

RESOLUTION 19-92

**A RESOLUTION AUTHORIZING A CONTRACT WITH ORCHARD, HILTZ, AND
MCCLIMENT, INC. (OHM)**

WHEREAS, the City of Spring Hill desires to contract a company for developing an Inflow and Infiltration (I&I) reduction program; and

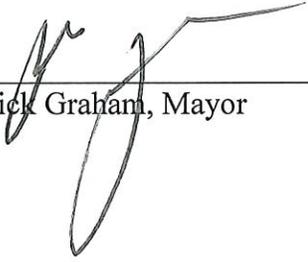
WHEREAS, the city publicly advertised a request for qualifications opening on May 15, 2019; and

WHEREAS, Orchard, Hiltz, and McCliment, Inc. (OHM) was selected as the most qualified of four submittals; and

WHEREAS, this contract will not be executed before the anticipated funding for the program, projected to be budgeted in the 2019-2020 budget year of \$50,000 in the Sewer Collection budget, is approved. The contract is fixed fee not to exceed \$49,998.00.

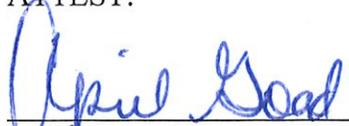
NOW, THEREFORE BE IT RESOLVED, that the City of Spring Hill Board of Mayor and Aldermen, authorize the Mayor to execute the I&I reduction program contract, attached hereto, with Orchard, Hiltz, and McCliment, Inc. (OHM)

Passed and Adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 17th day of June, 2019.



Rick Graham, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick Carter, City Attorney

SUBJECT: Resolution 19-92 to authorize a contract with Orchard, Hiltz, & McCliment, Inc. (OHM) for professional services to develop an Inflow and Infiltration Reduction Program

DATE: June 3rd, 2019

ATTENTION: Board of Mayor and Aldermen

STAFF: Chip Moore, P.E. Infrastructure Dir.



BACKGROUND:

The City is working to develop a comprehensive sewer Inflow and Infiltration (I&I) Reduction Program to measurably reduce surface and groundwater entering the sanitary sewer collection system. The City's sewer treatment plant is rapidly reaching processing capacity due in growing part to an ever-increasing I&I entering the collection system. Comprehensively addressing I&I will not only improve collection system capacity necessary to support continued growth and development but, will also reduce the increasing demands being placed upon the City's sewer treatment plant during rain events.

Previously, the City contracted with consultants in 2010 to analyze the sanitary sewer collection system which broke the system down into several basins and found significant flow changes during rain events. From the original study, staff identified several deficiencies and began making repairs to the system. One of the projects identified was the need for Manhole inserts to keep water from the street from running into the sewer via openings in the manhole covers. This project is almost complete. Since that study, staff has taken many opportunities during rain events to inspect sewer lines to determine increased levels of flow or to look for ground water seepage into the manholes. Additionally, staff has acquired testing equipment to assist in the determination of surface connections. Staff continues to look for and repair the obvious I&I causes.

However, due to the continued increase in flow into the WWTP during rain events, it is evident that additional I&I is occurring beyond what was identified in the original study and that is what has prompted the request for additional personnel last year and emphasizes the need for additional data collection and expert analysis/direction for this year.

At this time, there have been two advertisements over four months and only one person has accepted the offer to come to the City. These employees will be vital to the sewer collections department as they will be trained to understand the system, monitor and maintain it, and facilitate repairs when needed. Also, it is intended that these employees will be trained by the consultant to take on progressive responsibilities. Thus, phasing out the need for recurring consulting services over a period of time which we think is three years. Please see the attached Task Order One proposal Item B for a detailed schedule. A comprehensive plan can be developed only have accomplishing Phase 1 and 2 since those phases will expose any issues. Staff, along with consultant assistance, can then develop cost effective plans to mitigate the I&I and develop best maintenance practices.

In order to expeditiously establish the City's I&I program, consultant services from a professional engineering firm are necessary to assist the City. These services will assist with gathering and analyzing flow data, determining and prioritizing appropriate repairs, and

TASK ORDER NO. 1
Phase 1 – Metering Plan Assistance &
Phase 2 – Metering Support, Analysis and Program Development
Dated _____

To
CONTINUING SERVICES AGREEMENT

Between
Orchard, Hiltz & McCliment, Inc.

And
City of Spring Hill, Tennessee

Dated _____
For

PROJECT: Inflow and Infiltration Program Development

A: Scope of Work

The City of Spring Hill intends to evaluate the Inflow and Infiltration of stormwater into their sanitary sewer system throughout the city.

We have developed the approach for the Spring Hill I&I Program Assistance in phases to show the sequence of activities for implementing the program. The first phase of metering plan support will be performed through the summer of 2019, to get the program started. Phase 2 would occur during the fiscal year from July 1, 2019 through June 30, 2020 and include metering support, analysis, program development and a report of the findings. Phases 3-7 will be performed in future years and include items like program management support, detailed field investigations, assistance with repair specifications, training city staff, and follow-up I/I removal metering. The scope and fee for these future phases will be developed when more detail is known from the flow metering results.

Effectively operating and maintaining a sewer collection system is a continuous asset management process that follows the sequence described below. The City desires to work with a consultant to develop the program, and then continue the process in-house. Our goal throughout the development of the City's I&I program will be to train City staff on the processes and tools that are used for the program. This will allow the City to be self-sufficient and minimize their reliance on consultants for continuing the I&I program in the long-term.

Below is a short synopsis of the elements included in these phases. Attachment A contains a table with a breakdown of the detailed tasks, fees and assumptions for Phase 1 and Phase 2.

Task Order No. 1

Phase 1 – Metering Plan Assistance:

This phase includes development of a flow metering plan, reviewing the City's sewer mapping and previous studies, recommendation and site reconnaissance of installation locations, and technical support for meter installation through the summer of 2019. Specific work efforts include:

1. Acquire and review City's sewer mapping and prior studies
2. Determine locations for meter installation (7 total)
3. Assist the City in meter site field reconnaissance
4. Recommend specific manholes for installation
5. Meeting with City to review metering plan
6. Allowance for meter installation technical support
7. Allowance for additional as-needed support

Phase 2 – Metering Support, Analysis and Program Development:

This phase includes the bulk of our defined scope of services during the fiscal year from July 1, 2019 – June 30, 2020. A detailed I&I analysis, development of a plan for the City's I&I program based on the findings from the metering, and an allowance for as-needed flow metering support will be performed. Specific work efforts include:

1. Develop GIS map of meter districts, acreages and populations
2. H2Ometrics initial setup for data feeds
3. H2Ometrics subscription for six (6) months
4. Weekly data QA/QC reviews and weekly written update to City (6-month duration in Fall 2019 and Spring 2020)
5. I&I Analysis in H2Ometrics (DWF metrics, wet weather I&I metrics, rainfall IDF metrics, RDII metrics, map results)
6. Development of recommendations for I&I program (ranking of districts, methods of investigation, CIP level budget items, schedule).
7. Report (district maps, meter results, summary of I&I analysis, program recommendations)
8. Two (2) meetings with City to review analysis, recommendations, and report, including meeting prep time
9. Allowance for on-going metering technical support

The following phases are outlined below to develop common expectations and approach, but these are not included in the currently proposed scope and fee and additional project supplements will be submitted.

Phase 3 – Program Management Support

This future phase would include as-needed program management support for advising the City on the implementation of the I&I program following the analysis of the existing system. This includes assistance with private I&I removal strategies, public engagement, sewer use ordinance input, enforcement strategies and overall program strategy.

Phase 4 – Sanitary Sewer Evaluation Survey (SSES) Program

This future phase would be developed after the previous phases are complete and would include assisting the City with the program for field data investigations such as sewer televising, smoke testing, manhole inspections, dye tracing testing, night time flow metering, private I&I investigations, or other field investigative techniques appropriate to identify specific I&I sources.

Phase 5 – Repair and Rehabilitation Assistance

This future phase would be developed after the previous phases are complete and would include assisting the City with development of plans, specifications and other means and methods to repair and rehabilitate defects found in the sewer system.

Phase 6 – Follow-up Flow Metering Analysis for I&I Removal

This future phase would be developed after the previous phases are complete and would include assisting the City with follow-up flow metering and post-removal I&I analysis to assess the impacts on flows from the I&I removal efforts. Follow-up flow metering is a critical component of the I&I program to receive data-based feedback on the effectiveness of the program at reducing flows. This feedback can be used to continuously adapt and improve the program.

Phase 7 – Transition to City Staff

This future phase would be developed utilizing the 19/20 fiscal year analysis and recommendations to transition the program to City staff and train the City for the continuation of the I&I program. This phase would include the development of training manuals, standard operating procedures, and training City staff on the use and operation of the tools for conducting the program.

