Engineer as sole source.**
 2. **Verifying and certifying that all items subject to Domestic Preference specified in the contract are available domestically or are covered by a waiver.**
 3. **Reviewing change order proposals, shop drawings, payment applications, proposed substitutes and "or-equals," and any other submittals to ensure Manufacturer Certifications are submitted for all items subject to Domestic Preference requirements.**
 4. **Ensuring that all Manufacturers' Certifications provided by the contractor comply with Domestic Preference requirements.**
 5. **Maintaining all Domestic Preference documentation throughout the project and providing Contractor's and Manufacturers' Certifications to Owner upon final completion of the Work. Provide a copy of the Contractor's Certification to Agency.**
 6. **Certifying, upon final completion of the Work, that the project complies with Domestic Preference requirements (signing EJCDC C-626 Notice of Acceptability of Work will suffice for this certification).**
- E. **In all phases of Engineer's services, Engineer is responsible for confirming the project does not violate the prohibitions on telecommunication and video surveillance services and equipment under 2 CFR 200.216.**

1.02 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 the Owner-identified potential solutions listed here:
 - 1) **[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.~~

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.

- c. ~~If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify **[insert specific number]** 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.~~

Deleted

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. Assess initially available Project information and data, including the Baseline Information set forth at the beginning of this Exhibit A.
6. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project-related information and data, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.
7. After consultation with Owner, recommend the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.
8. Identify, consult with, and analyze requirements of authorities having jurisdiction to permit or approve construction or operation of the portions of the Project to be designed or specified by Engineer, including but not limited to impacts and mitigating measures identified in previously prepared environmental assessments for the Project provided to the Engineer or being concurrently prepared for Owner by others.
9. Advise the Owner of any need for Owner to provide data or services of the types described in Article 2 of the Agreement, for use in Project design, or in preparation for Contractor selection and construction.
10. Assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface conditions at the Site; innovative design, contracting, or procurement strategies; project delivery method; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph will be referred to in Exhibit A as "Project Strategies, Technologies, and Techniques."
11. 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. Review with Owner the thresholds established in applicable codes, standards, and design criteria specifically governing the ability of the proposed facilities or improvements to perform, and to absorb or avoid damage without suffering complete

or substantial failure. As part of the review, identify additional risk assessment studies or tools that are available to evaluate the susceptibility of the facilities or improvements to natural and man-made events beyond the applicable established thresholds. Upon Owner request, as an additional service, perform additional risk assessment studies or tools to further evaluate system resiliency beyond the applicable established thresholds.

13. Utilities, including Underground Facilities

- a. Review any utility mapping and surveys and other utilities documentation made available by Owner. Take note of observable utilities during Site visit.
- b. Identify, in a preliminary manner and to the extent determinable by such mapping or other information provided by Owner, and by observations at the Site, those utilities (whether above-ground utilities of any type, or Underground Facilities) likely to be affected by the Project construction and additional utility facilities or extensions that will be needed to serve the Project.
- c. If the impact on existing utilities or the need for additional utility facilities or extensions cannot reasonably be determined in a preliminary manner from mapping or other information provided by Owner, or such information was not available from Owner, then assist Owner in evaluating the need to either obtain additional utility mapping and utility documentation during the Study and Report Phase, or undertake other alternative approaches and contingencies to account for utility uncertainties in this phase.
- d. Advise Owner of additional utility documentation and coordination needed during the design and construction phases to adequately assess, mitigate, and manage the impact of the Project (including any additional utility facilities or extensions needed to serve the Project) on existing utilities.
- e. Use ASCE 38, “Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data” as a means to advise the Owner regarding the extent and identification and mapping of existing Underground Facilities during the design and construction phases.
 - 1) If Owner has retained a land surveyor, utility engineer, or utility consultant, collaborate with such individuals or entities regarding the application of ASCE 38.

14. Inquire regarding survey methodologies and technologies that would aid in addressing Owner’s Project requirements. Develop a scope of work and survey limits for any topographic and other surveys necessary for design. For recommended survey deliverables, specify a) required technical specifications; b) pertinent datum; c) survey limits, and d) formats of deliverables. Collaborate with land surveyor, when separately retained by Owner or third party, to develop such scope of work.

15. 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).

- a. For each recommended solution, Engineer will separately tabulate Total Project Cost, itemizing those items and services included within the definition of Total Project Costs.
 - b. Engineer will meet with Owner to discuss the draft Report and receive Owner's comments.
 - c. **This Report is the Preliminary Engineering Report (PER) 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. Cost estimates in the PER should reflect compliance with Domestic Preference requirements. This will be certified by stating in the transmittal letter with the PER, "The cost estimates for this project include the costs of Domestic Preference compliance."**
16. Perform or provide the following other Study and Report Phase tasks or deliverables:
- a. ~~[List any such tasks or deliverables here]~~ **Provide the appropriate environmental documentation as required by 7 CFR 1970. This documentation must be concurred in by the Agency.**
 - b. **[List any other Study and Report Phase tasks or deliverables here].**
17. Furnish the Report and any other Study and Report Phase deliverables to Owner pursuant to the requirements of the Deliverables Schedule in Exhibit B, and review the deliverables with Owner.
18. Revise the Report and any other Study and Report Phase deliverables in response to Owner's **and Agency's** comments, as appropriate, and submit revised deliverables pursuant to the Deliverables Schedule.
- B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the final Report (as revised) and any other Study and Report Phase deliverables.

1.03 Preliminary Design Phase

- A. After acceptance by Owner **and concurrence by Agency** of the Report and any other Study and Report Phase deliverables (if Engineer's services under this Agreement included Study and Report Phase services); selection by Owner of a recommended solution; issuance by Owner of any instructions for use of Project Strategies, Technologies, and Techniques, or for inclusion of sustainable features in the design, or enhanced resiliency of the design; indication by Owner of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner; and any necessary changes, refinements, and supplementation of the Baseline Information set forth at the beginning of this Exhibit A, Engineer and Owner shall discuss, resolve, and document in writing any necessary revisions to Engineer's scope of services, compensation (through application of the provisions regarding Additional Services, or otherwise), and the time for completion of Engineer's services, resulting from the selected solution, related Project Strategies, Technologies, or Techniques, sustainable design and resiliency instructions, specific modifications to the Project, or changes, refinements, or supplementation of the Baseline Information. **Any resulting changes to Engineer's scope of services will be subject to Agency concurrence.**

- B. Upon written authorization from Owner, Engineer shall:
1. Review and assess all available Project information and data, including any pertinent reports or studies (whether prepared by Engineer or others) and any related instructions from Owner.
 2. Based on the threshold review and assessment of available information and data, advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer any additional information and data, for Engineer's use in the preparation of a Preliminary Design Phase Report.
 3. Prepare a Preliminary Design Phase Report in the following format: **Assemblage of required documents in .pdf digital format and printed 11"x17" formatted drawings.**
 4. The Preliminary Design Phase Report will consist of final design criteria, preliminary drawings, a preliminary list of expected specifications, and written descriptions of the Project. The Preliminary Design Phase Report will consider the following matters to the extent applicable to the Project and as necessary to establish the basis of design for proceeding to final design and construction:
 - a. The Project concept, intent, performance criteria, desired outcomes, Owner's standards and Owner directed improvements and facility elements as established in the Study and Report Phase and as expressly set forth in the Baseline Information section of this Exhibit A (collectively the "Project Goals").
 - b. Recommended appropriate design criteria for each primary portion and significant discipline of the design necessary to address the Project Goals.
 - c. Site conditions and characterization as known at the time of, or to be determined during, the Preliminary Design Phase, including topography; subsurface information; Constituents of Concern; cultural, historical, and archaeological resources at the Site; wetlands information; and evaluations of flora and fauna that may be affected by the Project.
 - d. The time schedule for completion of the Project in accordance with Project Goals, including any recommended changes to the time required to complete the Final Design Phase (as set forth in Exhibit B, Deliverables Schedule) and estimated schedule(s) for construction.
 - e. Identification of major items of materials and equipment, rationale for selection with consideration of quality, suitability, pricing, sourcing, regulatory, and bidding issues affecting recommended selection.
 - f. Revised opinions of probable Construction Cost.
 - g. The impact of Project Strategies, Technologies, and Techniques, sustainable features, and enhanced resiliency selected by Owner for inclusion in the Project on the Project Goals, schedule and probable Construction Cost, including impact of multiple prime construction contracts, separate procurement of materials or equipment, and other alternate project delivery methods when the Project Goals necessitate and Owner authorizes;

- h. Construction Phase quality assurance and quality control needs affecting development of Drawings and Specifications and other Final Design and Bidding Phase documents.
 - i. The effect of permits and authorizations by other entities and utility coordination needs on the Project.
 - j. Other matters and information pertinent to addressing the Project Goals.
5. In preparing the Preliminary Design Phase Report, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner **and Agency** during or following the Study and Report Phase, and include sustainable features and enhanced resiliency, as appropriate, pursuant to Owner's instructions.
6. Visit the Site as needed to prepare the Preliminary Design Phase Report.
7. If at any point in the Preliminary Design Phase it becomes apparent to Engineer that additional reports, data, information, or services of the types described in Article 2 are necessary, then so advise Owner, and assist Owner in obtaining such reports, data, information, or services.
8. Above-Ground Utilities
- a. Review above-ground utilities information obtained from Owner and from observations at the Site.
 - b. Make recommendations regarding any further identification, investigation, and mapping of above-ground utilities at or adjacent to the Site, for Engineer's design purposes or otherwise.
 - c. Account for above-ground utilities, based on available information, when advancing design during the Preliminary Design Phase.
9. Underground Facilities
- a. Review Underground Facilities data furnished by Owner. Assist Owner in reducing and managing risks associated with Underground Facilities by working together with Owner to jointly establish a procedure ("Underground Facilities Procedure") for the further identification, investigation, and mapping of Underground Facilities at or adjacent to the Site, using ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as a basis for establishing such Underground Facilities Procedure.
 - b. Such Underground Facilities Procedure must take into account the Site and the nature of the Project.
 - c. Use the Underground Facilities Procedure to aid in the performance of design services:
 - 1) Account for Underground Facilities, based on available information, when advancing the design during the Preliminary Design Phase.
 - 2) The Underground Facilities Procedure will include a plan to keep Underground Facilities information current as Engineer proceeds with the provision of

design services, and to add new or relocated Underground Facilities information to the base utility or Site drawings.

- 3) To manage the potential impact of design changes on Underground Facilities, Engineer shall work together with Owner to modify or reapply the Underground Facilities Procedure as the design progresses and changes.

