



TOWN COUNCIL MEETING September 15, 2022 at 7:00 PM

950 Senoia Road, Tyrone, GA 30290

Eric Dial, Mayor

Gloria Furr, Mayor Pro Tem, Post 4

Linda Howard, Post 1

Melissa Hill, Post 2

Billy Campbell, Post 3

Brandon Perkins, Town Manager

Dee Baker, Town Clerk

Dennis Davenport, Town Attorney

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. PUBLIC COMMENTS: *The first public comment period is reserved for non-agenda items. Comments are limited to three (3) minutes. Please state your name & address. Comments that require a response may not be answered during this time. The Council or staff may respond at a later date.*

V. APPROVAL OF AGENDA

VI. CONSENT AGENDA: *All matters listed under this item are considered to be routine by the Town Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.*

1. Approval of minutes from September 1, 2022.

VII. PRESENTATIONS

VIII. PUBLIC HEARINGS

IX. OLD BUSINESS

X. NEW BUSINESS

2. Approval to accept a reimbursement in the amount of \$41,659.00 from the Fayette County Development Authority. **Brandon Perkins, Town Manager**
3. Consideration of the purchase of a John Deere Tractor for Public Works in an amount not to exceed \$37,497.17 which includes a trade-in. **Mitch Bowman, Public Works Maintenance Supervisor**

4. Consideration to Award Project Number PW-2023-04, Senoia Road Streetscape Improvements design, to Keck & Wood, Inc. **Scott Langford , Town Engineer / Public Works Director**

5. Consideration to Award Project Number PW-2023-02, the Senoia Road to Spencer Road Multi-Use Path design, to Keck & Wood, Inc. **Scott Langford , Town Engineer / Public Works Director**

XI. PUBLIC COMMENTS: *The second public comment period is for any issue. Comments are limited to three (3) minutes. Please state your name & address. Comments that require a response may not be answered during this time. The Council or staff may respond at a later date.*

XII. STAFF COMMENTS

XIII. COUNCIL COMMENTS

XIV. EXECUTIVE SESSION

XV. ADJOURNMENT

**TYRONE TOWN COUNCIL
MEETING**

Section VI, Item 1.

MINUTES

September 01, 2022 at 7:00 PM

Eric Dial, Mayor

Gloria Furr, Mayor Pro Tem, Post 4

Linda Howard, Post 1

Melissa Hill, Post 2

Billy Campbell, Post 3

Brandon Perkins, Town Manager

Dee Baker, Town Clerk

Dennis Davenport, Town Attorney

Also present was:

Patty Newland, Library Supervisor

Police Lieutenant, Philip Nelson

I. CALL TO ORDER

Mr. Perkins shared that the online meeting portal was indicating that it was recording however, he believed that there was no sound at that time.

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. PUBLIC COMMENTS: *The first public comment period is reserved for non-agenda items. Comments are limited to three (3) minutes. Please state your name & address. Comments that require a response may not be answered during this time. The Council or staff may respond at a later date.*

V. APPROVAL OF AGENDA

A motion was made to approve the agenda.

Motion made by Council Member Furr, Seconded by Council Member Howard.

Voting Yea: Council Member Hill, Council Member Campbell.

VI. CONSENT AGENDA: *All matters listed under this item are considered to be routine by the Town Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.*

1. Approval of minutes from August 16, 2022, and August 18, 2022, 6:30 pm and 7:00 pm.
2. Approval for the Pyrotecnico Fireworks Contract for Founder's Day for \$13,070.
3. Appoint Taylor & Strickland Law Firm as the Indigent Defense Attorney for Tyrone Municipal Court From September 1, 2022 – December 31, 2022.

A motion was made to approve the consent agenda.

Motion made by Council Member Howard, Seconded by Council Member Campbell.
Voting Yea: Council Member Hill, Council Member Furr.

VII. PRESENTATIONS

VIII. PUBLIC HEARINGS

IX. OLD BUSINESS

X. NEW BUSINESS

- 4. Consideration to Award the Transportation Engineering Service Task Order 8 - 2023 Asphalt Resurfacing Project to POND, Inc. for an amount not to exceed \$68,166.75.

Mr. Langford shared that the project was Task Order 8 of the 2021 Transportation Engineer Service Contract with POND, Inc. It was also part of the continued effort to improve and maintain the transportation infrastructure in the Town of Tyrone. The scope included FDR and overlay of Northwood Road along with replacing 3 stormwater culverts. In addition, it included Mill, Patch, and Inlay resurfacing for Valley View Drive, Valley View Court, Meadow View Drive, Meadow View Circle, Oakhurst Drive, Lloyd Avenue, Howell Road, and Lynwood Ave. He added that the funding sources were the General Fund and LMIG upon approval. He recommended approval and clarified that the staff cover sheet indicated a cost of \$66,166.75 when it was actually \$68,166.75.

Council Member Campbell inquired about there being no fire hydrants located on Northwood Road and added that his concern was if the contractor were to pave, would it hinder the addition of a fire hydrant at a later date? Mr. Langford stated that at the last review of the County's list, there was no indications of additional fire hydrants on Northwood Road. He added that not every street required a hydrant. It was the Fire Department's call for the placement of hydrants. Mr. Langford stated that he would reach out to the Fire Department for confirmation regarding Northwood Road.

A motion was made to award Task Order 8: 2023 Asphalt Resurfacing; Project No: PW-2023-01 to POND, Inc. for the fee not to exceed \$68,166.75.

Motion made by Council Member Campbell, Seconded by Council Member Hill.
Voting Yea: Council Member Howard, Council Member Furr.

XI. PUBLIC COMMENTS: *The second public comment period is for any issue. Comments are limited to three (3) minutes. Please state your name & address. Comments that require a response may not be answered during this time. The Council or staff may respond at a later date.*

XII. STAFF COMMENTS

Mr. Perkins invited everyone to attend the last night of the Downtown Development Authority's First Friday event at Shamrock Park, tomorrow night from 6:00 pm – 8:00 pm. The musical guest would be the Vintage Vixens. There would also be 30 vendors including food trucks.

Mr. Perkins updated Council on the Shamrock Park playground equipment delivery. He shared that the dates had changed once again to the week of September 23rd. He added that the contractor apologized and stated that due to product/delivery delays everyone was pushed back. The contractor added that he would not get paid until it was delivered and erected, so he was feeling the effects too. Mr. Perkins reminded everyone that when the project bid went out, all 9 bidders informed staff that there would be delays.