B: Schedule

OHM will provide professional services as soon as the City of Spring Hill provides a signed Task Order No. 1, Phases 1 and 2 but will commence no earlier than July 1, 2019. The following illustrates the schedule for Phases 1 and 2 with completion dates:

Anticipated Schedule:	Due Date:
• <i>City to Authorize OHM Advisors to Proceed</i>	7/1/2019
• <i>City to Provide OHM Advisors Background Information (maps, prior reports, etc.)</i>	7/19/2019
OHM to Provide Recommended Installation Locations	8/2/2019
• <i>City to install meters begin set up with H2Ometrics *</i>	8/16/2019
Meters set up and tested with H2Ometrics	9/1/2019
Begin Fall 2019 Data Collection (3-month duration)	9/1/2019
End Fall 2019 Data Collection	11/30/2019
• <i>No Winter Data Collection</i>	--
Initial Draft Recommendations based on Fall 2019 I/I analysis	2/1/2020
Begin Spring 2020 Data Collection (3-month duration)	2/1/2020
End Spring 2020 Data Collection	4/30/2020
Draft Report of Fall & Spring I/I Analysis and Recommendations	5/31/2020

* The procurement process to purchase and receive the flow meters to be performed and scheduled by the City to ensure they are staged and ready for installation prior to August 16, 2019. OHM will advise the City on the timing of the meter procurement to accomplish this, if the City desires.

C: Compensation and Payment:

OHM shall provide all professional services as described in the Scope of Work and billing will be based on a Fixed Fee with a cost not to exceed **\$49,998**, without prior written authorization. Billing will be based on the percent complete for each sub-task under Phases 1 and 2. Additional services and additional technical or as-needed support, if required, will be based on OHM billing rates set forth in Attachment B and will require a separate Task Order. No additional services will be provided unless specifically authorized in writing by the City of Spring Hill.

D: Insurance

OHM shall provide and attach to this agreement, proof of insurance coverage as set forth in the Continuing Services Agreement, including professional liability insurance and automobile liability insurance.

Contract Terms and Conditions

OHM's Continuing Services Agreement with the City of Spring Hill, Tennessee, dated _____, shall apply.

Agreement

OHM is pleased to offer our professional engineering services in support of Inflow and Infiltration Program Development. If you agree with this Supplemental Agreement, please sign both copies and return one copy to us, which shall serve as our authorization to proceed.

City of Spring Hill, Tennessee

Orchard, Hiltz, McCliment, Inc.

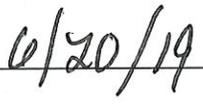

Accepted by

Printed Signature


Accepted by
Stephen Chizek
Printed Signature


Title

Managing Director
Title


Date

June 11, 2019
Date

Spring Hill I&I Program - Task Order No. 1
 Attachment A: OHM Scope and Fee
 DATE: 6/11/19

Description	Total Hours	Labor Fee	Direct Expenses	Total Fee	Notes
Phase 1 - Metering Plan Assistance					
Acquire and review City's sewer mapping	11	\$1,451	\$0	\$1,451	
Determine locations for meter installation (7 total)	8	\$1,238	\$0	\$1,238	
Assist the City in meter site field reconnaissance	11	\$1,627	\$0	\$1,627	Assume 8 hours in field
Recommend specific manholes for installation	7	\$993	\$0	\$993	
Meeting with City to review metering plan	10	\$1,761	\$0	\$1,761	
Allowance for meter installation technical support	8	\$1,014	\$0	\$1,014	8 hour allowance
Allowance for additional as-needed support	8	\$1,014	\$0	\$1,014	8 hour allowance
Sub-Total	63	\$9,098	\$0	\$9,098	
Phase 2 - Metering Support, Analysis and Program Development					
Develop GIS map of meter districts, acreages and populations	18	\$2,376	\$0	\$2,376	
H2Ometrics initial setup for data feeds	8	\$1,168	\$2,500	\$3,668	H2Ometrics one-time setup fee of \$2,500
H2Ometrics subscription for six (6) months (Fall 2019 and Spring 2020)	0	\$0	\$3,500	\$3,500	7 meters @ \$500/meter per 6 months
Weekly data QA/QC reviews and weekly written update to City	46	\$6,191	\$0	\$6,191	Assume 6 months of metering analysis
I&I Analysis in H2Ometrics (DWF metrics, wet weather I&I metrics, rainfall IDF metrics, RDII metrics, map results)	48	\$6,958	\$0	\$6,958	Analyze the largest 3-4 storms
Development of recommendations for I&I program (ranking of districts, methods of investigation, CIP level budget items, schedule).	35	\$5,607	\$0	\$5,607	
Report (district maps, meter results, summary of I&I analysis, program recommendations)	38	\$5,122	\$0	\$5,122	
Two (2) meetings with City to review analysis, recommendations, and report, including meeting prep time	31	\$4,738	\$0	\$4,738	
Allowance for on-going metering technical support	12	\$1,740	\$1,000	\$2,740	12 hour allowance plus expenses
Sub-Total	236	\$33,900	\$7,000	\$40,900	
TOTALS	299	\$42,998	\$7,000	\$49,998	



ATTACHMENT B
OHM ADVISORS 2019
TENNESSEE HOURLY RATE SCHEDULE

Professional Engineer IV/Architect IV	\$180.00
Professional Engineer III/Architect III	\$159.00
Professional Engineer II/Architect II	\$144.00
Professional Engineer I/Architect I	\$133.00
Graduate Engineer IV	\$140.00
Graduate Engineer III	\$132.00
Graduate Engineer II	\$124.00
Graduate Engineer I	\$115.00
Graduate Architect III/Landscape Architect III	\$126.00
Graduate Architect II/Landscape Architect II	\$115.00
Graduate Architect I/Landscape Architect I	\$107.00
Technician IV	\$134.00
Technician III	\$115.00
Technician II	\$103.00
Technician I	\$82.00
Engineering/Architectural Aide	\$62.00
Professional Surveyor III	\$155.00
Professional Surveyor II	\$142.00
Professional Surveyor I	\$132.00
Graduate Surveyor	\$113.00
Surveyor III	\$108.00
Surveyor II	\$96.00
Surveyor I	\$80.00
Surveyor Aide	\$62.00
Planner IV	\$160.00
Planner III	\$140.00
Planner II	\$124.00
Planner I	\$83.00
Planner Aide	\$62.00
Graphic Designer	\$108.00
Administrative Support	\$77.00
Clerical Aide	\$55.00
Principal	\$210.00
Sr. Associate	\$195.00
Associate	\$185.00
2-Man Survey Crew w/Equipment	\$165.00
1-Man Survey Crew w/Equipment	\$116.00
Drone Crew	\$165.00
Senior Interior Designer IV	\$165.00
Senior Interior Designer III	\$150.00
Senior Interior Designer II	\$140.00
Senior Interior Designer I	\$130.00
Graduate Interior Designer III	\$110.00
Graduate Interior Designer II	\$100.00
Graduate Interior Designer I	\$90.00
Interior Designer Aide	\$62.00

Rates as reflected subject to review and adjustment on an annual basis.

CONTINUING SERVICES AGREEMENT
Between
City of Spring Hill, Tennessee
And
Orchard, Hiltz & McCliment, Inc.
For
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT made as of _____, between the **City of Spring Hill** with its main office located at 199 Town Center Parkway Spring Hill, Tennessee 37174 (CLIENT) and **Orchard, Hiltz & McCliment, Inc.**, a Michigan corporation with its main office located at 34000 Plymouth Road Livonia, MI 48150 (CONSULTANT).

From time to time CLIENT intends to engage CONSULTANT to provide professional services. This Agreement sets forth the general terms and conditions which shall govern the relationships and performance of CLIENT and CONSULTANT, if and only if one or more individual Project Supplements are agreed to under this Agreement. Each engagement will be documented by an individual Project Supplement.

CLIENT and CONSULTANT in consideration of their mutual covenants as set forth herein agree as follows:

ARTICLE 1 – SERVICES OF CONSULTANT

1.01 Scope

A. The services to be provided by CONSULTANT will include the Basic and Additional Services set forth in Exhibit A, "Schedule of Consultant Services," as authorized by CLIENT as provided herein. Services for each Specific Project will be detailed in a duly executed individual Project Supplement. Each Project Supplement will indicate the specific tasks and functions to be performed and deliverables to be provided.

B. The general format of a Project Supplement is shown in Attachment 1 to Exhibit A.

C. This Agreement is not a commitment by CLIENT to CONSULTANT to issue any Project Supplements.

D. CONSULTANT shall not be obligated to perform any prospective Project Supplement unless and until CLIENT and CONSULTANT agree as to the particulars of the Specific Project, CONSULTANT'S services, CONSULTANT'S compensation, and all other appropriate matters.

1.02 Project Supplement Procedure

A. CLIENT and CONSULTANT shall agree on the scope, time for performance, and basis of compensation for each Project Supplement.

B. CONSULTANT will commence performance as set forth in the Project Supplement.

ARTICLE 2 – CLIENT'S RESPONSIBILITIES

2.01 General

CLIENT shall have the responsibilities set forth herein, in Exhibit B, "Schedule of Client's Responsibilities," and in each Project Supplement.

ARTICLE 3 – TERM; TIMES FOR RENDERING SERVICES; SUSPENSION

3.01 Term

A. This Agreement shall be effective and applicable to Project Supplements issued hereunder for 1 year from the effective date of the Agreement.

B. This Agreement may be extended or renewed, with or without changes, by written amendment establishing a new term.

3.02 Times for Rendering Services

A. The times for performing services or providing deliverables will be stated in each Project Supplement. If no times are so stated, CONSULTANT will perform services and provide deliverables within a reasonable time.

B. For purposes of this Agreement, the term "day" means a calendar day of 24 hours.

C. The time for a party's performance will be extended to the extent performance was delayed by causes beyond the control and without the fault of the party seeking the extension. That party shall promptly notify the other party in writing when it is being delayed.