10. Mitigation of Utilities Conflicts

- a. Identify potential conflicts between the Project (including existing and new facilities and structures) and above-ground utilities and Underground Facilities as reviewed in Exhibit A Paragraphs 1.03.B.8 and 9 above, and advise Owner regarding the need for resolution of such conflicts with utility and Underground Facilities owners and permit agencies. Identify the potential need for the relocation of existing above-ground utilities and Underground Facilities.
- b. Update the Underground Facilities Procedure as necessary for any Underground Utilities conflicts and relocations.
- c. Working together with Owner, jointly identify which specific parties or other entities will be responsible for implementation of the various specific parts of the Underground Facilities Procedure (including those parts that address resolution of Underground Facilities conflicts), and for resolution of above-ground utilities conflicts. Such identification will take into account Owner's authority and standing, as owner of the Site, with respect to Underground Facilities and above-ground utilities.
 - 1) To the extent that Owner and Engineer agree that in addition to performing the design-related obligations set forth in Exhibit A Paragraphs 1.03.B.8 and 9, Engineer will also implement any non-design part of the Underground Facilities Procedure (including resolution of Underground Facilities conflicts), or undertake resolution of above-ground utilities conflicts, such additional duties will be Additional Services under Article 2 of this Exhibit A.

11. Surveys, Topographic Mapping, and Utility Documentation

- a. Coordinate with Owner's utility engineer, utility consultant, or land surveyor for the necessary field surveys, topographic mapping, and utility documentation required for Engineer's design purposes, or by the Underground Facilities Procedure.
- b. If no scope of work and procedure for utility documentation has been established, selected, or authorized, then at a minimum Engineer will contact utility owners and obtain available information. Except as otherwise provided in this Agreement, Owner acknowledges that the information gathered from utility owners may be incorrect, incomplete, outdated, or otherwise flawed, and as to Engineer, bidders, and Contractor, the Owner accepts all associated risks. Owner reserves all associated rights as to recourse against the sources of such flawed information and against third parties.

12. Prepare initial draft of a comprehensive permit document that identifies Owner's permit duties, Engineer's permit duties, and Contractor's permit duties, and the schedule for permitting activities.
13. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement in Exhibit A Paragraph 1.03.A.
14. Obtain 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/Proposal Documents and Front-End Construction Contract Documents. **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.**
 - a. Also obtain copies of Owner's standard Bidding/Proposal Documents and Front-End Construction Contract Documents (if other than the EJCDC 2018 Construction Series documents), and any other related documents or content for Engineer to include in drafts of the Project-specific Bidding/Proposal Documents and Front-End Construction Contract Documents, when applicable.
 - b. Review Owner's instructions regarding procurement, bidding and contracting of construction services with respect to effects on the Project design, schedule and construction and address as needed in the Preliminary Design Phase deliverables.
15. Prepare the Preliminary Design Phase Report. This Report will consist of, as appropriate, separate or combined submittals in whole or summary, the Preliminary Design Phase documents listed in Exhibit A Paragraph 1.03.B.4, and Engineer's findings and recommendations for advancing the Project to the Final Design Phase (including Engineer's findings and recommendations, if any, regarding permitting, utilities, and Underground Facilities). The submittal will be in the format of a report, or otherwise organized and assembled for ease and practicality of use.
 - a. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and on the basis of information furnished by Owner, assist Owner in tabulating the various cost categories which comprise Total Project Costs.
 - b. Engineer will meet with Owner to discuss the draft Preliminary Design Phase submittal and receive Owner's comments.
16. Perform or provide the following other Preliminary Design Phase tasks or deliverables:
 - a. **NONE.**
17. Furnish the Preliminary Design Phase Report, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner pursuant to the requirements of the Deliverables Schedule in Exhibit B, and review the deliverables with Owner.

18. Revise the Report and any other deliverables in response to Owner's comments, as appropriate, and submit revised deliverables pursuant to the Deliverables Schedule.

- C. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Preliminary Design Phase Report (as revised) and associated documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

1.04 Final Design Phase

- A. After acceptance by Owner of the Preliminary Design Phase Report and any other Preliminary Design Phase deliverables; issuance by Owner of any instructions for specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner; and any necessary changes, refinements, and supplementation of the Baseline Information set forth at the beginning of this Exhibit A, Engineer and Owner shall discuss, resolve, and document any necessary revisions to Engineer's scope of services, compensation (through application of the provisions regarding Additional Services, or otherwise), and the time for completion of Engineer's services, resulting from specific modifications to the Project, or changes, refinements, or supplementation of the Baseline Information.
1. 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 [1]. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.
 2. If more than one prime construction contract is to be awarded for the Work designed or specified by Engineer, then Owner shall define and set forth (in an exhibit to this Agreement, or in a subsequent document) the duties, responsibilities, and limitations of authority of a person or entity that will have authority and responsibility for coordinating the activities among the various prime Contractors, and any resulting changes in the duties, responsibilities, and authority of Engineer.
 3. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime construction contract, or if Engineer's services are to be separately sequenced with the work of one or more separate design professional consultants or 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/Proposal, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable under such separate prime construction contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such construction contracts is to proceed concurrently.
- B. Upon written authorization from Owner, Engineer shall prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor, in accordance with the Preliminary Design Phase Report (as revised) and other Preliminary Design Phase deliverables. As part of the preparation of the Drawings and Specifications, Engineer shall prepare interim drafts and final Drawings and Specifications as follows, pursuant to the Deliverables Schedule in Exhibit B:

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1. First Final Design Phase draft of all Drawings and Specifications.
 2. Second Final Design Phase draft of all Drawings and Specifications, addressing Owner comments and including appropriate design advancement.
 3. Final Drawings and Specifications that address Owner **and Agency** comments; complete the design; are suitable for estimating and pricing by prospective Contractors; and are complete and ready for construction.
- C. In preparing the Specifications (and any bidding, contract, or other documents that are part of Engineer's scope of services), Engineer shall obtain from Owner or Owner's legal counsel **and Agency** any relevant constraints such as requirements for use of domestic steel and iron, other domestic purchasing requirements, statutory restrictions on utilizing proprietary specifying methods, and the like, and comply with or account for such constraints in drafting Specifications, Bidding/Proposal Documents, and other Project documents.
- D. Engineer shall prepare or assemble draft Bidding/Proposal Documents and Front-End Construction Contract Documents as follows:
1. Such documents will be based on the 2018 EJCDC Construction Documents, and on the specific bidding or Contractor selection-related instructions and forms, contract forms, text, or other content received from Owner.
 2. When Engineer is required to use other than the 2018 EJCDC Construction Documents, then as required in the Preliminary Design Phase Owner will furnish to Engineer a copy of the required documents to be used for the Project's Bidding/Proposal Documents and Front-End Construction Contract Documents. Prior to the first Final Design Phase submittal, Engineer will review the bidding and contracting documents furnished by Owner and provide comments to Owner. Engineer will meet with Owner to discuss Engineer's comments. Owner will consider Engineer's recommendations to revise Owner's documents for the Project.
 3. Engineer will furnish to Owner, for review by Owner's legal counsel, the draft Bidding/Proposal Documents and Front-End Construction Contract Documents. Owner and Owner's legal counsel must transmit to Engineer, in a timely manner, one coordinated set of comments and revisions to the draft documents.
 4. **Engineer will furnish to Agency the draft Bidding/Proposal Documents and Front-End Construction Contract Documents for review and concurrence.**
- E. During the Final Design Phase the Engineer shall continue to account for above-ground utilities and Underground Facilities as the design advances and is finalized. This may include:
1. performing the services assigned to Engineer under the Underground Facilities Procedure described in Exhibit A Paragraph 1.03 above, including but not limited to the design-related tasks in Exhibit A Paragraph 1.03.B.9.
 2. addressing required and proposed activities or mitigations identified in the analysis of utilities and by the Underground Facilities Procedure as having an impact on the final design, and considering such in preparing the Drawings and Specifications.
- F. Engineer shall perform or furnish the following other Final Design Phase services:
1. Visit the Site as needed to assist in preparing the final Drawings and Specifications.

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2. Assist with or prepare applications for permits and approvals, as follows:
 - a. Update comprehensive permit document created in Preliminary Design Phase for Final Design detail.
 - b. Prepare the following applications for Owner's submittal to authorities having jurisdiction over the construction or operation of the Project:
 - 1) **Applicable Federal, State and local permits.**
 - c. Confer with Owner regarding revisions, if any, to the application(s), and make appropriate revisions to the application(s) for Owner's resubmittal to the authority having jurisdiction.
 - d. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of the authorities having jurisdiction listed above, including applications for review or approval of the final design.
 - e. Identify and indicate in the Construction Contract Documents the permits and approvals for which Contractor will be responsible, including work permits, building permits, and other permits and approvals that will be Contractor's responsibility; and, in addition, indicate those permits initially obtained by Owner for which Contractor will be a co-permittee, together with associated requirements.
 - f. Unless expressly indicated otherwise, Engineer's scope and budget includes attending one meeting or conference call with each permit and approval-issuing agency to discuss the Project and receive the agency's comments on the application.
 - g. Engineer does not guarantee issuance of any required permit or approval.
 - h. Fees charged by authorities having jurisdiction for such permits or approvals are the responsibility of Owner.
3. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost. Furnish to Owner an updated opinion of probable Construction Cost with the interim and final deliverables of the Drawings and Specifications.
4. After consultation with Owner, include in the Front-End Construction Contract Documents any Electronic Document Protocol addressing 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.
5. 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.
6. Review the preliminary schedule for the Construction Phase and advise Owner when initial understanding of the Construction Contract Times must or should be revised, and furnish Owner with recommendations on revisions to the proposed Construction Contract Times.

7. Engineer's project manager and other appropriate staff will participate in the following meetings and conference calls:
 - a. First draft design review meeting at Owner's office.
 - b. Second draft design review meeting at Owner's office.
 - c. ~~Indicate others as appropriate for the Project.~~
 - d. Engineer will prepare and distribute minutes of each such meeting and conference call, indicating attendees, topics discussed, decisions made, and action items for follow-up.
 8. Perform or provide the following other Final Design Phase activities or deliverables:
 - a. **NONE.**
- G. Engineer shall complete the Final Design Phase as follows:
1. Pursuant to the requirements of the Deliverables Schedule in Exhibit B, furnish for review by Owner, its legal counsel, and other advisors, the final Drawings and Specifications (as set forth in Exhibit A Paragraph 1.04.B.3 above); assembled drafts of other Construction Contract Documents including the draft Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; the most recent opinion of probable Construction Cost; and any other Final Design Phase deliverables, and review the deliverables with Owner. **The Engineer shall identify the building codes and accessibility standards used in the design and indicate them on the drawings and specifications and certify to the best of the Engineer's information and belief that the final drawings and specifications comply with those standards.**
 2. Revise the final Design Phase deliverables in response to Owner's comments, as appropriate, and submit revised deliverables pursuant to the Deliverables Schedule.
 3. **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.**
 4. 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; assembled drafts of the Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; and any other Final Design Phase deliverables, as revised.

