



City of
Washington
NORTH CAROLINA
Council Agenda
AUGUST 24, 2015
5:30 PM

Opening of Meeting

Nondenominational Invocation

Roll Call

Approval of minutes from August 10, 2015 **(page 3)**

Approval/Amendments to Agenda

Presentations: Washington 8u Softball All-Stars
 Washington 12u Softball All-Stars

- I. Consent Agenda:
 - A. Declare Surplus/Authorize – Electronic Auction of Vehicles through GovDeals **(page 16)**
 - B. Authorize – Police and Fire Services to apply for a Walmart Grant **(page 17)**
 - C. Approve – Vehicle Purchase Orders **(page 18)**
- II. Comments from the Public:
- III. Public Hearing – Zoning:
 - A. None -
- IV. Public Hearing - Other:
 - A. None –
- V. Scheduled Public Appearances:
 - A. None –
- VI. Correspondence and Special Reports:
 - A. Discussion – Grant Updates **(page 21)**
 - B. Discussion – Project Updates **(page 22)**
 - C. Memo – Camping Platform **(page 24)**
 - D. Memo – Budget Transfer – General Fund **(page 30)**



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- VII. Reports from Boards, Commissions and Committees:
A. None –
- VIII. Appointments:
A. None –
- IX. Old Business:
A. Authorize – Recreation Manager to execute contracts with Michael Weeks (Loreta’s Frozen Desserts) and Michael Senn (Senn Farms Catering, Inc.) for vending locations on Stewart Parkway **(page 32)**
- X. New Business:
A. Authorize – Interim City Manager and Brown Library Director to execute the one (1) year Memorandum of Agreement with NC Cardinal for ongoing technical support and maintenance **(page 39)**
B. Approve – the purchase of an Excavator and accompanying purchase order to Rob’s Hydraulics, Inc. **(page 56)**
C. Authorize – Proposal of New Age Properties regarding stormwater encroachment at Fire Station Number 2 site **(page 60)**
D. Authorize – Interim City Manager to execute the engineering contract for sanitary sewer rehabilitation as a result of the recently awarded Clean Water Management Trust Fund (CWMTF) loan **(page 62)**
- XI. Any other items from City Manager: None
- XII. Any other business from the Mayor or other Members of Council: None
- XIII. Closed Session: Under NCGS § 143-318.11(a)(6) Personnel
- XIV. Adjourn – Until Monday, September 14, 2015 at 5:30 pm, in the Council Chambers

The Washington City Council met in a regular session on Monday, August 10, 2015 at 5:30pm in the City Council Chambers at the Municipal Building. Present were: Mac Hodges, Mayor; Doug Mercer, Mayor Pro tem; William Pitt, Councilman; Richard Brooks, Councilman; Larry Beeman, Councilman; Bobby Roberson, Interim City Manager; Cynthia S. Bennett, City Clerk and Franz Holscher, City Attorney.

Mayor Hodges called the meeting to order and Mayor Pro tem Mercer delivered the invocation.

APPROVAL OF MINUTES:

By motion of Mayor Pro tem Mercer, seconded by Councilman Beeman, Council approved the minutes of July 13, 2015 as presented.

APPROVAL/AMENDMENTS TO AGENDA:

Mayor Hodges reviewed the requested amendments to the agenda:

- **Add** – Under Appointments: Appointment to Washington Housing Authority
- **Move Consent Item B:** Approve – Vehicle Purchase Orders to VI. Correspondence and Special Report Item B.
- **Remove:** Closed Session: 143-318.11 (a)(5) Land Acquisition and **ADD:** 143-318.11 (a)(3) Attorney/Client Privilege

By motion of Mayor Pro tem Mercer seconded by Councilman Brooks, Council approved the agenda as amended.

PRESENTATION: WOODMEN OF THE WORLD ~ FLAGS



Woodmen of the World #623 presented new flags for the City Council Chambers. Pictured with Mayor Hodges: Tommy Hodges, Audrey Woolard and Garland Woolard.

CONSENT AGENDA:

By motion of Councilman Pitt, seconded by Mayor Pro tem Mercer, Council approved the Consent Agenda as amended.

- A. **Declare Surplus/Authorize** – Electronic Auction of Vehicle through GovDeals

The purpose of the Council Action is to declare surplus the following vehicle and authorize the sale of this vehicle through electronic auction using GovDeals.

<i>Vehicle #</i>	<i>Make/Model</i>	<i>Department</i>	<i>Serial Number</i>	<i>Odometer</i>
5011	Husqvarna Riding Mower	Cemetery	ZTH5223KAA	N/A

- B. **Moved from Consent to Item VI. Correspondence and Special Reports:**
Item B: Approve – Vehicle Purchase Orders

C. **Approve** – Purchase orders > \$20,000

**Requisition #537, Hungerford & Terry, \$27,160 to replace flow meters and install control panel.*

**Requisition #565, Utility Service Co., \$86,458.16 for elevated water tank maintenance.*

COMMENTS FROM THE PUBLIC:

Michael Doran and Stan Sams, representing US Cellular reviewed the foundation of the lease with US Cellular and the City of Washington. Mr. Doran expressed the need for indemnification from City of Washington. Mr. Sams, an Attorney representing US Cellular reviewed concerns raised by the City. Most specifically regarding the indemnity language in the proposed lease referencing an incident that occurred on the neighboring property (the Hamilton Beach site). There is a report which relates to continued monitoring on the Hamilton Beach. An environmental report was performed on behalf of US Cellular on the City on site where the Water tower is located and where the proposed US Cellular tower is to be placed. Mr. Holscher expressed concern with the proposal of the indemnification request from US Cellular being the City was not the responsible party.

City Attorney, Franz Holscher noted that he and Mr. Sams have had discussions and they have reached an impasse on the indemnification request. Mr. Holscher stated he will not recommend to Council to indemnify US Cellular from property that is going on City property. Staff had not anticipated this item coming before Council tonight. It is unconstitutional for a municipality to indemnify a third party for potential liability.

Mayor Pro tem Mercer inquired if we could eliminate the indemnification paragraph in its entirety? Mr. Holscher stated he is not saying they should have the responsibility but if something was to happen we could contact the Brownfield’s representatives. Mr. Holscher doesn’t feel the City should permanently indemnify US Cellular for something that may arise.

Mr. Roberson noted staff and the City Attorney will continue to work with US Cellular representatives and will bring a recommendation back to City Council.

PUBLIC HEARING – ZONING: 6:00PM - NONE

PUBLIC HEARING: OTHER - NONE

SCHEDULED PUBLIC APPEARANCES: NONE

CORRESPONDENCE AND SPECIAL REPORTS:

MEMO – VEHICLE PURCHASES

Purchase orders are included in the agenda for a replacement vehicle for unit #551. \$27,000 is budgeted for the purchase of the replacement of a 2001 Dodge Ram ~ ton pickup. A purchase order for the replacement of vehicle #510, a 1999 Ford Ranger, \$20,000 budget

MOVED FROM CONSENT ITEM B: VEHICLE PURCHASE ORDERS

**Requisition #500, Ilderton Dodge, \$27,963 to replace vehicle #550, a 2003 Dodge Durango, \$28,000 budgeted. The current vehicle will be declared surplus, sold on Gov deals, and the proceeds applied to the Water Fund.*

**Requisition #556, Feyer Ford Lincoln Mercury, \$26,819.08 to replace vehicle #614, a 2004 Ford Explorer, \$35,000 budgeted. The current vehicle will be declared surplus, sold on Gov deals, and the proceeds applied to the Electric Fund.*

**Requisition #571, Piedmont Truck Center, \$51,535 (cab and chassis) and requisition #572, Quality Truck Bodies, \$12,328.55 (dump truck body), to replace vehicle #455, a 2001 Chevrolet dump truck, \$75,000 budgeted. The current vehicle will be declared surplus, sold on Gov deals, and the proceeds applied to the Vehicle Replacement Fund.*

Councilman Mercer referenced the purchase order for a replacement vehicle for #614. He further stated that when Council is requested to approve the purchase of vehicles, Council needs to invest the time in which one is being replaced and why it is being replaced. Discussion was held regarding the need for an SUV instead of a pickup truck. Mr. Lewis provided the explanation, which included but not limited to available vehicles on the State contract. Mr. Lewis voiced that the Dodge Durango is replacing a Dodge Durango and Adam Waters explained why he needed a Durango. Councilman Brooks explained that he understands the need for the requested vehicle. Councilman Beeman stated it sounds like legitimate work/safety concerns and agreed with the request.

By motion of Councilman Brooks, seconded by Councilman Beeman, Council approved all of the vehicle purchases as presented.

REPORTS FROM BOARDS, COMMISSIONS AND COMMITTEES:
HUMAN RELATIONS COUNCIL *(accepted as presented)*

Human Relations Council (HRC) report for the month of July

MISSION STATEMENT

- *To promote social and economic equality in the community, working with Local Government and other resources*
- *To appreciate the cultural and ethnic diversity of the citizens of Washington and Beaufort County*
- *To encourage citizens to live and work together in harmony and mutual respect*

SCHEDULED PUBLIC APPEARANCES: *None*

OLD BUSINESS:

Update – ‘National Night Out’ and 2015 Pro’s Week: *Kimberly Grimes, Police & Fire Services, provided the following updates: Ms. Grimes voiced ‘National Night Out’ has been scheduled for Tuesday, August 4, 2015 at Beebe Memorial Park from 6:00 – 8:00 pm. Ms. Grimes voiced Police & Fire Services will be partnering with Washington Housing Authority and Zaxby’s of Washington this year. A list participants and vendors were provided.*

Ms. Grimes suggested there will be games, free food for everyone and requested support from HRC Board members. Ms. Grimes shared that the 2015 Pro’s week was highly successful. The kids had an excellent time and there were over 200 kids served on Tuesday night. The attendance was great for the Football & Basketball Camp.

Update – Housing Symposium: *Board member Recko provided the following draft agenda for the City of Washington/Beaufort County Regional Committee Housing Symposium. The event has been scheduled for Thursday, July 30, 2015 at the Civic Center.*

Draft Agenda:

- 9:00 Registration
- 9:30 Welcome/Introduction
- 9:45 Mission of the City of Washington Human Relations Council
- 10:00 Keynote Speaker ~ Mr. William Kenney (USDA) or Lt. Chrismon (Police & Fire Services)
- 10:30 Realtor/Finance Overview ~ Mr. Tom Litchfield
- 11:00 A panel of speaker will review the status of community assistance housing
- 11:30 Break
- 11:45 Fair Housing ~ Mr. Phillip Jordan, NC Human Relations Council
- 12:30 Questions, Symposium Survey, and Closing
- 12:45 Lunch

NEW BUSINESS: None

OTHER BUSINESS:

FYI – All FYI items and reminders were discussed inclusive of the June 16, 2015 report submitted to City Council, financial report, and board members contact information update.

OPEN DISCUSSION: NONE

APPOINTMENTS:

APPOINTMENT – RECREATION ADVISORY COMMITTEE

By motion of Councilman Brooks, seconded by Councilman Pitt, Council appointed Garrick Witherspoon to the Recreation Advisory Committee to fill a vacant (**inside**) position, term to expire June 30, 2017.

APPOINTMENT – WASHINGTON HOUSING AUTHORITY

Pursuant to state law, Mayor Hodges appointed Cathy Gaynor to the Washington Housing Authority to fill the unexpired term of Crawford A. (Lex) Man, Jr., term to expire June 30, 2018.

OLD BUSINESS:

ADOPT – STEWART PARKWAY FOOD AND BEVERAGE VENDING CONTRACT AND AMEND SECTION 22-5 TO ALLOW PEDDLING ON THE WATERFRONT

The Recreation Department has received a request for vending on Stewart Parkway. Currently section 22-5 of the City Code prohibits peddling on the waterfront.

During the May 11, 2105 Council Meeting, by motion of Mayor Pro tem Roberson, seconded by Councilman Brooks, Council voted to allow up to three vendors on Stewart Parkway and instructed staff to follow the RFP process as established in 2002.

During the July 13, 2015 Council meeting, Council provided input to the contract, those changes are reflected in the agenda packet.

By motion of Mayor Pro tem Mercer, seconded by Councilman Pitt, Council adopted the Stewart Parkway Food and Beverage Vending Contract to allow cart vendors on Stewart Parkway (3 locations) and adopted the ordinance to amend Section 22-5 of the City Code to allow peddling on the waterfront.

**AN ORDINANCE AMENDING
CHAPTER 22, PARKS AND RECREATION, ARTICLE I, IN GENERAL, OF THE CODE OF
THE CITY OF WASHINGTON, NORTH CAROLINA TO MAKE IT LAWFUL TO OPERATE
CERTAIN FOOD AND BEVERAGE VENDING OPERATIONS**

WHEREAS, North Carolina General Statute Chapter 160A, Cities and Towns, Article 18, Parks and Recreation, authorizes cities and towns to, among other things, operate parks and recreation programs.

WHEREAS, North Carolina General Statute Chapter 160A, Cities and Towns, Article 8, Delegation and Exercise of the General Police Power, authorizes cities and towns to, among other things, regulate certain acts.

WHEREAS, the Charter of the City of Washington grants the City of Washington the authority to exercise all of the powers, duties, rights, privileges and immunities conferred upon it by North Carolina General Statute Chapter 160A.

WHEREAS, the Washington City Council has adopted Rules and Regulations for parks and recreation areas as well as facilities and desires to amend the same.

NOW THEREFORE, BE IT ORDAINED by the City Council for the City of Washington, North Carolina that Chapter 22, Parks and Recreation, Article I, In General, of the Code of the City of Washington shall be amended as follows.

Section 1. Section 22-5, Rules and regulations, is hereby amended by deleting subsection (m) in its entirety and replacing it with the following subsection (m).

(m) There shall be no peddling or soliciting on parks or recreation properties or facilities, except on the site of and as a part of a permitted special event or pursuant to a contract entered into with the City.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. Should any provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Section 4. This ordinance shall take effect and be enforced from and after the date of its adoption.

This the 10th day of August, 2015.

ATTEST:

**s/Cynthia S. Bennett
City Clerk**

**s/Jay MacDonald Hodges
Mayor**

AMEND – SECTION 18-53 – INTERSECTIONS CONTROLLED BY TRAFFIC SIGNALS, AND SECTION 18-77 – STOP INTERSECTIONS, IN REFERENCE TO THE INTERSECTION OF MAIN STREET AND RESPESS STREET

Per Council's request, this ordinance amendment will allow for the removal of the traffic signal at Main and Respass and replace it with a three way stop condition.

By motion of Councilman Pitt, seconded by Councilman Beeman, Council adopted an ordinance to amend Chapter 18, Section 18-53 - Intersections controlled by traffic signals and Sec. 18-77 - Stop intersections in reference to Main Street and Respass Street.

AN ORDINANCE TO AMEND CHAPTER 18, SECTION 53: INTERSECTIONS CONTROLLED BY TRAFFIC SIGNALS AND SECTION 77: STOP INTERSECTIONS OF THE WASHINGTON CITY CODE

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Section 1. That Chapter 18 Section 18-53 - Intersections controlled by traffic signals, be amended to delete the following:

Sec. 18-53. Intersections controlled by traffic signals.
Main Street and Respass Street.

Section 2. That Chapter 18 Section 18-77 - Stop intersections, be amended to add the following:
Sec. 18-77. Stop intersections.

Main Street, from Respass Street.
Respass Street, from Main Street.

Section 3. All ordinances in conflict with this ordinance are hereby repealed.

Section 4. This ordinance shall become effective August 11, 2015.

This the 10th day of August, 2015.

ATTEST:

s/Cynthia S. Bennett
City Clerk

s/Jay MacDonald Hodges
Mayor

ADOPT – AMENDED ELECTRIC RATE SCHEDULES

In July 2015 the City Council voted to lower electric rates by 6% for the residential and small commercial rate classes. Included in this request are the affected rate schedules with the updated rate determinants.

By motion of Councilman Pitt, seconded by Mayor Pro tem Mercer, Council adopted the amended Residential Service - Inside Corporate Limits, Residential Service - Outside Corporate Limits, Residential Service Generation Option, Small General Service, Church Service and Recreational General Service electric rate schedules to be effective for electric service billed on or after 1 August 2015.

WASHINGTON ELECTRIC UTILITIES
Washington, North Carolina

Residential Service - Inside Corporate Limits
(Schedule RT1 / RT3)

AVAILABILITY

Service under this Schedule is available for separately metered and billed supply of electricity to single family residences, including residential farms where the farm uses are not taken through a separate meter, and common area residential lighting strictly used for residence owned decorative or security lighting for electric service delivered to premises located within the corporate limits of the City of Washington.

This Schedule is not available for (a) individual motors rated over 15 hp, (b) commercial use as in hotels, schools, institutions, public inns, motels, auto courts, tourist camps, trailer camps, and commercial, roadway, or billboard decorative and security lighting, (c) separately metered accessory buildings or equipment on residential property not suitable for residential use (other than small storage buildings expressly used for lawn and garden supplies and equipment), or (d) bulk barns and other seasonal high use facilities.

TYPE OF SERVICE

Alternating current, 60 hertz, single-phase, two or three wire service or three-phase three wire or four wire service at standard voltages of 240 volts or less are available under this Schedule.

MONTHLY RATE

Customer Charge:
Single Phase \$ 7.92 per month
Three Phase \$ 16.35 per month

Energy Charge:
All kWh \$ 0.117032 per kWh

WHOLESALE POWER COST ADJUSTMENT

All kilowatt-hours billed under this Schedule will be subject to Wholesale Power Cost Adjustments, if any, to recover wholesale power costs fully.

Washington Electric Utilities Schedule RT1/RT3, continued

SALES TAX

North Carolina State Sales Tax will be added to charges for service.

CONTRACT PERIOD

Open Order.

GENERAL

Service rendered under this Schedule is subject to the provisions of the Service Regulations of the City of Washington contained in the City Code of Ordinances.

Meters may be read in units of 10 kWh and bills rendered accordingly.

WASHINGTON ELECTRIC UTILITIES
Washington, North Carolina

Residential Service - Outside Corporate Limits
(Schedule RS1 / RS3)

AVAILABILITY

Service under this Schedule is available for separately metered and billed supply of electricity to single family residences, including residential farms where the farm uses are not taken through a separate meter, and common area residential lighting strictly used for residence owned decorative or security lighting for electric service delivered to premises located outside the corporate limits of the City of Washington.

This Schedule is not available for (a) individual motors rated over 15 hp, (b) commercial use as in hotels, schools, institutions, public inns, motels, auto courts, tourist camps, trailer camps, and commercial, roadway, or billboard decorative and security lighting, (c) separately metered accessory buildings or equipment on residential property not suitable for residential use (other than small storage buildings expressly used for lawn and garden supplies and equipment), or (d) bulk barns and other seasonal high use facilities.

TYPE OF SERVICE

Alternating current, 60 hertz, single-phase, two or three wire service or three-phase three wire or four wire service at standard voltages of 240 volts or less are available under this Schedule.

MONTHLY RATE

Customer Charge:
Single Phase \$ 8.35 per month
Three Phase \$ 17.41 per month

Energy Charge:
All kWh \$ 0.123192 per kWh

WHOLESALE POWER COST ADJUSTMENT

All kilowatt-hours billed under this Schedule will be subject to Wholesale Power Cost Adjustments, if any, to recover wholesale power costs fully.

SALES TAX

North Carolina State Sales Tax will be added to charges for service.

Washington Electric Utilities Schedule RS1/RS3, continued

CONTRACT PERIOD

Open Order.

GENERAL

Service rendered under this Schedule is subject to the provisions of the Service Regulations of the City of Washington contained in the City Code of Ordinances.