3.03 Suspension

A. If CLIENT fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase under a Project Supplement, or if CONSULTANT'S services are delayed through no fault of CONSULTANT, CONSULTANT may, after giving seven days written notice to CLIENT, suspend services under the individual Project Supplement.

B. If CONSULTANT'S services under a Project Supplement are delayed or suspended in whole or in part by CLIENT, or if CONSULTANT'S services under an individual Project

Supplement are extended by a Contractor's actions or inactions for more than 90 days through no fault of CONSULTANT, CONSULTANT shall be entitled to equitable adjustment of rates and amounts of compensation provided for elsewhere in this Agreement to reflect incremental costs incurred by CONSULTANT in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under the individual Project Supplement has been revised.

ARTICLE 4 – PAYMENTS TO CONSULTANT

4.01 Payment for Services and Reimbursable Expenses of CONSULTANT

CLIENT shall pay CONSULTANT as set forth herein and in each individual Project Supplement.

4.02 Other Payment Provisions

A. *Preparation of Invoices.* Invoices for each individual Project Supplement will be prepared in accordance with CONSULTANT'S standard invoicing practices and will be submitted to CLIENT by CONSULTANT monthly, unless otherwise agreed. The amount billed in each invoice will be calculated as set forth in Exhibit C, "Payments to Consultant for Services and Reimbursable Expenses," and each individual Project Supplement.

B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If CLIENT fails to make any payments due CONSULTANT for services and expenses within 30 days after receipt of CONSULTANT'S invoice, the amounts due CONSULTANT will be increased at the rate of 1.0 percent per month (or the maximum rate of interest permitted by law, if less) from said 30th day.

C. *Disputed Invoices.* In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

D. Payments Upon Termination.

1. In the event of any termination under paragraph 6.06, CONSULTANT will be entitled to invoice CLIENT and will be paid in accordance with each individual Project Supplement for all services performed or furnished and all reimbursable expenses incurred through the effective date of termination.

2. In the event of termination by CLIENT for convenience or by CONSULTANT for cause, CONSULTANT, in addition to invoicing for those items identified in subparagraph 4.02.D.1, shall be entitled to invoice CLIENT and shall be paid 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 CONSULTANT'S subconsultants, and other related close-out costs, using methods and rates for additional services as set forth in each individual Project Supplement.

E. *Records of CONSULTANT'S Costs.* Records of CONSULTANT'S costs pertinent to CONSULTANT'S compensation under this Agreement shall be kept in accordance with generally accepted accounting practices. To the extent necessary to verify CONSULTANT'S charges and upon CLIENT'S timely request, copies of such records will be made available to CLIENT at cost.

F. *Legislative Actions.* In the event of legislative actions after the Effective Date of the Agreement (**an individual Project Supplement**) by any level of government that impose taxes, fees, or costs on CONSULTANT'S services or other costs in connection with this Project or compensation thereof, such new taxes, fees, or costs shall be invoiced to and paid by CLIENT as a Reimbursable Expense to which a Factor of 1.0 shall be applied. Should such taxes, fees or costs be imposed, they shall be in addition to CONSULTANT'S estimated total compensation.

ARTICLE 5 – OPINIONS OF COST

5.01 Opinions of Probable Construction Cost

CONSULTANT'S opinions of probable Construction Cost (if any) are to be made on the basis of CONSULTANT'S experience and qualifications and represent CONSULTANT'S best judgment as an experienced and qualified professional generally familiar with the industry. However, since the CONSULTANT has no control over the cost of labor, materials, equipment, or services furnished by others, or over a Contractor's methods of determining prices, or over competitive bidding or market conditions, CONSULTANT cannot and does not guarantee that proposals, bids or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by CONSULTANT. If CLIENT wishes greater assurance as to probable Construction Cost, CLIENT shall employ an independent cost estimator as provided in Exhibit B.

5.02 Opinions of Total Project Costs

CONSULTANT assumes no responsibility for the accuracy of opinions of total project costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 Standards and Parameters of Performance

A. The standard of care for all professional consulting and related services performed or furnished by CONSULTANT in this Agreement will be the care and skill ordinarily used by members of CONSULTANT'S profession practicing under similar circumstances at the same time and in the same locality. CONSULTANT makes no warranties, express or implied, under this Agreement or otherwise, in connection with CONSULTANT'S services.

B. CONSULTANT shall be responsible for the technical accuracy of its services and documents resulting there from, and CLIENT shall not be responsible for discovering deficiencies therein. CONSULTANT shall correct such

deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in CLIENT-furnished information.

C. CONSULTANT shall serve as CLIENT'S prime professional under each individual Project Supplement. CONSULTANT may employ such subconsultants as CONSULTANT deems necessary to assist in the performance or furnishing of the services. CONSULTANT shall not be required to employ any subconsultant unacceptable to CONSULTANT.

D. CONSULTANT and CLIENT shall comply with applicable laws or regulations and CLIENT-mandated standards. This Agreement is based on these requirements as of the effective date of each individual Project Supplement. Changes to these requirements after the effective date of each individual Project Supplement may be the basis for modifications to CLIENT'S responsibilities or to CONSULTANT'S scope of services, times of performance, or compensation.

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

F. CLIENT shall make decisions and carry out its other responsibilities in a timely manner and shall bear all costs incident thereto so as not to delay the services of the CONSULTANT.

G. Prior to the commencement of the Construction Phase on a Specific Project, CLIENT shall notify CONSULTANT of any variations or any other notice or certification that CONSULTANT will be requested to provide to CLIENT or third parties in connection with a Specific Project. CLIENT and CONSULTANT shall reach agreement on the terms of any such requested notice or certification, and CLIENT shall authorize such Additional Services as are necessary to enable CONSULTANT to provide notices or certifications requested.

H. If a Construction Cost limit for a Specific Project is established between CLIENT and CONSULTANT, such Construction Cost limit and a statement of CONSULTANT'S rights and responsibilities with respect thereto will be specifically as set forth in this Agreement and the individual Project Supplement.

I. CONSULTANT shall not be required to sign any documents, no matter by whom requested, that would result in CONSULTANT having to certify, guarantee or warrant the existence of conditions whose existence CONSULTANT cannot ascertain within its services for that specific project. CLIENT agrees not to make resolution of any dispute with CONSULTANT or payment of any amount due to the CONSULTANT in any way contingent upon CONSULTANT signing any such certification.

J. If CONSULTANT provides services during the construction phase of a specific project, CONSULTANT shall not supervise, direct, or have control over a Contractor's work, nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by a Contractor, for safety precautions and programs incident to a Contractor's work in progress, nor for any failure of a Contractor to comply with laws and regulations applicable to a Contractor's furnishing and performing the work.

K. CONSULTANT 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.

L. CONSULTANT shall not be responsible for the acts or omissions of any Contractor(s), subcontractor or supplier, or of any of a Contractor's agents or employees or any other persons (except CONSULTANT'S own employees) at a site or otherwise furnishing or performing any of a Contractor's work; or for any decision made on interpretations or clarifications of the contract documents given by CLIENT without consultation and advice of CONSULTANT.

M. 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 (Document No. C700, 2002, unless both parties mutually agree to use other General Conditions.

N. Consultant agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals or service providers, as applicable, in middle Tennessee.

6.02 Authorized Project Representatives

Contemporaneous with the execution of each individual Project Supplement, CONSULTANT and CLIENT shall designate specific individuals to act as CONSULTANT'S and CLIENT'S representatives with respect to the services to be performed or furnished by CONSULTANT and responsibilities of CLIENT under the individual Project Supplement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to a specific project on behalf of each respective party.

6.03 Design without Construction Phase Services

It is understood and agreed that if CONSULTANT'S basic services under an individual Project Supplement do not include project observation, or a review of a Contractor's performance, or any other Construction Phase services, and that such services will be provided by CLIENT or others, then CLIENT assumes all responsibility for interpretation of the contract documents and for construction observation or review and waives any claims against CONSULTANT that may be in any way connected thereto. In such a case, CONSULTANT'S basic services under the applicable

individual Project Supplement will be considered completed upon completion of the Final Design Phase or Bidding Phase as outlined in Exhibit A and the individual Project Supplement.

6.04 Use of Documents

A. Upon completion or termination of this Agreement, all documents prepared by the CONSULTANT, including tracings, drawings, estimates, specification, field notes, investigations, copies of computer files and drawings, studies and reports shall become the property of and be delivered to the CLIENT. Copies of CLIENT-furnished data that may be relied upon by CONSULTANT are limited to the printed copies (also known as hard copies) that are delivered to CONSULTANT pursuant to Exhibit B. Files in electronic media format of text, data, graphics, or of other types that are furnished by CLIENT to CONSULTANT are only for convenience of CONSULTANT. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. Copies of Documents that may be relied upon by CLIENT are limited to the printed copies (also known as hard copies) that are signed or sealed by CONSULTANT. Files in electronic media format of text, data, graphics, or of other types that are furnished by CONSULTANT to CLIENT are only for convenience of CLIENT. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

B. 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 30 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 30-day acceptance period will be corrected by the party delivering the electronic files. CONSULTANT shall not be responsible to maintain documents stored in electronic media format after acceptance by CLIENT.

C. When transferring documents in electronic media format, CONSULTANT makes no representations as to compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by CONSULTANT at the beginning of a Specific Project.