1.05 Bidding/Proposal Phase

- A. After acceptance by Owner **and Agency** of the final Drawings and Specifications; assembled drafts of other Construction Contract Documents, including the draft Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and any other Final Design Phase deliverables, 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 Bidding/Proposal Documents and proposed Construction

Contract Documents to prospective contractors; if 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, if any, for the issued documents.

- a. **Bids will be advertised in accordance with City requirements and funding agency guidance.**
2. Prepare and issue addenda as appropriate to clarify, correct, or change the issued documents. **Obtain Agency concurrence on any Addenda that modify the Bidding Documents. Obtain prior concurrence when possible.**
3. ~~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 Exhibit A Paragraph 2.01.A.2.~~

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. Issue a bid addendum for any and all approved "or equals" and substitutes. Review of substitutes and "or equals" will be in accordance with the General Conditions of the Construction Contract and applicable Agency requirements. Services under this paragraph are subject to the provisions of Exhibit A Paragraph A2.01.A.2.

4. Attend the bid opening; prepare bid tabulation sheets; and assist Owner in evaluating bids or proposals, assembling final Construction Contracts for the Work for execution by Owner and Contractor, and in preparing notices of award to be issued by Owner for such contracts.
5. Provide information or assistance needed by Owner in the course of any review of bids, proposals, or negotiations with prospective contractors.
6. Consult with Owner as to the qualifications of prospective contractors.
7. 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.
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/Proposal Phase tasks or deliverables:
 - a. ~~[List any such tasks or deliverables here].~~ **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.**
 - b. **NONE.**

10. The Bidding/Proposal Phase will be considered complete upon award of Construction Contracts for the Work and commencement of the Construction Phase, or upon cessation of negotiations with prospective contractors.

1.06 Construction Phase

- A. After completion of the Final Design Phase and concurrent with the Bidding/Proposal Phase, and after issuance by Owner of any instructions for specific modifications or changes in the scope, extent, character, design, schedule, number of prime construction contracts, and other construction requirements of the Project during the Construction Phase desired by Owner, the Engineer and Owner shall discuss, resolve, and document any necessary revisions to Engineer's scope of services or compensation (through application of the provisions regarding Additional Services, or otherwise), or the time for completion of Engineer's services, resulting from specific modifications to the Project.
 1. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A Paragraph 1.06, as duly modified. With the exception of such expressly required services, Engineer shall have no design, Submittal (including Shop Drawing) review, or other obligations during construction, and Owner assumes all responsibility for providing or arranging for all other necessary Construction Phase administrative, engineering, and professional services.
 2. Owner waives all claims against Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants, and Engineer's Subcontractors, 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. Notwithstanding the foregoing waiver, Engineer shall be responsible for any professional opinions and interpretations provided by Engineer to Owner during the Construction Phase or Post-Construction Phase, including interpretations or clarifications of the Construction Contract Documents.
- B. Upon successful completion of the Bidding/Proposal Phase, and upon written authorization from Owner, Engineer shall provide the following services:
 1. General Administration of Construction Contract: Consult with Owner and act as Owner's representative as provided in this Agreement and the Construction Contract. Unless otherwise set forth in the scope of Basic Services (as duly modified), 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 (2018) or other construction general conditions specified in this Agreement. Except as otherwise provided in the Construction Contract, Owner's communications to Contractor will be issued through Engineer.
 - a. If the responsibilities of Engineer as set forth in the Construction Contract are greater than those Construction Phase services expressly required of Engineer in Exhibit A Paragraph 1.06, as duly modified, then Owner shall either (1) expand the scope of the Construction Phase services to match those of the Construction Contract, and compensate Engineer for any related increases in the cost to provide Construction Phase services, pursuant to the provisions for compensating Additional Services, or (2) identify a qualified individual or entity (other than

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Engineer) responsible for the additional responsibilities in the Construction Contract.

- b. 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, or if Owner requires Engineer's services for construction that extends longer than the anticipated Construction Contract Times, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services, pursuant to the provisions for compensating Additional Services.
 - c. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional.
2. Field Office: ~~[Delete or edit as applicable to the Project]~~ Engineer and Resident Project Representative (if any) will be based in a field office at the Site. The field office will be furnished and maintained at Owner's expense, and will include reasonable furnishings, all required temporary utilities (including internet service) and facilities, and be secured for Engineer's (and RPR's) exclusive use.
 3. Resident Project Representative (RPR): Provide the services of an RPR at the Site to assist 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.
 4. Selection of Independent Testing Laboratory: ~~Assist Owner in the selection of an independent testing laboratory to perform required testing services.~~ **Provide Owner testing laboratory service under the work included in Additional Services.**
 5. Pre-Construction Conference: Participate in **and chair** a pre-construction conference prior to commencement of Work at the Site; prepare and distribute agenda for the conference and prepare and distribute minutes of such conference.
 6. Electronic Transmittal Protocols: If the Construction Contract does not establish protocols for transmittal of Electronic Documents by Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
 7. Original Documents: ~~If requested by Owner to do so, maintain~~ **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.
 8. Schedules: Receive, review, and, and, subject to the criteria of the Construction Contract, 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. Advise Contractor in writing of Engineer's comments or acceptance of schedules.

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- a. Schedules will be acceptable to Engineer as to form and substance:
 - 1) Progress Schedule: if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 - 2) Contractor's Schedule of Submittals: if it provides a workable arrangement for reviewing and processing the required Submittals.
 - 3) Contractor's Schedule of Values: if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
9. 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.
10. Permits: Provide Owner with copies of technical information and supporting data previously obtained or developed by Engineer for Owner's use, or for Owner to provide to Contractor, in obtaining required permits and licenses delegated to Contractor by Owner.
11. 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 the Work, 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, including its RPR, 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 its RPR, 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. Engineer will make a report of Engineer's visit, summarizing Engineer's general observations and any significant findings.
 - 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 by this Agreement 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

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

- c. **These site visits must be at least monthly and the Engineer must document all visits to the project with copies furnished to the Owner and Agency.**
12. Defective Work: If, on the basis of Engineer's observations or as indicated in documentation available to Engineer, Engineer believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, Engineer will promptly issue written notice to Contractor (with copy to Owner) of such defective Work. Such notice will communicate the scope, extent (to Engineer's understanding) of defect, and associated provisions of the Construction Contract Documents.
 - a. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting the defective Work in accordance with the provisions of the Construction Contract Documents. Engineer shall give notice to Contractor regarding whether the defective Work should be repaired, replaced, or will be accepted by Owner.
 - b. However, Engineer's authority to provide this information to Owner or Engineer's decision to exercise or not exercise such authority will not give rise to a duty or responsibility of the Engineer to Contractors, Subcontractors, material and equipment suppliers, their agents or employees, or any other person(s) or entities performing any of the Work, including but not limited to any duty or responsibility for Contractors' or Subcontractors' safety precautions and programs incident to the Work.
 13. 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.
 14. 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.

15. 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 (a) the performance or acceptability of the Work under the Construction Contract Documents, (b) the design (as set forth in the Drawings, Specifications, or otherwise), or (c) 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.
16. Field Orders: Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
17. 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.
18. 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 must 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.
19. 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 subject to limitations of Engineer's obligations under this Agreement.
20. Contractor's Submittals: Review and approve or take other appropriate action with respect to required Contractor Submittals, but only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Construction Contract Documents, and for 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.
21. Substitutes and "Or-equals": Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Exhibit A Paragraph 2.01.A.2.
22. 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 whether 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. Reply to Contractor requests for written concurrence that specific portions of the Work that are to be inspected, tested, or approved may be covered.
 - c. Issue written requests to Contractor that specific portions of the Work remain uncovered.
 - d. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
 - e. Pursuant to the terms of the Construction Contract, require additional inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.
23. Contractor's 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, within the limits of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).
 - b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to

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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. **By signing payment application and recommending payment, Engineer is certifying to the best of their knowledge that all items submitted for payment comply with Domestic Preference requirements.**

24. 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 Exhibit A Paragraph 1.06.B.20. ~~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 will be to check that Contractor has submitted a complete set of those documents that Contractor is required to submit.~~ **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.**
25. Substantial Completion: Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, visit the Site in company with Owner and Contractor 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.
26. Other Tasks: Perform or provide the following other Construction Phase tasks or deliverables:
- a. ~~{List any such tasks or deliverables here}.~~ **Provide the Owner and Agency with a written certification that the project complies with Domestic Preference requirements, to the best of Engineer's knowledge.**
 - b. **Verify and document Contractor implemented environmental mitigation requirements. Provide documentation to Owner and Agency.**
 - c. **NONE.**
27. Completion and Acceptability of the Work: After notice from Contractor that the Work is complete:

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- a. visit the Site with Owner and Contractor to determine if the Work is in fact complete and acceptable;
 - b. notify Contractor of any part of the Work that is found during the visit to be incomplete or defective, and subsequently confirm that Contractor has corrected any such deficiencies;
 - c. follow the procedures in the Construction Contract regarding review and response to Contractor's application for final payment and accompanying documentation; and
 - d. if Engineer is satisfied that the Work is complete and acceptable, provide a notice to Owner and Contractor using EJCDC® C-626, Notice of Acceptability of Work (attached as Exhibit E), stating that the Work is acceptable (subject to the provisions of the Notice and this Exhibit A) within the limits of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement. **Upon Substantial Completion, the Engineer shall provide a copy of the Certificate of Substantial Completion to the Agency.**
28. 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.
- C. 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 Contractor. If the Project involves more than one prime contract as indicated in Exhibit A Paragraph 1.04.A.1, 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.
- 1.07 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:
 - a. **NONE.**

- B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate 12 months after the commencement of the Construction Contract's correction period.

ARTICLE 2—ADDITIONAL SERVICES

2.01 Additional Services Not Requiring Owner's Written Authorization

- A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit J.
 1. Substantive design and other technical services in connection with Work Change Directives, Change Proposals, and Change Orders to reflect changes requested by Owner.
 2. Services essential to the orderly progress of the Bidding/Proposal and Construction Phases and not wholly quantifiable prior to those Phases or otherwise dependent on the actions of prospective individual bidders or contractors and including:
 - a. making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items;
 - b. ~~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; Deleted~~
 - c. evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract; and
 - d. providing to the Contractor or Owner additional or new information not previously prepared or developed by the Engineer for their use in applying for or obtaining required permits and licenses, in responding to agency comments on such applications, or in the administration of any such permits or licenses.
 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)

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acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.