Mr. Perkins then opened a discussion for Council's guidance regarding the lighting at the planned Pickleball courts. He informed them that the project was initially budgeted at \$350,000 for the Redwine Park Phase I improvements. This would be funded through SPLOST funds and Keck & Wood was contracted for the design. The initial plan was for Coweta-Fayette EMC to install the lighting and it would be controlled by a switch. There would be a monthly fee per light in addition to a usage and installation fee. The second thought was to purchase lighting and pay for usage. He added that the lighting bid came in between \$270,000 and \$300,000. Currently, the thought was to possibly source through EMC. He added that the issue with contracting through EMC was that they would not install lighting without a photocell sensor. This meant that the lights could not be turned on and off, they were controlled by sunrise and sunset, the same as street lights. He added that the Town was currently paying a monthly fee for the use of the lights. Mr. Perkins stated that staff was at a point where they required a decision by Council on how to move forward with lighting at Redwine Park. He shared that most of the Town's Park hours were from dawn until dusk. That posed the argument, that in the summer there would be longer hours that the lights would be on, which would be an inconvenience to the neighbors. Also, the Pickleballers would want to play later than 5:00 pm in the cooler months when the sun set earlier.

Mr. Perkins suggested building the courts with a conduit for future lighting for Phase II. Council Member Howard suggested utilizing the current lights. Mr. Perkins stated that the lighting was old and would cost more to run than LED lighting, which prove to me more efficient. He added that it was a possibility but he was not normally in favor of using old equipment. Staff could have the lines and lighting moved, then the lighting could fail due to age.

Council Member Hill asked if it would be better to have no lights initially and then install lighting at a later date. Mr. Perkins stated that it could be designed with conduit for a later date. That would ensure that park improvements would not be disturbed later. He reminded everyone that costs were continually rising. Council Member Hill inquired about costs. Mr. Perkins stated that there were other options that staff could initiate, however, there would always be the factor of installation. He asked for Council's input. Council Member Hill stated that she was not a fan of lighting especially if the Town was not charging the players. Mayor Dial stated that the Town did not charge anyone at any time to play at their parks.

Mr. Perkins mentioned that in some cities baseball and soccer programs had the option to form leagues, similar to TYBA and Tyrone Lasers. There would be an agreement between the organization and the Town. The Town would run the facility and the organization could charge for tournaments. This would take the Town out of the equation; we have limited staff as it is.

Mayor Dial suggested utilizing the existing lighting for now and stub-out for future lighting. Although the park would not have nice new LED lighting for now but perhaps for the future. Council Member Campbell mentioned that the existing lighting could cause unwanted shadowing on the courts, the Pickleballers would contact us if that were an issue. He then directed Mr. Langford to test the lighting to see if they were operational. Council Member Howard asked if the existing lighting were to be utilized, would they need to be moved? Mr. Perkins confirmed that they would need to be moved closer to the courts, at least 2 per side. He stated that within the plan, there was an entire page dedicated to lighting. Mr. Perkins shared that once they were moved, there would be a timer set to turn off after 9:00 or 9:30 pm. Council Member Campbell stated that the Town housed the key to the lights. He added that staff needed to be strict on the times of operation due to the adjacent residents.

Mayor Dial suggested adding the lighting to the next SPLOST if approved by the citizens. Mr. Perkins agreed and stated that staff discussed stubbing out with conduit and adding the lighting to Phase II, upon SPLOST approval. Phase II also included parking lot improvements, a cart path, and a playground. Council Member Howard suggested turning the lights on at night to see if they could be utilized. Mr. Perkins stated that he believed the consensus was to provide lighting if the existing lights were operable, for now.

XIII. COUNCIL COMMENTS

Council Member Howard announced the Tyrone Museum's Touch a Truck event from 2:00 pm – 4:00 pm on September 11th.

XIV. EXECUTIVE SESSION

A motion was made to approve the August 18, 2022, 6:30 pm Executive Session minutes.

Motion made by Council Member Furr, Seconded by Council Member Campbell.

Voting Yea: Council Member Howard, Council Member Hill.

XV. ADJOURNMENT

A motion was made to adjourn.

Motion made by Council Member Campbell.

Voting Yea: Council Member Howard, Council Member Hill, Council Member Furr.

The meeting adjourned at 7:25 pm.

By: _____
Eric Dial, Mayor

Attest: _____
Dee Baker, Town Clerk

DRAFT



COUNCIL AGENDA ITEM COVER SHEET
Meeting Type: Council - Regular
Meeting Date: September 15, 2022
Agenda Item Type: New Business
Staff Contact: Brandon Perkins, Town Manager

STAFF REPORT

AGENDA ITEM:

Approval to accept a reimbursement in the amount of \$41,659.00 from the Fayette County Development Authority.

BACKGROUND:

See attached letter.

FUNDING:

Click or tap here to enter text.

STAFF RECOMMENDATION:

Staff recommends accepting the reimbursement from the FCDA.

ATTACHMENTS:

1. FCDA letter dated August 25, 2022.

PREVIOUS DISCUSSIONS:

None.



200 Courthouse Square, Fayetteville, GA 30214 | P: (770) 461-5253 | F: (770) 460-0259 | www.fayettega.org

August 25, 2022

Town of Tyrone
950 Senoia Rd
Suite A
Tyrone, GA 30290

Dear Mayor Dial and Town Council Members,

Thank you for your contribution to the Fayette County Development Authority budget over the years. Your support helped us to achieve the goals of self-sufficient, attracting a great company to Fayette, and generating funds to invest into the community for economic-development related projects that will benefit the citizens of Fayette County for years to come.

With the position of being fully self-funded, we no longer will request your annual contribution to FCDA's operational budget. Please find enclosed reimbursement for your FY 2021 contribution of \$27,773 and FY 2022 contribution of \$13,886, which totals \$41,659.

We look forward to collaborating with you on initiatives that will enhance the economic competitiveness of the Town of Tyrone and Fayette County.

Regards,

Darryl Hicks
Chairman
Fayette County Development Authority



COUNCIL AGENDA ITEM COVER SHEET

Meeting Type: Council - Regular

Meeting Date: September 15, 2022

Agenda Item Type: Presentation

Staff Contact: Mitch Bowman

STAFF REPORT

AGENDA ITEM:

Purchasing of John Deere Tractor for Public Works Department.

BACKGROUND:

Our current tractor used for lifting, hauling, clean up, dirt road maintenance, event set up and other tasks has an oil leak that has caused the tractor to be nonfunctional most of the time.