D. CLIENT may make and retain copies of Documents for information and reference in connection with use on a Specific Project by CLIENT. Such Documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the Specific Project for which they were prepared or on any other project. Any such reuse or modification without written verification or adaptation by CONSULTANT, as appropriate for the specific purpose intended, will be at CLIENT'S sole risk and without liability or legal exposure to CONSULTANT or to CONSULTANT'S subconsultants. CLIENT shall indemnify and hold harmless CONSULTANT and CONSULTANT'S subconsultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting there from.

E. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

F. Any verification of adaptation of the Documents for extensions of the Specific Project for which they were prepared or for any other project will entitle the CONSULTANT to further compensation at rates to be agreed upon by CLIENT and CONSULTANT.

6.05 Insurance

A. CONSULTANT shall procure and maintain insurance as set forth in Exhibit D, "Insurance."

B. CLIENT shall require Contractors to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause CONSULTANT and CONSULTANT'S subconsultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for a Specific Project.

C. All policies of property insurance shall contain provisions to the effect that CONSULTANT and CONSULTANT'S subconsultants interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder.

D. At any time, CLIENT may request that CONSULTANT, at CLIENT'S sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit D. If so requested by CLIENT, with the concurrence of CONSULTANT, and if commercially available, CONSULTANT shall obtain and shall require CONSULTANT'S subconsultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by CLIENT, and Exhibit D will be amended to incorporate these requirements.

6.06 Termination

The obligation to provide further services under this Agreement or any individual Project Supplement 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 of this Agreement or any individual Project Supplement here under through no fault of the terminating party.

b. By CONSULTANT:

1) upon seven days written notice if CONSULTANT believes that CONSULTANT is being requested by CLIENT to furnish or perform services contrary to

CONSULTANT'S responsibilities as a licensed professional; or

2) upon seven days written if CONSULTANT'S services under an individual Project Supplement are delayed or suspended for more than 90 days for reasons beyond CONSULTANT'S control.

3) CONSULTANT shall have no liability to CLIENT on account of such termination.

c. Notwithstanding the foregoing, neither this Agreement nor any individual Project Supplement will terminate as a result of such substantial failure if the party receiving such notice begins, within seven days of receipt of such notice, to correct its 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 date of receipt of the notice.

2. For convenience,

a. By CLIENT effective upon the receipt of notice by CONSULTANT.

b. The terminating party under paragraphs 6.06.A.1 or 6.06.A.2 may set the effective date of termination of this Agreement or any individual Project Supplement at a time up to 30 days later than otherwise provided to allow CONSULTANT 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 materials in orderly files.

6.07 Controlling Law

This Agreement is to be governed by the law of the State of Tennessee. Venue and jurisdiction for any legal proceeding hereunder shall be in the Circuit Court for Maury County, Tennessee.

6.08 Nondiscrimination and Affirmative Action

The CONSULTANT agrees to take affirmative action to assure that applicants are employed and the employees are treated during employment in a manner, which provides equal employment opportunity and eliminates any inequality based upon race, national origin, gender, sexual orientation, religion, disability, height, weight, marital status, or veteran status.

6.09 Successors, Assigns, and Beneficiaries

A. CLIENT and CONSULTANT each is hereby bound and the partners, successors, executors, administrators and legal representatives of CLIENT and CONSULTANT (and to the extent permitted by paragraph 6.09.B the assigns of CLIENT and CONSULTANT) are hereby bound to the other party to

this Agreement and to the partners, 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 CLIENT nor CONSULTANT 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 CLIENT or CONSULTANT to any Contractor, Contractor's subcontractor, supplier, other individual 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 CLIENT and CONSULTANT and not for the benefit of any other party. The CLIENT agrees that the substance of the provisions of this paragraph, 6.09.C, shall appear in any Contract Documents prepared for any Specific Project under this Agreement.

6.10 Dispute Resolution

CLIENT and CONSULTANT agree that if a dispute arises out of or relates to this contract, the parties will attempt to settle the dispute through good faith negotiations. If direct negotiations do not resolve the dispute, the parties agree to endeavor to settle the dispute by mediation prior to the initiation of any legal action, unless delay in initiating legal action would irrevocably prejudice one of the parties. The mediation provision can be waived by the mutual consent of the parties or by either party if such party's right would be irrevocably prejudiced by a delay in initiating a legal proceeding.

6.11 Hazardous Environmental Condition

A. CLIENT represents to CONSULTANT that to the best of its knowledge a Hazardous Environmental Condition does not exist on a Site for a Specific Project, unless set forth in the individual Project Supplement.

B. CLIENT shall disclose to the best of its knowledge to CONSULTANT the existence of all Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Material located at or near the site of any specific project, including type, quantity and location.

C. If a Hazardous Environmental Condition is encountered or alleged, CONSULTANT shall have the obligation to notify CLIENT and, to the extent of applicable Laws and Regulations, appropriate governmental officials.

D. It is acknowledged by both parties that CONSULTANT'S scope of services in any individual Project Supplement shall not include any services related to Hazardous Environmental Condition unless specifically agreed to in an individual Project Supplement. In the event CONSULTANT or any other party encounters a Hazardous Environmental Condition not specifically identified in the individual Project Supplement, CONSULTANT may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the specific project affected thereby until CLIENT: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the site of a specific project is in full compliance with applicable laws and regulations.

E. CLIENT acknowledges that CONSULTANT is performing professional services for CLIENT and that CONSULTANT is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the site of a specific project in connection with CONSULTANT'S activities under this Agreement.

F. If CONSULTANT'S services under any individual Project Supplement cannot be performed because of a Hazardous Environmental Condition not specifically identified in the individual Project Supplement, the existence of the condition shall justify CONSULTANT'S terminating that individual Project Supplement for cause on 30 days notice.

6.12 Allocation of Risks

A. Indemnification

1. To the fullest extent permitted by law, CONSULTANT shall indemnify and hold harmless CLIENT, CLIENT'S officers, directors, partners and employees from and against any and all costs, losses and damages (including, but not limited to all fees and charges of CONSULTANT'S, architects, attorneys and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of CONSULTANT or CONSULTANT'S officers, directors, partners, employees, and CONSULTANT'S consultants in the performance and furnishing of CONSULTANT'S services under this Agreement.

2. To the fullest extent permitted by law, CLIENT shall indemnify and hold harmless CONSULTANT, consultants officers, directors, partners, employees, and CONSULTANT'S consultants from and against any and all costs, losses, and damages (including, but not limited to all fees and charges of CONSULTANT'S, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of CLIENT or CLIENT'S officers, directors, partners, employees and CLIENT'S other consultants with respect to this Agreement.

3. To the fullest extent permitted by law, CONSULTANT'S total liability to CLIENT and anyone claiming by, through, or under CLIENT for any cost, loss or damages caused in part by the negligence of CONSULTANT and in part by the negligence of CLIENT or any other negligent entity or individual, shall not exceed the percentage share that CONSULTANT'S negligence bears to the total negligence of CLIENT, CONSULTANT, and all other negligent entities and individuals.

4. In addition to the indemnity provided under paragraph 6.12.A.2. of this Agreement, and to the fullest extent permitted by law, CLIENT shall indemnify and hold harmless CONSULTANT and its officers, directors, partners, employees, and CONSULTANT'S subconsultants from and against all costs, losses and damages (including, but not limited to all fees and charges of CONSULTANT'S attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) cause by, arising out of or resulting from a hazardous environmental condition, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than completed work), including the loss of use resulting there from, and (ii) nothing in this paragraph 6.12.A.4. shall obligate CLIENT to indemnify any individual or entity from and against the consequences of that individual or entity's own negligence or willful misconduct.

B. Limitation of Consultant's Liability

1. To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of CONSULTANT and CONSULTANT'S officers, directors, partners, employees, agents, and consultants, and any of them to CLIENT and anyone claiming by, through, or under CLIENT for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to specific project from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of CONSULTANT or CONSULTANT'S officers, directors, partners, employees, agents or consultants, or any of them, shall not exceed the total compensation received by CONSULTANT for the individual Project Supplement or the sum of \$25,000, whichever is greater.

6.13 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, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

6.14 Applicability of Continuing Services Agreement to individual Project Supplement

The terms and conditions set forth in this Agreement apply to each individual Project Supplement as if set forth in the individual Project Supplement, unless specifically modified. In the event of conflicts between this Agreement and an

individual Project Supplement, the conflicting provisions of the individual Project Supplement shall take precedence for the individual Project Supplement. The provisions of this Agreement shall be modified only by a written amendment. Such amendments shall be applicable to all individual Project Supplements issued after the effective date of the amendment if not otherwise set forth in the amendment.

6.15 Survival

All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.

6.16 Severability

Any provision or part of this 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 CLIENT and CONSULTANT, who agree that this 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.

6.17 Waiver

Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

6.18 Headings

The headings used in this Agreement are for general reference only and do not have special significance.

6.19 Non-Exclusive and Non-Limiting Agreement

A. Nothing herein shall establish an exclusive relationship between CLIENT and CONSULTANT. CLIENT may enter into similar agreements with other professionals for the same or different types of services contemplated hereunder, and CONSULTANT may enter into similar or different agreements with other Clients for the same or different services as contemplated hereunder.

B. The cumulative scope of CONSULTANT'S services and CONSULTANT'S compensation as agreed to in Individual Project Supplements hereunder shall not be limited by this Agreement.