5. Implement coordination of Engineer's services with other parts of the Project that are not planned or designed by Engineer or its Subconsultants, unless Owner furnished to Engineer substantive information about such other parts of the Project prior to the parties' entry into this Agreement, in the Baseline Information section of this Exhibit A, or otherwise in Exhibit A; if such substantive information has been so provided, coordination of Engineer's services will be part of Basic Services.
6. Implement the specific parts of an Underground Facilities Procedure that are assigned to Engineer, or above-ground utilities tasks that are assigned to Engineer as the Project progresses (but not including the design-related services already assigned to Engineer as a Basic Service).
7. 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.
8. 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.
9. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.
10. 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.
11. To the extent the Project is subject to Laws and Regulations governing public or government records disclosure or non-disclosure, Engineer will comply with provisions applicable to Engineer, and Owner will compensate Engineer as Additional Services for Engineer's costs to comply with any disclosure or non-disclosure obligations beyond those identified in the Basic Services.
12. Services directly attributable to changes in Engineer's Electronic Documents obligations after the effective date of the Agreement.

2.02 Additional Services Requiring Owner's Written Authorization

- A. If authorized in writing by Owner, **and approved by Agency**, 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 J.
 1. Obtain or provide specified additional Project-related information and data to enable Engineer to complete its Basic and Additional Services.
 2. Preparation of special and customized reporting, invoicing, and related support documentation in addition to that identified to be provided under Basic Services.
 3. 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

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impact statements **(not including preparation of the environmental documentation required by 7 CFR 1970)**; 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.

4. 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.
5. 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.
6. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those agreed to in Exhibit A Paragraph 1.02.A.1., **but only if the Owner's request is made after completion of the Study and Report Phase.**
7. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
8. Providing renderings or models for Owner's use, including development, management, and other services in support of building information modeling or civil integrated management.
9. Undertaking investigations and studies including, but not limited to:
 - a. All-hazards risk assessments and other studies to evaluate the feasibility of enhancing the resiliency of the design;
 - b. detailed consideration of operations, maintenance, and overhead expenses;
 - c. 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;
 - d. preparation of appraisals;
 - e. with respect to proprietary systems or processes requiring licensing, providing services necessary to assist Owner in obtaining such licensing.
 - f. detailed quantity surveys of materials, equipment, and labor; and
 - g. audits or inventories required in connection with construction performed or furnished by Owner.

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10. Furnishing services of Subconsultants or Engineer's Subcontractors for other than Basic Services.
11. Providing data or services of the types described in Article 2, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
12. Providing the following services:
 - a. Services attributable to more prime construction contracts than specified in Exhibit A Paragraph 1.04.A.1.
 - 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.
13. 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 (Article 1 of Exhibit A).
14. 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 constructability 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.
15. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents); preparing pre-qualification procedures and documents, and participating in pre-qualifying prospective Bidders; and preparing Construction Contract Documents for alternate bids.
16. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.
17. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all addenda and any amendments negotiated by Owner and Contractor.
18. Services to assist Owner in developing or modifying protocols for transmittal of Electronic Documents by Electronic Means after the effective date of this Agreement, either by revising or adapting Exhibit F to the Project or implementing other Electronic Documents protocols among Project participants.
19. Any services by Engineer in connection with Owner or Engineer providing a Document to a Requesting Party under Exhibit F Paragraph 1.01.D (see Exhibit F, Electronic Documents Protocol), or any other distribution of a Document to a third party. Such services may include but are not limited to preparing the data contained in the requested Document in a manner deemed appropriate by Engineer; creating or otherwise preparing and distributing the Document in a format necessary to respond to Owner's direction or decision to provide the Document to a requesting party, including Contractor, in a format other than that required for deliverables from Engineer to Owner; and services in connection with obtaining required releases from the third parties to which the Documents will be distributed. Compensation for these Additional Services is not contingent upon Owner's reimbursement from the requesting party.

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20. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.
21. ~~Preparing Record Drawings, and furnishing such Record Drawings to Owner.~~ **Deleted**
22. 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.
23. 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.
24. Preparation of operation, maintenance, and staffing manuals.
25. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
26. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
27. 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.
28. Preparing to serve or serving as a consultant or witness for, or producing documents for or on behalf of, Owner in any litigation, arbitration, mediation, lien or bond claim, or other legal or administrative proceeding involving the Project (but not including disputes between Owner and Engineer).
29. Overtime work requiring higher than regular rates.
30. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Exhibit A Paragraph 1.06.B.9; any type of property surveys or related engineering services needed for the transfer of interests in real property; providing construction and property surveys to replace reference points or property monuments lost or destroyed during construction; and providing other special field surveys.
31. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
32. 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).
33. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

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EXHIBIT B—DELIVERABLES SCHEDULE

Paragraphs 2.04.E, 3.02.A, and Exhibit A of the Agreement are supplemented by the following paragraph and table.

Engineer shall furnish Documents to Owner as required in Column 2 of the following table (and as further described in Exhibit A), according to the schedule in Column 4. Owner shall comment or take other identified actions with respect to the Documents as indicated in Column 2 (and as further described in Exhibit A), according to the schedule in Column 4.

Party	Action	Exhibit A Reference	Schedule
Engineer	Submit [2] review copies of the Report and other Study and Report Phase deliverables to Owner. *	1.02.A.17	Within [90] days of the Effective Date.
Owner	Submit comments regarding the Report and other Study and Report Phase deliverables to Engineer.	1.02.A.18	Within [30] days of the receipt from Engineer of the Report and other Study and Report Phase deliverables.
Engineer	Submit [3 Written & 1 Electronic] copies of the revised Report and other Study and Report Phase deliverables to Owner. *	1.02.A.18	Within [30] days of the receipt of Owner's comments regarding the Report and other Study and Report Phase deliverables.
Engineer	Submit [2] review copies of the Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner. *	1.03.B.17	Within [150] days of Owner's authorization to proceed with Preliminary Design Phase services.
Owner	Submit comments regarding Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Engineer.	1.03.B.18	Within [30] days of the receipt from Engineer of Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Submit [2] copies of the revised Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner. *	1.03.B.18	Within [30] days of the receipt of Owner's comments regarding the Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Submit [3] copies of the first Final Design Phase draft of Drawings and Specifications to Owner.	1.04.B.1	Within [180] days of Owner's authorization to proceed with Final Design Phase services.
Owner	Submit comments and instructions regarding the first Final Design Phase draft of Drawings and Specifications to Engineer.	1.04.B.1	Within [30] days of the receipt of the first final Design Phase drafts of Drawings and Specifications from Engineer.

Exhibit B—Deliverables Schedule.

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Party	Action	Exhibit A Reference	Schedule
Engineer	Submit [3] copies of the second Final Design Phase drafts of Drawings and Specifications to Owner.	1.04.B.2	Within [30] days of the receipt of Owner's comments and instructions regarding the first Final Design Phase drafts of Drawings and Specifications.
Engineer	Submit [2] of copies of draft Bidding/Proposal and Front-End Construction Contract Documents, as required, and any other Final Design Phase deliverables (other than Drawings and Specifications) to Owner.*	1.04.D.3; 1.04.F.8	Concurrent with submittal to Owner of the second Final Design Phase drafts of Drawings and Specifications.
Owner	Submit comments and instructions regarding the second Final Design Phase drafts of Drawings and Specifications to Engineer.	1.04.B.2	Within [15] days of the receipt from Engineer of the second Final Design Phase drafts of Drawings and Specifications.
Engineer	Submit [2] copies of the final, completed, pricing-ready and construction-ready Drawings and Specifications to Owner. *	1.04.B.3 and 1.04.G.1	Within [30] days of the receipt of Owner's comments and instructions regarding the second Final Design Phase drafts of Drawings and Specifications.
Owner	Submit comments and instructions regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications to Engineer.	1.04.G.2	Within [5] days of the receipt from Engineer of the final, completed, pricing-ready and construction-ready Drawings and Specifications.
Owner	Submit comments and instructions regarding drafts of Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables (other than Drawings and Specifications) to Engineer.	1.04.D.3; 1.04.F.8	Concurrent with Owner's submittal of comments and instructions regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications.

Exhibit B—Deliverables Schedule.

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Party	Action	Exhibit A Reference	Schedule
Engineer	Submit to Owner: [1] copies of the revised final, completed, pricing-ready and construction-ready Drawings and Specifications; and [1] of copies of assembled Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables. *	1.04.G.2 1.04.G.3	Within [20] days of receipt of Owner’s final comments and instructions regarding the regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications, the Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables.
Engineer	Submit [1] copies of Bidding/Proposal Phase deliverables (if any) identified in Exhibit A Paragraph 1.05.A.9.a to Owner.	1.05.A.9.a	Within [5] days of written authorization by Owner to proceed with Bidding/Proposal Phase services.
Engineer	Submit [2] copies of Construction Phase deliverables (if any) identified in Exhibit A Paragraph 1.06.B.26.a to Owner.	1.06.B.26.a	Within [15] days of [applicable benchmark event such as commencement of the Construction Contract Times Substantial Completion]
Engineer	Submit [2] copies of Post-Construction Phase deliverables (if any) identified in Exhibit A Paragraph 1.07.A.3.a to Owner.	1.07.A.3.a	Within [180] days of Substantial Completion.
* One digital copy may be substituted for hard copy with Owner’s approval.			

EXHIBIT C—AMENDMENT TO OWNER-ENGINEER AGREEMENT

AMENDMENT TO OWNER-ENGINEER AGREEMENT

Amendment No. **[Enter Amendment Number]**

Owner: **[Name of Owner]**
Engineer: **[Name of Engineer]**
Project: **[Name of Project]**
Effective Date of Owner-Engineer Agreement: **[Effective Date of Agreement]**

Nature of Amendment: (Check those that apply)

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

Description of Modifications:

[Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary. Include cost breakdown and documentation, if applicable.]

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):

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. The Effective Date of the Amendment is **[Enter Effective Date of Amendment]**.

Owner

(typed or printed name of organization)

By: _____

(individual's signature)

(Attach evidence of authority to sign.)

Date: _____

(date signed)

Name: _____

(typed or printed)

Title: _____

(typed or printed)

Engineer

(typed or printed name of organization)

By: _____

(individual's signature)

(Attach evidence of authority to sign.)

Date: _____

(date signed)

Name: _____

(typed or printed)

Title: _____

(typed or printed)

EXHIBIT D—DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF AUTHORITY OF RESIDENT PROJECT REPRESENTATIVE

ARTICLE 1—RESIDENT PROJECT REPRESENTATIVE SERVICES

Article 1 of the Agreement, Services of Engineer, and Exhibit A, Engineer's Services, are supplemented to include Exhibit D Paragraphs 1.01, 1.02, and 1.03, as follows:

1.01 Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative ("RPR") to observe progress and quality of the Work. 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. The RPR will provide full-time representation ~~[revise if representation will be less than full time]~~, **unless requested in writing by the Owner and waived in writing by the Agency.**
- C. Subject to the scope of RPR's observations of the Work, which may include field checks of materials and installed equipment, Engineer shall endeavor to identify defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, inspect, 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 performance 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 1.06 are applicable.