FUNDING:

We budgeted for a skid steer and an attachment. This would replace those items in this years budget.

STAFF RECOMMENDATION:

Staff recommends that we purchase this John Deere tractor instead of the Skid Steer this year based of staff needs to complete routine tasks in Town.

ATTACHMENTS:

Please see the attached State Contract quote.

PREVIOUS DISCUSSIONS:

Customer:

Quotes are valid for 30 days from the creation date or upon contract expiration, whichever occurs first.

A Purchase Order (PO) or Letter of Intent (LOI) including the below information is required to proceed with this sale. The PO or LOI will be returned if information is missing.

Vendor: Deere & Company

2000 John Deere Run
Cary, NC 27513

Signature on all LOIs and POs with a signature line

Contract name or number; or JD Quote ID

Sold to street address (no PO box)

Ship to street address (no PO box)

Bill to contact name and phone number

Bill to address

Bill to email address (required to send the invoice and/or to obtain the tax exemption certificate)

Membership number if required by the contract

For any questions, please contact:

Michael Lilly

Ag-Pro
81 Millard Farmer Ind Blvd
Newnan, GA 30263

Tel: 770-254-0383

Fax: 770-254-0693

Email: mlilly@agproco.com

Quotes of equipment offered through contracts between Deere & Company, its divisions and subsidiaries (collectively "Deere") and government agencies are subject to audit and access by Deere's Strategic Accounts Business Division to ensure compliance with the terms and conditions of the contracts.

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

Deere & Company
 2000 John Deere Run
 Cary, NC 27513
 FED ID: 36-2382580
 UEID: FNSWEDARMK53

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

Ag-Pro
 81 Millard Farmer Ind Blvd
 Newnan, GA 30263
 770-254-0383
 WNewnanGM@agproco.com

Quote Summary

Prepared For:

TOWN OF TYRONE
 881 SENOIA RD
 TYRONE, GA 30290
 Business: 770-487-4038

Delivering Dealer:

Ag-Pro
 Michael Lilly
 81 Millard Farmer Ind Blvd
 Newnan, GA 30263
 Phone: 770-254-0383
 mlilly@agproco.com

Quote ID: 27328141
Created On: 26 August 2022
Last Modified On: 29 August 2022
Expiration Date: 25 September 2022

Equipment Summary	Selling Price	Qty	=	Extended
JOHN DEERE 5100E Cab Utility Tractor Contract: GA Tractors/Mowers 99999-001-SPD0000177-0026 (PG 2M CG 22) Price Effective Date: March 29, 2021	\$ 61,266.30	1	=	\$ 61,266.30
JOHN DEERE 520M Loader Contract: GA Tractors/Mowers 99999-001-SPD0000177-0026 (PG 2M CG 22) Price Effective Date: February 3, 2021	\$ 4,027.87	1	=	\$ 4,027.87
Frontier AP12F Fixed Pallet Fork for Current 200/300/400/500 Series Carrier Contract: GA Tractors/Mowers 99999-001-SPD0000177-0026 (PG 2M CG 22) Price Effective Date: February 3, 2021	\$ 1,203.00	1	=	\$ 1,203.00
Equipment Total				\$ 66,497.17

Trade In Summary	Qty	Each	Extended
2013 NEW HOLLAND POWERSTAR T4.75	1	\$ 29,000.00	\$ 29,000.00
PayOff			\$ 0.00
Total Trade Allowance			\$ 29,000.00
Trade In Total			\$ 29,000.00

Salesperson : X _____

Accepted By : X _____

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

Deere & Company
 2000 John Deere Run
 Cary, NC 27513
 FED ID: 36-2382580
 UEID: FNSWEDARMK53

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

Ag-Pro
 81 Millard Farmer Ind Blvd
 Newnan, GA 30263
 770-254-0383
 WNewnanGM@agproco.com

* Includes Fees and Non-contract items

Quote Summary

Equipment Total	\$ 66,497.17
Trade In	\$ (29,000.00)
SubTotal	\$ 37,497.17
Est. Service Agreement Tax	\$ 0.00
Total	\$ 37,497.17
Down Payment	(0.00)
Rental Applied	(0.00)
Balance Due	\$ 37,497.17

Salesperson : X _____

Accepted By : X _____

Selling Equipment

Quote Id: 27328141 **Customer Name:** TOWN OF TYRONE

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580
UEID: FNSWEDARMK53

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

Ag-Pro
81 Millard Farmer Ind Blvd
Newnan, GA 30263
770-254-0383
WNewnanGM@agproco.com

JOHN DEERE 5100E Cab Utility Tractor

Hours:

Stock Number:

Contract: GA Tractors/Mowers 99999-001-
SPD0000177-0026 (PG 2M CG 22)

Selling Price *
\$ 61,266.30

Price Effective Date: March 29, 2021

* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
697GP	5100E Cab Utility Tractor	1	\$ 70,588.00	18.00	\$ 12,705.84	\$ 57,882.16	\$ 57,882.16
Standard Options - Per Unit							
0202	United States	1	\$ 0.00	18.00	\$ 0.00	\$ 0.00	\$ 0.00
0409	English	1	\$ 0.00	18.00	\$ 0.00	\$ 0.00	\$ 0.00
1381	12F/12R PowrReverser Transmission - 540/540E	1	\$ 0.00	18.00	\$ 0.00	\$ 0.00	\$ 0.00
2050	Standard Cab	1	\$ 0.00	18.00	\$ 0.00	\$ 0.00	\$ 0.00
2120	Air Suspension Seat	1	\$ 810.00	18.00	\$ 145.80	\$ 664.20	\$ 664.20
3025	Deluxe Cornerpost Exhaust	1	\$ 0.00	18.00	\$ 0.00	\$ 0.00	\$ 0.00
3320	Dual Stackable Rear SCV's with Lever Control	1	\$ 0.00	18.00	\$ 0.00	\$ 0.00	\$ 0.00
3420	Dual Stackable Mid Valves with Joystick Control	1	\$ 1,418.00	18.00	\$ 255.24	\$ 1,162.76	\$ 1,162.76
5911	18.4 - 30 In. 8PR R1 Bias	1	\$ 0.00	18.00	\$ 0.00	\$ 0.00	\$ 0.00
6040	MFWD (Four Wheel Drive)	1	\$ 0.00	18.00	\$ 0.00	\$ 0.00	\$ 0.00
6701	12.4 - 24 In. 8PR R1 Bias	1	\$ 0.00	18.00	\$ 0.00	\$ 0.00	\$ 0.00
8912	Loader Preparation Package	1	\$ 1,899.00	18.00	\$ 341.82	\$ 1,557.18	\$ 1,557.18
Standard Options Total			\$ 4,127.00		\$ 742.86	\$ 3,384.14	\$ 3,384.14
Value Added Services Total			\$ 0.00			\$ 0.00	\$ 0.00
Total Selling Price			\$ 74,715.00		\$ 13,448.70	\$ 61,266.30	\$ 61,266.30