6.20 Entire Agreement

This Agreement, together with attached exhibits, constitutes the entire Agreement between the parties with respect to the subject matter contained herein, all prior agreements, representations, statements, negotiations, and undertakings are suspended hereby. Neither party has relied on any representations, promise, or inducement not contained herein.

ARTICLE 7 – DEFINITIONS

7.01 Defined Terms

Wherever used in this Agreement (including the Exhibits hereto and any Individual Project Supplement) and printed with initial or all capital letters, the terms listed below have the meanings indicated, which are applicable to both the singular and plural thereof:

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids, which clarify, correct, or change the Bidding Documents.
2. *Additional Services*-- Services to be performed for or furnished to CLIENT by CONSULTANT in accordance with an Individual Project Supplement which are not included in Basic Services for that Individual Project Supplement.
3. *Agreement*--This "Master Agreement between CLIENT and CONSULTANT for Professional Services," including those Exhibits listed in Article 8 hereof.
4. *Application for Payment*--the form acceptable to CONSULTANT and CLIENT which is to be used by a contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
5. *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.
6. *Basic Services*--Specified services to be performed for or furnished to CLIENT by CONSULTANT in accordance with an Individual Project Supplement.
7. *Bid*--The offer or proposal of a bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
8. *Bidding Documents*--The advertisement or invitation to Bid, instructions to bidders, the Bid form and attachments, the Bid bond, if any, the proposed Contract Documents, and all Addenda, if any.
9. *Change Order*-- document recommended by CONSULTANT, which is signed by a Contractor and CLIENT to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times.
10. *Construction Agreement*--The written instrument, which is evidence of the agreement, contained in the Contract Documents, between CLIENT and a Contractor covering the Work.

11. *Construction Contract*--The entire and integrated written agreement between CLIENT and a Contractor concerning the Work.

12. *Construction Cost*-- The cost to CLIENT of those portions of an entire Specific Project designed or specified by CONSULTANT. Construction Cost does not include costs of services of CONSULTANT or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or CLIENT'S costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with a Specific Project, or the cost of other services to be provided by others to CLIENT pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

13. *Contract Documents*-- Documents that establish the rights and obligations of the parties engaged in construction and include the Construction Agreement between CLIENT and a Contractor, Addenda (which pertain to the Contract Documents), a contractor's Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the notice of award) when attached as an exhibit to the Construction Agreement, the notice to proceed, the bonds, appropriate certifications, the General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Construction Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and CONSULTANT'S written interpretations and clarifications issued on or after the Effective Date of the Construction Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.

14. *Contract Price* --The moneys payable by CLIENT to a Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Construction Agreement.

15. *Contract Times* --The numbers of days or the dates stated in a Construction Agreement to: (i) achieve Substantial Completion, and (ii) complete the Work so that it is ready for final payment as evidenced by CONSULTANT'S written recommendation of final payment.

16. *Contractor*--An individual or entity with whom CLIENT enters into a Construction Agreement for a Specific Project.

17. *Correction Period*--The time after Substantial Completion during which a Contractor must correct, at no cost to CLIENT, any Defective Work, normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Contract Documents.

18. *Defective*--An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference

standard, test, or approval referred to in the Contract documents, or has been damaged prior to CONSULTANT'S recommendation of final payment.

19. *Documents*--Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by CONSULTANT to CLIENT pursuant to this Agreement.

20. *Drawings*--That part of the Contract Documents prepared or approved by CONSULTANT, which graphically shows the scope, extent, and character of the Work to be performed by a Contractor. Shop Drawings are not Drawings as so defined.

21. *Effective Date of the Construction Agreement*--The date indicated in a Construction Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Construction Agreement is signed and delivered by the last of the two parties to sign and deliver.

22. *Effective Date of the Agreement*--The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

23. *Effective Date of the Individual Project Supplement*--The date indicated in the Individual Project Supplement on which it becomes effective, but if no such date is indicated, it means the date on which the Individual Project Supplement is signed and delivered by the last of the two parties to sign and deliver.

24. *CONSULTANT'S Consultants*--Individuals or entities having a contract with CONSULTANT to furnish services with respect to a Specific Project as CONSULTANT'S independent professional associates, Consultants, subcontractors, or vendors. The term CONSULTANT includes CONSULTANT'S Consultants.

25. *Field Order*--A written order issued by CONSULTANT, which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

26. *General Conditions*--That part of the Contract Documents, which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by a Contractor with respect to a Specific Project.

27. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with a Specific Project.

28. *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.

29. *Individual Project Supplement*--A document executed by CLIENT and CONSULTANT, including amendments if any,

stating the scope of services, CONSULTANT'S compensation, times for performance of services and other relevant information for a Specific Project.

30. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

31. *PCB's*--Polychlorinated biphenyls.

32. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at 32 degrees Fahrenheit and 14.7 pounds per square inch absolute, such as fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

33. *Radioactive Materials*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2001 et seq.) as amended from time to time.

34. *Record Drawings*--The Drawings as issued for construction on which CONSULTANT, upon completion of the Work, has shown changes due to Addenda or Change Orders and other information which CONSULTANT considers significant based on record documents furnished by Contractor to CONSULTANT and which were annotated by Contractor to show changes made during construction.

35. *Reimbursable Expenses*--The expenses incurred directly by CONSULTANT in connection with the performing or furnishing of Basic and Additional Services for a Specific Project for which CLIENT shall pay CONSULTANT as indicated in Exhibit C or an Individual Project Supplement.

36. *Resident Project Representative*--The authorized representative, if any, of CONSULTANT assigned to assist CONSULTANT at the Site of a Specific Project during the Construction Phase. The Resident Project Representative will be CONSULTANT'S agent or employee and under CONSULTANT'S supervision. As used herein, the term Resident Project Representative includes any assistant of Resident Project Representative agreed to by CLIENT. The duties and responsibilities of the Resident Project Representative will be as set forth in each Individual Project Supplement.

37. *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.

38. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information, which are specifically prepared or assembled by or for a Contractor and submitted by a Contractor to CONSULTANT to illustrate some portion of the Work.

39. *Site*--Lands or areas indicated in the Contract Documents for a Specific Project as being furnished by CLIENT upon which the Work is to be performed, rights-of-way and

easements for access thereto, and such other lands furnished by CLIENT, which are designated for use of a Contractor.

40. *Specifications*--That part of the Contract Documents prepared by CONSULTANT consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work to be performed by a Contractor and certain administrative details applicable thereto.

41. *Specific Project*--An undertaking of CLIENT as set forth in an Individual Project Supplement.

42. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of CONSULTANT, 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.

43. *Supplementary Conditions*--That part of the Contract documents which amends or supplements the General Conditions.

44. *Total Project Costs*--The sum of the Construction Cost, allowances for contingencies, the total costs of services of CONSULTANT or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or CLIENT'S costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with a Specific Project, or the cost of other services to be provided by others to CLIENT pursuant to Exhibit B of this Agreement.

45. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided by a Contractor under Contract Documents for a Specific Project. Work includes and is the result of a Contractor performing or furnishing labor, services, and documentation necessary to produce such construction and furnishing, installing, and incorporating all materials and all equipment into such construction, all as required by the applicable Contract Documents.

46. *Work Change Directive*--A written directive to a Contractor signed by CLIENT upon recommendation of the CONSULTANT, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

47. *Written Amendment*--A written amendment of the Contract Documents signed by CLIENT and a Contractor on or after the Effective Date of a Construction Agreement and normally dealing with the non-consulting or non-technical rather than strictly construction-related aspects of the Contract Documents.

ARTICLE 8 - EXHIBITS AND SPECIAL PROVISIONS

8.01 Exhibits

- A. Description of CONSULTANT'S Services
- B. Schedule of CLIENT'S Responsibilities
- C. Payments to CONSULTANT
- D. Insurance

Attachments

- Schedule A to Exhibit C
- Attachment 1 to Exhibit A

8.02 Total Agreement

A. This Agreement (consisting of pages 1 to 25 inclusive, together with the Exhibits identified as included above) constitutes the entire agreement between CLIENT and CONSULTANT and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

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

City of Spring Hill, TN
CLIENT

Authorized Party
Title

Date

Orchard, Hiltz & McCliment, Inc.
CONSULTANT



Stephen Chizek
Managing Director

June 11, 2019

Date

Schedule of CONSULTANT'S Services

Services to be provided under an individual Project Supplement may include the following:

PART 1 – BASIC SERVICES

A1.01 Study and Report Phase

(Note: On a road or bridge design project this phase may be referred to as the Base Plan or TS&L Phase.)

A. Upon written authorization from CLIENT, CONSULTANT shall:

1. Consult with CLIENT to define and clarify CLIENT'S requirements for a Specific Project and available data.
2. Provide necessary field surveys and topographic and utility mapping for design purposes. Utility mapping will be based upon information obtained from utility companies.
3. Advise CLIENT as to the necessity of CLIENT'S providing data or services of the types described in Exhibit B, which are not part of CONSULTANT'S basic services, and, if requested, assist CLIENT in obtaining such data and services.
4. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of a Specific Project designed or specified by CONSULTANT, including but not limited to mitigating measures identified in the environmental assessment.
5. Identify and evaluate the number of alternate solutions available to CLIENT listed in the individual Project Supplement for a Specific Project, and, after consultation with CLIENT, recommend to CLIENT those solutions, which in CONSULTANT'S judgment meet CLIENT'S requirements for a Specific Project.
6. Prepare a report (the "Report/Base Plans") which will, as appropriate, contain schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and those alternate solutions available to CLIENT which CONSULTANT recommends.
7. Furnish the number of review copies of the Report/Base Plans to CLIENT within the time period set forth in the individual Project Supplement and review it with CLIENT.