Meters may be read in units of 10 kWh and bills rendered accordingly.

WASHINGTON ELECTRIC UTILITIES
Washington, North Carolina

Residential Service Generation Option
(Schedule RGN)

AVAILABILITY

Service under this Schedule is available for separately metered and billed supply of alternating current electricity to single family residences, including residential farms where the farm uses are not taken through a separate meter.

This Schedule is not available for (a) individual motors rated over 15 hp, (b) commercial use as in hotels, schools, institutions, public inns, motels, auto courts, tourist camps, trailer camps, and commercial, roadway, or billboard decorative and security lighting, or (c) bulk barns and other seasonal high use facilities.

TYPE OF SERVICE

Alternating current, 60 hertz, single-phase, three wire service at a standard voltage of 240 volts is available under this Schedule.

MONTHLY RATE

Customer Charge:	
Single Phase	\$ 8.90 per month
Generator Connection Facilities:	\$ 20.00 per month
Energy Charge:	
All kWh	\$ 0.127076 per kWh

WHOLESALE POWER COST ADJUSTMENT

All kilowatt-hours billed under this Schedule will be subject to Wholesale Power Cost Adjustments, if any, to recover wholesale power costs fully.

SALES TAX

North Carolina State Sales Tax will be added to charges for service.

CONTRACT PERIOD

Initial contract period of twelve (12) months, open order thereafter.

Washington Electric Utilities

Schedule RGN, continued

GENERAL

Service rendered under this Schedule is subject to the provisions of the Service Regulations of the City of Washington contained in the City Code of Ordinances.

This Schedule provides for the City of Washington to own, install, and maintain Generation Connection Facilities on the customer owned metering facilities.

Meters may be read in units of 10 kWh and bills rendered accordingly.

WASHINGTON ELECTRIC UTILITIES
Washington, North Carolina

Small General Service
(Schedule GS1 / GT1 / GS3 / GT3)

AVAILABILITY

Service under this Schedule is available for nonresidential electric service when the customer's peak registered demand is less than 50 kW. Service will be provided at one of the Utility's standard single-phase or three-phase service voltages at one point of delivery.

Energy furnished under this Schedule may not be resold and may not be used for breakdown, standby, or supplemental service unless specifically provided in a service agreement.

All electric service from Washington Electric Utilities is subject to the City's Code of Ordinances and Electric Service Policies. The City Code, Electric Service Policies, and this Rate Schedule may be amended by the City Council.

MONTHLY RATE

Basic Charge:		
Single-phase		\$ 15.53
Three-phase		\$ 25.05
Energy Charge:		
First 2,000 kWh		\$ 0.133946 / kWh
Next 6,000 kWh		\$ 0.120900 / kWh
Over 8,000 kWh		\$ 0.100031 / kWh
Demand Charge:		
All over 30 kW		\$ 3.92 / kW

WHOLESALE POWER COST ADJUSTMENT

All kilowatt-hours billed under this Schedule will be subject to Wholesale Power Cost Adjustments, if any, to recover wholesale power costs fully.

SALES TAX

North Carolina State Sales Tax will be added to charges for service.

Washington Electric Utilities

Schedule GS1/GS3, continued

BILLING DEMAND

Billing Demand will be the maximum kilowatts during any fifteen-minute interval in the billing month.

PAYMENT TERMS

Bills are due when received and are payable within ten days of the due date of the bill. For unpaid bills, a notice will be issued twenty-one days after the billing date stating electric service will be terminated in approximately twelve days if the bill remains unpaid. A late payment fee of 5.0% will be charged on any balance outstanding twenty-five days after the billing date.

CONTRACT PERIOD

Open Order, except for short term or temporary service when the customer is required to pay the entire cost of installation (including material, labor, transportation, and overhead) plus the cost of removal net the value of salvageable materials (Facilities Charge). The customer will pay an estimated charge in advance. The Facilities Charge will be adjusted when actual costs are known.

SEASONAL SERVICE

Monthly customer charges may be deferred and paid in the billing months of July - October for seasonal use, with three months Customer Charges billed each month.

WASHINGTON ELECTRIC UTILITIES
Washington, North Carolina

Church Service
(Schedule RC1 / RC3)

AVAILABILITY

Service under this Schedule is available for separately metered and billed supply of alternating current electricity to a church plant or premises.

This Schedule is not available for (a) individual motors rated over 15 hp, (b) commercial use as in hotels, schools, institutions, public inns, motels, auto courts, tourist camps, or trailer camps, (c) seasonal high use facilities.

TYPE OF SERVICE

Alternating current, 60 hertz, single-phase, two or three wire service or three-phase three or four wire service at the city's standard voltages are available under this Schedule.

MONTHLY RATE

Customer Charge:	
Single Phase	\$ 8.77 per month
Three Phase	\$ 18.88 per month
Energy Charge:	
All kWh	\$ 0.129399 per kWh

WHOLESALE POWER COST ADJUSTMENT

All kilowatt-hours billed under this Schedule will be subject to Wholesale Power Cost Adjustments, if any, to recover wholesale power costs fully.

SALES TAX

North Carolina State Sales Tax will be added to charges for service.

CONTRACT PERIOD

Open Order.

Washington Electric Utilities

Schedule RC1/RC3, continued

GENERAL

Service rendered under this Schedule is subject to the provisions of the Service Regulations of the City of Washington contained in the City Code of Ordinances.

Meters may be read in units of 10 kWh and bills rendered accordingly.

WASHINGTON ELECTRIC UTILITIES
Washington, North Carolina

Recreational General Service
(Schedule RG1 / RG3)

AVAILABILITY

Service under this Schedule is available for nonresidential, publicly owned recreation facilities requiring electric service when the peak registered demand is less than 150 kW. Service is provided and individually billed for multiple separately metered public recreation facilities.

This Schedule is not available for (a) individual motors rated over 15 hp, (b) commercial use as in hotels, schools, institutions, public inns, motels, auto courts, tourist camps, or trailer camps, (c) seasonal high use facilities, (d) residential use.

Energy furnished under this Schedule may not be resold and may not be used for breakdown, standby, or supplemental service unless specifically provided in a service agreement.

All electric service from Washington Electric Utilities is subject to the City's Code of Ordinances and Electric Service Policies. The City Code, Electric Service Policies, and this Rate Schedule may be amended by the City Council.

MONTHLY RATE

Energy Charge:	
First 2,000 kWh	\$ 0.140719 / kWh
Next 6,000 kWh	\$ 0.119907 / kWh
Over 8,000 kWh	\$ 0.099038 / kWh
Demand Charge:	
All over 30 kW	\$ 3.92 / kW

WHOLESALE POWER COST ADJUSTMENT

All kilowatt-hours billed under this Schedule will be subject to Wholesale Power Cost Adjustments, if any, to recover wholesale power costs fully.

SALES TAX

North Carolina State Sales Tax will be added to charges for service.

Washington Electric Utilities

Schedule, RG1/RG3, continued

BILLING DEMAND

Billing Demand will be the maximum kilowatts during any fifteen-minute interval in the billing month.

PAYMENT TERMS

Bills are due when received and are payable within ten days of the due date of the bill. For unpaid bills, a notice will be issued twenty-one days after the billing date stating electric service will be terminated in approximately twelve days if the bill remains unpaid. A late payment fee of 5.0% will be charged on any balance outstanding twenty-five days after the billing date.

CONTRACT PERIOD

Open Order, except for short term or temporary service when the customer is required to pay the entire cost of installation (including material, labor, transportation, and overhead) plus the cost of removal net the value of salvageable materials (Facilities Charge). The customer will pay an estimated charge in advance. The Facilities Charge will be adjusted when actual costs are known.

ADOPT – BUDGET ORDINANCE AMENDMENT TO REFLECT A 6% ELECTRIC RATE REDUCTION EFFECTIVE AUGUST 1, 2015 FOR RESIDENTIAL AND SMALL GENERAL SERVICE CUSTOMERS

Council approved the rate reduction during the July 13, 2015 Council Meeting. Further rate adjustments will be considered after the cost of service study is completed.

Mayor Pro tem Mercer requested deferring this item until later in the fiscal year.

By motion of Mayor Pro tem Mercer, seconded by Councilman Beeman, Council tabled adopting the budget ordinance amendment to reflect a 6% electric rate reduction until later in the fiscal year.

NEW BUSINESS:

ADOPT – RECOMMENDATION OF THE AIRPORT ADVISORY BOARD TO REDUCE LIQUIDATED DAMAGES FOR THE AIRPORT TERMINAL PROJECT

At the July 14, 2015, Airport Advisory Board meeting, the board heard the request from A.R. Chesson Construction to eliminate the liquidated damages that were applicable as a result of the project not being substantially completed by the end of the specified contract time. The adjusted completion date was April 14, 2015, and the actual substantial completion date was April 28, 2015. Per contract documents, the engineer, architect and staff recommended applying \$500/day in liquidated damages for a total of \$7,000. After A.R. Chesson Construction made their request during this meeting, board members discussed at length whether or not to charge the full amount of damages per the contract, waive the damages altogether, or reduce the amount of the damages charged. Ultimately they voted 4-1 in favor of recommending that the total liquidated damages be reduced to \$3,500.

Mayor Pro tem Mercer commented the contractor was late in completing the original contract and the punch list has not completed.

By motion of Mayor Pro tem Mercer, seconded by Councilman Beeman, Council adopted the recommendation of the Airport Advisory Board to reduce the liquidated damages for the airport terminal project to \$3,500 provided the original contract and associated punch list is completed and accepted by the City of Washington by September 1, 2015.

APPROVE – SECOND ISP CONNECTION AT COMMUNICATION CENTER

In our continuing effort to ensure redundancy for all city network connections we are requesting an additional (ISP) internet connection with Suddenlink. Currently Suddenlink provides the city its primary connection via a dedicated fiber pair. This fiber connection at the City Hall location is currently our only connection for all city networking (i.e. data, voice, video). This second ISP will be a copper cable connection located at the Communication Center off Plymouth Street. It will ensure network communications will continue in the event of loss of fiber to city hall or if the fiber connection to the Communication Center is loss.

We are looking at 75Mbps (download)/10Mbps (upload) at an approx. monthly cost of \$155.45 (w/taxes); yearly cost approx. \$1,865.40. Terms of this contract will be for 36 months with \$0 for installation. This is the same contract we currently have at Washington-Warren Airport.

This second ISP will not be idle, with the help of our 3rd party networking group, we are looking to use this secondary connection for our disaster recovery backups. These backups take a snapshot every four (4) hours of our financials, utilities, & mail servers. Also a full network backup is run during the overnight hours. By using this second connection in this matter will increase transfer speed on our primary and decrease our backup times as well

By motion of Councilman Pitt, seconded by Councilman Brooks, Council approved the contract with Suddenlink for an additional ISP to be located at the Communication Center on Plymouth Street with an approximate monthly cost of \$155.45 for three (3) years and approved the corresponding purchase order.

APPROVE – BUDGET ORDINANCE AMENDMENT AND APPROVE THE SUBSEQUENT PURCHASE ORDERS RELATING TO THE FOREST HILLS SUBSTATION

Recently fault monitoring systems at the Forest Hills Substation detected low gas levels within the high voltage interrupters in the transformer protection breaker. (Schneider Electric-Square D 1991 Model). The equipment was taken out of service and inspected by Electric Department employees and the faulty components were identified. The manufacturer was contacted in an attempt to obtain repair parts. Schneider Electric indicated that they consider the equipment to be unrepairable due to the unavailability of replacement parts. These parts are no longer produced by the manufacturer. An attempt was made by the manufacturer and third party vendors to locate available replacement parts; none were found. During the period this breaker is not in service the City's electric system and the Forest Hills Substation power transformer are in a compromised state. Currently the necessary relay protection is not in service to protect the station transformer; only backup protective fusing which is intended only for emergency conditions and short term maintenance purposes.

The cost to replace the breaker equipment is \$42,760 with a delivery period of twenty (20) weeks. The professional engineering services that are required to update the drawings reflecting the equipment changes, perform the relay programming and testing, and perform the breaker commissioning are estimated not to exceed \$21,300.

Funds are not available in the current budget and a budget ordinance amendment is needed to complete the project.

Mayor Pro tem Mercer requested the total cost of the project and Mr. Hardt provided this information. Councilman Brooks asked Mr. Hardt about the potential of additional funds needed to finish the project. Mr. Hardt stated there are items that are already in stock such as connectors, wiring, etc.

By motion of Councilman Pitt, seconded by Councilman Beeman, Council approved a budget ordinance in the amount of \$64,060 for the Electric Fund and approved the subsequent purchase orders.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2015-2016**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Section 1. That the following account numbers in the Substation department of the Electric Fund appropriations budget be increased or decreased in the amounts indicated to provide funding for the replacement of the failed interrupter at the Forest Hills substation:

35-90-8370-0400	Professional Services	\$ 21,300
35-90-8370-7400	Capital Outlay	42,760
35-90-9990-9900	Contingency	<u>(64,060)</u>
		0

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 10th day of August, 2015.

ATTEST:

s/Cynthia S. Bennett
City Clerk

s/Jay MacDonald Hodges
Mayor

**ANY OTHER BUSINESS FROM THE MAYOR OR OTHER MEMBERS OF COUNCIL:
 NONE**

CLOSED SESSION: UNDER NCGS§143-318.11 (a)(3) ATTORNEY/CLIENT PRIVILEGE AND (a)(6) PERSONNEL

By motion of Councilman Pitt, seconded by Councilman Brooks, Council agreed to enter into closed session under NCGS § 143-318.11(a)(3) Attorney/Client Privilege and (a)(6) Personnel at 6:10pm.

By motion of Councilman Pitt, seconded by Councilman Brooks, Council agreed to come out of closed session at 6:45pm.

**ANY OTHER BUSINESS FROM THE CITY MANAGER
POLICE/FIRE STATION**

Interim City Manager, Bobby Roberson provided that it is staff’s recommendation to actually retrofit Fire Station #1 and then look at the proposed site at 5th Street & Bonner Street to construct the new Police Station. Staff would like to proceed with phase II of the environmental study for the 5th Street & Bonner Street location. Recently, approximately \$40,000 was expended at Fire Station #1 for roof and other associated repairs. Mr. Roberson noted that Fire Station #1 was good structural shape. Councilman Brooks noted a concern with a rear door at the Fire Station.

Mayor Hodges noted that wherever the new Police Station is built, we should ensure there is enough room on the site to build a Fire Station, if needed, in the future. Mayor Hodges discussed the property located near 3rd Street & Bridge Street (former Dr. Pepper Plant site). Council asked Mr. Roberson to obtain the cost of this property and bring this back to Council at a future meeting. Councilman Pitt noted this site was looked at several years ago when Council first discussed building a new Police Department.

CONTRACT WITH MARTIN COUNTY COMMUNITY COLLEGE – TRAINING PURPOSES

Bobby Roberson noted he has received a request from Martin County Community College to allow students to ride with Fire/EMS staff for learning exercises (Advanced EMT Class).

By motion of Councilman Beeman, seconded by Councilman Brooks, Council authorized the Manager to sign the agreement with Martin County Community College.

Mr. Holscher stated there needs to be a release in the agreement and Mr. Roberson voiced the agreement does contain a release.

ADJOURN:

By motion of Councilman Pitt, seconded by Councilman Brooks, Council adjourned the meeting at 6:50pm until Monday, August 24, 2015 at 5:30 pm, in the Council Chambers.

(Subject to the Approval of the City Council)

**Cynthia S. Bennett, MMC
City Clerk**

DRAFT



REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: Mike Whaley, Purchasing Agent
Date: August 14, 2015
Subject: Declare Surplus/Authorize Electronic Auction of Vehicles through GovDeals
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that City Council declare surplus and authorize the sale of the following vehicles through electronic auction using GovDeals.

BACKGROUND AND FINDINGS:

The purpose of this Council Action is to declare surplus the following vehicles and authorize the sale of these vehicles through electronic auction using GovDeals.

<u>Vehicle #</u>	<u>Make/Model</u>	<u>Department</u>	<u>Serial Number</u>	<u>Odometer Reading</u>
132	Ford Crown Vic	Police	2FAHP71V28X145013	98,374
141	Ford Crown Vic	Police	2FAFP71V98X134565	105,183
148	Ford Crown Vic	Police	2FAHP71V88X145016	104,121
8011	John Deere Ball Prep Machine	Recreation	TC1200A100410	1995 hours
8015	Grasshopper Mower	Recreation	BW7013GR2017	1766 hours

PREVIOUS LEGISLATIVE ACTION:

FISCAL IMPACT:

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS:

City Manager Review: BW Concur Recommend Denial No Recommendation
8-19 Date August 24, 2015



REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: Stacy Drakeford, Director Police and Fire Services
Date: August 18, 2015
Subject: Walmart Grant
Applicant Presentation: N/A
Staff Presentation: Stacy Drakeford

RECOMMENDATION:

I move that City Council authorize Police and Fire Services to apply for a Walmart Grant with an amount not to exceed \$2,500.

BACKGROUND AND FINDINGS:

This grant will fund the Christmas “Shop with a Washington Public Safety Officer” program. This is another initiative of the Washington Police and Fire Services Department to foster better relationships with the community’s youth. There is no local match.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS



REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: Matt Rauschenbach, Administrative Services Director/C.F.O.
Date: August 24, 2015
Subject: Vehicle Purchase Order Approval
Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that City Council approve the attached purchase orders.

BACKGROUND AND FINDINGS:

Requisition #587, Sir Walter Chevrolet, State contract, \$20,619 to replace vehicle #655, a 2005 Chevrolet Van, \$25,000 budgeted. The current vehicle will be declared surplus, sold on Gov deals, and the proceeds applied to the Electric Fund.