1.02 Duties and Responsibilities of RPR

- A. The duties and responsibilities of the RPR are as follows:
 1. General: RPR's dealings in matters pertaining to the Work in general will be with 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, Samples, and other Submittals
 - a. Receive Samples that are furnished at the Site by Contractor.
 - b. Receive Contractor-approved Shop Drawings.
 - c. Receive other Submittals from Contractor.
 - d. Record date of receipt of Samples, Contractor-approved Shop Drawings, and other Submittals.
 - e. Notify Engineer of availability of Samples for examination, and forward Contractor-approved Shop Drawings and other Submittals to Engineer. When appropriate recommend distribution of Submittal to specified Subconsultants.
 - f. 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. **Installation of items that do not comply with Domestic Preference requirements is considered defective Work.**

- 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.
- 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.
- f. Nothing in this Agreement will be construed to require RPR to conduct inspections.

11. Records

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Proposals, 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 Proposals, Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, **observations on Domestic Preference and environmental mitigation compliance**, 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, p~~ Photograph or video Work in progress or Site conditions.
 - d. Record and maintain accurate, up-to-date lists of the company names and points of contact for 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 designated recipients.
12. Reports
- a. Furnish 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 responses to or make recommends on Change Proposals, Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor. Deleted~~
 - c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
 - d. Immediately inform appropriate parties of the occurrence of any Site accidents, emergencies, natural catastrophes 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).

16. **Domestic Preference**

- a. **Observe and report on compliance with Domestic Preference requirements including but not limited to: Verifying that items delivered to the site are accompanied by Domestic Preference documentation, as applicable, and photographing stored and installed items to document compliance.**

1.03 Limitations of Authority

A. 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.

EXHIBIT E—EJCDC® C-626, NOTICE OF ACCEPTABILITY OF WORK

NOTICE OF ACCEPTABILITY OF WORK (EJCDC® C-626 2018)

Owner:	Owner’s Project No.:
Engineer:	Engineer’s Project No.:
Contractor:	Contractor’s Project No.:
Project:	
Contract Name:	
Notice Date:	Effective Date of the Construction Contract:

The Engineer hereby gives notice to the Owner and Contractor that Engineer recommends final payment to Contractor, and that the Work furnished and performed by Contractor under the Construction Contract is acceptable, expressly subject to the provisions of the Construction Contract's Contract Documents ("Contract Documents") and of the Agreement between Owner and Engineer for Professional Services dated [date of professional services agreement] ("Owner Engineer Agreement"). This Notice of Acceptability of Work (Notice) is made expressly subject to the following terms and conditions to which all who receive and rely on said Notice agree:

1. This Notice has been prepared with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer's professional opinion.
3. This Notice has been prepared 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 the Owner Engineer Agreement, 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 Owner Engineer 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 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 Contract Documents, or to otherwise comply with the 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.

Engineer

By (signature): _____
 Name (printed): _____
 Title: _____

EXHIBIT G—INSURANCE**ARTICLE 1—INSURANCE**

Paragraph 6.04 of the Agreement, Insurance, is supplemented to include the following Exhibit G Paragraphs 1.01 and 1.02:

1.01 Insurance Policies and Limits

- A. In accordance with Paragraph 6.04.A of the Agreement, the insurance that Engineer must procure and maintain, and the policy limits of such insurance, are as follows:

Coverage	Policy limits of not less than:
Workers' Compensation	
State	Statutory
Employer's Liability	
Each accident	\$500,000
Each employee	\$500,000
Policy limit	\$500,000
Commercial General Liability	
General Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Bodily Injury and Property Damage—Each Occurrence	\$1,000,000
Automobile Liability	
Bodily Injury	
Each Person	\$
Each Accident	\$
Property Damage	
Each Accident	\$
Or	
Combined Single Limit	
Combined Single Limit (Bodily Injury and Property Damage)	\$1,000,000
Excess or Umbrella Liability	
Each Occurrence	\$5,000,000
General Aggregate	\$5,000,000
Professional Liability	
Each Claim	\$1,000,000
Annual Aggregate	\$1,000,000
Unmanned Aerial Vehicle Liability Insurance	
Each Claim	\$
General Aggregate	\$
Other Insurance [Specify]	
Each Claim	\$N/A
General Aggregate	\$N/A

Exhibit G—Insurance.

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B. ~~In accordance with Paragraph 6.04.C of the Agreement, the insurance that Owner must procure and maintain, and the policy limits of such insurance, are as follows:~~

1.02 Additional Insureds

A. ~~Owner shall cause Engineer, its Subconsultants, and its Engineer's Subcontractors to be listed as additional insureds on any of Owner's general liability policies that are applicable to the Project. The following individuals or entities are to be listed on Owner's general liability policies of insurance (and on Contractor's policies required under Paragraph 6.04.D of the Agreement) as additional insureds:~~

Name of Additional Insured	Address
Coleman Engineering Company, Inc.	635 Circle Dr., Iron Mountain, MI 49801
{Engineer's Subconsultant}	{Subconsultant's Corporate Address}
{Engineer's Subconsultant}	{Subconsultant's Corporate Address}
{Other Additional Insured}	{Other Additional Insured's Corporate Address}

B. During the term of this Agreement the Engineer shall notify Owner of any other Subconsultant or Engineer's Subcontractor to be listed as an additional insured on ~~Owner's~~ and applicable Contractor's general liability policies of insurance.

C. The Owner must be listed on Engineer's general liability policy as provided in Paragraph 6.04.B.

D. For applicable Contractor's general liability policies of insurance, the additional insured endorsements will include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.

E. For applicable Contractor's general liability policies of insurance, Contractor shall provide ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent for Engineer, Subconsultants, and other design professional additional insureds.

EXHIBIT H—DISPUTE RESOLUTION

ARTICLE 1—DISPUTE RESOLUTION METHOD

Paragraph 6.07 of the Agreement, Dispute Resolution, is supplemented to include the following Exhibit H Paragraph 1.01:

1.01 Arbitration

- A. Method for Resolution of Disputes: All Disputes between Owner and Engineer that have not been resolved by negotiations or mediation will be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules (subject to the conditions and limitations of this Exhibit H Paragraph 1.01). This agreement to arbitrate will be specifically enforceable under the prevailing law of any court having jurisdiction.
- B. Arbitration Provisions
 1. Notice of the demand for arbitration must be filed in writing with the other party to the Agreement and with the selected arbitration administrator. The demand must be made within a reasonable time after the Dispute has arisen. In no event may the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such Dispute would be barred by the applicable statute of limitations.
 2. The arbitrator(s) must be licensed engineers, architects, contractors, attorneys, or construction managers. Hearings will take place pursuant to the standard procedures of the Construction Arbitration Rules that contemplate in-person hearings. The arbitrators will have no authority to award punitive or other damages not measured by the prevailing party's actual damages, except as may be required by statute or the Agreement. Any award in an arbitration initiated under this clause will be limited to monetary damages and include no injunction or direction to any party other than the direction to pay a monetary amount.
 3. If the applicable arbitration rules require a preliminary mediation, but the parties have already participated in mediation with respect to the Dispute, then the second mediation is not required.
 4. The rules of any arbitration must be supplemented to include the following: The award rendered by the arbitrators must be in writing, and include (a) a precise breakdown of the award, and (b) a written explanation of the award specifically citing the Agreement provisions deemed applicable and relied on in making the award.
 5. The award rendered by the arbitrators will be consistent with this Agreement and final, and judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to appeal or modification.
 6. The arbitrators will have the authority to allocate the costs of the arbitration process among the parties, but will only have the authority to allocate attorneys' fees if a specific Law or Regulation or this Agreement expressly permits them to do so.
 7. The parties agree that failure or refusal of a party to pay its required share of the deposits for arbitrator compensation or administrative charges will constitute a waiver

Exhibit H—Dispute Resolution.

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by that party of the right to present evidence or cross-examine witness. In such event, the other party will be required to present evidence and legal argument as the arbitrator(s) may require for the making of an award. Such waiver will not allow for a default judgment against the non-paying party in the absence of evidence presented as provided for above.

8. Except as may be required by Laws or Regulations, neither party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties, with the exception of any disclosure required by Laws and Regulations or the Agreement. To the extent any disclosure is allowed pursuant to the exception, the disclosure must be strictly and narrowly limited to maintain confidentiality to the extent possible.
9. If a Dispute in question between Owner and Engineer involves the work of a Contractor, Subcontractor, or consultants to the Owner, Subconsultants to the Engineer, or Engineer's Subcontractors (each a "Joinable Party"), and such Joinable Party has agreed contractually or otherwise to participate in a consolidated arbitration concerning this Project, then either Owner or Engineer may join such Joinable Party as a party to the arbitration between Owner and Engineer hereunder. Nothing in this Exhibit H Paragraph 1.01 nor in the provision of such contract consenting to joinder will create any claim, right, or cause of action in favor of the Joinable Party and against Owner or Engineer that does not otherwise exist.

EXHIBIT I—LIMITATIONS OF LIABILITY

ARTICLE 1—LIMITATIONS OF LIABILITY

Paragraph 6.10 of the Agreement is supplemented to include Exhibit I Paragraph(s) **[1.01, Mutual Indemnification and 1.02, Limitation of Engineer's Liability]**:

1.01 Mutual Indemnification

- A. 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 Subconsultants, and Engineer's Subcontractors, from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents, employees, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.

1.02 Limitation of Engineer's Liability

- A. 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 Subcontractors, officers, directors, members, partners, agents, employees, and Subconsultants, to Owner and anyone claiming by, through, or under Owner for any and all injuries, claims, losses, expenses, costs, or damages whatsoever (including but not limited to direct, indirect, special, incidental, punitive, exemplary, or consequential damages) arising out of, resulting from, or in any way related to the Project, to Engineer's or its Subconsultants' or Engineer's Subcontractor's services, or to 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 Subconsultants, or Engineer's Subcontractors, will not exceed the total amount of ~~\$(Enter Amount)~~ or the total compensation received by Engineer under this Agreement, whichever is greater. Higher limits are available for an additional fee.
- B. Engineer's Liability Limited to 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, Subconsultants, and Engineer's Subcontractors, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever (including but not limited to direct, indirect, special, incidental, punitive, exemplary, or consequential damages) arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract,

Exhibit I—Limitation of Liability.

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indemnity obligations, or warranty express or implied of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors, will not exceed the total compensation received by Engineer under this Agreement.