8. Revise the Report/Base Plans in response to CLIENT'S and other parties' comments, as appropriate, and furnish the number of final copies of the revised Report/Base Plans to the CLIENT within the time period set forth in the individual Project Supplement.

B. CONSULTANT'S services under the Study and Report Phase will be considered complete on the date when the final copies of the revised Report/Base Plans have been delivered to CLIENT.

A1.02 Preliminary Design Phase

A. After determination by CLIENT of the scope, extent, character or design requirements of a Specific Project, including the acceptance with any specific modifications by CLIENT of CONSULTANT'S Report/Base Plans, if any, from a preceding phase or Specific Project, and upon written authorization from CLIENT to provide Preliminary Design Phase Services, CONSULTANT shall:

1. On the basis of the above acceptance, selection and authorization, prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of a Specific Project.
2. Advise CLIENT if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist CLIENT in obtaining such reports, data, information, or services.
3. Based on the information contained in the Preliminary Design Phase documents, submit a current opinion of probable Construction Costs.
4. Furnish the Preliminary Design Phase documents to and review them with CLIENT.
5. Submit to CLIENT the number of final copies of the Preliminary Design Phase documents and revised opinion of probable Construction Costs within the time period set forth in the individual Project Supplement.
6. CONSULTANT'S services under the Preliminary Design Phase will be considered complete on the date when final copies of the Preliminary Design Phase documents have been delivered to CLIENT.

A1.03 Final Design Phase

- A. After determination by CLIENT of the scope, extent, character, or design requirements of a Specific Project, including the acceptance of any specific modifications by CLIENT of a preceding phase or Specific Project, and upon written authorization from CLIENT to provide Final Design Phase Services, CONSULTANT shall:
1. On the basis of the above acceptance, direction, and authorization, prepare final drawings indicating the scope, extent, and character of work to be performed and furnished by Contractor. Specifications and special provisions will be prepared, where appropriate, in general conformance with the [Michigan Department of Transportation Standard Specifications for Construction].
 2. Provide technical criteria, written descriptions, and design data for CLIENT'S use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design of a Specific Project and assist CLIENT in consultations with appropriate authorities.
 3. Provide CLIENT a current opinion of probable Construction Costs.
 4. Prepare and furnish Bidding Documents for review and approval by CLIENT, its legal counsel, and other advisors, as appropriate, and assist CLIENT in the preparation of other related documents.
 5. Submit the number of final copies of the Bidding Documents and a current opinion of probable Construction Cost to CLIENT with the time period set forth in the individual Project Supplement.
- B. CONSULTANT'S services under the Final Design Phase will be considered complete on the date when the submittals required by paragraph A1.03.A.5. have been delivered to CLIENT.

A1.04 Bidding Phase

- A. Upon written authorization from CLIENT to provide Bidding Phase Services, CONSULTANT shall:
1. Assist CLIENT in advertising for and obtaining bids or negotiating 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.

- B. The Bidding 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 [Fill In] is a part of the individual Project Supplement.

A1.05 Construction Phase

- A. Upon written authorization from CLIENT to provide Construction Phase Services, CONSULTANT shall:
1. *General Administration of Construction Contract.* Consult with CLIENT and act as CLIENT'S representative as provided in the General Conditions. The extent and limitations of the duties, responsibilities and authority of CONSULTANT as assigned in said General Conditions shall not be modified, except as CONSULTANT may otherwise agree in writing. All of CLIENT'S instructions to Contractor will be issued through CONSULTANT, who shall have authority to act on behalf of CLIENT in dealings with Contractor to the extent provided in this Agreement and said General Conditions except as otherwise provided in writing.
 2. *Resident Project Representative (RPR).* Provide the services of an RPR at the site of the Specific Project to assist the CONSULTANT and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in the individual Project Supplement. Exhibit D "Duties, Responsibilities and Limitations of Authority of Resident Project Representative," shall be modified for the individual Project Supplement. The furnishing of such RPR's services will not extend CONSULTANT'S responsibilities or authority beyond the specific limits set forth elsewhere in this Agreement.
 3. *Selecting Independent Testing Laboratory.* Assist CLIENT in the selection of an independent testing laboratory perform the services identified in paragraph B2.01.0.
 4. *Pre-Construction Conference.* Participate in a pre-construction conference prior to commencement of work at the site.
 5. *Baselines and Benchmarks.* As appropriate, establish baselines and benchmarks for locating the work, which in CONSULTANT'S judgment are necessary to enable Contractor to proceed, unless Contractor staking is included in Contractor's contract.
 6. *Visits to Site and Observation of Construction.* In connection with observations of work in progress:

- a. Make visits to the site at intervals appropriate to the various stages of construction, as CONSULTANT deems necessary, in order to observe as an experienced and qualified design professional the progress and quality of the work. Such visits and observations by CONSULTANT, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the work in progress or to involve detailed inspections of the work in progress beyond the responsibilities specifically assigned to CONSULTANT in the individual Project Supplement 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 CONSULTANT'S exercise of professional judgment as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and such observations, CONSULTANT will determine in general if Contractor's work is proceeding in accordance with the contract documents, and CONSULTANT shall keep the CLIENT informed of the progress of the work.
- b. The purpose of CONSULTANT'S visits to, and representation by the Resident Project Representative, if any, at the site of the Specific Project, will be to enable CONSULTANT to better carry out the duties and responsibilities assigned to and undertaken by CONSULTANT during the construction phase, and, in addition, by the exercise of CONSULTANT'S efforts as an experienced and qualified design professional, to provide for CLIENT a greater degree of confidence that the completed work will conform in general to the contract documents and that the integrity of the design concept of the completed project as a functioning whole as indicated in the contract documents has been implemented and preserved by Contractor. CONSULTANT shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct or have control over the work, nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to the work, or for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the work. Accordingly, CONSULTANT neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the contract documents.
7. Defective Work. Have authority to disapprove or reject Contractor's work while it is in progress if, on the basis of such observations, CONSULTANT believes that such work will not produce a completed project that conforms generally to the contract document or that it will prejudice the integrity of the design concept of the completed project as a functioning whole as indicated in the contract documents.
8. Clarifications and Interpretations; Field Orders. Issue necessary clarifications and interpretations of the contract documents as appropriate to the orderly completion of the work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the contract documents. CONSULTANT may issue field orders authorizing minor variations from the requirements of the contract documents.
9. Change Orders and Work Change Directives. Recommend change orders and work change directives to CLIENT, as appropriate, and prepare change orders and work change directives as required.
10. 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 in 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. CONSULTANT has an obligation to meet any Contractor's submittal schedule that has earlier been acceptable to CONSULTANT.
11. Inspections and Tests. Require such special inspections or tests of the 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. CONSULTANT'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. CONSULTANT shall be entitled to rely on the results of such tests.
12. Disagreements between CLIENT and Contractor. Render formal written decisions on all claims of

CLIENT and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of Contractor's work. In rendering such decisions, CONSULTANT shall be fair and not show partiality to CLIENT or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

13. Applications for Payment. Based on CONSULTANT'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 CONSULTANT recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute CONSULTANT'S representation to CLIENT, based on such observations and review, that, to the best of CONSULTANT'S knowledge, information and belief, the work has progressed to the point indicated, the quality of such 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 CONSULTANT'S responsibility to observe the work. In the case of unit price work, CONSULTANT'S recommendations of payment will include final determinations of quantities and classifications of the work (subject to any subsequent adjustments allowed by the contract documents). The responsibilities of CONSULTANT contained in paragraph A1.05.A.6.a. are expressly subject to the limitations set forth in paragraph A1.05.A.6.b and other express or general limitations in this Agreement and elsewhere.
 - b. By recommending any payment, CONSULTANT shall not thereby be deemed to have represented that observations made by CONSULTANT to check the quality or quantity of the work as it is performed and furnished have been exhaustive, extended to every aspect of the work in progress, or involved detailed inspections of the work beyond the responsibilities specifically assigned to CONSULTANT in this Agreement and the contract documents. Neither CONSULTANT'S review of the work for the purposes of recommending payments nor CONSULTANT'S recommendations of any payment including final payment will impose on

CONSULTANT responsibility to supervise, direct, or control the 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 the work. It will also not impose responsibility on CONSULTANT 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 CLIENT free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between CLIENT and Contractor that might affect the amount that should be paid.

14. Contractor's Completion Documents.
 - a. Receive and review maintenance and operating instructions, schedules, and guarantees.
 - b. Receive bonds, certificates, or other evidence of insurance not previously submitted and 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.10, and 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 CONSULTANT'S review will be limited as provided in paragraph A1.05.A.10.
 - c. CONSULTANT shall transmit these documents to CLIENT.
15. Substantial Completion. Promptly after notice from Contractor that Contractor considers the entire work ready for its intended use, in company with CLIENT and Contractor, conduct an inspection to determine if the work is substantially complete. If after considering any objectives of CLIENT, CONSULTANT considers the work substantially complete, CONSULTANT shall deliver a certificate of Substantial Completion to CLIENT and Contractor.
16. Final Notice of Acceptability of the Work. Conduct a final payment inspection to determine if the completed work of contract is acceptable so that CONSULTANT may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, CONSULTANT shall also provide a notice in the form attached hereto as Exhibit E ("Notice of Acceptability of Work") that the work is acceptable (subject to the provisions of paragraph A1.05.A.14.b.) to the best of CONSULTANT'S knowledge, information, and belief

and based on the extent of the services provided by CONSULTANT under this Agreement.