Requisition #653, Capital Ford, State contract, \$22,508 to replace vehicle #121, a 2000 Jeep Cherokee, \$20,000 budgeted. Vehicle being purchased is the same as two previous inspection vehicles and price increased more than budgeted. A budget transfer from Planning to Inspections has covered the shortfall. The current vehicle will be declared surplus, sold on Gov deals, and the proceeds applied to the Vehicle Replacement Fund.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

Requisitions

City Manager Review: *BR* Concur _____ Recommend Denial _____ No Recommendation
8-18 Date August 24, 2015
Page 18 of 128

**Requisition Form
City Of Washington
P.O BOX 1988
WASHINGTON, NC 27889**

Requisition #: 587
PO #: Not Assigned
User Name: mwhealey

Date: 8/4/2015
Approved By:
Approved Code:
Total Amount: \$20,619.00
Ship To: CITY OF WASHINGTON
WAREHOUSE (ELEC)

SIR WALTER CHEVROLET CO.
8501 GLENWOOD AVENUE
RALEIGH, NC 27612

Electric Meter Service, Mike Whaley, 252-975-9308. Replaces vehicle #655. Attn: Bob Rowe

Quantity	Item Description	Project Number	Unit Price	Extended
1	Chevy Equinox AWD/1LG26/LS/1LG26 from State Contract #070G, Item 60.1. A) Color: White, B) Interior: Blue or gray, C) Freight included, D) Title to: City of Washington, PO Box 1988, Washington, NC 27889. Vehicle to be delivered to: 203 Grimes Road, Washington, NC 27889.		\$20,619.00	\$20,619.00

Sub Total	\$20,619.00
Shipping	\$0.00
Tax	\$0.00
Total	\$20,619.00

Account Number	Account Description	Amount
35-90-7250-7400	EQUIPMENT PURCHASES	\$20,619.00
Total		\$20,619.00

Requisition Approval History

Approval Date	Approval Description	Approved by	PO Number
---------------	----------------------	-------------	-----------

**Requisition Form
City Of Washington
P.O BOX 1988
WASHINGTON, NC 27889**

Requisition #: 653
PO #: Not Assigned
User Name: mwhealey

Date: 8/17/2015
Approved By:
Approved Code:
Total Amount: \$22,508.00
Ship To: CITY OF WASHINGTON CITY HALL
(PLANNING)

CAPITAL FORD, INC.
PO BOX 58678
RALEIGH, NC 27658

Mike Whaley for Inspections, Mike Whaley, 252-975-9308. Replaces vehicle #121. Attn: Jim Torr

Quantity	Item Description	Project Number	Unit Price	Extended
1	Ford F150 Supercab short bed from State Contract #070G, Item 29, V-6 automatic, power group, cruise control less item 27 front hooks, less item 32 towing package, less item 33 suspension package, painted white with vinyl seats per quote from Jim Torr dated July 31, 2015. A) Color: White, B) Color interior: blue or gray, C) freight included, D) Title to: City of Washington, PO Box 1988, Washington, NC 27889.		\$22,508.00	\$22,508.00

Sub Total	\$22,508.00
Shipping	\$0.00
Tax	\$0.00
Total	\$22,508.00

Account Number	Account Description	Amount
86-60-4930-4350	VEHICLE PURCHASES-CODE ENFORCEMENT	\$22,508.00
Total		\$22,508.00

Requisition Approval History

Approval Date	Approval Description	Approved by	PO Number
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Grant Executive Summary

as of 7/31/2015

Active	Fund	Grant Description	Dates			Financials				Deliverable				Notes
			Award	Expiration	Completion	Revenue		Expense		Metric	Total	Achieved	Bal.	
						Budget	Actual	Budget	Actual					
50	CDBG Affordable Housing	04/09/10	10/31/14	09/30/15	227,700	185,719	227,700	185,719	LMI homes	10	6	4	6 completed, add'l home complete by Sept. 30, one more in progress	
53	Downtown Development				85,500	-	85,500	24,500					Options to purchase have been executed, phase II to be conducted	
55	idX/Impressions NC One Grant	09/30/13	09/30/16		300,000	-	300,000	-	Jobs/investment	160	0	160	Jobs created but not since award date	
59	idX Building Reuse	12/18/15	12/18/16		512,500	4,000	512,500	2,500	Jobs/investment	50		50	Grant agreements executed, Mid-East administering	
61	Pedestrian Plan Grant	05/20/13	09/30/13	12/31/14	10,000	10,000	10,000	-				0	Committee formed and meeting monthly	
66	Airport Terminal Grant	04/04/13	07/01/15	03/31/15	1,254,488	1,251,198	1,254,488	1,124,406				0	Terminal opened Memorial Day	
67	Façade Grant Program	07/01/15	06/30/16	06/30/16	20,000	2	20,000	5,660				0	In progress, 3 reimbursed (2 from prior year)	
69	Way Finding			04/01/15	150,000	150,465	150,000	14,913					Reviewing w/ DOT, cost estimate & recommendation in progress	
71	Airport Lighting Rehab				460,121	82,353	460,121	45,072					Contract signed, construction begun, complete mid October	
72	Municipal Pier Access Grant	07/01/14	11/30/15		135,000	15,000	135,000	-					Construction to begin in August, complete by Nov 30th	
74	Sewer I&I rehab/CWSRF	06/03/15			2,000,000	-	2,000,000	-					Engineering agreement to Council in August	
75	Firefighter's Assistance- Exhaust	08/08/14	08/07/15		50,000	39,474	50,000	44,109					Exhaust system complete, balance of equipment received in August	
76	EDA Water Projects	09/11/13	03/11/17	02/28/17	1,428,262	706,133	1,428,262	166,198				0	Construction begun on 16" water line	
77	EDA Sewer Grants	09/11/13	03/11/17	02/28/17	1,423,894	703,974	1,423,894	284,833				0	Bid awarded January 2015, notice to proceed Feb. 23	
	CDBG Keysville Rd.	2005	6/4/2013	06/30/16	320,000	320,000	320,000	320,000				0	Lot 2 LMI qualifies, expected closing 7/26/15	
37	Airport Approach Survey	07/01/14	07/01/16		16,986	14,161	18,873	15,734					Survey completed	
10	NC Cardinal	07/01/14		06/30/15	22,345	20,439	22,345	20,320					Completed	
10	EZ Technology Library Grant	06/09/15			4,863	-	4,863	-					Grant awarded in July	
10	Historic Preservation Grant	07/01/14	08/21/15		11,000	-	15,000	6,750					Survey updated and first draft National Register nomination completed	

Applications

	Pre-App	Selected	Final App	Grant	Match	Total	
FEMA AFG Fire Engine/Resc. Tools	11/30/14			353,929	18,571	372,500	Application submitted
Havens Garden PARTF				250,000	250,000	500,000	Application submitted, award notification October
Recreation Trails Program	7/14/15			19,500	6,500	26,000	Partnered with Sound Rivers

Fund/Department	Account	Description	Budget \$	Spent	Open PO	Balance	Status	Notes
General Fund:								
Finance	10-00-4130-7400	Financial Software	50,000	0	0	50,000	Begin evaluating vendors	
Purchasing	10-00-4131-7400	Parking lot 1/3	25,000	0	0	25,000	Go out for bid	
		Lighting	32,530	0	0	32,530	Go out for bid	
IT	10-00-4132-7400	Network switches	12,306	0	6,640	5,666	On order	
Police	86-60-4930-4310	Vehicles #136, 160, & 164	142,000	0		142,000	Place order, 7 month delivery	
Fire	10-10-4341-7400	Defibrillator	30,000	0	0	30,000	Go out for bid	
	86-60-4930-4341	EMS truck 1	150,000	0	148,066	1,934	On order	
Code Enforcement	86-60-4930-4350	Vehicle #121	20,000	0	0	20,000	Place order in August	
Powell Bill	10-20-4511-4500	Street Paving	55,000	711	0	54,289		
Street Maintenance	86-60-4930-4510	Dump truck #455	75,000	0	63,864	11,136	On order	
Rec. Administration	10-40-6121-7400	Bobby Andrews Roof	54,000	0	0	54,000	Go out for bid	
Senior Center	10-40-6123-7400	HVAC	6,500	0	0	6,500	Bid in October	
Rec. Maintenance	10-40-6130-7400	Grasshopper mower	11,000	11,000	0	0	Complete	
		Ballfield rake	13,000	0	13,000	0	On order	
Total General Fund			676,336	11,711	231,570	433,055		
Water:								
Miscellaneous	30-90-6610-7400	Network switches	12,306	0	6,640	5,666	On order	
	30-90-6610-7400	GIS 1/2	12,100	0	0	12,100		
	30-90-6610-7400	Utility billing software	18,182	0	0	18,182	Begin evaluating vendors	
Treatment	30-90-8100-7400	Vehicle #550	28,000	0	27,963	37	On order	
Maintenance	30-90-8140-7400	Vehicle #416	24,000	0	0	24,000		
Total Water Fund			94,588	0	34,603	59,985		
Sewer:								
Miscellaneous	32-90-6610-7400	Network switches	12,306	0	6,640	5,666	On order	
	32-90-6610-7400	GIS 1/2	12,100	0	0	12,100		
	32-90-6610-7400	Utility billing software	18,182	0	0	18,182	Begin evaluating vendors	
Treatment	32-90-8220-7400	Vehicle #551	27,000	0	26,454	546	On order	
	32-90-8220-7400	Video surveillance system	25,000	0	0	25,000	In place February 2016	
Lift Stations	32-90-8230-7400	Springs Rd panel A	20,000	0	0	20,000	In place February 2016	
	32-90-8230-7400	Springs Rd panel B	20,000	0	0	20,000	In place February 2016	
Total Sewer Fund			134,588	0	33,094	101,494		

Fund/Department	Account	Description	Budget \$	Spent	Open PO	Balance	Status	Notes
Storm Water:								
	34-90-5710-7400	Drainage improvements	150,000	60	0	149,940	Engineering contract awarded	
	58-90-5710-4500	RZEDB-drainage improvemen	150,000	0	0	150,000	Engineering contract awarded	
		Total Storm Water Fund	300,000	60	0	299,940		
Electric:								
Electric Director	35-90-6610-7400	Network switches	12,306	0	6,640	5,666	On order	
	35-90-6610-7400	Utility billing software	63,636	0	0	63,636	Begin evaluating vendors	
Electric Meter Service	35-90-7250-1500	Parking lot 1/3	25,000	0	0	25,000	Go out for bid	
	35-90-7250-7400	Meters	50,000	0	0	50,000	Not ordered yet	
		Vehicle #655	25,000	0	0	25,000	Submit PO in September	
		Total Electric Meter Svc.	100,000	0	0	100,000		
Substation Maint.	35-90-8370-7400	Distribution reclosers	20,000	0	0	20,000	Partial order placed	
		Capacitors	8,000	0	4,270	3,730	Partial order placed	
		Slatestone subst./recloser	20,000	0	0	20,000	Not ordered yet	
		Forest Hills substation	42,760	0	42,760	0	On order	
	35-90-8370-7401	Main sub B3 breaker	50,000	0	33,280	16,720	On order	
		Total Substation	140,760	0	80,310	60,450		
Power Line Maintenance	35-90-8380-1500	Parking lot 1/3	25,000	0	0	25,000	Go out for bid	
Power Line Construction	35-90-8390-7400	Vehicle UTV	15,000	0	0	15,000	Bids received	
	35-90-8390-7401	Grimesland Rd. Feeder	310,000	0	0	310,000	Begin work late this calendar year	
		Vehicle #614	35,000	0	26,819	8,181	On order	
		Trencher #610	60,000	0	0	60,000	Council discussion 8/24/15	
		Vehicle #608	72,500	0	0	72,500	Order late this calendar year	
		Total Power Line Constructi	492,500	0	26,819	465,681		
		Total Electric Fund	834,202	0	113,769	720,433		
Cemetery Fund	39-90-4740-7400	Vehicle #510	20,000	0	18,762	1,238	On order	
		Zero turn mower	6,800	6,500	0	300	Complete	
		Total Cemetery	26,800	6,500	18,762	1,538		
Grand Total		Grand Total	2,066,514	18,271	431,798	1,616,445		

Notes:

- 1 PO carryforward
- 2 Project carryforward

Mayor
Mac Hodges

Interim City Manager
Bobby E. Roberson



Washington City Council
Richard Brooks
Doug Mercer
Larry Beeman
William Pitt

MEMORANDUM

The City of Washington entered into a lease agreement with PTRF in March 2013 to construct a camping platform that is accessible by canoes and kayaks on the south side of the Tar River on the McMullen tract. Camping platforms are usually 16' x 32' raised wooden platforms that provide space for overnight camping access to the Tar River. PTRF's ultimate goal is to provide a series of platforms along the Tar/Pamlico River.

PTRF has the responsibility to:

Construct the camping platform in a timely and unobtrusive manner at the specified location and leave the site clean and pristine following construction.

Require all users of the camping platform to sign a liability waiver form to release PTRF and Washington from any liability associated with the use of the camping platform or Washington's property upon which the camping platform is located.

Handle all reservations and scheduling associated with the use of the camping platform and require each user to purchase a permit to use the camping platform. Any revenue produced through or by the camping platform shall be utilized as more specifically provided for in the Recreational Lease entered into by the parties.

Routinely inspect, maintain and clean the camping platform and the area immediately surrounding the camping platform to ensure maximum safety.

Be committed to resolving any unexpected situation in a timely manner as to alleviate Washington's concerns, as PTRF staff and/or volunteers are aware that special circumstances may arise where immediate attention or maintenance may be required at the camping platform.

Utilize any and all revenues that are generated by the camping platform and retained by PTRF to support and fund the Tar River Camping Platform System.

PTRF has completed the platform and was inspected and approved by the City of Washington Community and Cultural Services Department. They are waiting approval from the Division of Coastal Management before opening the platform to the public.

Attached are photographs of the platform and the surrounding area. The completed project should make a great addition to the paddling community of Washington.

1:592 Feet

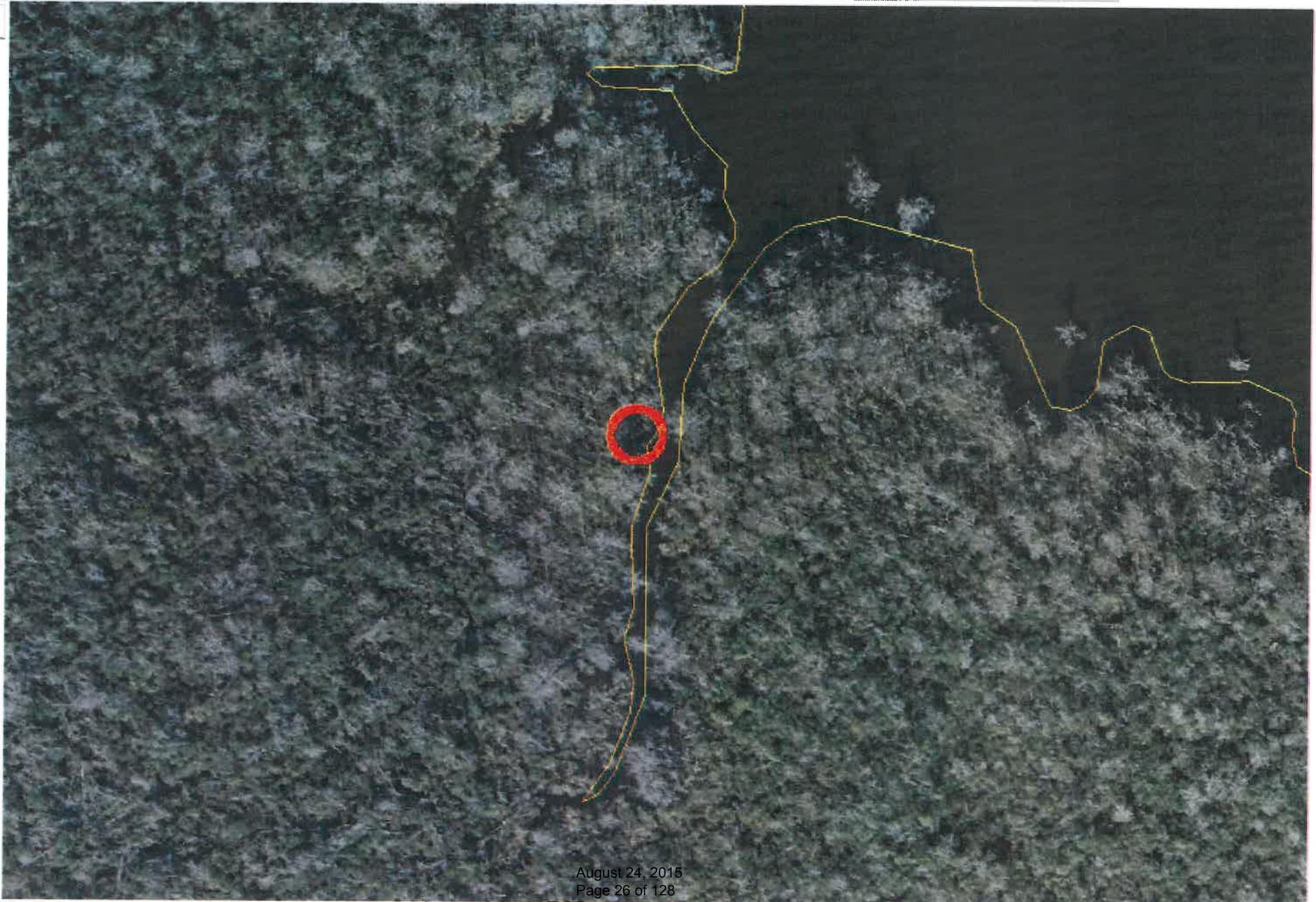
Search





1:148 Feet

Search



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August 24, 2015
Page 29 of 128

Mayor
Mac Hodges

Interim City Manager
Bobby Roberson



Washington City Council
Richard Brooks
Doug Mercer
Larry Beeman
William Pitt

To: Mayor Hodges & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: August 24, 2015
Subject: Budget Transfer- General Fund

The Budget Officer transferred \$3,500 of funds between the Planning and Code Enforcement/Inspections divisions of the General Fund appropriations budget for vehicle 121 being purchased for Inspections. This purchase is included in the PO's for approval in the Council agenda.

NC GS 159-15 states that this shall be reported to the Council at its next regular meeting and be entered in the minutes. Transfer request is attached

Request for Transfer of Funds

Date: 8/13/2015

TO: City Manager or Finance Director

FROM: John Rodman

SUBJECT: REQUEST FOR TRANSFER OF FUNDS

I hereby request the transfer of funds as set forth below from one account to another, all within the same appropriation fund account, as permitted and authorized by the General Statutes of North Carolina.

	Department	Account Number	Object Classification	Amount
FROM:	10-10-4910	0200	Salaries	3,500
TO:	10-10-4350	8600	Transfer- vehicle replacement fund	3,500

For the purpose of: Increase in cost of Inspections vehicle 121 replacement.

2'

Supervisor



Department Head

ACTION OF CITY MANAGER OR FINANCE DIRECTOR

Approved:

Disapproved:

* Request for Transfer of Funds from Department to Department require City Manager's approval.

** Request for Intradepartmental Transfer of Funds require Finance Director approval.



City Manager or Finance Director

8-17-2015



REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: Kristi Roberson, Parks and Recreation Manager
Date: August 24, 2015
Subject: Cart Vendors on Stewart Parkway - Proposals
Applicant Presentation: none
Staff Presentation: none

RECOMMENDATION:

I recommend City Council authorize the Recreation Manager to execute contracts with Michael Weeks (Loreta's Frozen Desserts/Stewart Parkway #2) and Michael Senn (Senn Farms Catering, Inc./Stewart Parkway #1) for vending locations on Stewart Parkway.

Although the contract template is for one year, I recommend City Council to authorize the Recreation Manager to negotiate the terms of the contract for the remainder of 2015. The Recreation Manager will request and accept bids for full term contracts in 2016.

BACKGROUND AND FINDINGS:

RFP's for vending on the Parkway were due August 3 to the Recreation Manager.

During the August 10, 2015 Council meeting, Council adopted the Stewart Parkway Food and Beverage Vending Contract to allow cart vendors on Stewart Parkway (3 locations) and amended Section 22-5 of the City Code to allow peddling on the waterfront.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted (Account) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

Request for Proposals (RFP) - Loreta's Frozen Desserts & Senn Farms Catering, Inc.
Map

City Manager Review *[Signature]* Concur Recommend Denial No Recommendation
 Date 8-18

BID PROPOSAL FORM

STEWART PARKWAY FOOD AND BEVERAGE VENDING

The undersigned hereby makes a proposal to operate a food and beverage vending operation on Stewart Parkway and proposes to pay the following license fee of **\$1,801 (Eighteen-Hundred-and-One-Dollars)** (1 year), for the privilege and use of the following vending site location: **Stewart Parkway #2 near Respass Street.**

This proposal is submitted with the knowledge that the City of Washington (City) reserves the right, in its sole discretion, to reject any and all proposals submitted hereunder or to make any counter-proposal which may be considered reasonable or desirable.

I make this proposal on behalf of myself and no others, on a competitive basis without collusion. No other person, firm, or corporation has an interest, directly or indirectly, in this proposal. The undersigned certifies that no City representative has any financial interest, directly or indirectly, in this proposal, the proposed license, or any portion of the profits thereof, and that no promises or inducements have been made or received on behalf of the undersigned in connection with the making of this proposal.