JOHN DEERE 520M Loader

Selling Equipment

Quote Id: 27328141 **Customer Name:** TOWN OF TYRONE

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580
UEID: FNSWEDARMK53

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

Ag-Pro
81 Millard Farmer Ind Blvd
Newnan, GA 30263
770-254-0383
WNewnanGM@agproco.com

Equipment Notes:

Hours:

Stock Number:

Selling Price *

Contract: GA Tractors/Mowers 99999-001-SPD0000177-0026 (PG 2M CG 22)

\$ 4,027.87

Price Effective Date: February 3, 2021

* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
14B0P	520M Loader	1	\$ 7,408.00	23.00	\$ 1,703.84	\$ 5,704.16	\$ 5,704.16
Standard Options - Per Unit							
0202	United States	1	\$ 0.00	23.00	\$ 0.00	\$ 0.00	\$ 0.00
0409	English	1	\$ 0.00	23.00	\$ 0.00	\$ 0.00	\$ 0.00
0500	Less package	1	\$ 0.00	23.00	\$ 0.00	\$ 0.00	\$ 0.00
1995	Less mounting frame	1	\$ -1,427.00	23.00	\$ -328.21	\$ -1,098.79	\$ -1,098.79
2510	520M Standard Farm Loader, Non-Self-:Leveling (NSL) - Two-function	1	\$ 0.00	23.00	\$ 0.00	\$ 0.00	\$ 0.00
4526	Two-function hoses and parts with Quick-Couplers (Individual Couplers)	1	\$ -212.00	23.00	\$ -48.76	\$ -163.24	\$ -163.24
5995	Less hood guard	1	\$ -405.00	23.00	\$ -93.15	\$ -311.85	\$ -311.85
6995	Less ballast box	1	\$ 0.00	23.00	\$ 0.00	\$ 0.00	\$ 0.00
7510	John Deere™ 500-style carrier	1	\$ -133.00	23.00	\$ -30.59	\$ -102.41	\$ -102.41
8425	1850-mm (73-in.) general purpose bucket (John Deere™ carrier)	1	\$ 0.00	23.00	\$ 0.00	\$ 0.00	\$ 0.00
Standard Options Total			\$ -2,177.00		\$ -500.71	\$ -1,676.29	\$ -1,676.29
Total Selling Price			\$ 5,231.00		\$ 1,203.13	\$ 4,027.87	\$ 4,027.87

Frontier AP12F Fixed Pallet Fork for Current 200/300/400/500 Series Carrier

Selling Equipment

Quote Id: 27328141 **Customer Name:** TOWN OF TYRONE

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580
UEID: FNSWEDARMK53

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

Ag-Pro
81 Millard Farmer Ind Blvd
Newnan, GA 30263
770-254-0383
WNewnanGM@agproco.com

Equipment Notes:

Hours:

Stock Number:

Selling Price *

Contract: GA Tractors/Mowers 99999-001-SPD0000177-0026 (PG 2M CG 22)

\$ 1,203.00

Price Effective Date: February 3, 2021

* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
2153XF	AP12F Fixed Pallet Fork for Current 200/300/400/500 Series Carrier	1	\$ 1,160.00	0.00	\$ 0.00	\$ 1,160.00	\$ 1,160.00
Standard Options - Per Unit							
1010	48 In. Pallet Tine	1	\$ 43.00	0.00	\$ 0.00	\$ 43.00	\$ 43.00
			Standard Options Total		\$ 0.00	\$ 43.00	\$ 43.00
Total Selling Price			\$ 1,203.00		\$ 0.00	\$ 1,203.00	\$ 1,203.00

Trade-in

Quote Id: 27328141

Customer Name: TOWN OF TYRONE

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

Deere & Company
 2000 John Deere Run
 Cary, NC 27513
 FED ID: 36-2382580
 UEID: FNSWEDARMK53

2013 NEW HOLLAND POWERSTAR T4.75

Machine Details

Description	Net Trade Value
2013 NEW HOLLAND POWERSTAR T4.75	\$ 29,000.00

Your Trade In Description
Additional Options

Hour Meter Reading	1155	
Total		\$ 29,000.00

AG-PRO DATA MANAGEMENT POLICY

Ag-Pro, LLC (“Ag-Pro”) does **not** share customer data (of any type) with **any** third party, unless so requested by the customer or as required by Ag-Pro and approved by the customer.

Machine data is data that generally relates to how your equipment is functioning. Examples include fuel consumption, machine health indicators, vehicle diagnostic codes, and engine performance, and any such machine data will only be accessed by a Store Service manager, dedicated technician(s), I.S. (AMS) Specialists, and/or your Ag- Sales Professional.

Customer hereby grants Ag-Pro direct or remote access to customer’s machine data from customer’s equipment that is generated by, collected by, and/or stored in customer’s equipment and/or any hardware device interfacing with customer’s equipment.

Production data is data that is derived from work performed by customer with customer’s equipment. Examples include field task details, material moved, crop harvested (yield) and agronomic inputs applied. Production data will only be accessed, analyzed, interpreted, and used by the I.S. (AMS) Specialists, I.S. manager, and your Ag-Sales Professional unless otherwise requested by (you) the customer.

In addition to machine data, I hereby grant Ag-Pro I.S. (AMS) Specialists, my Ag-Sales Professional, and the I.S. Manager, the ‘Agronomic Specialist Role’ (which will give them access to my production data) to enable them to clean and format my production data for submission to and more efficient use by my agronomist. I understand that production data is generated by, collected by, and/or stored in (my) equipment or any hardware device interfacing with my equipment.

By signing this document, I, the undersigned customer, also acknowledge that, Ag-Pro, is not responsible for any data that is lost and/or destroyed.