- B. Duration of Construction Phase. The construction phase will commence with the execution of the first Construction Agreement for a Specific Project or any part thereof and will terminate upon written recommendation by CONSULTANT for final payment to Contractors. If a Specific Project involves more than one prime contract as indicated in the individual Project Supplement. Construction Phase services may be rendered at different times in respect to the separate contracts.
- C. Limitation of Responsibilities. CONSULTANT shall not be responsible for the acts of omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing any of the work. CONSULTANT shall not be responsible for 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 CLIENT to begin post-construction phase services, CONSULTANT shall:
1. Together with CLIENT, visit the Specific Project to observe any apparent defects in the Work, assist CLIENT in consultations and discussions with Contractor concerning correction of any such defects, and make recommendations as to replacement or correction of Defective Work, if present.
 2. In company with CLIENT or CLIENT'S representative, provide an inspection of the Specific Project within one month before the end of the Correction Period to ascertain whether any portion of the Work is subject to correction.
- B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in the individual Project Supplement, will terminate at the end of the Correction Period.

Part 2 – Additional Services

A2.01 Additional Services Requiring CLIENT'S Authorization in Advance

- A. If authorized in writing by CLIENT, CONSULTANT shall furnish or obtain from others Additional Services of the types listed below. These services will be paid for by CLIENT as indicated in an individual Project Supplement.

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 a Specific Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for a Specific 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 a Specific 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 CLIENT.
3. Services resulting from significant changes in the scope, extent, or character of the portions of a Specific Project designed or specified by CONSULTANT or its design requirements including, but not limited to, changes in size, complexity, CLIENT'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 of the individual Project Supplement or are due to any other causes beyond CONSULTANT'S control.
4. Services resulting from CLIENT'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 CLIENT'S providing incomplete or incorrect project information with respect to Exhibit B.
6. Providing renderings or models for CLIENT'S use.
7. Providing construction surveys and staking to enable a Contractor to perform its work other than as required under paragraph A1.05.A.5, and any type of property surveys or related Consulting services needed for the transfer of interests in real property; and providing other special field surveys.
8. Providing Construction Phase services beyond the Contract Times set forth in the individual Project Supplement.
9. Providing assistance in resolving any Hazardous Environmental Condition in compliance with current Laws and Regulations.

10. Preparing and furnishing to CLIENT, in the format agreed to, Record Drawings showing appropriate record information based on project annotated record documents received from Contractor.
11. Preparing to serve or serving as a CONSULTANT or witness for CLIENT in any litigation, arbitration or other dispute resolution process related to a Specific Project.
12. Services in connection with Work Change Directives and Change Orders to reflect changes requested by CLIENT so as to make the compensation commensurate with the extent of the Additional Services rendered.
13. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
14. Additional or extended services during construction made necessary by (a) a significant amount of defective, neglected or delayed Work by a Contractor, or (b) default by a Contractor.
15. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work on a Specific Project by CLIENT prior to its Substantial Completion.
16. Evaluating an unreasonable claim or an excessive number of claims or requests for information submitted by a Contractor or others in connection with the Work on a Specific Project.

17. Other services performed or furnished by CONSULTANT not otherwise provided for in this Agreement or an individual Project Supplement.

A2.02 Additional Services Not Requiring CLIENT'S Authorization in Advance

- A. CONSULTANT shall perform or furnish, without requesting or receiving specific advance authorization from CLIENT, the Additional Services of the types listed below. CONSULTANT shall advise CLIENT in writing within seven days after beginning any such Additional Services. If CLIENT does not want CONSULTANT to continue to perform or furnish the services, CLIENT shall notify CONSULTANT in writing to cease, and CONSULTANT shall comply.
 1. Additional or extended services during construction made necessary by (a) emergencies endangering the Work, (b) an occurrence of a Hazardous Environmental Condition, (c) Work damaged by fire or other cause during construction, or (d) acceleration of the progress schedule involving services beyond normal working hours.

ATTACHMENT 1 - SAMPLE

This is an individual **PROJECT SUPPLEMENT** consisting of ____ pages, referred to in and part of the **Continuing Services Agreement** between **CLIENT** and **CONSULTANT** for **Professional Services** dated _____, 2019.

Project Supplement No. _____

In accordance with paragraph 1.01 of the Continuing Services Agreement between CONSULTANT and CLIENT for Professional Services dated _____ (“Agreement”), CONSULTANT and CLIENT agree as follows:

Specific Project Data

A. Title: _____

B. Description: _____

1. Services of CONSULTANT

2. CLIENT’S Responsibilities

3. Times for Rendering Services:

Phase	Completion Date/Time
Study and Report	
Preliminary Design	
Final Design	

4. Payments to CONSULTANT

A. Method(s) of Payment by Phases

CLIENT shall pay CONSULTANT for services within each phase as follows:

Phase	Method of Payment	
	Basic Services	Additional Services
Study and Report		
Preliminary Design		
Final Design		
Bidding or Negotiating		
Construction		
Post-Construction		
Other		

B. For Method of Payment A, Lump Sum:

The total compensation for services identified under paragraph 1 of the individual Project Supplement is estimated to be \$ _____ based on the following assumed distribution:

Phase	Estimated Compensation
Study and Report	
Preliminary Design	
Final Design	
Bidding or Negotiating	
Construction	
Post-Construction	
TOTAL	

C. For Method of Payment B, Standard Hourly Rates:

1. The Standard Hourly Rates shall be as shown on Appendix 2 of Exhibit C of the Continuing Services Agreement.
2. The total compensation for services identified under paragraph 1 of the individual Project Supplement is estimated to be \$_____ based on the following assumed distribution:

Phase	Estimated Compensation
Study and Report	
Preliminary Design	
Final Design	
Bidding or Negotiating	
Construction	
Post-Construction	
TOTAL	

D. For method of Payment C, Direct Labor Costs Times a Factor:

1. The Factor shall be [3.0] as stated in Exhibit C of the Continuing Services Agreement.
2. The total compensation for services identified under paragraph 1 of the individual Project Supplement is estimated to be \$_____ based on the following assumed distribution:

Phase	Estimated Compensation
Study and Report	
Preliminary Design	
Final Design	
Bidding or Negotiating	
Construction	
Post-Construction	
TOTAL	

E. For method of Payment D, Direct Labor Costs Plus Overhead Plus a Fixed Fee:

1. The Overhead Rate shall be [1.70] as stated in Exhibit C of the Continuing Services Agreement.
2. The total compensation for services identified under paragraph 1 of the individual Project Supplement is estimated to be \$_____ based on the following assumed distribution:

Phase	Estimated Compensation
Study and Report	
Preliminary Design	
Final Design	
Bidding or Negotiating	
Construction	
Post-Construction	
TOTAL	

5. **Subconsultants:**

6. **Other Modifications to Continuing Services Agreement:**

7. **Attachments:**

8. **Documents Incorporated By Reference:**

Approval and Acceptance: Approval and acceptance of this individual Project Supplement No. _____, including the attachments listed above, shall incorporate this document as part of the Continuing Services Agreement. CONSULTANT is authorized to begin performance upon its receipt of a copy of this individual Project Supplement signed by CLIENT.

The effective date of this individual Project Supplement No. _____ is _____, 2019.

City of Spring Hill, TN
CLIENT

Orchard, Hiltz & McCliment, Inc.
CONSULTANT


Name _____
Title _____


Name _____
Title _____


Date _____

Name
Title

Date

Schedule of CLIENT'S Responsibilities

Article 2 of the Agreement is amended and supplemented to include the following responsibilities except as stated in an individual Project Supplement.

B2.01 In addition to other responsibilities of CLIENT as set forth in this Agreement, CLIENT shall:

A. Provide CONSULTANT with all criteria and full information as to CLIENT'S requirements for a Specific 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 CLIENT will require to be included in the Drawings and Specifications; and furnish copies of CLIENT'S standard forms, conditions, and related documents for CONSULTANT to include in the Bidding Documents, when applicable.

B. Furnish to CONSULTANT any other available information pertinent to a Specific Project including reports and data relative to previous designs, or investigation at or adjacent to the Site of a Specific Project.

C. Following CONSULTANT'S assessment of initially-available project information and data and upon CONSULTANT'S request, furnish or otherwise make available such additional project related information and data as is reasonably required to enable CONSULTANT 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 Specific Project Site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to 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 a Specific Project, the Specific Project Site, and adjacent areas.

6. Data or consultations as required for a Specific Project but not otherwise identified in the Agreement, the Exhibits thereto, or the individual Project Supplement.]

D. Give prompt written notice to CONSULTANT whenever CLIENT observes or otherwise becomes aware of a Hazardous Environmental Condition of a nature or extent not identified in the individual Project Supplement or of any other development that affects the scope or time of performance of CONSULTANT'S services, or any defect or nonconformance in CONSULTANT'S services or in the work of any Contractor.

E. Authorize CONSULTANT to provide Additional Services as set forth in the individual Project Supplement as required.

F. Arrange for safe access to and make all provisions for CONSULTANT to enter upon public and private property as required for CONSULTANT to perform services under the individual Project Supplement.