The undersigned further certifies that the contract documents contained within the related Request for Proposals have been carefully examined. The undersigned proposes to commence the food and beverage vending operation as soon as possible upon approval of bid. **We need to hire staff for the Washington location in addition to utilizing current staff. We anticipate operation start-up within 15-30 days of City approval, sooner if possible.** Please find attached the following documents and material to support my proposal to provide a food and beverage vending operation on Stewart Parkway:

1. Bid Proposal Form
2. Bid Information Sheet
3. Reference Information
4. Any other documentation: **Includes Proof of Insurance, Marketing Items, Photos and related information.**

Business Name: Loreta's Frozen Yogurt/Loreta's Frozen Desserts

Date: August 3, 2015

Name: Michael Weeks

Title: Owner

Address: P.O. Box 7

Phone: 252-721-0470

City/State: Washington, North Carolina

Zip: 27889

Email: LoretasFrozenDesserts@gmail.com

Signature: 

Michael D. Weeks, Owner

BID INFORMATION SHEET
STEWART PARKWAY FOOD AND BEVERAGE VENDING

1. Name and mailing address of applicant: Michael Weeks, P.O. Box 7, Washington, NC 27889
2. Name of current business and current business address (if any): Loreta's Frozen Yogurt, Loreta's Frozen Desserts, 736 Greenville Blvd, S.W., Suite 107, Greenville, NC 27834
3. Type of current business: Frozen Desserts, Ice Cream, Yogurt, Gelato, Sorbet, Toppings, Soft Drinks and related items
4. State the number of years the applicant has been engaged in business under the current business name: **Four Years. Opened the Greenville Store for business July 22, 2011.**
5. List all pertinent information indicating the ability of the applicant and its management personnel to operate a food and beverage vending operation at Stewart Parkway: **We engage in Catering and off-site Sales and Events as a part of daily operations for Weddings, Special Events, at Festivals, Markets, Catering for Meetings.... we do it.**
6. Other relevant experience: **Own and Operate Michael Weeks Agency, an advertising and marketing firm, specializing in marketing, advertising and public relations. I create, consult, write and create television & radio commercials and campaigns for clients like The Whitley Law Firm, Pitt Community College, Suddenlink, Audiology of New Bern and Loreta's to name a few. My expertise in planning, marketing and executing marketing plans is an asset to be employed in promoting the potential Loreta's Washington Waterfront Vending location.**
7. Proposed food and beverage vending site location, Stewart Parkway: **2. Respass Street Location.**
8. List food and/or beverage items proposed to be sold: **Frozen Dessert Items that include but are not limited to frozen yogurt, ice cream, gelato and sorbet in cups & cones. Frozen Dessert specialties like Cookie Delights i.e. Frozen Dessert placed between two Gourmet Cookies; Ice Cream/Frozen Yogurt & Gelato Cones; Dessert Specialties as weather and location will permit. We also offer frozen treats for dogs. Loreta's Doggy Yo will be a welcome addition to those walking dogs along the waterfront. We will also sell non-alcoholic beverages i.e. water and perhaps limited soft drinks and related items.**
9. State plan for support vehicle parking that identifies the location for such vehicle: **We have an SUV that pulls a small trailer to transport our Nelson Cold Cart 'Ice Cream Cart' with cold plate capabilities. This cart is designed to keep frozen items frozen for sale in outdoor vending without electrical service for 8-12 hours when used on-location. Times and capabilities vary with weather and other factors. Loreta's would park the vehicle and small trailer in public parking across from the waterfront location when available, or move to a public space or lot close by as needed. Our intent is to find a room or small office/garage area near the**

waterfront as business and revenue allow. A nearby location could store the vending cart and supplies so equipment and products are easily accessible for vending and restocking.

10. State vending cart or other equipment description and attach photograph or drawing that includes cart or other equipment specifications: **We will use a Nelson BDC-8 Vending Cart as commonly found at festivals and events along with our sandwich board sign in the attached photo. We will also have some coolers and containers for beverages (water), cookies, cones, and non-frozen items for preparing items for sale along the waterfront.**
11. List operation schedule that includes hours per day, days per week, and holiday schedule: **Vendor operations outside along the waterfront is weather dependent. We endeavor to be available Weekends which may include but is not limited to mornings, late afternoons and evenings during daylight hours. We are hopeful our waterfront visitors and traffic opportunities exist to allow expansion across weekdays and other times as is reasonable. Waterfront vending is new to everyone in Washington. We will put our best foot forward to be present with staff and frozen dessert offerings, taking hiatus on cold weather days, yet flexible enough to engage our operation when weather and staff permit with short notice.**

Stewart Parkway Vending Locations

Established 2015



BID PROPOSAL FORM

STEWART PARKWAY FOOD AND BEVERAGE VENDING

The undersigned hereby makes a proposal to operate a food and beverage vending operation on Stewart Parkway and proposes to pay the following license fee, \$ 1,800.00 (1 year), for the privilege and use of the following vending site location: Stewart Parkway # 1.

This proposal is submitted with the knowledge that the City of Washington (City) reserves the right, in its sole discretion, to reject any and all proposals submitted hereunder or to make any counter-proposal which may be considered reasonable or desirable.

I make this proposal on behalf of myself and no others, on a competitive basis without collusion. No other person, firm, or corporation has an interest, directly or indirectly, in this proposal. The undersigned certifies that no City representative has any financial interest, directly or indirectly, in this proposal, the proposed license, or any portion of the profits thereof, and that no promises or inducements have been made or received on behalf of the undersigned in connection with the making of this proposal.

The undersigned further certifies that the contract documents contained within the related Request for Proposals have been carefully examined. The undersigned proposes to commence the food and beverage vending operation on September 1, 2015. Please find attached the following documents and material to support my proposal to provide a food and beverage vending operation on Stewart Parkway:

1. Bid Proposal Form
2. Bid Information Sheet
3. Experience/Reference Information
4. Any other documentation

Business Name Senn Farms Catering, Inc. DBA: Mike's Dawg House

Date 07/30/15

Name Michael Senn

Title Owner

Address 1406 Nicholson Street Washington, NC

Phone 252-402-7711

Zip 27889

BID INFORMATION SHEET

STEWART PARKWAY FOOD AND BEVERAGE VENDING

1. Name and mailing address of applicant: **Senn Farms Catering, Inc., Michael Senn, 1406 Nicholson St, Washington, NC**
 2. Name of current business and current business address (if any): **Senn Farms Catering, Inc., Michael Senn, 1406 Nicholson St, Washington, NC**
 3. Type of current business: **Prepared Food Catering, Hot dogs, Chips, Drinks**
 4. State the number of years the applicant has been engaged in business under the current business name: **One year**
 5. List all pertinent information indicating the ability of the applicant and its management personnel to operate a food and beverage vending operation at Stewart Parkway: **All Permits, Insurance are current and are attached.**
-
-

6. Other relevant experience: **I used to professionally event plan for 5 years with PRCA (Professional Rodeo Cowboy Association).**

7. Proposed food and beverage vending site location, Stewart Parkway: **1**

8. List food and/or beverage items proposed to be sold: **Hot dogs, Chips, and, Drinks**

9. State plan for support vehicle parking that identifies the location for such vehicle: _____

10. State vending cart or other equipment description and attach photograph or drawing that includes cart or other equipment specifications: **Attached Pictures**

11. List operation schedule that includes hours per day, days per week, and holiday schedule: **Will plan to set up daily as weather permits**



REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: Gloria J. Moore, Brown Library Director
Date: August 24, 2015
Subject: Memorandum of Agreement – NC Cardinal
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that the City Council authorize Interim City Manager Bobby Roberson and Brown Library Director Gloria Moore to execute the 1 year Memorandum of Agreement with NC Cardinal for ongoing technical support and maintenance.

BACKGROUND AND FINDINGS:

This is our first year with NC Cardinal and there was no maintenance cost. Cost is based on the number of active items a library has and the number of branches. Our estimated maintenance cost with Cardinal for this year would have been approximately \$1,873, a savings of \$11,343 compared to our prior cataloging system with Library Corporation. The library has another year of free maintenance and support (2016). The two free years will save the City over \$22,000. The library is scheduled to begin paying for maintenance and support in 2017.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

Memorandum of agreement is attached.

State of North Carolina
County of Wake

Department of Cultural Resources
State Library of North Carolina
NC Cardinal Memorandum of Agreement
Contract Number 2168

This Agreement is hereby made between the North Carolina Department of Cultural Resources, State Library of North Carolina, 109 East Jones Street, Raleigh, NC (hereinafter referred to as "Department") and the George H. & Laura E. Brown Library, 122 Van Norden, Washington, NC 27889 (hereinafter referred to as "Library" and together, the "Parties").

WHEREAS, NC Cardinal is a project of the State Library of North Carolina conducted in partnership with North Carolina public libraries;

WHEREAS, this collaboration leverages federal and local funds to achieve operational efficiencies and cost savings for public libraries and provide for more effective use of public resources;

WHEREAS, the use of a single, shared online catalog expands resource sharing and cooperative services among public libraries and delivers faster access to a greater number and variety of resources for library patrons;

NOW, THEREFORE, the Parties hereto, desiring to establish or renew their commitment to NC Cardinal upon the terms set forth below, do hereby agree as follows:

I. Terms and Conditions

While the Library retains autonomy over its local operations, participation in NC Cardinal requires collaboration in developing common policies and shared decision making. For acceptance into and continuing participation in NC Cardinal, the Library shall abide by the NC Cardinal Bylaws (Attachment A) and adhere to the following terms and conditions:

A. General Terms and Conditions

- 1) Comply with NC Cardinal policies, procedures, and protocols, including regulations approved by the State Library and policies of the NC Cardinal Governance Committee;
- 2) Connect to the network exclusively with equipment that is compatible with NC Cardinal;
- 3) Support the development and implementation of electronic and physical delivery of NC Cardinal materials and services to other members of NC Cardinal;
- 4) Provide in-person services to patrons of all NC Cardinal libraries in the same manner as to the Library's own patrons;
- 5) Refrain from making internal policy changes that would adversely affect other NC Cardinal libraries;
- 6) Provide Library representation at NC Cardinal General Membership meetings;
- 7) Provide Library representation and service to committees, task forces, and forums sponsored by the NC Cardinal Governance Committee;
- 8) Ensure Library personnel participation in appropriate training and continuing education programs;

- 9) Allow use of the Library's name in NC Cardinal official documents and informational sites;
- 10) Agree to and adhere to the GNU General Public License (GNU GPL) for Evergreen software, a copyleft license which ensures free software rights are preserved when the work is distributed; and
- 11) Make no changes to the Evergreen software code other than alterations of bibliographic holdings data.

B. Data Terms and Conditions

- 1) Input, maintain, and share bibliographic holdings with all NC Cardinal libraries;
- 2) Input newly acquired holdings according to the standards developed by the NC Cardinal Cataloging Committee and approved by the NC Cardinal Governance Committee;
- 3) Input, maintain, share, and keep patron records confidential according to applicable federal and State laws, including G.S. § 125-19 of the North Carolina General Statutes;
- 4) Comply with the NC Cardinal cataloging best practices and procedures for item and patron records prior to migrating data into NC Cardinal;
- 5) Restrict the creation of data records and other staff activity in NC Cardinal to authorized and trained personnel;
- 6) Enter accurate information for all NC Cardinal transactions and statistics; and
- 7) Adhere to the NC Cardinal membership policies as defined in Appendix A: Bylaws, Section 2, Membership.

C. Lending and Resource Sharing Terms and Conditions

- 1) Lend Library materials to patrons of NC Cardinal libraries in the same manner as to the Library's own patrons. This does not preclude charging standard Interlibrary Loan (ILL) fees if the loan is transacted through ILL rather than in person; and
- 2) Begin sharing Library resources with other NC Cardinal libraries through the Resource Sharing Delivery System within two (2) months of the Library's "GoLive!" date.

II. Governance Committee

- A. The Governance Committee provides guidance to the State Library of North Carolina in terms of communications, organizational structure, review of NC Cardinal Bylaws and Memoranda of Agreement, and the recommendation of cost sharing and common, consistent policies.
- B. The State Library has final decision-making authority for all matters pertaining to NC Cardinal and may override a recommendation of the Governance Committee that is determined to be:
 - 1) detrimental to the majority of NC Cardinal libraries;
 - 2) not cost-effective to implement;
 - 3) adversely impacting NC Cardinal project management and support operations; or
 - 4) negatively received by NC Cardinal's hosting vendor or the Evergreen Community at large.

III. Financial Responsibilities – State Library of North Carolina

- A. NC Cardinal is a project of the State Library of North Carolina, supported by grant funds from the Institute of Museum and Library Services under the provisions of the Federal Library Services and Technology Act. The Department shall fund migration costs and

base level access costs for the Library's participation in NC Cardinal during its migration year and one (1) additional State Fiscal Year (July 1 – June 30) of base level access costs. Base level access is defined as access to and use of the NC Cardinal Integrated Library System (ILS) software, hardware, integral components, and tools related to the statewide resource sharing distribution system.

- B. The Department shall fund and manage project administration for NC Cardinal. Project administration includes project oversight, project schedule development, vendor negotiations and contract administration, budget forecasting, migration management, development and maintenance of communications channels, and coordination of NC Cardinal Committees.
- C. The Department shall fund and manage first-line software support for NC Cardinal. First-line support includes maintaining a help ticket system, providing remote and onsite assistance, training, and facilitating communications with second-level vendor support.
- D. The Department shall fund and manage resource sharing services for NC Cardinal. Resource sharing services include delivery system administration, purchase and distribution of shipping supplies, training, vendor communications, and problem resolution.
- E. The Department retains final financial decision-making authority for all matters pertaining to the NC Cardinal Integrated Library System (ILS) and its users.
- F. The Department shall not exceed \$850,000 in total State Fiscal Year 2015-16 expenditures for NC Cardinal.

IV. Financial Responsibilities – Participating Library

- A. Upon the third (3rd) State Fiscal Year of participation in NC Cardinal, the Library shall fund its portion of branch costs and subscription costs for the NC Cardinal ILS. Subscription costs include hardware maintenance, hardware administration, database administration, Standard Internet Protocol (SIP) services, software upgrades, and second-level system support.

The Library's annual cost shall be calculated based upon the following formula:

$$(\# \text{ of Qualifying Branches} * \text{ Cost per Branch}) + (\% \text{ of Active Items} * \text{ Total ILS Subscription Cost})$$

- B. Qualifying branches are those that incur an annual outlet fee by meeting the following criteria:
 - 1) Open more than 12 hours per week
 - 2) Store and circulate items to the general public
 - 3) Act as a circulating branch as their primary responsibility
- C. Non-optional third party services may be required to support the NC Cardinal ILS and may incur additional annual costs to the Library. Non-optional third party services must be agreed to by a two-thirds majority of all NC Cardinal libraries and approved by the State Library's NC Cardinal Program Manager. Written notification of the implementation of non-optional third party services shall be given to all NC Cardinal libraries on or before July 1. The new service shall become effective July 1 of the following State Fiscal Year.

The Library's annual third party service costs shall be calculated based upon the following formula:

$$\% \text{ of Active Items} * \text{Total Annual Service Cost}$$

- D. The Library shall pay the combined total for its portion of subscription costs, if any, and third party vendor service costs, if any, as detailed in Attachment B for the current State Fiscal Year.
- E. Optional third party services that do not directly support NC Cardinal ILS maintenance may be added at the discretion of the Library. The Library shall not adopt optional third party services that may adversely affect other NC Cardinal libraries.
- F. The Library shall comply with the provisions of subscription agreements made by the Department on behalf of NC Cardinal libraries and shall accept responsibility only for the actions of the Library's own employees related to these agreements.

V. Availability of Funds

All terms and conditions of this Agreement are dependent upon and subject to the allocation of funds for the purposes set forth and the Agreement shall automatically terminate if funds cease to be available.

VI. Withdrawal from NC Cardinal

- A. The Library shall have the right to discontinue participation in NC Cardinal by giving written notice on or before June 30 to the Department. The withdrawal shall be effective September 30 of the following State Fiscal Year. Upon completion of withdrawal, this Agreement shall be considered terminated.
- B. Notice shall be made only through written notice to the State Librarian at the following address:

State Library of North Carolina
4640 Mail Service Center
Raleigh, NC 27699-4640
- C. In the event of withdrawal, the Library shall:
 - 1) lose all rights and benefits to NC Cardinal service delivery and governance;
 - 2) have their patrons withdrawn from NC Cardinal resource sharing, delivery systems, and cooperative fine and fee processes;
 - 3) have sole responsibility for replacement of all services provided through NC Cardinal and the Department's subscription agreements;
 - 4) have sole responsibility for notifying third party software vendors of the Library's effective date of withdrawal from NC Cardinal;
 - 5) pay the cost to remove the Library's complete policy set, circulation rules, hold policies, library settings, staff accounts, item records, and patron records from NC Cardinal at the current rate of its hosting vendor;
 - 6) not be required to return LSTA grant monies so long as the Library is in full compliance of grant requirements; and
 - 7) not receive a refund for any portion of annual subscription costs or third party vendor costs paid by the Library as the effective date of withdrawal shall occur after completion of a full service year.

- D. In the event of withdrawal, the Department shall:
 - 1) discontinue NC Cardinal funding and services for the Library on the designated termination date; and
 - 2) provide up to two (2) data export files of the Library's bibliographic, item, patron, and circulation data at no cost to the Library.

VII. Default

- A. A violation of any provision, policy, or requirement that is not corrected by the Library within sixty (60) days after written notice by the Department will constitute default under the terms of this Agreement.
- B. If default occurs, the Department may terminate the Library's participation in NC Cardinal by sending written notice of termination to the Library. The termination shall be effective on September 30 of the following State Fiscal Year.
- C. Upon receiving notice of termination from the Department, the Library shall proceed with withdrawal from NC Cardinal pursuant to Section VI above.

VIII. Modification/Amendment of Agreement

This Agreement shall not be amended orally or by performance. This Agreement must be amended only by written amendments duly executed by the Secretary of the Department of Cultural Resources or designee and the Library.

IX. Term and Termination of Agreement

- A. This Agreement shall be effective upon final signature of the Parties and shall end on June 30th of the next calendar year, unless sooner terminated as set forth in Sections VI or VII above. The Library and the Department may, either by amendment to this Agreement pursuant to Section VIII above or by approval of a new Agreement, extend the term annually by July 1 for each subsequent State Fiscal Year.
- B. If the term of this Agreement is not extended and no successor agreement is to be executed upon the expiration of the term of this Agreement, the Library shall immediately proceed with withdrawal from NC Cardinal pursuant to Section VI above. Upon completion of withdrawal, this Agreement shall be considered terminated.

X. Agreement Documents

- A. This Agreement shall consist of the following documents in order of precedence:
 - 1) Amendments to this Agreement, if any;
 - 2) This Agreement;
 - 3) Attachment A: NC Cardinal Bylaws
 - 4) Attachment B: NC Cardinal Annual Costs by Library
- B. In the event of a conflict between or among the terms of the Agreement Documents, the term in the Agreement Document with the highest precedence shall prevail. Amendments to the Agreement, if any, shall have the highest precedence, the Agreement shall have the second highest precedence, and Attachments the third highest precedence. These documents shall constitute the entire agreement between the Parties and supersede all other prior oral or written agreements.

XI. Severability

If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

XII. Governing Law and Situs

This Agreement shall be construed in accordance with the laws of the State of North Carolina. The place of this Agreement, its situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.

XIII. Notices

All notices issued under this Agreement shall be reduced to writing and a signed original document shall be sent to the Agreement Administrator.