- C. **Engineer's Liability Limited to Amount of Insurance Proceeds:** Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by Laws and Regulations, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever (including but not limited to direct, indirect, special, incidental, punitive, exemplary, or consequential damages) arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, 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, Subconsultants, or Engineer's Subcontractors (hereafter "Owner's Claims"), will be limited to (1) responsibility for payment of all or the applicable portion of any deductibles, either directly to the Engineer's insurers or in settlement or satisfaction, in whole or in part, of Owner's Claims, and (2) total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's applicable insurance policies up to the amount of insurance required under this Agreement.
1. Such limitation will not be reduced, increased, or adjusted on account of legal fees paid, or costs and expenses of investigation, claims adjustment, defense, or appeal.
 2. If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors, to Owner and anyone claiming by, through, or under Owner, for any and all such uninsured Owner's Claims will not exceed **the total value of this Contract**.

EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES**COMPENSATION PACKET BC-2: BASIC SERVICES—STANDARD HOURLY RATES**

ARTICLE 1—COMPENSATION PACKET BC-2: BASIC SERVICES—STANDARD HOURLY RATES

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraphs 1.01, 1.02, and 1.03:

1.01 Compensation for Basic Services (other than Resident Project Representative)—Standard Hourly Rates Method of Payment

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

1. An amount equal to the cumulative hours charged to the Project by Engineer's personnel times Standard Hourly Rates for the applicable billing class, plus Reimbursable Expenses, plus Engineer's Subcontractors' and Subconsultants' charges, if any.
2. The Standard Hourly Rates charged by Engineer constitute full and complete compensation for Engineer's services, including labor costs, overhead, and profit; the Standard Hourly Rates do not include Reimbursable Expenses or Engineer's Subcontractor's and Subconsultants' charges.
3. Engineer's Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit J as Appendices 1 and 2.
4. The total compensation for such services is estimated to be **\$346,635** based on the following estimated distribution of compensation:

a. Study and Report Phase	\$ 16,500
b. Preliminary Design Phase	<u>\$105,100</u>
c. Final Design Phase	<u>\$116,635</u>
d. Bidding/Proposal Phase	<u>\$ 26,900</u>
e. Construction Phase	<u>\$ 54,600</u>
f. Post-Construction Phase	<u>\$ 26,900</u>

5. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but compensation will not exceed the total estimated compensation amount unless approved in writing by Owner **and Agency**. See also Exhibit J Paragraph 1.03.C.2 below.
6. The total estimated compensation for Engineer's services included in the breakdown by phases incorporates all labor, overhead, profit, Reimbursable Expenses, and Engineer's Subcontractor's and Subconsultants' charges.
7. The amounts billed for Engineer's services under Exhibit J Paragraph 1.01 will be based on the cumulative hours charged to the Project during the billing period by Engineer's employees times Standard Hourly Rates for the applicable billing class, plus Reimbursable Expenses and Engineer's Subcontractor's and Subconsultants' charges.

1.02 Compensation for Reimbursable Expenses

- A. Owner shall reimburse Engineer for Reimbursable Expenses directly related to the provision of Basic Services, using the rates set forth in Appendix 1 to this Exhibit J when applicable.
- B. 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; 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.
- C. The amounts payable to Engineer for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to the Project, the latter multiplied by a factor of **[1.15]**.

1.03 Other Provisions Concerning Payment

- A. Whenever Engineer is entitled to compensation for the charges of Engineer's Subcontractors and Subconsultants, such compensation will be the amounts billed to Engineer by Engineer's Subconsultants times a factor of **[1.15]**.
- B. Factors: The external Reimbursable Expenses and Engineer's Subcontractors' and Subconsultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
- C. Estimated Compensation Amounts
 - 1. 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.
 - 2. 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 **and Agency** 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 will promptly 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 the Engineer's services during the 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 will be paid for all services rendered hereunder.

- D. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of **January 1**) to reflect equitable changes in the compensation payable to Engineer. **Changes will not be effective unless and until concurred in by the Owner and Agency.**
- E. 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.

EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

COMPENSATION PACKET RPR-2: RESIDENT PROJECT REPRESENTATIVE—STANDARD HOURLY RATES

ARTICLE 2—COMPENSATION PACKET RPR-2: RESIDENT PROJECT REPRESENTATIVE—STANDARD HOURLY RATES

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraph 2.01:

2.01 Compensation for Resident Project Representative Services—Standard Hourly Rates Method of Payment

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

1. Resident Project Representative Services: For services of Engineer's Resident Project Representative (RPR), if any, under Exhibits A and D, an amount equal to the cumulative hours charged by each class of Engineer's personnel providing RPR services times Standard Hourly Rates for each applicable billing class, plus RPR-related Reimbursable Expenses and RPR-related Engineer's Subcontractors' and Subconsultants' charges, if any. Standard Hourly Rates are set forth in Appendix 2, Standard Hourly Rates Schedule.
2. ~~The total compensation under this paragraph is estimated to be \$[Enter Amount] based upon full-time RPR services on an eight-hour workday, Monday through Friday, over a [Enter number of days] day construction schedule.~~ **Total compensation under this paragraph is estimated as per the attached Appendix 3 to Exhibit J.**

B. Compensation for Reimbursable Expenses

1. For those Reimbursable Expenses that are directly related to the provision of RPR services and are not already accounted for in the compensation for Basic Services, Owner shall reimburse Engineer, using the rates set forth in Appendix 1, Reimbursable Expense Schedule, to this Exhibit J when applicable.
2. Such Reimbursable Expenses include, to the extent RPR-related, 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; 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 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 RPR 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 **[1.15]**.

C. Other Provisions Concerning Payment

1. Whenever Engineer is entitled to compensation for the RPR-related charges of Engineer's Subcontractors and Subconsultants, that compensation will be the amounts

billed by Engineer's Subcontractors and Subconsultants to Engineer times a factor of **[1.15]**.

2. Factors: The external Reimbursable Expenses and Engineer's Subcontractors' and Subconsultants' 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 **and Agency** 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 will promptly 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. The Standard Hourly Rates and the Reimbursable Expenses Schedule will be adjusted annually (as of **January 1**) to reflect equitable changes in the compensation payable to Engineer for RPR-related services and expenses. **Changes will not be effective unless and until concurred in by the Owner and Agency.**
5. 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~~ **at no cost**.

EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES
COMPENSATION PACKET AS-1: ADDITIONAL SERVICES—STANDARD HOURLY RATES

ARTICLE 3—COMPENSATION PACKET AS-1: ADDITIONAL SERVICES—STANDARD HOURLY RATES

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraph 3.01:

3.01 Compensation for Additional Services—Standard Hourly Rates Method of Payment

- A. Owner shall pay Engineer for Additional Services, if any, as follows:
1. For services of Engineer's personnel engaged directly on the Project pursuant to Exhibit A Paragraph 2.01 or 2.02, except for services as a consultant or witness under Exhibit A Paragraph 2.02.A.28 (which if needed will be separately negotiated based on the nature of the required consultation or testimony), an amount equal to the cumulative hours charged by each class of Engineer's personnel providing such Additional Services times Standard Hourly Rates for each applicable billing class, plus Additional Services-related Reimbursable Expenses and Additional Services-related Engineer's Subcontractors' and Subconsultants' charges, if any. **Total compensation under this paragraph is estimated as per the attached Appendix 4 to Exhibit J.**
- B. Compensation for Reimbursable Expenses
1. For those Reimbursable Expenses that are directly related to the provision of Additional Services, and are not already accounted for in the compensation for Basic Services or RPR-related services, Owner shall reimburse Engineer, using the rates set forth in Appendix 1 to this Exhibit J when applicable.
 2. Such Reimbursable Expenses include, to the extent Additional Services-related, 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 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 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 **[1.15]**.
- C. Other Provisions Concerning Payment for Additional Services
1. Whenever Engineer is entitled to compensation for the charges of Engineer's Subcontractors and Subconsultants, such compensation will be the amounts billed by Engineer's Subcontractors and Subconsultants to Engineer times a factor of **[1.15]**.

2. Factors: The external Reimbursable Expenses and Engineer's Subcontractors' and Subconsultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. The Standard Hourly Rates and the Reimbursable Expenses Schedule will be adjusted annually (as of **[January 1]**) to reflect equitable changes in the compensation payable to Engineer for Additional Services-related services and expenses. **Changes will not be effective unless and until concurred in by the Owner and Agency.**
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~~ **at no cost.**

EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES**APPENDIX 1: REIMBURSABLE EXPENSES SCHEDULE**

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

Effective: January 1, 2025

SELECT EQUIPMENT LIST

2-Person ATV (Side-by-Side w/Tracks)	\$300.00/Day
2-Person ATV (Side-by-Side)	\$250.00/Day
21-Foot Tri-Hull Sampling Boat w/Twin 90 HP Engines	\$790.00/Day
28-Foot Pontoon Boat	\$790.00/Day
Anemometer	\$32.00/Day
Argo	Upon Request
Barge for Offshore Drilling including Propulsion (Mobilization is separate and will be quoted on a job-by-job basis)	
Combustible Gas Indicator	\$25.00/Day
Concrete Mixer	\$75.00/Day
Electric Core Drill	\$150.00/Day
Dissolved Oxygen Meter	\$45.00/Day
Electronic Balance	\$25.00/Day
Field Survey Level Equipment	\$25.00/Day
Field Vane Shear ASTM D2573	\$225.00/Day
Generator 3500 to 5000 watt	\$150.00/Day
GPS Submeter Equipment	\$100.00/Day
Groundwater Level Meter	\$25.00/Day
Groundwater Monitoring Field Equipment (pH, conductivity, temperature)	\$20.00/Day
Groundwater Purge Pump	\$150.00/Day
Horiba Groundwater Quality Analyzer	\$100.00/Day
LiDar Equipment	\$3,500.00/Day
Low Flow Pump	\$40.00/Day
Magnetometer	\$40.00/Day
Megnehelic Gauges	\$10.00/Day
Methane Meter	\$50.00/Day
Nuclear Density Gauge	\$60.00/Day
Oil/Water Interface Probe	\$40.00/Day
Photoionization Detector	\$100.00/Day
Pressure Meter	\$250.00/Day
Jon Boats	\$250.00/Day
Snowmobile/4-Wheeler	\$150.00/Day
Super Sting Resistivity Meter	\$80.00/Day
Tracked Supply/Equipment/Water Hauler	Upon Request
Water Level Meter	\$25.00/Day
Water Pump (Centrifugal or trash)	\$5.00/Day
Decontaminate before and after delivery	\$250.00/Event
Water Storage Container (550 Gallon)	\$75.00/Day

*This is only a select list of equipment. Other specialty equipment is available on a case-by-case basis.

Exhibit J—Payments to Engineer for Services and Reimbursable Expenses.

Appendix 1: Reimbursable Expenses Schedule.

**Exhibits to EJCDC® E-500, Agreement between Owner and Engineer for Professional Services.
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EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES**APPENDIX 2: STANDARD HOURLY RATES SCHEDULE**

- B. Standard Hourly Rates
1. Standard Hourly Rates are set forth in this Appendix 2 to this Exhibit J 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 Exhibit J.
- C. Schedule: Hourly rates for services performed on or after the date of the Agreement are:
Please see next page.