X_____

Print Name: _____

Date: _____



COUNCIL AGENDA ITEM COVER SHEET

Meeting Type: Council - Regular

Meeting Date: September 15, 2022

Agenda Item Type: New Business

Staff Contact: Scott Langford

STAFF REPORT

AGENDA ITEM:

Consideration to Award Project Number PW-2023-04, Senoia Road Streetscape Improvements design, to Keck & Wood, Inc.

BACKGROUND:

As part of the Town's effort to improve the streetscape of the downtown area, this project is being designed for the streetscape improvement along Senoia Road from address 933 to 1003, approximately 300 linear feet. The project will include a curbed median separating vehicles from the multi-use path, lighting, crosswalk, access control, and landscaping.

FUNDING:

General Funds – Public Works 100-40-54.1223

STAFF RECOMMENDATION:

Staff recommends Awarding the Senoia Road Streetscape Improvements design, Project No: PW-2023-04 to Keck & Wood, Inc. for the fee of \$39,000 plus the fee not exceed \$25,000 for Bidding and Construction Administration pending Legal Counsel approval of the contract documents.

ATTACHMENTS:

See attached proposal and scope of work.

PREVIOUS DISCUSSIONS:

Budget Planning Workshop

September 7, 2022

Mr. Scott Langford, PE
Public Works Director / Town Engineer
Town of Tyrone
950 Senoia Road
Tyrone, GA 302900
Sent Via Email: slangford@tyrone.org

Re: Proposal for Professional Services
Senoia Road Streetscape Improvements

Dear Mr. Langford:

Keck & Wood ("KW") is pleased to submit this proposal for the Professional Services (Surveying, Engineering Design, Bidding & Construction Administration) of the Senoia Road Streetscape Improvements project in the Town of Tyrone, Georgia ("Town").

The proposed improvements in the vicinity of 999 Senoia Road (Gunnin property) include a median separating Senoia Road from the existing cart path that runs in the ROW adjacent to the Gunnin property. It will establish an "entrance only" to the west and an entrance/exit to the east side of the main building on the Gunnin property. The median will be landscaped and will provide a pedestrian mid-block crossing on Senoia Road. The median will include street lighting, electrical outlets, and water hose bibs. The cart path running along the ROW and Gunnin property will be striped to delineate an approximately 12 foot path. Pavement markings will be installed to depict in and/or out of the driveways of the properties including directional arrows. The project will also include two radar speed signs between Gunnin and Townhall. A rapid flashing beacon may be proposed at the mid crossing of Gunnin and possibly Townhall. Signage for the cart path including striping will also be included.

KW intends to provide the Town with professional engineering design services for the implementation of this project. Our scope of services will include survey, engineering design, bidding assistance, and construction administration services. The following is a detailed scope of our proposed services:

A. SURVEYING - KW and/or its subconsultants will prepare a field run topographic survey of the project area (estimated to be 1 +/- acres in total). This survey will include all planimetric features as well as property boundaries. This scope of work does not include underground utilities. Utilities will be shown based on above ground evidence.

B. ENGINEERING DESIGN - Following are tasks associated with this phase of project development:

- Develop construction plans, including:
 - Cover Sheet
 - Index
 - Typical Section
 - Roadway Plans
 - Signing and Marking Plans, including radar speed signs and rapid flashing beacon
 - Cut/fill limits
 - Drainage Plans and Profiles
 - Construction Details
 - Erosion Control Plans

- Right-of-way plans and associated legal descriptions
- Pedestrian Lighting Plans
- Electrical plans for outlets at the median
- Preparation of a construction cost estimate
- Preparation of a Bid Document Package, including construction plans and a bidding manual

C. BIDDING ASSISTANCE (hourly not to exceed) - Keck & Wood will perform the following requested bidding assistance services on an hourly not to exceed basis. Following are tasks associated with this phase of project development:

- Respond to questions from bidders
- Prepare addenda as needed

D. CONSTRUCTION ADMINISTRATION (hourly not to exceed) – Keck & Wood will perform the following requested construction administration services on an hourly not to exceed basis. A five (5) month construction schedule is anticipated, and is used to develop the anticipated ‘not to exceed’ fees. Should the schedule extend beyond five (5) months, the ‘not to exceed’ amount may need to be adjusted:

- Coordination of the pre-construction meeting
- Review and approve contractor’s pay applications
- Respond to construction RFIs
- Site visits
- Periodically review contractor’s operations and prepare any change orders as needed
- Coordinate and conduct final inspection and prepare final punch item list
- Process project close out documents

Fee Schedule

Compensation for work performed shall be billed on a **lump sum** and **hourly not to exceed** basis. Once per month during the existence of this contract, KW shall submit to the Town an invoice for payment based on the actual work performed for the Project through the invoice period. All advertising, permitting and application fees are the responsibility of the Town.

A. Surveying	\$ 5,000
B. Engineering Design	\$ 34,000
Total Lump Sum Fees	\$ 39,000
C. Bidding Assistance	\$ 2,000
D. Construction Administration	\$ 23,000
Total Hourly Not to Exceed Fees	\$ 25,000

If you have any questions or would like additional information, don’t hesitate to contact me at 678-417-4023. We appreciate the opportunity to work with the Town of Tyrone on this project.

Sincerely,
KECK & WOOD, INC.



Sam J. Serio, P.E.
Vice President

ACCEPTED by the TOWN OF TYRONE

This _____ day of _____, 2022.

By: _____

Title: _____

Attachments: Terms and Conditions

TERMS AND CONDITIONS OF SERVICE

EFFECTIVE DATE: This Agreement, by and between Keck & Wood, Inc., hereinafter referred to as the Consultant, and the Client identified on the attached proposal, is binding and effective upon acceptance by a currently authorized corporate officer of the Consultant.

SCOPE OF SERVICES: Whereas the Consultant has proposed to perform, and the Client desires to have the Consultant perform, the scope of services described on the attached proposal

AGREEMENT: Now, therefore, in consideration of the premises and the covenants and undertakings hereinafter set forth, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **PERFORMANCE:** Unless more specifically established on the face side(s) hereof or attachments hereto, the Consultant a) agrees to perform his services in conformity with generally accepted professional practices for the intended project or purpose, and makes no warranty either expressed or implied; b) agrees to correct any defective survey or engineering service performed by the Consultant when brought to its attention in writing; and c) will endeavor to complete its services on a time schedule consistent with needs of the Client.