Administrator of the Agreement for the Department: The Agreement Administrators are the persons to whom all required notices shall be given and to whom all matters relating to the administration or interpretation of this Memorandum of Agreement shall be addressed. The Library shall designate a single Agreement Administrator, who shall be the Library's primary contact with the Department for all issues regarding this Contract. The Contractor shall identify its initial Contract Administrator in its proposal and shall confirm the name, title, address, telephone number, facsimile number, and email address of its Contractor Administrator within 5 business days after the Effective Date of the Contract. The Library's Contract Administrator shall be available by phone, facsimile, or e-mail, upon 24-hours notice. DCR's contract administrators are named below.

Agreement Administrator for the Library

_____	_____
Name	Title

Street Address	
_____	NC _____
City	Zip

Email	
_____	_____
Phone	Fax

Agreement Administrators for the Department of Cultural Resources

For All Day-To-Day Activities	For All Other Agreement Issues
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<p>Tanya Prokrym NC Cardinal Program Manager (USPS) 4640 Mail Service Center Raleigh, NC 27699-4640</p> <p>(FedEx, UPS) 109 East Jones Street Raleigh, NC 27601</p> <p>Telephone: (919)-807-7424 Facsimile: (919) 799-8748 E-mail: tanya.prokrym@ncdcr.gov</p>	<p>Roger Odom Director of Procurement and Contract Monitoring NC DCR, Purchasing Office 109 E. Jones Street Raleigh NC 27601</p> <p>Telephone: (919) 807-7269 Facsimile: (919) 733-6993 E-mail: roger.odom@ncdcr.gov</p>
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XIV. Care of Property

The Library agrees that it shall be responsible for the proper custody and care of any property furnished it for use in connection with the performance of this Contract or purchased by it for this Contract and will reimburse the State for loss of damage of such property.

XV. Access to Persons and Records

The State Auditor and the using agency's internal auditors shall have access to persons and records as a result of all Contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7 and Session Law 2010-194, Section 21 (i.e., the State Auditors and internal auditors may audit the records of the Library during and after the term of the Contract to verify accounts and data affecting fees or performance).

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE

IN WITNESS WHEREOF, the Library and the Department have each executed this Agreement in duplicate originals.

George H. & Laura E. Brown Library

Gloria J. Moore
Director

Date

City of Washington

Bobby E. Roberson
Interim City Manager

Date

State Library of North Carolina

Cal Shepard
State Librarian

Date

North Carolina Department of Cultural Resources

Karin Cochran
Chief Deputy Secretary

Date

Approved as to the Availability of Funds

Budget Code: 4601 / 535830 / 1495425

Sarah Dozier
Chief Financial Officer

Date

Roger Odom
Director of Procurement and Contract Monitoring

Date

Attachment A: NC Cardinal Bylaws

July 2014

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Section 1: Name and Mission

1. The name of this organization shall be NC Cardinal. NC stands for North Carolina.
2. The purpose of NC Cardinal is to provide North Carolina residents greater access to public resources.

NC Cardinal is a partnership between the State Library of North Carolina and North Carolina public library systems. NC Cardinal uses an open-source integrated library system (ILS) to expand resource sharing and cooperative services development through a single, shared online catalog.

Section 2: Membership

Members are those eligible organizations that have submitted applications and been approved by the State Library. NC Cardinal is supported by the Library Services & Technology Act (LSTA) grant program which, in turn, supports the implementation of North Carolina's current LSTA Five-Year Plan. LSTA funds are awarded to the State Library of North Carolina by the Institute of Museum and Library Services (IMLS).

NC Cardinal Member Libraries must agree to:

1. participate in NC Cardinal and share their bibliographic and patron databases;
2. participate in NC Cardinal decision making and abide by Governance Committee decisions;
3. participate in resource sharing and provide in-person services to all patrons of NC Cardinal libraries in the same manner as to their own patrons; and
4. allow the use of the library name in NC Cardinal official documents and informational sites.

Section 2a: Application for Membership

Prospective members may join NC Cardinal by submitting an NC Cardinal Grant Application. Applicants should understand the annual State Library of North Carolina's LSTA General Information & Provisions and the Program-Specific Information & Guidelines.

Qualifications

To be eligible for participation in NC Cardinal, public libraries must:

1. qualify for grants from the Aid to Public Libraries Fund; and
2. meet basic hardware and network speed requirements.

Approval of Application

The State Library of North Carolina may review and approve membership based upon funding and resource capacity, may refuse an application for membership, or may postpone consideration of an application for membership.

Upon approval, the applicant library must execute the NC Cardinal Memorandum of Agreement and adopt the NC Cardinal Bylaws. Failure to do so will disqualify the applicant from participation in NC Cardinal. The State Library may provide funds for the library to migrate its automated system data into

NC Cardinal, to receive training in using NC Cardinal, to access the NC Cardinal services subscription, and to make other expenditures determined by the State Library to be necessary for a successful migration.

In the event that funds or program capacity are not available to support all public libraries that apply, applicants will be selected based on the following criteria:

1. expiration date of the library's automated system contract;
2. scope and complexity of the library's migration requirements; and
3. other circumstances affecting the library as determined by the State Library.

Section 2b: Membership Activation

Membership is effective on the date the NC Cardinal Memorandum of Agreement is fully executed.

Section 2c: Member Withdrawal

Prior to terminating or taking action to withdraw from NC Cardinal, the Member Library shall discuss their intentions with authorized representatives of the State Library and the NC Cardinal Governance Committee. Critical issues that the Member Library believes justify such withdrawal must be presented in written form. If discussions with the State Library and the NC Cardinal Governance Committee do not resolve the issues to the Member's reasonable satisfaction, the Member Library shall have the right to discontinue participation in NC Cardinal by give written notice on or before June 30 to the State Library, subject to the terms and conditions of the Memorandum of Agreement.

Section 2d: Effective Date of Withdrawal

The membership of a Member Library giving written notice on or before June 30 will cease on September 30 of the following State Fiscal Year.

Section 2e: Default

A violation of any provision, policy, or requirement that is not corrected by the Member Library within sixty (60) days after written notice by the State Library will constitute default under the terms of their NC Cardinal Memorandum of Agreement and these Bylaws, subject to the terms and conditions of the Memorandum of Agreement.

Section 2f: Electronic Balloting

At the discretion of the State Library or by a consensus vote of the Governance Committee, electronic balloting may be employed. Notice of issues for electronic ballot must be electronically emailed to each member of the Governance Committee no less than one (1) week prior to the designated "ballot start time." Electronic balloting may proceed after approval by the Governance Committee.

Section 3: Governance Committee

The Governance Committee provides guidance to the State Library of North Carolina in terms of communications, organizational structure, review of NC Cardinal Bylaws and Memorandum of Agreement, cost sharing policies, and the approval of common, consistent policies. Powers and Authority for this committee are outlined in Section 3h, Powers and Authority.

Section 3a: Number and Composition

The Governance Committee shall consist of five (5) members from participating NC Cardinal Libraries and two (2) members from the State Library: the NC Cardinal Program Manager and a representative from the Library Development Section. Governance Committee members must be selected from the Senior Management staff of Member Libraries.

NC Cardinal Member Library representation on the Governance Committee shall be composed of:

1. one (1) member from a Municipal library;
2. one (1) member from a County library;
3. one (1) member from a Regional library; and
4. two (2) members at large.

Section 3b: Nomination

At least sixty (60) days prior to the NC Cardinal General Membership Meeting, the Governance Committee must appoint a Nominations Committee of two (2) or more Members who are not seeking election. The Nominations Committee is required to receive and coordinate nominations for election to the Governance Committee.

Section 3c: Election

An election of Governance Committee members must be held at an NC Cardinal General Meeting to replace those members whose terms of office have expired or will expire at the end of the meeting.

Section 3d: Terms

A term of office shall be two (2) years, to commence at the beginning of the next Quarter after the election with the exception of the first year. Following the election, an announcement of the newly elected officers will be sent to the membership promptly. Committee members may serve two (2) consecutive terms with a two-thirds (2/3) majority vote of the membership. Committee appointments shall be staggered to promote consistency as well as to accommodate change.

Section 3e: Vacancies

Vacancies on the Governance Committee shall be filled by appointment by the Governance Committee until the next election of members.

Section 3f: Meetings of Governance Committee

The Governance Committee shall hold at least two meetings per year, with other meetings scheduled as needed. At least thirty (30) days in advance, the General Membership shall be notified of Governance Committee meetings. Governance Committee meetings are closed and attendance is limited to Committee members, administrative staff of Member Libraries, and invited guests.

Additional meetings may be scheduled:

1. at the request of the State Library;
2. at the request of two Governance Committee members; or
3. upon receipt of a written request signed by at least fifty (50) percent of the membership.

At least one (1) annual meeting will be held for the General Membership. Members will be notified at least thirty (30) days in advance of the annual meeting. Minutes of meetings shall be kept and distributed to the membership.

Section 3g: Attendance

It is expected that Governance Committee members will attend all meetings in person. If a Governance Committee member cannot attend a Committee meeting, the member may make advance arrangements with the NC Cardinal Program Manager and the hosting site to participate electronically, by conference call or other technology.

Governance Committee members will not send a representative to the meeting as a substitution.

If a Governance Committee member cannot actively participate in more than two (2) consecutive meetings, the member may be replaced for the duration of their term by appointment of the other members of the Governance Committee.

Section 3h: Powers and Authority

The Governance Committee shall provide counsel and support to the State Library of North Carolina and Member Libraries in the operation of NC Cardinal by:

1. recommending policy;
2. monitoring current research and trends to determine the best practices;
3. communicating to the entire membership; and
4. reviewing and discussing recommendations from other NC Cardinal Committees and providing a final recommendation.

Topics may cover a wide range of subjects, including information technology, vendor purchases, upgrades, enhancements, support, membership costs, and budget considerations.

NC Cardinal Member Libraries will act upon recommendations approved by the Governance Committee.

Section 3i: Voting

Only Governance Committee members may vote at a Governance Committee meeting. Each Governance Committee member has one (1) vote. This vote must be cast in person. Proxy representation and proxy voting are not allowed. If an elected member cannot attend a Committee meeting, the member has the option of making advance arrangements with the NC Cardinal Program Manager to participate via technology, or forfeit the right to vote at the meeting. A two-thirds (2/3) majority vote among Governance Committee members is required to pass a policy or recommendation.

Section 3j: Non-voting Members

The NC Cardinal Program Manager shall be a non-voting member.

Section 3k: Appeal Process

A Member Library(ies) may request reconsideration of a decision made by the NC Cardinal Governance Committee. A written request for reconsideration must be submitted within fourteen (14) days of the Committee decision. The appeal must include a justification for submitting the request for reconsideration, with supporting facts, and be signed by the submitting Member Library(ies). The Governance Committee will review the request for reconsideration within fourteen (14) days of submission. A written notice of action and/or decision will be distributed by the Governance Committee to the appealing Member Library(ies).

Section 3l: Removal

Should it become necessary to dissolve the Governance Committee, a two-thirds (2/3) majority vote of no-confidence from the NC Cardinal membership shall dissolve the Governance Committee. Should the Governance Committee be dissolved, a nominating committee selected from the membership shall propose new candidates.

Section 4: Working Committees

Category-specific NC Cardinal task forces/committees, for example Cataloging or Resource Sharing, will submit recommendations for approval to the Governance Committee. These recommendations will be voted upon for implementation. Voting will adhere to the procedures as outlined Section 3i of these Bylaws.

Section 4a: Creation of Working Committees

Recommendations for new committees are submitted by NC Cardinal Member Libraries directly to NC Cardinal Program Staff or the NC Cardinal Governance Committee. Requests for project- or category-specific committees will be vetted and approved by the NC Cardinal Governance Committee. Committee member nominations will be solicited from Member Library Directors. Final member selections will be determined by NC Cardinal Program Staff according to the following composition:

1. at least one (1) member from a Municipal library;
2. at least one (1) member from a County library;
3. at least one (1) member from a Regional library; and
4. other members by level of expertise in the project- or category-specific area.

Section 5: Amendment of Bylaws

The NC Cardinal Bylaws may be amended at any time by a two-thirds (2/3) majority of vote of Member Libraries. Thirty (30) days prior written notice shall be given to Member Libraries of any proposed amendment. Proposed amendments may originate from the NC Cardinal membership with signatures from one-third (1/3) of the Member Libraries.

The Bylaws shall be reviewed every two (2) years by the NC Cardinal Governance Committee at the beginning of new Committee appointments. The Committee shall recommend any modifications and

submit the Bylaws for review and renewal to the Member Libraries with thirty (30) days written notice for a vote to extend or rescind the agreement.

Section 6: Definitions

- Library System The organization unit as defined by the Evergreen Software, to be distinguished from branches, book mobiles, etc.
- Member Library A library system that participates in the NC Cardinal program.

Attachment B – NC Cardinal Annual Costs by Library State Fiscal Year 2015-2016

Annual Cost Calculations

A. The Department shall fund migration costs and base level access costs for the Library's participation in NC Cardinal during its migration year and one (1) additional State Fiscal Year (July 1 – June 30) of base level access costs. Base level access is defined as access to and use of the NC Cardinal Integrated Library System (ILS) software, hardware, integral components, and tools related to the statewide resource sharing distribution system. Upon the third (3rd) State Fiscal Year of participation in NC Cardinal, the Library shall fund its portion of base level access costs for the NC Cardinal ILS.

B. The Library's annual costs for participation in the NC Cardinal ILS shall be calculated based upon the following formula:

$$\begin{array}{r} \text{Library Branch Cost} \quad (1 * \$0) \\ + \quad \text{Subscription Cost Share} \quad (1.18\% * \$73,975.00) \\ \hline \text{Total Library Cost} \quad \$0, \text{ Year One} \end{array}$$

C. The **Library Branch Cost** consists of an annual flat fee for each qualifying branch location within a Library's service area. Library outlets that are not qualifying branches will not incur the annual fee.

1) A **Qualifying Branch** meets the following criteria:

- a. Is open more than 12 hours per week;
- b. Stores and circulates items to the general public; and
- c. Acts as a circulating branch as their primary responsibility.

2) The **Cost per Branch** is the annual flat fee charged by the NC Cardinal hosting vendor. This fee is annually reviewed and negotiated.

D. The **Subscription Cost Share** is the Library's percentage of the total fee charged by the NC Cardinal hosting vendor to maintain and administer the shared ILS software and hardware.

- 1) An **Active Item** is a catalog record associated with a specific barcode which has not been **withdrawn, discarded, or deleted** during the fiscal year. The Library's percentage of active items is calculated based on the total number of active items in the NC Cardinal shared catalog. Active item counts for the calculation of annual costs shall be captured on January 1 of each year.
- 2) The **Total ILS Subscription Cost** charged by the NC Cardinal hosting vendor is annually reviewed and negotiated. The subscription provides for:
 - a. maintenance for server administration;
 - b. implementation of software upgrades;
 - c. maintenance of database storage performance optimization;
 - d. upgrade of server configuration; and
 - e. support of software issues and problem resolution.

E. The Library's payment for the following annual costs shall be made directly to the Department within 30 days of receiving the annual invoice. Payment shall be made to the following address:

State Library of North Carolina
 4640 Mail Service Center
 Raleigh, NC 27699-4640

George H. & Laura E. Brown Library

Library Branch Cost	# of Qualifying Branches	Cost per Branch
\$0	1	\$1,000

Subscription Cost Share	# of Library Active Items	Total ILS Active Items	Library % of Total Active Items	Total ILS Subscription Cost
\$0	60,501	5,127,526	1.18%	\$73,975

**Total Library Cost
 FY2015-16
 \$0, Year One**



REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: Keith Hardt, P.E., Electric Director
Date: 17 August 2015
Subject: Approve Purchase
Applicant Presentation: None
Staff Presentation: Keith Hardt, P.E., Electric Director

RECOMMENDATION

I move that the City Council approve the purchase and the accompanying purchase order to Rob’s Hydraulics, Inc. in the amount of \$44,713.31 for the purchase of an excavator.

BACKGROUND AND FINDINGS

Included in the FY 2015-16 budget is the purchase of a replacement trencher in the amount of \$60,000. This trencher is currently not in service. Based on the current needs within the electric these funds would be better served to purchase a small excavator for use in the electric department. The purchase of this excavator will provide additional resources to the entire electric department where the trencher only serves the needs when performing underground construction and maintenance. This equipment can perform many of the functions as the existing trencher, provide additional functions to the department and is less cost than replacing the existing trencher.

PREVIOUS LEGISLATIVE ACTION

2015-16 Budget Ordinance.

FISCAL IMPACT

Currently Budgeted (Account _____) Requires Additional Appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

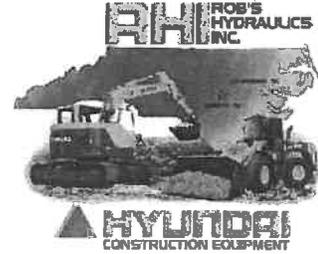
Quotes

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: August 24, 2015 (if applicable)
City Manager Review: 8/18 Date Concurred Recommend Denial _____ No Recommendation _____



"DBA Lynch Leasing Inc"

PO Box 636/7765 Pitt St Grimesland, NC 27837 (252-752-1500)
7868 US 70 Bus Hwy West Clayton, NC 27520 (919-243-0631)



DATE: 8/14/2015
QUOTE# VIO35-5 Angle

CUSTOMER City of Washington

ADDRESS SHIP TO:

CITY/STATE/ZIP Washington, NC 27889

CUST PO#

SALESPERSON Tony Jackson

PHONE: 252-714-0075

MACH SERIAL #	RHI Unit #	BRAND	MODEL	YEAR	AMOUNT
New	New	Yanmar	VIO35-6A	2015	39,786.00
DESCRIPTION	Canopy, Angle Blade, DA Aux Hyd				
WARRANTY YEAR	WARRANTY HOUR	Extended Warr Hr	Extended Warr Yr	AMOUNT	
ATTACH SERIAL #	RHI Unit #	BRAND	MODEL	YEAR	AMOUNT
		Hyundai	Std 24" Bucket	w/Pins	Included
		Werk Brau	12" Bucket	w/Pins	600.00
		RHI	Hydraulic Thumb		1,500.00
		Yanmar	Hydraulic QC		Included
Trade In Serial	RHI Unit #	BRAND	MODEL	AMOUNT	
FINANCE RATE					
TIME FRAME	24 Months	36 Months	48 Months	60 Months	
EST PAYMENT					

Prepared By: Jason Wainwright (Sales Manager) 252-752-1500 jason@robshydraulics.com

SUBTOTAL	\$41,886.00
SALES TAX	\$2,827.31
DOWN PAYMENT	
TOTAL	\$44,713.31

Check # _____

THANK YOU FOR YOUR BUSINESS!