Effective: January 1, 2025

STANDARD FEE SCHEDULE

1)	Engineer 25/Surveyor 25	\$ 220.00 /Hour
2)	Engineer 20	\$ 175.00 /Hour
3)	Technician 27/Surveyor 24	\$ 150.00 /Hour
4)	Engineer 15/Surveyor 15	\$ 142.00 /Hour
5)	Surveyor 14	\$ 130.00 /Hour
6)	Engineer 11/Surveyor 13/Technician 24	\$ 120.00 /Hour
7)	Surveyor 12/Technician 23.5	\$ 115.00 /Hour
8)	Engineer 9/Surveyor 11/Technician 23	\$ 110.00 /Hour
9)	Surveyor 10/Technician 22	\$ 105.00 /Hour
10)	Surveyor 9/Technician 21	\$ 99.00 /Hour
11)	Surveyor 8/Technician 20	\$ 95.00 /Hour
12)	Surveyor 7/Technician 19/Clerical 5	\$ 87.00 /Hour
13)	Technician 18	\$ 83.00 /Hour
14)	Technician 17	\$ 78.00 /Hour
15)	Technician 15	\$ 73.00 /Hour
16)	Technician 6.1	\$ 75.00 /Hour
17)	Technician 15.5	\$ 70.00 /Hour
18)	Technician 12.5	\$ 67.00 /Hour
19)	Technician 12.25	\$ 66.00 /Hour
20)	Technician 8	\$ 52.00 /Hour
21)	One Man Survey Crew	\$ 105.00 /Hour
22)	Two-Man Survey Crew	\$ 160.00 /Hour
23)	Three-Man Survey Crew	\$ 210.00 /Hour
24)	One Man GPS Survey Crew	\$ 135.00 /Hour
25)	Two-Man GPS Survey Crew	\$ 200.00 /Hour
26)	Three-Man GPS Survey Crew	\$ 235.00 /Hour

- o Vehicle usage will be charged at \$0.75 per mile.
- o Per diem rates will follow the current U.S. General Service Administration (GSA) rates.
- o Non-exempt employee overtime will be invoiced at 1.5 times the standard hourly rates noted above for projects specifically requiring overtime. All other overtime will be charged as noted above, except that it will be prorated among all projects worked on during any calendar week.
- o All other direct expenses including, but not limited to, materials, supplies, special equipment, subcontracted services, rental equipment, purchased services, etc., will be charged at actual cost plus fifteen (15) percent.
- o Expert witness testimony, participation in depositions, hearings and court time associated with legal proceedings will be charged at twice the personnel fee schedule rate.
- o Progress invoices will be issued monthly and shall be due and payable upon receipt. Balances past due more than thirty (30) days shall be subject to a monthly finance charge of 1.5 percent (which is an annual rate of 18 percent per year) until paid.

This Fee Schedule is intended to be used for projects which do not involve environmental concerns. If environmental issues exist at the inception of a project, or if they become apparent during a project, Coleman Engineering Company's Environmental Fee Schedule will be utilized.

*Equipment and unit rates available upon request.

Exhibit J—Payments to Engineer for Services and Reimbursable Expenses.

Appendix 2: Standard Hourly Rates Schedule.

**Exhibits to EJCDC® E-500, Agreement between Owner and Engineer for Professional Services.
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This is **Appendix 3 to EXHIBIT J**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____.

Resident Project Representative Estimate

- A. Assume May 19, 2027 to October 31, 2027. This totals 24 weeks in 2027.
- a. One (1) Senior Inspector in 2027 for 24 weeks at 60 hours per week.
 - b. Two (2) Junior Inspector assistants in 2017 for 13 weeks at 55 hours per week.

B. Total Resident Project Representative Schedule

a. Senior Inspector: 1,440 hours at \$110/hour	\$158,400.00
b. Junior Inspector: 715 hours at \$95/hour	\$ 67,925.00
c. Junior Inspector: 715 hours at \$75/hour	\$ 53,625.00
d. Mileage: 7,560 miles at \$0.75/mi	\$ 5,670.00
e. <u>Inspection Boat: 30 days at \$750/day</u>	<u>\$ 22,500.00</u>
Total Resident Project Representative Estimate	\$308,120.00

This is **Appendix 4 to EXHIBIT J**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____.

Additional Services Estimate

A. The following Additional Services shall be completed as follows:

City of Gladstone
Water Intake/Water Main Distribution Project
Additional Services Estimate

Soil Borings	\$44,600.00
Topographical Survey	\$31,845.00
Materials Testing	\$21,000.00
Build America Build America Certification	\$18,100.00
TOTAL	\$115,545.00



Board:	City Commission
Agenda Date:	September 22, 2025
Department:	Wastewater
Presenter:	Rodney Schwartz

Staff Report

Agenda Item Title:

Collection System Improvements Request for Disbursement of Funds #1.

Background:

According to the procedures required by Michigan Finance Authority State Revolving Loan Fund documents, requests for reimbursement of funds require Commission approval before sending to the State. Request for Disbursement #1 includes planning, design engineering, legal/financial services, bond counsel, and bid advertisement costs totaling \$439,386.79.

Fiscal Effect:

\$439,386.79

Supporting Documentation:

Request for Disbursement of Funds #1 packet.

Recommendation:

Approve Request for Disbursement of Funds #1 totaling \$439,386.79.



MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY
Finance Division

**Drinking Water State Revolving Fund, Clean Water State Revolving Fund, and Strategic Water Quality Initiatives Fund
Request for Disbursement of Funds**

As required under authority of Parts 52, 53, and 54 of NREPA, 1994 PA 451, as amended.

General Information

You must complete the information on pages 1 and 2 for each request for disbursement of funds that is submitted to the State Revolving Funds (SRF). A separate form is required for each assigned SRF project number. Detailed instructions can be found at the end of this document. Email this completed request along with cost supporting documentation (invoices) to your [EGLE project manager](#).

SRF Project Number: 5866-01 Request #: 1 Request Type: Partial Final

Period Covered by Request (M/D/Y): 1/1/2023 to 7/31/2025 Loan Amount: 6065000

Loan Recipient's Name: City of Gladstone Recipient's EIN: _____

Address: 1100 Delta Avenue, Gladstone, MI 49837 Phone Number: 906-428-2311

Recipient's Bank Name: _____

Address: _____ Phone Number: _____

Account Name: _____ ABA #: _____ Account #: _____

Special Instructions: _____

You must complete the information above along with page 2 for your request to be processed.

FOR EGLE USE ONLY

Amount this request from funding sources:

SRF loan (including BIL supplemental): _____

BIL EC: _____ BIL LSLR: _____ Booker LSLR: _____

ARP: _____ DWI: _____ L & I: _____

Request Approved by EGLE Project Manager: _____ Date: _____

Budget Items (all amounts to the penny)	Amount Incurred this Period	Amount Incurred to Item 11.
1. Asset Management Program/Fiscal Sustainability Costs		
2. Planning Costs	15000	15000
3. Rate Methodology Development Costs		
4. Design Engineering Costs	346708.93	346708.93
5. Legal/Financial Service Fees	46102.86	46102.86
6. Administrative Costs		
7. Bond Counsel Fees	31500.00	31500
8. Bond Advertisement Costs		
9. Bid Advertisement Costs	75	75
10. Capitalized Interest		
11. Land Acquisition/Relocation Costs		
12. Land Purchase Costs		
13. Construction Engineering Costs		
14. Construction Costs (Bid Contracts)		
15. Construction Costs (Force Account)		
16. Equipment Costs		
17. Other Project Costs		
18. Adjustments Due to Other Funding		
19. Reimbursement from SRF-associated grant (ARP-SRF, DWI, L&I, etc.)		
20. Total Amounts Incurred	439386.79	439386.79
21. Amount Previously Disbursed		0
22. Amount Requested for Loan Disbursement		439386.79

I certify that I am an authorized representative of the recipient and am authorized to make the following certifications on behalf of the recipient: (i) there is no pending litigation or event which will materially and adversely affect the project, the prospects for its completion, or the recipient's ability to make timely repayments on the obligation issued in connection with this project; (ii) the representations, warranties and covenants contained in the supplemental agreement for the obligations pursuant to which this request for disbursement is submitted continue to be true and accurate in all material respects as of the date hereof; (iii) to the best of my knowledge and belief, the costs above were incurred in accordance with the terms of the supplemental agreement and the application for assistance for this project; and (iv) the amount requested for disbursement represents the loan amount due, which has not previously been requested.

If this request for disbursement is for a FY 2025 or later DWSRF Bipartisan Infrastructure Law (BIL) Lead Service Line Replacement (LSLR)-financed project, I certify that the submitted BIL LSLR costs are for service lines that are lead or galvanized service lines downstream of **known** lead.

Authorized Representative Name: Eric Buckman Title: City Manager

Authorized Representative Signature: _____ Date: _____



Michigan Department of Environment, Great Lakes And Energy

Loan Project Cost Summary

SRF

Project Number: 5866-01

Applicant: City of Gladstone

Location: Delta County

Budget Item	Applicant's Requested Cost	Accepted Cost	Allowable Percent (Proration)	MDEQ Approved Costs
1. Asset Management Program / Fiscal Sustainability Costs	\$0	\$0	100.00%	\$0
2. Planning Costs	\$15,000	\$15,000	100.00%	\$15,000
3. Rate Methodology Development Costs	\$0	\$0	100.00%	\$0
4. Design Engineering Costs	\$377,950	\$377,950	100.00%	\$377,950
5. Legal / Financial Service Fees	\$46,113	\$46,113	100.00%	\$46,113
6. Administrative Costs	\$0	\$0	100.00%	\$0
7. Bond Counsel Fees	\$31,500	\$31,500	100.00%	\$31,500
8. Bond Advertisement Costs	\$0	\$0	100.00%	\$0
9. Bid Advertisement Costs	\$75	\$75	100.00%	\$75
10. Capitalized Interest				\$0
11. Land Acquisition / Relocation Costs	\$0	\$0	100.00%	\$0
12. Land Purchase Costs	\$0	\$0	100.00%	\$0
13. Construction Engineering Costs	\$564,200	\$564,200	100.00%	\$564,200
14. Construction Costs (bid contracts)	\$4,689,161	\$4,689,161		\$4,689,161
15. Construction Costs (force account)	\$0	\$0		\$0
16. Equipment Costs	\$0	\$0	100.00%	\$0
17. Other Project Costs	\$0	\$0	100.00%	\$0
18. Non-SRF Funding				\$0
19. Project Cost Subtotal (sum of lines 1 through 17)				\$5,723,999
20. Contingency (6% of line 19 plus or minus the amount needed to round line 21 up or down to the nearest \$5,000)				\$341,001
21. Approved Total Project Cost (sum of lines 19 and 20)				\$6,065,000