2. **OWNERSHIP OF DOCUMENTS:** All documents, including original drawings, plats, estimates, field notes, specifications and other data are and shall remain the property of the Consultant. Copies of finished documents furnished to the Client are instruments of service for the specific project or initial purpose indicated, and are not intended to be reused for extensions of the project or for additional purposes without written authorization by the Consultant. Reuse of any of the instruments of service of the Consultant by the Client on any extension of the project or for additional purposes shall be at the Client's risk and the Client agrees to defend, indemnify and hold harmless the Consultant from all claims, damages and expenses including attorney's fees arising out of any unauthorized reuse of the Consultant's instruments of service by the Client or by others acting through the Client.

3. **ESTIMATES OF CONSTRUCTION COST:** Since the Consultant has no control over construction costs or of the methods by which construction contractors determine prices, or over market conditions, any opinion of the Consultant regarding construction cost are to be made on the basis of his best judgment, but Consultant cannot and does not guarantee that actual construction costs will not vary from estimates provided by the Consultant.

4. **FORCE MAJEURE:** Consultant shall not be liable for failures to perform any obligation under this Agreement where such failure arises from causes beyond Consultant's exclusive control, including (but not limited to) such causes as war; civil commotion; force majeure; acts of a public enemy; sabotage; vandalism; accident; statute; ordinances; embargoes; government regulations; priorities or allocations; interruption or delay in transportation; inadequacy, shortage or failure of supply of materials, equipment, fuel or electrical power; labor controversies (whether at Consultant's office or elsewhere); shut-downs for repairs; natural phenomena; whether such cause exists on the effective day hereof, or arises thereafter, or from compliance with any order or request of the United States Government or any officer, department, agency, instrumentality or committee thereof.

5. **CONSTRUCTION RELATED SERVICES:** The Consultant has not been retained or compensated to provide design and construction review services relating to any construction contractor's safety precautions or to means, methods, techniques, sequences, or procedures required for a contractor to perform his work which are not directly a part of the completed project; omitted services include but are not limited to shoring, scaffolding, underpinning, temporary retainment of excavations, and any erection methods and temporary bracing.

6. **CONSULTANT'S INSURANCE:** The Consultant shall acquire and maintain statutory workmen's compensation insurance coverage, employer's liability, comprehensive general liability insurance coverage of not less than \$2,000,000 limit, and professional liability insurance coverage of not less than \$2,000,000 limit.

7. **CONTRACTOR'S INSURANCE:** Should the scope of services by the Consultant include planning, design or observation of construction work, the Client shall require the contractor(s) and any subcontractor(s), prior to commencement of such work, to submit evidence that he (they) have obtained for the period of the construction contract, and the guarantee period, comprehensive general liability insurance coverage including completed operations coverage. This coverage shall provide for bodily injury and property damage arising directly or indirectly out of, or in connection with, the performance of construction work, and have a limit of not less than \$500,000 for all damages arising out of bodily injury, sickness or death of one person and an aggregate of \$1,000,000 for damages arising out of bodily injury, sickness and death of two or more persons. The property damage portion shall provide for a limit of not less than \$300,000 for all damages arising out of injury to or destruction of property of others arising directly or indirectly out of or in connection with the performance of construction work in any one occurrence including explosion, collapse and underground exposures. Included in such coverage shall be contractual coverage sufficiently broad to insure the provision of the subsequent paragraph entitled "Contractor's Indemnity". The comprehensive general liability insurance shall include as additional named insureds: the Client; the Consultant; and each of their officers, agents and employees.

8. **CONTRACTOR'S INDEMNITY:** Should the scope of services by the Consultant include planning, design or observation of construction work, the Client shall require that all contractors and subcontractors performing work in connection with services rendered by the Consultant, indemnify and hold harmless, the Client and the Consultant, and each of their officers, agents, and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from construction operations, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom; and is caused in whole or in part, directly or indirectly, by any negligent or willful act or omission of the contractor(s), any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them are liable. The indemnification required shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the contractor(s) or any subcontractor under workmen's compensation acts, disability benefit acts or other employee benefit acts.

9. **ACCESS:** The Client shall be responsible for providing all private property as required by the Consultant to perform authorized services. Section X, Item 4.

10. **BASIS OF PAYMENT:** The Client agrees to compensate the consultant as provided on the attached proposal. In the event a preliminary estimate of compensation is made, the Consultant will endeavor to accomplish services within that estimate, but the Consultant does not guarantee such estimate unless a specific written statement to that effect is given. Should the Consultant become aware that charges will or have exceeded any preliminary estimate, he will promptly notify the Client who may elect to reduce the scope of services or authorize a continuation of services at increased cost.

11. **PAYMENT AND CREDIT:** Progress or partial payments shall be made by the Client in proportion to services rendered by the Consultant unless specific extension of credit to the Client is provided on the attached proposal. Statements will be issued from time to time by the Consultant, but no more often than at 4-week intervals, and shall be fully payable within 30 days thereafter. Balances which are unpaid for more than 30 days are subject to a finance or service charge plus collection expenses. Unless stated differently on the face(s) hereof service charges shall be 1.5 percent per month, which amounts to 18 percent per year. If in the exclusive judgment of Consultant, the financial condition of the Client at any time does not appear to justify the commencement or continuance of services on the terms specified herein, Consultant may, in addition to all other remedies it may have at law or in equity, make written demand for full or partial payment in advance, suspend its performance until such payment is made and cancel this Agreement if such payment is not received by the Consultant within 30 days after delivery in person or mailing of said demand by Consultant.

12. **AUDIT: ACCESS TO RECORDS:** For Agreements employing cost as a basis of compensation, the Consultant shall maintain books, records, documents and other evidence directly pertinent to the Agreement in accordance with appropriate accounting standards. From time to time, but not more often than once each calendar year, the Client may have his accounting representative verify costs by examination of pertinent documents at the home office of the Consultant. During such audit, the Consultant shall provide suitable facilities for the Client's representative, and that representative shall organize and conduct his audit in a manner which minimizes special effort by the Consultant.

13. **DELEGATION OF DUTIES:** Neither the Client nor the Consultant shall delegate his duties hereunder without the written consent of the other.

14. **TERMINATION:** Should this Agreement be terminated prematurely by written mutual agreement or as provided elsewhere herein, the Consultant shall be paid for services performed to the termination date plus 15 percent of the total compensation earned to the time of termination to account for Consultant's rescheduling adjustments and related costs.