RHI ROB'S HYDRAULICS INC

"DBA Lynch Leasing Inc"

PO Box 636/7765 Pitt St Grimesland, NC 27837 (252-752-1500)
7868 US 70 Bus Hwy West Clayton, NC 27520 (919-243-0631)



DATE: 8/14/2015
QUOTE# VIO35-5

CUSTOMER City of Washington

ADDRESS

SHIP TO:

CITY/STATE/ZIP Washington, NC 27889

CUST PO#

SALESPERSON Tony Jackson

PHONE: 252-714-0075

MACH SERIAL #	RHI Unit #	BRAND	MODEL	YEAR	AMOUNT	
New	New	Hyundai	R35Z-9A	2015	37,736.68	
DESCRIPTION	Canopy, DA Hyd					
WARRANTY YEAR	WARRANTY HOUR	Extended Warr Hr	Extended Warr Yr	AMOUNT		
ATTACH SERIAL #	RHI Unit #	BRAND	MODEL	YEAR	AMOUNT	
		Hyundai	Std 24" Bucket	w/Pins	Included	
217932-4-1		Werk Brau	12" Bucket	w/Pins	Included	
211864-1-1	WTB411	Werk Brau	WTB36-3.00	w/Pins	4,250.00	
		Hyundai	Hyd QC		Included	
		RHI	Hydraulic Thumb		Included	
Trade In Serial	RHI Unit #	BRAND	MODEL	AMOUNT		
FINANCE RATE						
TIME FRAME	24 Months	36 Months	48 Months	60 Months		
EST PAYMENT						
Prepared By: Jason Wainwright (Sales Manager) 252-752-1500 jason@robshydraulics.com					SUBTOTAL	\$41,986.68
					SALES TAX	\$2,834.10
Check # _____					DOWN PAYMENT	
					TOTAL	\$44,820.78

Tilt Bucket

THANK YOU FOR YOUR BUSINESS!

Gregory Poole



CONSTRUCTION QUOTATION

DATE: 8/12/2015
QUOTE NO:

City of Washington
P.O. Box 1988

Prepared by:
Harry Main
252-945-4150
main@gregpoole.com

Washington NC
ATTN: Jeff Clark
BEAUFORT COUNTY

ATTACHMENT	ARRANGEMENT #	PRICE
304E2 HYD EXCAVATOR MA1	460-8410	\$61,640
304E2 HYDRAULIC EXCAVATOR	4525618	\$0
CANOPY, TOPS	4562628	\$0
CONTROL, PATTERN CHANGER	3977122	\$0
CABLE, GROUND	454-0241	\$0
BELT, SEAT, 3" RETRACTABLE	4342092	\$0
ALARM, TRAVEL	4194783	\$0
SEAT VINYL	4287873	\$0
ENGINE T4F, HIGH AMBIENT	4562652	\$0
STICK PKG LONG W/O 2ND AUX	463-9122	\$0
LINES, BOOM	397-7119	\$0
LINES, STICK	397-7062	\$0
TRACK, RUBBER BELT	436-2492	\$0
BEACON SOCKET	419-4832	\$56
DRAIN, ECOLOGY	379-4690	\$81
BLADE, 77", POWER ANGLE	463-8034	\$3,815
THUMB HYD/COUPLER MANUAL	464-9942	\$3,775
BUCKET, 18", 2.9 CFT, HD	464-9902	\$1,014
BUCKET, 24", 4.2 CFT, HD	464-9904	\$1,139
PINS,BUCKET	154-2638	\$128
INSTRUCTIONS, ANSI	397-7132	\$0
SERIALIZED TECHNICAL MEDIA KIT	421-8926	\$0
PACK, DOMESTIC TRUCK	0P-0210	\$0
		\$0
LIST PRICE		\$71,648
LESS PROGRAM DISCOUNT	25.00%	17,912.00
		53,736.00
PARTS BOOKS		
SERVICE MANUALS		
		53,736.00
	PREP	200.00
	FREIGHT & HANDLING	100.00
		54,036.00
WARRANTY INFO: 3 YR or 3000 HR TOTAL MACHINE		-
		54,036.00

NOTE:
ALL APPLICABLE TAX TO BE ADDED.



City of
Washington
NORTH CAROLINA

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: Allen Lewis, Public Works Director
Date: 08-18-15
Subject: Proposal of New Age Properties regarding stormwater encroachment at Fire Station Number 2 site.
Applicant Presentation: Hood Richardson/Manfred Alligood
Staff Presentation: Allen Lewis

RECOMMENDATION:

I move Council authorize staff to allow for the encroachment of grading work along the western property line of the Fire Station Number 2 site as shown on the attached drawing.

BACKGROUND AND FINDINGS:

New Age Properties is proposing to build a hotel next to Fire Station Number 2 along 15th Street. In order to elevate the building above the base flood elevation, there will be the need to bring in fill material to raise the site. As shown on the attached plan, this will also include the encroachment of fill material onto City of Washington property at Fire Station Number 2.

PREVIOUS LEGISLATIVE ACTION

N/A

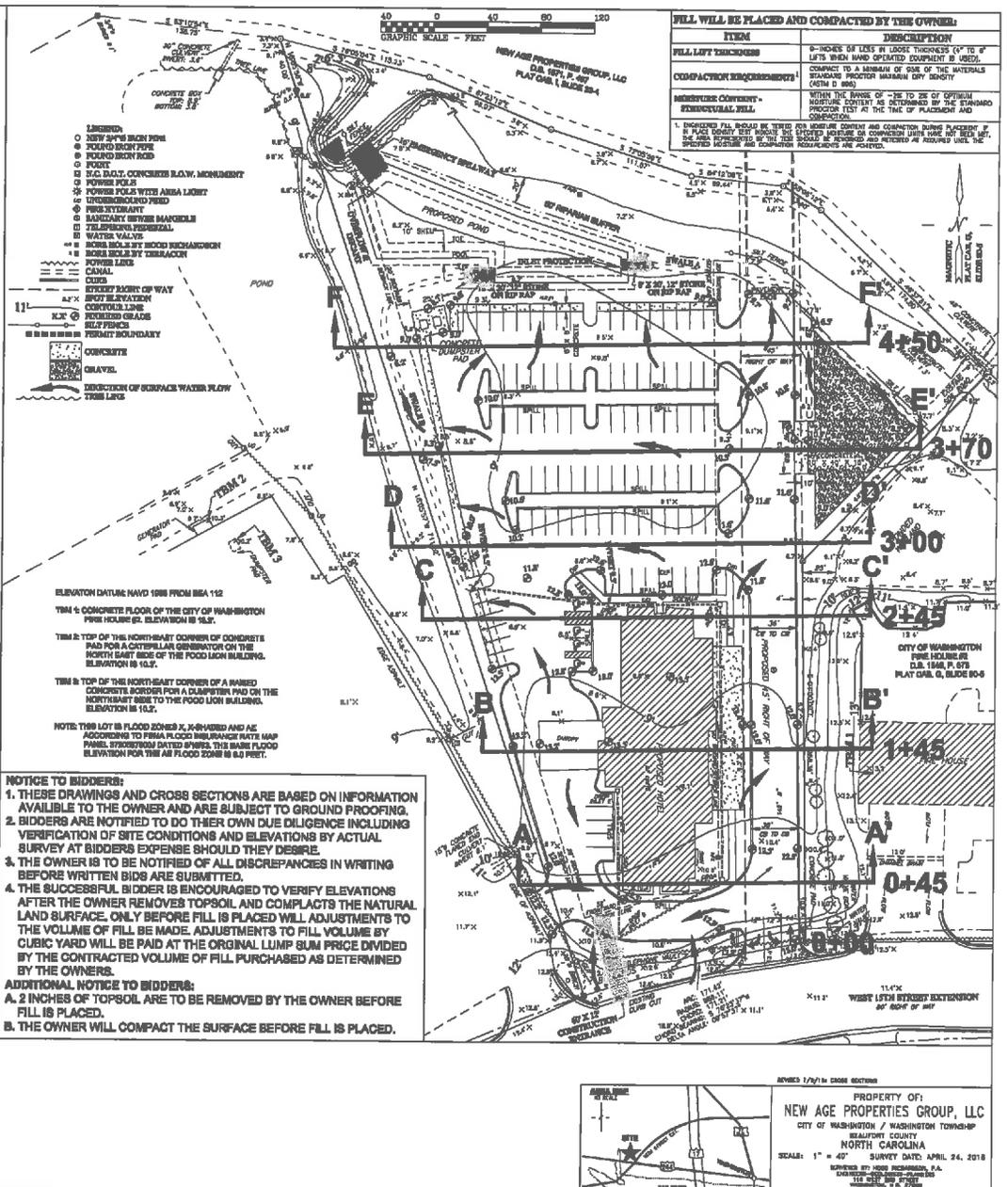
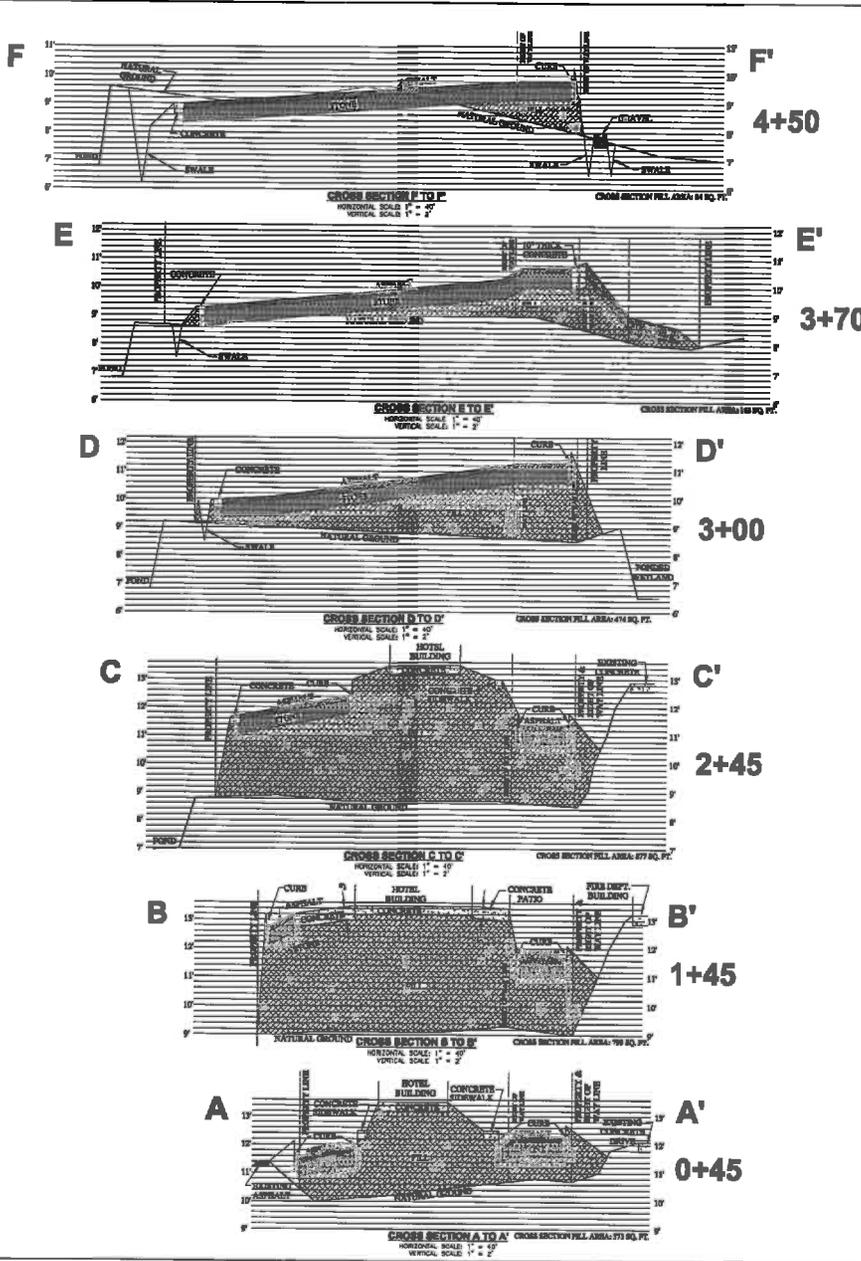
FISCAL IMPACT

Currently Budgeted (Account) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

See attached site plan with cross sections.

City Manager Review:  Concur Recommend Denial No Recommendation 8-18 Date





REQUEST FOR CITY COUNCIL ACTION

To: Mayor Hodges & Members of the City Council
From: Allen Lewis, Public Works Director
Date: 08-18-15
Subject: Authorize manager to execute the attached engineering contract for sanitary sewer rehabilitation as result of the recently awarded Clean Water Management Trust Fund (CWMTF) loan.

Applicant Presentation: N/A
Staff Presentation: Allen Lewis

RECOMMENDATION:

I move that Council authorize the manager to execute the attached engineering contract with Rivers and Associates, Inc., for sanitary sewer rehabilitation as a result of the recently awarded CWMTF loan.

BACKGROUND AND FINDINGS:

As a result of the recently awarded CWMTF loan, staff requested proposals from engineering firms to provide engineering services for design, construction administration, surveying, environmental studies and permitting. We advertised for these proposals on the City's web page, the Washington Daily News and the Greater Diversity News. This request resulted in a three (3) companies requesting full copies of the request for proposals. Of those three (3), only Rivers and Associates, Inc., out of Greenville, NC, submitted a proposal. As a result, we consulted with NC Department of Natural Resources (NCDENR) staff, who awarded and will be administering this loan. With their approval of our good-faith effort to request and receive proposals, and consideration for Rivers vast experience with our existing system, including this specific type of work in the past, it is staff's recommendation that the attached agreement be entered into and executed.

As a reminder, this CWMTF loan is a for \$1,500,000 at 0% interest and \$500,000 in principal forgiveness. Also, the amount of the professional services agreement items submitted in the original application, and approved by NCDENR, was \$340,000. This agreement is for \$299,000, approximately 13.7% less than approved.

PREVIOUS LEGISLATIVE ACTION

Most recently, 03-23-15, adopted a resolution regarding CWMTF loan package.

FISCAL IMPACT

Currently Budgeted (Account) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

See attached professional services agreement.

City Manager Review: Allen Lewis Concur Recommend Denial No Recommendation Date 8-18

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

AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE



and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
A Practice Division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

EJCDC E-500 Standard Form of Agreement Between Owner and Engineer for Professional Services.
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This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (EJCDC C-700, 2007 Edition). Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC User's Guide to the Owner-Engineer Agreement, EJCDC E-001, 2009 Edition.

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www.acec.org

American Society of Civil Engineers
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(800) 548-2723
www.asce.org

Associated General Contractors of America
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(703) 548-3118
www.agc.org

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**ENGINEERS JOINT CONTRACT
DOCUMENTS COMMITTEE**

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

THIS IS AN AGREEMENT effective as of _____, 2015 ("Effective Date") between

City of Washington ("Owner") and

Rivers and Associates, Inc. ("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

Sanitary Sewer Rehabilitation 2015 ("Project").

Engineer's services under this Agreement are generally identified as follows:

Preparation of Engineering Report and Environmental Document, CCTV Consultation Services, funding assistance, design, bidding, and construction phase services associated with sanitary sewer rehabilitation in portions of Basins #11, #12, #13, #14 and #17. See Exhibits A and J for description of services.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 Scope

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

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 General

- A. Owner shall have the responsibilities set forth herein and in Exhibit B.
- B. Owner shall pay Engineer as set forth in Exhibit C.

- C. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 *Commencement*

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

3.02 *Time for Completion*

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

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

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

4.02 *Payments*

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

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

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar 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, Owner must employ an independent cost estimator as provided in Exhibit B.

5.02 *Designing to Construction Cost Limit - Deleted*

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

5.03 *Opinions of Total Project Costs*

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

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality, **except as provided herein above**. Engineer makes no **other** warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:*
 - 1. Engineer and Owner shall comply with applicable Laws and regulations.
 - 2. Prior to the Effective Date, Owner provided to Engineer in writing any and all policies and procedures of Owner applicable to Engineer's performance of services under this Agreement. provided to Engineer in writing. Engineer shall comply with such policies and procedures, 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. Changes after the Effective Date to these Laws and Regulations, or to Owner-provided written policies and procedures, may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.
- F. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.
- G. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint

Contract Documents Committee (EJCDC C-700, 2007 Edition *or C-710 2002 Edition*) unless both parties mutually agree to use other general conditions by specific reference in Exhibit J.

- H. Engineer shall not at any time supervise, direct, control, or have authority over any contractor work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's furnishing and performing of its work.
- I. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- J. Engineer shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- K. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by Engineer.
- L. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

- A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A, Paragraph A1.05. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction and Owner assumes all responsibility for the application and interpretation of the Contract Documents, review and response to Contractor claims, contract administration, processing Change Orders, revisions to the Contract Documents during construction, construction surety bonding and insurance requirements, construction observation and review, review of payment applications, and all other necessary Construction Phase engineering and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase engineering or professional services except for those services that are expressly required of Engineer in Exhibit A, Paragraph A1.05.

6.03 *Use of Documents*

- A. All Documents are instruments of service in respect to this Project, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.

- B. Either party to this Agreement may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern. If the parties agree to other electronic transmittal procedures, such are set forth in Exhibit J.
- C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- D. When transferring documents in electronic media format, the transferring party makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.
- E. Owner may make and retain copies of Documents for information and reference in connection with use on the Project by Owner. 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 for all services relating to preparation of the Documents and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.
- F. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.

- B. Owner shall procure and maintain insurance as set forth in Exhibit G, "Insurance." ~~Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies and as loss payees on any property insurance policies carried by Owner which are applicable to the Project.~~
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, property damage (other than to the Work itself), motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.
- D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- E. All policies of property insurance relating to the Project shall contain provisions to the effect that Engineer's and its Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds, additional insureds, or loss payees thereunder.
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 30 days prior written notice has been given to Owner and Engineer and to each other additional insured (if any) to which a certificate of insurance has been issued.
- G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.05 *Suspension and Termination*

A. **Suspension:**

1. **By Owner:** Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.
2. **By Engineer:** Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Engineer's performance has been substantially delayed through no fault of Engineer.

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

1. For cause,

- a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
- b. By Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
 - 3) Engineer shall have no liability to Owner on account of such termination.
- c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience,

- a. By Owner effective upon Engineer's receipt of notice from Owner.

C. *Effective Date of Termination:* The terminating party under Paragraph 6.05.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

D. Payments Upon Termination:

- 1. In the event of any termination under Paragraph 6.05, 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 shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.E.
- 2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.05.D.1, to invoice Owner and to payment of a reasonable amount for services and expenses directly

attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

6.06 *Controlling Law*

- A. This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located.

6.07 *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 6.07.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, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
 - 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Subcontractor, Supplier, other individual or entity, or to any surety for or employee of any of them.
 - 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 - 3. Owner agrees that the substance of the provisions of this Paragraph 6.07.C shall appear in the Contract Documents.

6.08 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights under law.
- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.08.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights under law.

6.09 *Environmental Condition of Site*

- A. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.
- B. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner" "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.10 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from reasonable claims, costs, losses, and damages 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 Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. **This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."**
- B. *Indemnification by Owner:* ~~Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and~~

~~Regulations and to the extent (if any) required in Exhibit I, Limitations of Liability.~~ To the fullest extent permitted by law, and without waiving any applicable defense of sovereign immunity, Owner shall indemnify and hold harmless Engineer, and Engineer's officers, directors, members, partners, agents, consultants, and employees from reasonable claims, costs, losses, and damages 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 Consultants. This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."

- C. *Environmental Indemnification:* To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) 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, 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, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- D. *Percentage Share of Negligence:* To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- E. *Mutual Waiver:* To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

6.11 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be

valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

- D. *Waiver*: A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims*: To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following provisions:
 - 1. *Additional Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
 - 2. *Agreement* – This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
 - 3. *Asbestos* – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 - 4. *Basic Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
 - 5. *Construction Contract* – The entire and integrated written agreement between Owner and Contractor concerning the Work.
 - 6. *Construction Cost* – The cost to Owner of those portions of the entire Project designed or specified by Engineer. 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 properties; 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 pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.
 - 7. *Constituent of Concern* – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.