G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by CONSULTANT for a Specific Project (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as CLIENT 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 a Specific Project designed or specified by CONSULTANT and such reviews, approvals, and consents from others as may be necessary for completion of each phase of a Specific Project.

I. Provide, as required for a Specific Project:

1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
2. Legal services with regard to issues pertaining to a Specific Project as CLIENT requires, a Contractor raises, or CONSULTANT reasonably requests.

3. Such auditing services as CLIENT requires to ascertain how or for what purpose a Contractor has used the moneys paid.
4. Placement and payment for advertisement for Bids in appropriate publications.

J. Advise CONSULTANT of the identity and scope of services of any independent consultant employed by CLIENT to perform or furnish services in regard to a Specific Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.

K. Advertise for proposals from bidders and pay for all costs incident thereto.

L. Attend the pre-Bid conference, Bid opening (open the proposals at the appointed time and place), pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.

M. 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 for a Specific Project with appropriate professional interpretation thereof.

N. Provide inspection or monitoring services by an individual or entity other than CONSULTANT (and disclose the identity of such individual or entity to CONSULTANT) as CLIENT determines necessary to verify:

1. That a Contractor is complying with any Laws and Regulations applicable to a Contractor's performing and furnishing the Work.
2. That a Contractor is taking all necessary precautions for safety of persons or property and complying with any special provisions of the Contract Documents applicable to safety.

O. Provide CONSULTANT with the findings and reports generated by the entities providing services pursuant to paragraphs B2.01.O and P.

Payments to CONSULTANT for Services and Reimbursable Expenses

Article 4 of the Agreement is amended and supplemented to include the following agreement of the parties:

ARTICLE 4 – PAYMENTS TO CONSULTANT

C4.01 Method of Payment

Owner shall pay CONSULTANT for services in accordance with one or more of the following methods as identified in each individual Project Supplement:

1. Method A: Lump Sum
2. Method B: Standard Hourly Rates
3. Method C: Direct Labor Costs Times a Factor
4. Method D: Direct Labor Costs Plus Overhead Plus a Fixed Fee

C4.02 Explanation of Methods

A. Method A - - Lump Sum:

1. CLIENT shall pay CONSULTANT a Lump Sum amount. The individual Project Supplement shall state the assumed distribution of the lump sum by phases.
2. The distribution of CONSULTANT'S compensation between phases may be altered with CLIENT'S approval, which shall not be unreasonably withheld. CONSULTANT'S total compensation shall not exceed the total lump sum amount unless approved in writing by CLIENT.
3. The Lump Sum will include compensation for CONSULTANT'S services and services of CONSULTANT'S subconsultants, if any. Appropriate amounts will be incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses.
4. The portion of the Lump Sum amount billed for CONSULTANT'S services will be based upon CONSULTANT'S estimate of the proportion of the total services actually completed during the billing period to the Lump Sum.

B. Method B – Standard Hourly Rates

1. Owner shall pay CONSULTANT an amount equal to the cumulative hours charged to the Specific Project by each class of CONSULTANT'S employees times

Standard Hourly Rates for each applicable billing class for all services performed on the Specific Project, plus Reimbursable Expenses and CONSULTANT'S charges, if any.

2. Standard Hourly Rates 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.

3. CONSULTANT'S [current] Standard Hourly Rates are attached to this Exhibit as Appendix 1.

4. The total estimated compensation for CONSULTANT'S services for the individual Project Supplement and the assumed distribution of compensation by phases shall be stated in the individual Project Supplement. This total estimated compensation will incorporate all labor at Standard Hourly Rates, Reimbursable Expenses and CONSULTANT'S charges, if any.

5. The amounts billed for CONSULTANT'S services under each individual Project Supplement will be based on the cumulative hours charged to the Specific Project during the billing period by each class of CONSULTANT'S employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and CONSULTANT'S charges, if any.

6. The Standard Hourly Rates and Reimbursable Expenses Schedule shall be adjusted annually (as of the beginning of CONSULTANT'S fiscal year) to reflect equitable changes in the compensation payable to CONSULTANT.

C. Method C – Direct Labor Costs Times a Factor:

1. CLIENT shall pay CONSULTANT an amount equal to CONSULTANT'S Direct Labor Costs times a Factor of [3.0] for the services of CONSULTANT'S employees engaged on the Specific Project, plus Reimbursable Expenses, and subconsultant's charges, if any. Direct Labor Costs means salaries and wages paid to employees but does not include payroll related costs or benefits.

2. The total estimated compensation for CONSULTANT'S services for the individual Project Supplement and the assumed distribution of compensation shall be stated in the individual Project Supplement. This total estimated compensation

incorporates all labor, overhead, profit, Reimbursable Expenses, and subconsultant's charges, if any.

3. The amounts billed for CONSULTANT'S services will be based on the applicable Direct Labor Costs for the cumulative hours charged to the Specific Project during the billing period by the above-designated Factor, plus Reimbursable Expenses and subconsultant's charges, if any.

4. The Direct Labor Costs and the Factor applied to Direct Labor Costs will be adjusted annually (as of the beginning of the CONSULTANT'S fiscal year) to reflect equitable changes in the compensation payable to CONSULTANT.

D. Method D – Direct Labor Costs Plus Overhead Plus a Fixed Fee:

1. CLIENT shall pay CONSULTANT an amount equal to CONSULTANT'S Direct Labor Costs Plus Overhead Plus a Fixed Fee for the services of CONSULTANT'S employees engaged on the Specific Project, plus Reimbursable Expenses, and subconsultant's charges, if any. Direct Labor Costs means salaries and wages paid to employees but does not include payroll related costs or benefits.

2. The total estimated compensation for CONSULTANT'S services for the individual Project Supplement and the assumed distribution of compensation shall be stated in the individual Project Supplement. This total estimated compensation incorporates all labor, overhead, fixed fee, Reimbursable Expenses, and subconsultant's charges, if any.

3. The amounts billed for CONSULTANT'S services will be based on the applicable Direct Labor Costs for the cumulative hours charged to the Specific Project during the billing period, plus overhead, plus Reimbursable Expenses and subconsultant's charges, if any, plus the proportionate portion of the fixed fee.

4. The Direct Labor Costs and Overhead Multiplier applied to Direct Labor Costs will be adjusted annually (as of the beginning of CONSULTANT'S fiscal year) to reflect equitable changes in the compensation payable to subconsultant.

C4.03 Reimbursable Expenses

Costs incurred by CONSULTANT in the performance of the individual Project Supplement in the following categories constitute Reimbursable Expenses:

The amounts payable to CONSULTANT for Reimbursable Expenses will be the project-specific internal expenses actually incurred or allocated by CONSULTANT, plus all

invoiced external Reimbursable Expenses allocable to a Specific Project, the latter multiplied by a Factor of [1.15].

C4.04 Serving as a Witness

A. For services performed by CONSULTANT'S employees as witnesses giving testimony in any litigation, arbitration or other legal or administrative proceeding under paragraph A2.01.A.11, at the rate of \$[1,200] per day or any portion thereof (but compensation for time spent in preparing to testify in any such litigation, arbitration or proceeding will be on the basis provided in paragraph C4.02 A, B, C, or D.

B. Compensation for CONSULTANT'S subconsultants for such services will be on the basis provided in paragraph C4.05.

C4.05 Other Provisions Concerning Payment

A. Extended Contract Times. Should the Contract Times to complete the Work be extended beyond the period stated in the individual Project Supplement, payment for CONSULTANT'S services shall be continued based on the Standard Hourly Rates Method of Payment.

B. Estimated Compensation Amounts

1. CONSULTANT'S estimate of the amounts that will become payable for services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to CONSULTANT under the Agreement.

2. When estimated compensation amounts have been stated in an individual Project Supplement and it subsequently becomes apparent to CONSULTANT that a compensation amount thus estimated will be exceeded, CONSULTANT shall give CLIENT written notice thereof. Promptly thereafter CLIENT and CONSULTANT shall review the matter of services remaining to be performed and compensation for such services. CLIENT shall either agree to such compensation exceeding said estimated amount or CLIENT and CONSULTANT shall agree to a reduction in the remaining services to be rendered by CONSULTANT so that total compensation for such services will not exceed said estimated amount when such services are completed. If CONSULTANT exceeds the estimated amount before CLIENT and CONSULTANT have agreed to an increase in the compensation due CONSULTANT or a reduction in the remaining services, the CONSULTANT shall give written notice thereof to CLIENT and shall be paid for all services rendered thereafter.

Insurance

Paragraph 6.05 of the Agreement is amended and supplemented to include the following agreement of the parties.

G6.05 Insurance

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

1. By CONSULTANT

a. Workers' Compensation:	\$1,000,000
b. Employer's Liability - -	
1. Each Accident:	\$1,000,000
2. Disease, Policy Limit:	\$1,000,000
3. Disease, Each Employee:	\$1,000,000
c. General Liability - -	
1. Each Occurrence (Bodily Injury and Property Damage):	\$1,000,000
2. General Aggregate:	\$2,000,000
d. Excess or Umbrella Liability - -	
1. Each Occurrence:	\$5,000,000
e. Automobile Liability --	
1. Combined Single Limit (Bodily Injury and Property Damage): Each Accident	\$1,000,000
f. Professional Liability - -	
1. Each Claim	\$3,000,000
2. Per Aggregate	\$5,000,000