15. **WARRANTY: CONSULTANT SERVICES WILL BE PERFORMED, ITS FINDINGS OBTAINED AND ITS REPORTS PREPARED IN ACCORDANCE WITH ITS PROPOSAL, CLIENT'S ACCEPTANCE THEREOF, THESE TERMS AND CONDITIONS, AND WITH GENERALLY ACCEPTED PRINCIPLES AND PRACTICES. IN PERFORMING ITS PROFESSIONAL SERVICES, CONSULTANT WILL USE THAT DEGREE OF CARE AND SKILL ORDINARILY EXERCISED UNDER SIMILAR CIRCUMSTANCES BY MEMBERS OF ITS PROFESSION. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED. STATEMENTS MADE IN CONSULTANT REPORTS ARE OPINIONS BASED UPON ENGINEERING JUDGEMENT AND ARE NOT TO BE CONSTRUED AS REPRESENTATIONS OF FACT.**

16. **HAZARDOUS MATERIALS:** Nothing contained within this agreement shall be construed or interpreted as requiring Consultant to assume the status of an owner, operator, generator, storer, transporter, treater or disposal facility as those terms appear within RCRA, CERCLA, or within any Federal or State statute or regulation governing the generation, transportation, treatment, storage and disposal of pollutants. Client assumes full responsibility for compliance with the provisions of RCRA, CERCLA, and any other Federal or State statute or regulation governing the handling, treatment, storage and disposal of pollutants. If Consultant encounters or learns of an undisclosed Pollutant at the Site, then Consultant shall notify (1) Client and (2) appropriate governmental officials if Consultant reasonably concludes that doing so is required by applicable Laws or Regulations. It is acknowledged by both parties that Consultant's scope of services does not include any services related to unknown or undisclosed Pollutants. If Consultant or any other party encounters, uncovers, or reveals an undisclosed Pollutant, then Client shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.

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

18. **MISCELLANEOUS:** This Agreement is to be construed in accordance with and enforced under the laws of the principal place of business of the Consultant. This Agreement constitutes the entire agreement between the parties hereto, and all prior negotiations, representations and inducements of every kind are superceded hereby. No waiver, alteration or modification of this Agreement shall be effective unless in writing and signed by an authorized corporate officer of the Consultant. In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding on the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.



COUNCIL AGENDA ITEM COVER SHEET

Meeting Type: Council - Regular

Meeting Date: September 15, 2022

Agenda Item Type: New Business

Staff Contact: Scott Langford

STAFF REPORT

AGENDA ITEM:

Consideration to Award Project Number PW-2023-02, the Senoia Road to Spencer Road Multi-Use Path design, to Keck & Wood, Inc.

BACKGROUND:

As part of the Town's effort to improve multi-use trails to the downtown area, staff identified a cost effective option to get people from Senoia Road to Spencer Road near the Publix shopping area. This option is to run a path adjacent to, but not on, the GDOT SR-74 ramp right-of-way to the Spencer Road right-of-way. This will connect those on the East side of SR-74 to the downtown side of SR-74 and make for a quicker path to downtown and to the Publix shopping area.

FUNDING:

General Funds – Public Works 100-40-54.1406 and SPLOST

STAFF RECOMMENDATION:

Staff recommends Awarding the Senoia Road to Spencer Road Multi-Use Path design, Project No: PW-2023-02 to Keck & Wood, Inc. for the fee of \$26,000 plus the fee not exceed \$25,000 for Bidding and Construction Administration pending Legal Counsel approval of the contract documents.

ATTACHMENTS:

See attached proposal and scope of work.

PREVIOUS DISCUSSIONS:

Budget Planning Workshop



September 7, 2022

Mr. Scott Langford, PE
 Public Works Director / Town Engineer
 Town of Tyrone
 950 Senoia Road
 Tyrone, GA 302900
Sent Via Email: slangford@tyrone.org

Re: Proposal for Professional Services
 Senoia Road to Spencer Lane Multi-use Path

Dear Mr. Langford:

Keck & Wood ("KW") is pleased to submit this proposal for the Professional Services (Surveying, Engineering Design, Bidding & Construction Administration) of the Senoia Road to Spencer Lane Multi-use Path project in the Town of Tyrone, Georgia ("Town").

The proposed improvements include a 12 to 14 foot cart path starting at the existing path along Senoia Road near exit ramp of SR 74 bridge then crossing Senoia Road entering the Hobgood property and following the property line to the east running north to Spencer Road. The path would then go from Spencer Road into Publix entrance. The crossing at Senoia Road shall consider the need for a rapid flashing beacon crossing.

KW intends to provide the Town with professional engineering design services for the implementation of this project. Our scope of services will include survey, engineering design, bidding assistance, and construction administration services. The following is a detailed scope of our proposed services:

A. SURVEYING - KW and/or its subconsultants will prepare a field run topographic survey of the project area (estimated to be 3.5 +/- acres in total). This survey will include all planimetric features as well as property boundaries. This scope of work does not include underground utilities. Utilities will be shown based on above ground evidence.

B. ENGINEERING DESIGN - Following are tasks associated with this phase of project development:

- Develop construction plans, including:
 - Cover Sheet
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 - Cut/fill limits
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 - Construction Details
 - Erosion Control Plans
 - Right-of-way plans and associated legal descriptions
- Preparation of a construction cost estimate
- Preparation of a Bid Document Package, including construction plans and a bidding manual

C. BIDDING ASSISTANCE (hourly not to exceed) - Keck & Wood will perform the following requested bidding assistance services on an hourly not to exceed basis. Following are tasks associated with this phase of project development:

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- Coordinate and conduct final inspection and prepare final punch item list
- Process project close out documents

Fee Schedule

Compensation for work performed shall be billed on a **lump sum** and **hourly not to exceed** basis. Once per month during the existence of this contract, KW shall submit to the Town an invoice for payment based on the actual work performed for the Project through the invoice period. All advertising, permitting and application fees are the responsibility of the Town.

A. Surveying	\$ 8,000
B. <u>Engineering Design</u>	<u>\$ 18,000</u>
Total Lump Sum Fees	\$ 26,000
C. Bidding Assistance	\$ 2,000
D. <u>Construction Administration</u>	<u>\$ 23,000</u>
Total Hourly Not to Exceed Fees	\$ 25,000

If you have any questions or would like additional information, don’t hesitate to contact me at 678-417-4023. We appreciate the opportunity to work with the Town of Tyrone on this project.

Sincerely,

KECK & WOOD, INC.



Sam J. Serio, P.E.
Vice President

ACCEPTED by the TOWN OF TYRONE

This _____ day of _____, 2022.