§§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

8. *Consultants* – Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.
9. *Contract Documents* – Those items so designated in the Construction Contract, including the Drawings, Specifications, construction agreement, and general and supplementary conditions. Only printed or hard copies of the items listed in the Construction Contract are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
10. *Contractor* – The entity or individual with which Owner has entered into a Construction Contract.
11. *Documents* – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
12. *Drawings* – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
13. *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.
14. *Engineer* – The individual or entity named as such in this Agreement.
15. *Hazardous Waste* – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
16. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
17. *Owner* – The individual or entity with which Engineer has entered into this Agreement and for which the 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.
18. *PCBs* – Polychlorinated biphenyls.

19. *Petroleum* – Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-hazardous waste and crude oils.
20. *Project* – The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
21. *Radioactive Material* – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
22. *Record Drawings* – Drawings depicting the completed Project, prepared by Engineer as an Additional Service and based solely 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.
23. *Reimbursable Expenses* – The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Project.
24. *Resident Project Representative* – The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative agreed to by Owner. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.
25. *Samples* – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
26. *Shop Drawings* – All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
27. *Site* – Lands or areas to be indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
28. *Specifications* – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
29. *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 at the Site.
30. *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 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.

31. *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 Subcontractor.
32. *Total Project Costs* – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner’s costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.
33. *Work* – The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included:*

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

8.02 *Total Agreement:*

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

8.03 *Designated Representatives:*

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

8.04 *Engineer's Certifications:*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
 - 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

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

Owner: City of Washington

Engineer: Rivers & Associates, Inc.

By (Signature): _____

By (Signature): Gregory J. Churchill

Typed Name: Bobby E. Roberson

Typed Name: Gregory J. Churchill, P.E.

Title: City Manager

Title: Vice-President

Date Signed: _____

Date Signed: 8-12-15

Attest: _____

Attest: Marvin E. Garner, Jr.

Name: Cynthia S. Bennett

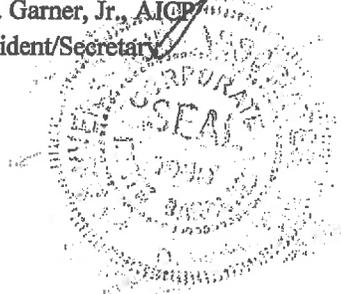
Name: Marvin E. Garner, Jr., AICE

Title: City Clerk

Title: Vice-President/Secretary

(SEAL)

(SEAL)



Address for giving notices:
102 E. 2nd Street
P.O. Box 1988
Washington, NC 27889

Address for giving notices:
107 E. Second Street
Greenville, NC 27834

Designated Representative (Paragraph 8.03.A):
Allen Lewis

Designated Representative (Paragraph 8.03.A):
M. Blaine Humphrey, P.E.

Title: Public Works Director

Title: Project manager

Phone Number: 252-975-9302

Phone Number: 252-752-4135

Facsimile Number: 252-974-6461

Facsimile Number: 252-752-3974

E-Mail Address: alewis@washingtonnc.gov

E-Mail Address: bhumphrey@riversandassociates.com

Engineer License or Firm's Certificate No. F-0334

State of: North Carolina

This instrument has been pre-audited in the manner required by the Local Budget and Fiscal Control Act.

By (Signature): _____

Typed Name: Matt Rauschenbach
Finance Officer

Date: _____

This is **EXHIBIT A**, consisting of 14 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 2015.

Engineer's Services

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

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

PART 1 – BASIC SERVICES

A1.00 Funding Phase - Engineer's Report (ER) and Environmental Information Document (EID)

A. Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Project and available data.
2. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B which are not part of Engineer's Basic Services.
3. Identify, consult with, and analyze requirements of NCDENR Division of Water Infrastructure (DWI) to approve the ER, including but not limited to mitigating measures identified in the EID.
4. Identify and evaluate three (3) alternate solutions (one of which will be a "no action" alternative) available to Owner and, after consultation with Owner, recommend to Owner those solutions which in Engineer's judgment meet Owner's requirements for the Project.
5. Prepare a report (the "Report") comprising the requirements for the ER and EID. The Report will provide a summary description of the project including current and future situations, flow projections, alternatives evaluation, present worth analysis, environmental considerations, and financial analysis. It will be formatted to comply with the requirements of DWI. It will contain, as appropriate, schematic layouts, sketches, and conceptual design criteria with appropriate exhibits, considerations involved, and preliminary alternative solutions available to Owner. For each feasible alternative Engineer will provide capital and recurring cost estimates and a 20-year Present Worth Analysis. Preliminary recommendations will be clearly summarized in the Executive Summary.
6. Perform or provide the following tasks or deliverables:
 - Engineer's Report and Environmental Information Document shall comply with requirements of Owner's Project funding agency, NCDENR DWI.
 - Assist Owner in submission of Report to DWI, and in receipt of funding agency approval of Report.

7. Furnish two (2) review copies of the Report and any other deliverables to Owner within ninety (90) calendar days of the Effective Date and review it with Owner. Within seven (7) calendar days of receipt, Owner shall submit to Engineer any comments regarding the Report and any other deliverables.
8. Revise the Report and any other deliverables in response to Owner's comments, as appropriate, and furnish three (3) copies of the revised Report and any other deliverables to the Owner within seven (7) calendar days of receipt of Owner's comments.

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

A1.01 *Study and Report Phase – Phase 2 Sanitary Sewer Evaluation Survey (SSES) and Memorandum*

A. Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Project and available data.
2. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B which are not part of Engineer's Basic Services.
3. ~~Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by Engineer, including but not limited to mitigating measures identified in the environmental assessment.~~
4. Prepare Specifications and Plan indicating the scope and extent of sewer mains for which Closed Circuit Television (CCTV) work will be performed.
5. Assist Owner in informally advertising, obtaining bids/proposals, and awarding a contract for the CCTV Work.
6. Provide CCTV contract administration and resident project representation during conduct of the CCTV Work.
7. Receive, review and evaluate videos and associated documentation from the CCTV Contractor.
8. Identify and evaluate alternate solutions available to Owner and, after consultation with Owner, recommend to Owner those solutions which in Engineer's judgment meet Owner's requirements for the Project.
9. Prepare a ~~report~~ memorandum (the "Phase 2 SSES ~~Report~~ Memorandum") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and

~~these alternate~~ the solutions available to Owner which Engineer recommends. For each the recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; ~~the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants;~~ and, on the basis of information furnished by Owner, a summary of allowances for other items and services included within the definition of Total Project Costs.

10. Perform or provide the following additional Study and Report Phase tasks or deliverables:

- **Provide Phase 2 SSES Consultation Services as indicated above, including associated tasks and timeline as listed in Exhibit J. Phase 2 SSES Consultation Services timeline shall begin concurrently with the Funding Phase services, and shall be completed within the timeline described by Exhibit J and the following paragraphs.**

11. Furnish two (2) review copies of the **Report Memorandum** and any other deliverables to Owner within five (5) calendar days **months** of the Effective Date and review it with Owner. Within seven (7) calendar days of receipt, Owner shall submit to Engineer any comments regarding the Report and any other deliverables.

12. Revise the **Report Memorandum** and any other deliverables in response to Owner's comments, as appropriate, and furnish three (3) copies of the revised **Report Memorandum** and any other deliverables to the Owner within fourteen (14) calendar days of receipt of Owner's comments.

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

A1.02 Preliminary Design Phase (To be included with Final Design Phase Services)

A. After acceptance by Owner of the **Report Memorandum** and any other deliverables, selection by Owner of a recommended solution and indication of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, and upon written authorization from Owner, Engineer shall:

1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.
2. Provide necessary field surveys and topographic and utility mapping for design purposes. Utility mapping will be based upon information obtained from utility owners.
3. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.

4. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in collating the various cost categories which comprise Total Project Costs.
 5. Perform or provide the following additional Preliminary Design Phase tasks or deliverables:
 - **None**
 6. Furnish two (2) review copies of the Preliminary Design Phase documents and any other deliverables to Owner within one hundred twenty (120) calendar days of authorization to proceed with this phase, and review them with Owner. Within seven (7) calendar days of receipt, Owner shall submit to Engineer any comments regarding the Preliminary Design Phase documents and any other deliverables.
 7. Revise the Preliminary Design Phase documents and any other deliverables in response to Owner's comments, as appropriate, and furnish to Owner two (2) copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within seven (7) calendar days after receipt of Owner's comments.
- B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables have been delivered to Owner.

A1.03 *Final Design Phase*

- A. After acceptance by Owner of the Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other deliverables subject to any Owner-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from Owner, Engineer shall:
1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
 2. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design of the Project; assist Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities.
 3. Advise Owner of any adjustments to the opinion of probable Construction Cost known to Engineer.
 4. Perform or provide the following additional Final Design Phase tasks or deliverables:
 - **Design Memo.**
 - **Preparation of Plans and Bid Documents.**

- **Plan Review Permit Applications (if applicable).**
 - **Provide Additional Copies of Drawings, Specifications and Bidding Documents for Owner's use in submittal and receipt of approval from Owner's funding agency.**
 - **Provide Additional Copies of Drawings, Specifications and Bidding Documents for Owner's use in submittal and receipt of approval from authorities having jurisdiction over the Project.**
 - **Assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.**
5. Prepare and furnish bidding documents for review by Owner, its legal counsel, and other advisors, and assist Owner in the preparation of other related documents. Within fourteen (14) days of receipt, Owner shall submit to Engineer any comments and, subject to the provisions of Paragraph 6.01.G, instructions for revisions.
 6. Revise the bidding documents in accordance with comments and instructions from the Owner, as appropriate, and submit two (2) final copies of the bidding documents, a revised opinion of probable Construction Cost, and any other deliverables to Owner within fourteen (14) calendar days after receipt of Owner's comments and instructions.
- B. Engineer's services under the Final Design Phase will be considered complete on the date when the submittals required by Paragraph A1.03.A.6 have been delivered to Owner.
 - C. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.
 - D. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is one (1). If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.

A1.04 *Bidding or Negotiating Phase*

- A. After acceptance by Owner of the bidding documents and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:
 1. Assist Owner in advertising for and obtaining bids or proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have

been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the bidding documents.

2. Issue addenda as appropriate to clarify, correct, or change the bidding documents.
3. Provide information or assistance needed by Owner in the course of any negotiations with prospective contractors.
4. Consult with Owner as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors for those portions of the Work as to which such acceptability is required by the bidding documents.
5. If bidding documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by bidders, but subject to the provisions of paragraph A2.02.A.2 of this Exhibit A.
6. Attend the Bid opening, prepare Bid tabulation sheets, and assist Owner in evaluating Bids or proposals and in assembling and awarding contracts for the Work.
7. Perform or provide the following additional Bidding or Negotiating Phase tasks or deliverables: [here list any such tasks or deliverables]
 - **DBE Bidding Assistance for the Owner.**
 - **DBE Bidding Review for the Bidders.**

B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if Exhibit F is a part of this Agreement).

A1.05 *Construction Phase*

- A. Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner, Engineer shall:
 1. *General Administration of Construction Contract*: Consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer as assigned in the Construction Contract shall not be modified, except as Engineer may otherwise agree in writing. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.
 2. *Resident Project Representative (RPR)*: Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D.

3. *Selecting Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified in Exhibit B, Paragraph B2.01.0.
4. *Pre-Construction Conference:* Participate in a Pre-Construction Conference prior to commencement of Work at the Site.
5. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
6. *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.
7. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:
 - a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of Contractor's Work in progress or to involve detailed inspections of Contractor's Work in progress beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.
 - b. The purpose of Engineer's visits to, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the 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 Contract Documents. Engineer shall not, during such visits or as a result of such observations of Contractor's Work in progress, supervise, direct, or have control over Contractor's Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to Contractor's Work, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Engineer neither

guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish or perform the Work in accordance with the Contract Documents.

8. *Defective Work*: Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work (a) is defective under the standards set forth in the Contract Documents, (b) will not produce a completed Project that conforms to the Contract Documents, or (c) will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
9. *Clarifications and Interpretations; Field Orders*: Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Subject to any limitations in the Contract Documents, Engineer may issue field orders authorizing minor variations in the Work from the requirements of the Contract Documents.
10. *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.
11. *Shop Drawings and Samples*: Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the 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.
12. *Substitutes and "or-equal"*: Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.
13. *Inspections and Tests*: Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the 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 Contract Documents. Engineer shall be entitled to rely on the results of such tests.
14. *Disagreements between Owner and Contractor*: Render formal written decisions on all duly submitted issues relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Contractor's Work; review each duly submitted Claim by Owner or Contractor,

and in writing either deny such Claim in whole or in part, approve such Claim, or decline to resolve such Claim if Engineer in its discretion concludes that to do so would be inappropriate. In rendering such decisions, Engineer shall be fair and not show partiality to Owner or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

15. *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. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the 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 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 Contractor's Work. In the case of unit price work, Engineer's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).
 - b. By recommending any 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 and the Contract Documents. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control Contractor's Work in progress 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 moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, 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.
16. *Contractor's Completion Documents:* Receive, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and

approvals, Shop Drawings, Samples and other data approved as provided under Paragraph A1.05.A.11, and transmit the annotated record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. The extent of such review by Engineer will be limited as provided in Paragraph A1.05.A.11.

17. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Project to determine if the Work is substantially complete. If after considering any objections of Owner, Engineer considers the Work substantially complete, Engineer shall deliver a certificate of Substantial Completion to Owner and Contractor.

Additional Tasks: Perform or provide the following additional Construction Phase tasks or deliverables: [here list any such tasks or deliverables].

- **Preparation of record drawings.**

18. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the completed Work of Contractor is acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice in the form attached hereto as Exhibit E (the "Notice of Acceptability of Work") that the Work is acceptable (subject to the provisions of Paragraph A1.05.A.15.b) to the best of Engineer's knowledge, information, and belief and based on the extent of the services provided by Engineer under this Agreement.

B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves more than one prime contract as indicated in Paragraph A1.03.C, 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.

C. *Limitation of Responsibilities:* Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor or Supplier, or other individuals or entities performing or furnishing any of the Work, for safety or security at the Site, or for safety precautions and programs incident to Contractor's Work, during the Construction Phase or otherwise. Engineer shall not be responsible for the failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

A1.06 *Post-Construction Phase*

- A. Upon written authorization from Owner during the Post-Construction Phase Engineer shall:

1. Together with Owner, visit the Project to observe any apparent defects in the Work, assist Owner in consultations and discussions with Contractor concerning correction of any such defects, and make recommendations as to replacement or correction of defective Work, if any.
 2. Together with Owner or Owner's representative, visit the Project within one month before the end of the correction period to ascertain whether any portion of the Work is subject to correction.
 3. Perform or provide the following additional Post-Construction Phase tasks or deliverables:
[Here list any such tasks or deliverables]
- B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.

PART 2 – ADDITIONAL SERVICES

A2.01 Additional Services Requiring Owner's Written Authorization

- A. If authorized in writing by Owner, Engineer shall furnish or obtain from others Additional Services of the types listed below.
1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
 2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
 3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer or its 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 Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
 4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those identified in Paragraph A1.01.A.4.

5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
6. Providing renderings or models for Owner's use.
7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of financial feasibility and cash flow studies, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting Owner in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by Owner.
8. Furnishing services of Consultants for other than Basic Services.
9. Services attributable to more prime construction contracts than specified in Paragraph A1.03.D.
10. Services during out-of-town travel required of Engineer other than for visits to the Site or Owner's office.
11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructibility review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
12. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by Owner for the Work or a portion thereof.
13. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required by Exhibit F.
14. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Paragraph A1.05.A.6, and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
15. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor.
16. Providing assistance in responding to the presence of any Constituent of Concern at the Site, in compliance with current Laws and Regulations.
- ~~17. Preparing Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor, and furnishing such Record Drawings to Owner.~~

18. Preparation of operation and maintenance manuals.
19. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, or other dispute resolution process related to the Project.
20. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
21. Assistance in connection with the adjusting of Project equipment and systems.
22. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
23. Assistance to Owner in developing procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related record-keeping.
24. Overtime work requiring higher than regular rates.
25. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

B. The following additional services are anticipated to be required and are part of this Agreement:

1. **Easement Surveys and Maps**
2. **Grant/Loan Assistance/ Davis-Bacon Compliance Assistance – *During Construction***

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

- A. Engineer shall advise Owner in advance that Engineer will immediately commence 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 from Owner.
1. Services in connection with work change directives and change orders to reflect changes requested by Owner.
 2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.
 3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.

4. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work (advance notice not required), (2) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.
5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work by Owner prior to Substantial Completion.
6. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.
7. Services during the Construction Phase rendered after the original date for completion of the Work referred to in A1.05.B.
8. Reviewing a Shop Drawing more than three times, as a result of repeated inadequate submissions by Contractor.
9. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, state, or local safety authorities for similar construction sites.

This is **EXHIBIT B**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 2015.

Owner's Responsibilities

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

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

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.
- B. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.
- C. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 1. Property descriptions.
 2. Zoning, deed, and other land use restrictions.
 3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions relating to existing surface or subsurface structures at the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
 5. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
 6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.
- D. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that affects the

scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services, the Work, or in the performance of any Contractor.

- E. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.
- F. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
- G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
- I. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
 - 1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
 - 2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
 - 3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the moneys paid.
- J. Place and pay for advertisement for Bids in appropriate publications.
- K. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.
- L. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
- M. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.

- N. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
- O. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment visits to the Project.
- P. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof.
- Q. Provide Engineer with the findings and reports generated by the entities providing services to Owner pursuant to this paragraph.
- R. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
- S. Perform or provide the following additional services:
 - 1. **Obtain and pay for the services of a cleaning and CCTV contractor for sewer line inspection and provide documentation of such work to Engineer for design purposes.**
 - 2. **Pay all permitting fees.**

This is **EXHIBIT C**, consisting of 2 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated _____, 2015.

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

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

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01.1 Compensation for Basic Services (other than Resident Project Representative) -Lump Sum Method of Payment

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A and Paragraph C2.01.1, except for services of Engineer’s Resident Project Representative, if any, as follows:

1. A Lump Sum amount of \$ 139,000.00 based on the following estimated distribution of compensation:

a. Funding Phase – ER & EID	\$ <u>30,000.00</u>
b. Study and Report Phase - Phase 2 SSES & Report Memorandum	\$ <u>30,000.00</u>
c. Preliminary & Final Design Phases	\$ <u>79,000.00</u>
d. Final Design Phase	\$ <u>_____</u>
e. Bidding and Negotiating Phase	\$ <u>NA</u>
f. Construction Phase	\$ <u>NA</u>
g. Post-Construction Phase	\$ <u>NA</u>

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

3. The Lump Sum includes compensation for Engineer’s services and services of Engineer’s Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses.

4. The portion of the Lump Sum amount billed for Engineer’s services will be based upon Engineer’s estimate of the percentage of the total services actually completed during the billing period.

B. *Period of Service:* The compensation amount stipulated in Compensation Packet BC-1 is conditioned on a period of service not exceeding nine (9) months. If such period of service is extended, the compensation amount for Engineer's services shall be appropriately adjusted.

Payments to Engineer for Services and Reimbursable Expenses
COMPENSATION PACKET BC-2: Basic Services – Standard Hourly Rates

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

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01.2 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, and C2.01.2 except for services of Engineer’s Resident Project Representative, if any, as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer’s personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer’s Consultants’ charges, if any.
2. Engineer’s Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit C as Appendices 1 and 2.
3. The total compensation for services under Paragraph C2.01.2 is estimated to be \$ 80,000.00 based on the following estimated distribution of compensation:
 - a. Funding Phase – ER & EID \$ N/A
 - b. Study and Report Phase - Phase 2 SSES & Report \$ N/A
 - c. Preliminary & Final Design Phases \$ N/A
 - d. ~~Final Design Phase~~ \$ _____
 - e. Bidding or Negotiating Phase \$ 20,000.00
 - f. Construction Phase \$ 58,000.00
 - g. Post-Construction Phase \$ 2,000.00
4. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner. See also C2.03.C.2 below.