MDEQ Reviewer: Angela Yu

Date: 07/25/2025



Board:	City Commission
Agenda Date:	9-22-25
Department:	Public Safety
Presenter:	Buckman, Robinson, Nadeau-Enright

Staff Report

Agenda Item Title:

Public Safety K9 Disposition

Background:

- 1) Public Safety started the K9 program with donations in 2019
- 2) The program continues to be funded almost solely by donations
- 3) The current handler (Dylan Nadeau-Enright) has advised he is seeking employment elsewhere and his intent is to keep "Bico."
- 4) Dylan signed an agreement when he became the K9 handler stating the total expense (\$20,000) would be paid back if he left employment within 4 years (See agreement attached)
- 5) This agreement was implemented to safeguard donated funds and to keep the program operational
- 6) Dylan has been the handler since October 2022 – 3-year commitment will be achieved this October 2025
- 7) The City Manager and I met Dylan on September 11th to discuss the K-9 disposition
- 8) Options discussed at this time were:
 - a. Accepting Dylan's payout of remaining vacation and sick time as payment
 - b. Accepting Dylan's suggestion of paying \$200-\$300 since that would be the cost of a boarding dog purchase
- 9) It is the intent of Public Safety to continue the K-9 program and Charity Potier has been selected as the new handler
- 10) Public Safety recognizes the best practice is not to keep "Bico" for the new handler
- 11) The K-9 donation account currently has approximately \$20,000
- 12) The costs associated with a new handler attending K-9 school, and the purchase of a new K-9, is unknown, but are estimated at approximately \$20,000-\$25,000

Fiscal Effect:

To be determined

Supporting Documentation:

- 1) K-9 agreement

Recommendation:

Determine K-9 Disposition after discussion

GLADSTONE PUBLIC SAFETY DEPARTMENT AND CITY OF GLADSTONE
POLICE K9 AGREEMENT



The City of Gladstone Michigan agrees to send the undersigned Employee to the Police K9 academy, and purchase a K9 (dog, male or female), to obtain skills required for their position as a City of Gladstone Michigan K9 handler. The Employee has voluntarily requested to attend the Police K9 Academy and has been approved to attend by the City of Gladstone Michigan City Commission, City Manager and Director of Public Safety. Financial assistance for this position, training and K9 (dog) has been supported by community donations and those who have donated have an expectation that the Gladstone Public Safety Department will provide the City of Gladstone Michigan with a Police K9 program long-term. By submitting his/her interest in the K9 program, the Employee's agreement to accept the Police K9 Academy Tuition, and K9 (dog) described herein is voluntary and not a condition of continued employment.

The City of Gladstone Michigan agrees to pay 100% of the total costs for the Police K9 Academy and K9 (dog).

By voluntarily receiving the Police K9 Academy Tuition, and K9 (Dog), benefit described herein, Employee agrees to remain employed by the City of Gladstone Michigan and serve as a Gladstone Public Safety K9 Officer for a minimum of an additional 48 calendar months following his/her completion of the coursework necessary for the receipt of the required Police K9 Academy certification. Nothing herein serves as a contract for employment and the Employee remains subject to all applicable City of Gladstone Michigan Public Safety Department policies, procedures, and collective bargaining agreements.

Employee agrees to repay immediately to the City Of Gladstone Michigan the amount of the Police K9 Academy, and K9 (dog), received by him/her or paid on his/her behalf, if Employee resigns, retires, or is terminated, as a Public Safety Officer, from the City of Gladstone Michigan for any reason other than being laid off by the City prior to the completion of the 48 calendar months following his/her completion of the Police K9 Academy.

Employee shall be responsible for all tax consequences or payments, if any, associated with his/her receipt of the Police K9 Academy Tuition, and K9 (dog) benefit described herein.


[Signature of Employee]

Dylan Nadeau-Enright
[Name of Employee]

Dated: 10/26/2022


[Signature of City Representative]

Ronald E. Robinson
[City Representative]

Dated: 10-26-22



Board:	City Commission
Agenda Date:	September 22, 2025
Department:	Public Works
Presenter:	Barry Lund

Staff Report

Agenda Item Title:

South Hill Road Project Professional Services

Background:

The City of Gladstone has a 2026 MDOT Small Urban Grant of \$385,000 for the paving of South Hill Road. We need to enlist a professional engineering service for design and construction oversight. We have worked with Colman Engineering Company quite extensively in the past and have a good working rapport. I am requesting entering into a contract with Colman Engineering Company to provide engineering services for the South Hill Road project.

Fiscal Effect:

\$28,000 in the 2025/2026 Budget
 \$29,500 in the 2026/2027 Budget

\$57,500 Total

Supporting Documentation:

Attached

Recommendation:

Approve



COLEMAN ENGINEERING COMPANY

CIVIL ENGINEERING • GEOTECHNICAL ENGINEERING • SURVEYING

635 CIRCLE DRIVE • IRON MOUNTAIN, MI 49801 • PHONE: 906-774-3440

September 8, 2025

Mr. Eric Buckman, City Manager
City of Gladstone
1100 Delta Avenue
Gladstone, MI 49837
Email: ebuckman@gladstonemi.org

Re: Professional Engineering Services
South Hill Road MDOT Small Urban Design and Inspection

Dear Mr. Buckman:

Coleman Engineering Company (CEC) appreciates the opportunity to submit this proposal for professional engineering services on the upcoming South Hill Road MDOT Small Urban Project in the City of Gladstone (City).

CEC understands that the project will generally consist of the crush, shape, and paving of South Hill Road from the railroad crossing at US-2 to the intersection of Tipperary Road, from 18th Avenue to 25th Street, approximately 4,700 feet. Widened shoulders will be constructed on both sides of South Hill Road. Geogrid base stabilization will be added to portions of the road near 906 Motors to support poor soils conditions expected in the eastbound south lane. Guardrail replacement will be completed to update existing guardrail sections to meet current standards.

Funding for the project will be provided by a fiscal year 2026 MDOT Small Urban Grant with City of Gladstone matching funds. Construction is planned for the summer of 2026.

CEC will undertake the following tasks to complete this project.

Design Phase:

- Meet with City representatives to finalize the project scope and delivery schedule;
- Prepare a State Historic Preservation Office review application for the project;
- Complete an MDOT Environmental Assessment for the project;
- Prepare and submit the Program Application to MDOT;
- Perform three (3) soil borings to a depth of 10 feet;
- Perform complete topographic survey of the project area;
- Prepare plan set with sufficient detail, as defined by MDOT, which will include a title sheet, typical section(s), note sheets and sheets identifying quantities of pay items at various stations;
- Prepare cost estimate with MERL Project Estimator;

- Prepare other MDOT bidding documents, including Special Provisions (if necessary), Progress Clause and Coordination Clauses;
- Submit all information to MDOT and schedule the Grade Inspection Meeting;
- Conduct the Grade Inspection Meeting with City and MDOT representatives; and
- Submit the final bidding package to MDOT and answer bidder questions during bidding.

Construction Phase:

- Facilitate a pre-construction meeting with the Contractor and prepare minutes;
- Required materials testing per MDOT specifications;
- Responsible for daily inspection and reports;
- Preparation of pay estimates, work orders and contract modifications in AASHTOWare Project Management software; this work will be accomplished by a Certified Office Technician, as required by MDOT; and
- Conduct a final project inspection and provide required paperwork to MDOT.

Fee:

CEC proposes to provide the above-referenced professional engineering services on a time and materials basis for a total not-to-exceed fee of \$28,000 for design phase services and \$29,500 for construction phase services.

Assumptions:

- Construction of this project will be completed in the 2026 construction season;
- Construction survey will be the responsibility of the Contractor;
- Land acquisition will not be required to complete the project;
- Storm sewer, sanitary sewer and water main work will not be required;
- Construction is anticipated to be completed in four (4) weeks from the onset of construction.

If you accept this proposal, please endorse the attached Work Order and return a copy to our office via email. A fully executed version will be returned to you. Once again, we would like to thank the City of Gladstone for this opportunity.

Sincerely,
COLEMAN ENGINEERING COMPANY



Scott Nowack, P.E.
Principal

SAN/mab

Attachment

AGREEMENT NO. 190286
PROJECT NO. _____
WORK ORDER NO. 01

EXHIBIT "A"
WORK ORDER

COLEMAN ENGINEERING COMPANY and its directors, officers, shareholders, employees, agents, affiliates, independent professional associates, consultants and subcontractors, as the case may be, (collectively, "COLEMAN") agree to perform for CLIENT, on this specific Project, the Services described below. The services shall be performed subject to and upon the terms and conditions set forth in the Professional Services Agreement (the "Agreement") dated February 8, 2019, by and between COLEMAN and CLIENT, which Agreement is hereby amended to incorporate this Work Order.

It is agreed that this Agreement, and such other documents required by it during the term of this Agreement, may be approved by a signed copy transmitted by fax or .pdf copy containing all signatures in lieu of the original signed copy, and that a copy transmitted by fax or .pdf shall be legally binding upon the parties to said Agreement(s)."

PROJECT: Professional Engineering Services
South Hill Road MDOT Small Urban Design and Inspection

SERVICES: As described in our proposal letter dated September 8, 2025, a copy of which is attached and made part of this contract.

FEES: Services will be completed for a not to exceed fee of \$57,500 for the scope of work, the assumptions and the conditions set forth in our proposal dated September 8, 2025, a copy of which is attached and made part of this contract.

Please understand that services will be invoiced on a time and materials basis using our current standard fee schedule(s) and that our estimate of cost is based on our current understanding of the project requirements and the level of effort needed to complete the services. We will make every effort to not exceed our estimate but if the scope of services and the associated assumptions or conditions of our estimate change, we will need to discuss how the changes will affect our estimate. Out of scope services will not be completed until our estimate is adjusted and approved. In addition, if our understanding of the service changes, we will also cease work until we discuss and agree to proceed.

SPECIAL TERMS AND CONDITIONS:

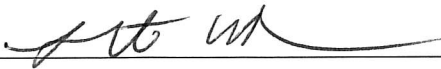
During completion of this work, Coleman Engineering Company will not accept responsibility for the safety of individuals other than Coleman Engineering Company employees.

AUTHORIZATION

This Work Order and the scope of services (the "Services") defined herein are approved and COLEMAN is hereby directed and authorized to proceed with the Services for the designated Project in accordance with the terms and conditions of the above-referenced Agreement.

Requested By:
CITY OF GLADSTONE

Accepted By:
COLEMAN ENGINEERING COMPANY

_____	
By: _____	By: <u>Scott Nowack, P.E.</u>
Title: _____	Title: <u>Principal</u>
Date: _____	Date: <u>9-8-25</u>