By: _____

Title: _____

Attachments: Terms and Conditions

TERMS AND CONDITIONS OF SERVICE

EFFECTIVE DATE: This Agreement, by and between Keck & Wood, Inc., hereinafter referred to as the Consultant, and the Client identified on the attached proposal, is binding and effective upon acceptance by a currently authorized corporate officer of the Consultant.

SCOPE OF SERVICES: Whereas the Consultant has proposed to perform, and the Client desires to have the Consultant perform, the scope of services described on the attached proposal

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2. **OWNERSHIP OF DOCUMENTS:** All documents, including original drawings, plats, estimates, field notes, specifications and other data are and shall remain the property of the Consultant. Copies of finished documents furnished to the Client are instruments of service for the specific project or initial purpose indicated, and are not intended to be reused for extensions of the project or for additional purposes without written authorization by the Consultant. Reuse of any of the instruments of service of the Consultant by the Client on any extension of the project or for additional purposes shall be at the Client's risk and the Client agrees to defend, indemnify and hold harmless the Consultant from all claims, damages and expenses including attorney's fees arising out of any unauthorized reuse of the Consultant's instruments of service by the Client or by others acting through the Client.

3. **ESTIMATES OF CONSTRUCTION COST:** Since the Consultant has no control over construction costs or of the methods by which construction contractors determine prices, or over market conditions, any opinion of the Consultant regarding construction cost are to be made on the basis of his best judgment, but Consultant cannot and does not guarantee that actual construction costs will not vary from estimates provided by the Consultant.

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5. **CONSTRUCTION RELATED SERVICES:** The Consultant has not been retained or compensated to provide design and construction review services relating to any construction contractor's safety precautions or to means, methods, techniques, sequences, or procedures required for a contractor to perform his work which are not directly a part of the completed project; omitted services include but are not limited to shoring, scaffolding, underpinning, temporary retainment of excavations, and any erection methods and temporary bracing.

6. **CONSULTANT'S INSURANCE:** The Consultant shall acquire and maintain statutory workmen's compensation insurance coverage, employer's liability, comprehensive general liability insurance coverage of not less than \$2,000,000 limit, and professional liability insurance coverage of not less than \$2,000,000 limit.

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8. **CONTRACTOR'S INDEMNITY:** Should the scope of services by the Consultant include planning, design or observation of construction work, the Client shall require that all contractors and subcontractors performing work in connection with services rendered by the Consultant, indemnify and hold harmless, the Client and the Consultant, and each of their officers, agents, and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from construction operations, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom; and is caused in whole or in part, directly or indirectly, by any negligent or willful act or omission of the contractor(s), any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them are liable. The indemnification required shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the contractor(s) or any subcontractor under workmen's compensation acts, disability benefit acts or other employee benefit acts.

9. **ACCESS:** The Client shall be responsible for providing all private property as required by the Consultant to perform authorized services. Section X, Item 5.

10. **BASIS OF PAYMENT:** The Client agrees to compensate the consultant as provided on the attached proposal. In the event a preliminary estimate of compensation is made, the Consultant will endeavor to accomplish services within that estimate, but the Consultant does not guarantee such estimate unless a specific written statement to that effect is given. Should the Consultant become aware that charges will or have exceeded any preliminary estimate, he will promptly notify the Client who may elect to reduce the scope of services or authorize a continuation of services at increased cost.

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12. **AUDIT: ACCESS TO RECORDS:** For Agreements employing cost as a basis of compensation, the Consultant shall maintain books, records, documents and other evidence directly pertinent to the Agreement in accordance with appropriate accounting standards. From time to time, but not more often than once each calendar year, the Client may have his accounting representative verify costs by examination of pertinent documents at the home office of the Consultant. During such audit, the Consultant shall provide suitable facilities for the Client's representative, and that representative shall organize and conduct his audit in a manner which minimizes special effort by the Consultant.

13. **DELEGATION OF DUTIES:** Neither the Client nor the Consultant shall delegate his duties hereunder without the written consent of the other.

14. **TERMINATION:** Should this Agreement be terminated prematurely by written mutual agreement or as provided elsewhere herein, the Consultant shall be paid for services performed to the termination date plus 15 percent of the total compensation earned to the time of termination to account for Consultant's rescheduling adjustments and related costs.

15. **WARRANTY: CONSULTANT SERVICES WILL BE PERFORMED, ITS FINDINGS OBTAINED AND ITS REPORTS PREPARED IN ACCORDANCE WITH ITS PROPOSAL, CLIENT'S ACCEPTANCE THEREOF, THESE TERMS AND CONDITIONS, AND WITH GENERALLY ACCEPTED PRINCIPLES AND PRACTICES. IN PERFORMING ITS PROFESSIONAL SERVICES, CONSULTANT WILL USE THAT DEGREE OF CARE AND SKILL ORDINARILY EXERCISED UNDER SIMILAR CIRCUMSTANCES BY MEMBERS OF ITS PROFESSION. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED. STATEMENTS MADE IN CONSULTANT REPORTS ARE OPINIONS BASED UPON ENGINEERING JUDGEMENT AND ARE NOT TO BE CONSTRUED AS REPRESENTATIONS OF FACT.**

16. **HAZARDOUS MATERIALS:** Nothing contained within this agreement shall be construed or interpreted as requiring Consultant to assume the status of an owner, operator, generator, storer, transporter, treater or disposal facility as those terms appear within RCRA, CERCLA, or within any Federal or State statute or regulation governing the generation, transportation, treatment, storage and disposal of pollutants. Client assumes full responsibility for compliance with the provisions of RCRA, CERCLA, and any other Federal or State statute or regulation governing the handling, treatment, storage and disposal of pollutants. If Consultant encounters or learns of an undisclosed Pollutant at the Site, then Consultant shall notify (1) Client and (2) appropriate governmental officials if Consultant reasonably concludes that doing so is required by applicable Laws or Regulations. It is acknowledged by both parties that Consultant's scope of services does not include any services related to unknown or undisclosed Pollutants. If Consultant or any other party encounters, uncovers, or reveals an undisclosed Pollutant, then Client shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.

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

18. **MISCELLANEOUS:** This Agreement is to be construed in accordance with and enforced under the laws of the principal place of business of the Consultant. This Agreement constitutes the entire agreement between the parties hereto, and all prior negotiations, representations and inducements of every kind are superceded hereby. No waiver, alteration or modification of this Agreement shall be effective unless in writing and signed by an authorized corporate officer of the Consultant. In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding on the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.