5. The total estimated compensation for Engineer's services included in the breakdown by phases as noted in Paragraph C2.01.A.3 incorporates all labor, overhead, profit, Reimbursable Expenses and Engineer's Consultants' charges.
 6. The amounts billed for Engineer's services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer's Consultants' charges.
 7. 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.
- B. *Period of Service:* The compensation amount stipulated in Compensation Packet BC-2 is conditioned on a period of service not exceeding nine (9) months. If such period of service is extended, the compensation amount for Engineer's services shall be appropriately adjusted.**

C2.02 *Compensation For Reimbursable Expenses*

- A. Owner shall pay Engineer for all Reimbursable Expenses at the rates set forth in Appendix 1 to this Exhibit C.
- B. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A. 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.

C2.03 *Other Provisions Concerning Payment*

- A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.15.
- B. Factors. The external Reimbursable Expenses and Engineer's Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

C. *Estimated Compensation Amounts:*

3. 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.
 4. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend 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 shall be paid for all services rendered hereunder.
- D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

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

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

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

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

1. **Resident Project Representative Services:** For services of Engineer's Resident Project Representative under Paragraph A1.05A of Exhibit A, an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Resident Project Representative services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any. The total compensation under this Paragraph is estimated to be a **maximum amount of \$ 60,000.00** based upon ~~full-time~~ **600 RPR manhours in 72 trips services**, Monday through Friday, over a 180 calendar day construction schedule.

B. Compensation for Reimbursable Expenses:

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01, and are directly related to the provision of Resident Project Representative or Post-Construction Basic Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
2. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representative and assistants; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be those internal expenses related to the Resident Project Representative Basic Services that are actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such services, the latter multiplied by a factor of 1.15.
4. The Reimbursable Expenses Schedule will be adjusted annually (as of April 12) to reflect equitable changes in the compensation payable to Engineer.

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

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.15.
2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. *Estimated Compensation Amounts:*
 - a. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 - b. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend Engineer's services during negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
4. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

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

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

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

A. Owner shall pay Engineer for Additional Services, if any, as follows:

1. *General:* For services of Engineer's personnel engaged directly on the Project pursuant to Paragraph A2.01 or A2.02 of Exhibit A, except for services as a consultant or witness under Paragraph A2.01.A.20, (which if needed shall be separately negotiated based on the nature of the required consultation or testimony) an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Additional Services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any.

B. *Compensation For Reimbursable Expenses:*

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01 and are directly related to the provision of Additional Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
2. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A. 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.
4. The Reimbursable Expenses Schedule will be adjusted annually (as of January 1) to reflect equitable changes in the compensation payable to Engineer.

C. *Other Provisions Concerning Payment For Additional Services:*

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.15.

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

D. *The Total Compensation for Services under Paragraph C2.05 is estimated to be \$ 20,000.00 based on the following estimated distribution of compensation:*

- | | |
|---|---------------------|
| 1. Easement Surveys and Maps | <u>\$ 5,000.00</u> |
| 2. Grant/Loan Assistance/Davis-Bacon Compliance | <u>\$ 15,000.00</u> |

This is Appendix 1 to EXHIBIT C, consisting of 1 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated _____, 2015.

Reimbursable Expenses Schedule

Current agreements for engineering services stipulate that the Reimbursable Expenses are subject to review and adjustment per Exhibit C. Reimbursable expenses for services performed on the date of the Agreement are:

8.5" x 11" Black & White Copies	<u>.06</u> /each
8.5" x 11" Black & White Scans	<u>.06</u> /each
8.5" x 14" Black & White Copies	<u>.10</u> /each
8.5" x 14" Black & White Scans	<u>.10</u> /each
11" x 17" Black & White Copies	<u>.25</u> /each
11" x 17" Black & White Scans	<u>.25</u> /each
All above listed sizes of Color Copies	<u>\$1.00</u> /each
All above listed sizes of Color Scans	<u>\$1.00</u> /each
Color Plot all sizes	<u>\$2.50</u> per square foot
18" x 24" Black & White Plan Prints	<u>\$1.50</u> /each
18" x 24" Black & White Plan Scans	<u>\$1.50</u> /each
24" x 36" Black & White Plan Prints	<u>\$2.50</u> /each
24" x 36" Black & White Plan Scans	<u>\$2.50</u> /each
30" x 42" Black & White Plan Prints	<u>\$5.00</u> /each
30" x 42" Black & White Plan Scans	<u>\$5.00</u> /each
Larger size Plan Prints	\$ _____ subject to square footage
Mylar Prints - 18" x 24"	<u>\$20.00</u> /each
Mylar Prints - 24" x 36"	<u>\$30.00</u> /each
Mylar Prints - 30" x 42"	<u>\$40.00</u> /each
CD of Scans	<u>\$5.00</u> /each
Resident Project Representative Equipment	_____/month
Long Distance Phone Calls	at cost
Mobile Phone	<u>\$2.00</u> /day
Meals and Lodging	at cost
Miscellaneous Expenses	at cost
External Reimbursable Expenses	at cost x 1.15
3 Ring Binders up to 2 inches	<u>\$10.00</u> / each
3 Ring Binders over 2 inches	<u>\$25.41</u> / each

This is Appendix 2 to EXHIBIT C, consisting of 1 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated _____, 2015.

Standard Hourly Rates Schedule

A. *Standard Hourly Rates:*

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

B. *Schedule:*

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

<u>EMPLOYEE CLASSIFICATION:</u>	<u>HOURLY RATES:</u>
Principal	\$165.00
Sr. Project Manager	\$155.00
Project Manager II	\$140.00
Project Manager I	\$130.00
Project Engineer II	\$120.00
Project Engineer I	\$105.00
Design Engineer II	\$95.00
Design Engineer I	\$85.00
Landscape Architect	\$100.00
Landscape Designer	\$90.00
Project Planner I	\$90.00
Planner II	\$80.00
Planner I	\$70.00
Designer IV	\$115.00
Designer III	\$105.00
Designer II	\$90.00
Designer I	\$75.00
CAD Technician III	\$70.00
CAD Technician II	\$65.00
CAD Technician I	\$60.00
Project Surveyor II	\$105.00
Project Surveyor I	\$90.00
Party Chief III	\$80.00
Party Chief II	\$60.00
Party Chief I	\$55.00
Surveyor Technician II	\$50.00
Surveyor Technician I	\$45.00
1-Man Robotic II	\$135.00
1-Man Robotic I	\$100.00
Resident Project Representative III	\$85.00
Resident Project Representative II	\$70.00
Resident Project Representative I	\$60.00
Intern Tech	\$35.00
Administrative Assistant	\$65.00

This is **Appendix 3 to EXHIBIT C**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 2015.

Summary of Engineering Fees

C2.01.1 Compensation for Basic Services (other than Resident Project Representative) -Lump Sum Method of Payment

A.1.a. Funding Phase – ER & EID	\$ <u>30,000.00</u>
A.1.b. Study and Report Phase - Phase 2 SSES & Report	\$ <u>30,000.00</u>
A.1.c. Preliminary & Final Design Phases	\$ <u>79,000.00</u>
A.1.d. Final Design Phase	\$ _____

C2.01.2 Compensation for Basic Services (other than Resident Project Representative) –Standard Hourly Rates Method of Payment

A.3.e. Bidding or Negotiating Phase	\$ <u>20,000.00</u>
A.3.f. Construction Phase	\$ <u>58,000.00</u>
A.3.g. Post-Construction Phase	\$ <u>2,000.00</u>

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

A.1. Resident Project Representative Services	\$ <u>60,000.00</u>
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C2.05 Compensation for Additional Services – Standard Hourly Rates Method of Payment

D.1. Easement Surveys and Maps	\$ <u>5,000.00</u>
D.2. Grant/Loan Assistance/ Davis-Bacon Compliance	\$ <u>15,000.00</u>

C2.01.1 through C2.05 TOTAL \$ 299,000.00

This is **EXHIBIT D**, consisting of 5 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 2015.

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

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

D1.01 Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative (“RPR”) to assist Engineer in observing progress and quality of the Work. The RPR ~~may~~ will provide **part** time representation ~~or may provide representation to a lesser degree.~~
- B. Through RPR's observations of Contractor's work in progress and field checks of materials and equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, during such RPR field checks or as a result of such RPR observations of Contractor's work in progress, supervise, direct, or have control over Contractor's 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 contractor, for security or safety at the Site, for safety precautions and programs incident to any contractor's work in progress, or for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's performing and furnishing of its work. The Engineer (including RPR) neither guarantee the performances of any contractor nor assumes responsibility for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents. In addition, the specific terms set forth in Paragraph A1.05 of Exhibit A of the Agreement are applicable.
- C. The duties and responsibilities of the RPR are as follows:
 1. *General:* 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. RPR's dealings in matters pertaining to the Contractor's work in progress shall in general be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.
 3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

4. *Liaison:*
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the intent of the 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.
5. *Interpretation of Contract Documents:* Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
6. *Shop Drawings and Samples:*
 - a. Record date of receipt of Samples and approved Shop Drawings.
 - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
8. *Review of Work and Rejection of Defective Work:*
 - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection, or approval.

9. *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. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to Engineer.

10. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all change orders, field orders, work change directives, addenda, additional Drawings issued subsequent to the execution of the Construction Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of change orders, field orders, work change directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- d. Maintain records for use in preparing Project documentation.
- e. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

11. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed change orders, work change directives, and field orders. Obtain backup material from Contractor.

- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
 - d. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Constituent of Concern.
12. *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.
13. *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.
14. *Completion:*
- a. Participate in visits to the Project to determine Substantial Completion, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.
 - b. Participate in a final visit to the Project in the company of Engineer, Owner, and Contractor, and prepare a final list of items to be completed and deficiencies to be remedied.
 - c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).

D. Resident Project Representative shall not:

1. Authorize any deviation from the 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.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work.

5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept shop drawing or sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

This is **EXHIBIT E**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 2015.

NOTICE OF ACCEPTABILITY OF WORK

PROJECT:

OWNER:

CONTRACTOR:

OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER:

NOTICE DATE:

To: _____
Owner

And To: _____
Contractor

From: _____
Engineer

The Engineer hereby gives notice to the above Owner and Contractor that the completed Work furnished and performed by Contractor under the above Contract is acceptable, expressly subject to the provisions of the related Contract Documents, the Agreement between Owner and Engineer for Professional Services dated _____, _____, and the terms and conditions set forth in this Notice.

By: _____

Title: _____

Dated: _____

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

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

1. This Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the professional judgment of Engineer.
3. This Notice is given as to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's work) under Engineer's Agreement with Owner and under the Construction Contract referred to in this Notice, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Agreement and Construction Contract.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract referred to in this Notice, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Contract Documents.

This is **EXHIBIT G**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 2015.

Insurance

Paragraph 6.04 of the Agreement is supplemented to include the following agreement of the parties.

G6.04 Insurance

A. The limits of liability for the insurance required by Paragraph 6.04.A and 6.04.B of the Agreement are as follows:

1. By Engineer:

a. Workers' Compensation:	Statutory
b. Employer's Liability --	
1) Each Accident:	\$ <u>100,000</u>
2) Disease, Policy Limit:	\$ <u>500,000</u>
3) Disease, Each Employee:	\$ <u>100,000</u>
c. General Liability --	
1) Each Occurrence (Bodily Injury and Property Damage):	\$ <u>1,000,000</u>
2) General Aggregate:	\$ <u>2,000,000</u>
d. Excess or Umbrella Liability --	
1) Each Occurrence:	\$ <u>2,000,000</u>
2) General Aggregate:	\$ <u>2,000,000</u>
e. Automobile Liability -- Combined Single Limit (Bodily Injury and Property Damage):	
Each Accident	\$ <u>1,000,000</u>
f. Professional Liability --	
1) Each Claim Made	\$ <u>2,000,000</u>
2) Annual Aggregate	\$ <u>2,000,000</u>
g. Other (specify):	\$ _____

2. By Owner:

a. Workers' Compensation:

Statutory

b. Employer's Liability --

- 1) Each Accident
- 2) Disease, Policy Limit
- 3) Disease, Each Employee

\$ N/A
\$ N/A
\$ N/A

c. General Liability --

- 1) General Aggregate:
- 2) Each Occurrence (Bodily Injury and Property Damage):

\$ 2,000,000
\$ 1,000,000

d. Excess Umbrella Liability --

- 1) Each Occurrence:
- 2) General Aggregate:

\$ N/A
\$ N/A

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

Each Accident:

\$ 1,000,000

f. Other (specify):

\$ N/A

B. *Additional Insureds:*

1. The following persons or entities are to be listed on Owner's general liability policies of insurance as additional insureds, and on any applicable property insurance policy as loss payees, as provided in Paragraph 6.04.B:

a. N/A
Engineer

b. N/A
Engineer's Consultant

c. N/A
Engineer's Consultant

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

3. The Owner shall be listed on Engineer's general liability policy as provided in Paragraph 6.04.A.

This is **EXHIBIT H**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 2015.

Dispute Resolution

Paragraph 6.08 of the Agreement is amended and supplemented to include the following agreement of the parties:

H6.08 *Dispute Resolution*

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

This is **EXHIBIT I**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 2015.

Limitations of Liability

Paragraph 6.10 of the Agreement is supplemented to include the following agreement of the parties:

A. *Limitation of Engineer's Liability*

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 law, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever 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, or Consultants (hereafter "Owner's Claims"), shall not exceed the 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 insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). 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, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's Claims shall not exceed \$N/A

B. *Limitation of Owner's Liability*

1. *Owner's Liability Limited to Amount of Insurance Proceeds:* Owner 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 law, the total liability, in the aggregate, of Owner and Owner's officers, directors, members, partners, agents, employees, and Consultants to Engineer and anyone claiming by, through, or under Engineer for any and all claims, losses, costs, or damages whatsoever 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 Owner or Owner's officers, directors, members, partners, agents, employees, or Consultants (hereafter "Engineer's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Owner by Owner's insurers in settlement or satisfaction of Engineer's Claims under the terms and conditions of Owner's insurance policies

applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). If no such insurance coverage is provided with respect to Engineer's Claims, then the total liability, in the aggregate, of Owner and Owner's officers, directors, members, partners, agents, employees, and Consultants to Engineer and anyone claiming by, through, or under Engineer for any and all such uninsured Engineer's Claims shall not exceed \$N/A.

This is EXHIBIT J, consisting of 2 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated _____, 2015.

Special Provisions

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

PROJECT DESCRIPTION

The project proposes to reduce infiltration/inflow into the sanitary sewer collection system through a combination of rehabilitation methods, including the following: line approximately 20,650 linear feet of existing 8-inch to 12-inch gravity sewer pipelines; implement approximately 1,200 LF of gravity sewer pipeline point repairs and pipe replacements; replace approximately 4 EA existing sanitary sewer manholes; line approximately 400 VF of existing sanitary sewer manholes; and replace or reset frames and covers on approximately 5 existing sanitary sewer manholes.

PHASE 2 SEWER SYSTEM EVALUATION SURVEY (SSES) CONSULTATION SERVICES

Upon Owner's authorization to initiate Study and Report Phase services, Engineer shall immediately undertake to provide the following tasks associated with Phase 2 SSES Consultation Services:

1. Clean & TV Bid Document Preparation Phase

- a. Prepare a specification document for use by the Owner in the solicitation of informal price proposals for Clean and TV contract bids for approximately 15,650 LF of the approximate 22,000 LF of sanitary sewer mains scheduled for repair.
- b. Estimated time to complete this phase is fourteen (14) days from the date of authorization to proceed with the work by the Owner.

2. Clean & Closed Circuit Television (CCTV) Price Proposal Solicitation Phase

- a. Send advertisement of solicitation of informal contract Clean & CCTV price proposals to a minimum of three (3) service providers in Engineer's data base and other providers suggested by the Owner. The advertisement period shall be for a period of twenty-one (21) days. (Note: This work is not anticipated to be formally advertised in the news media or distributed to industry plan rooms.)
- b. Receive informal price proposals for Clean & CCTV at the office of the Engineer.
- c. Make recommendation to the Owner for award of a Clean & CCTV contract.
- d. Prepare contract documents for execution between the Clean & CCTV contractor (CCTV Contractor) and the Owner.
- e. Estimated time to complete this phase is sixty (60) days from the date of authorization to proceed with the Clean & CCTV Price Proposal Solicitation Phase by the Owner.

3. Clean & CCTV Phase

- a. Conduct an on-site pre-work meeting with the CCTV Contractor, the Engineer's resident project representative, and the Owner's designated project representative(s) to discuss expectations for work performance and contract administration issues.
- b. Provide full-time resident project representative on-site to monitor / document CCTV Contractor's activities and performance. Also to serve as on-site liaison between the CCTV Contractor, the Engineer, and the Owner. Engineer's on-site resident project representative shall complete written daily reports as required by the Engineer.
- c. Review CCTV Contractor's requests for payment and make recommendations concerning same to the Owner (one Pay Request).
- d. Prepare standard change order (if applicable) and closeout documents for the Owner in finalizing the Clean & CCTV contract.
- e. The time for this phase of the work will be based on a contract time of twenty-one (21) days for performance of the Clean and TV field work and fourteen (14) additional days for CCTV Contractor to provide required documentation of field work findings.

4. Phase 2 SSES Report Phase

- a. Categorize findings of the CCTV Contractor.
- b. Prepare recommendations for rehabilitation construction activities based on the findings of the CCTV field work.
- c. Prepare preliminary opinions of probable cost for recommended rehabilitation construction activities.
- d. Prepare a schematic drawing of individual pipelines recommended for rehabilitation and/or replacement.
- e. Prepare draft SSES-Phase II memorandum summarizing findings, conclusions, recommendations and preliminary cost opinions.
- f. Provide one (1) copy of draft memorandum to Owner and review with Owner's staff.
- g. Prepare final memorandum incorporating Owner's comments, if any, and provide ten (10) copies to the Owner. This information will be included in the Design Memorandum for the project.
- h. Estimated time to complete this phase is forty-five (45) days from the date of completion of the Clean and CCTV Phase.

5. Estimated time to complete the entire scope of work is six (6) months from the date of authorization to initiate services by the Owner.

This is **EXHIBIT K**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, **2015**.

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. _____

1. *Background Data:*

- a. Effective Date of Owner-Engineer Agreement: _____
- b. Owner: _____
- c. Engineer: _____
- d. Project: _____

2. *Description of Modifications:*

[NOTE TO USER: Include the following paragraphs that are appropriate and delete those not applicable to this amendment. Refer to paragraph numbers used in the Agreement or a previous amendment for clarity with respect to the modifications to be made. Use paragraph numbers in this document for ease of reference herein and in future correspondence or amendments.]

- a. Engineer shall perform or furnish the following Additional Services:
- b. The Scope of Services currently authorized to be performed by Engineer in accordance with the Agreement and previous amendments, if any, is modified as follows:
- c. The responsibilities of Owner are modified as follows:
- d. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation:
- e. The schedule for rendering services is modified as follows:
- f. Other portions of the Agreement (including previous amendments, if any) are modified as follows:

[List other Attachments, if any]

5. Agreement Summary (Reference only)

- a. Original Agreement amount: \$ _____
- b. Net change for prior amendments: \$ _____
- c. This amendment amount: \$ _____
- d. Adjusted Agreement amount: \$ _____

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

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

OWNER:

ENGINEER:

By: _____

By: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____