



Lower Rio Grande Public Water Works Authority

Sign In Sheet Page ___ of ___

Date: 4/18/18

Time: 9:30

Places: La Mesa Office

Event: Regular Board mtg

Signature	Print Name, Title, Company or Agency Represented	Contact Information	Email Address
<i>P Charles</i>	Patricia Charles LRGPWWA	575-233-5742 x1021	patty.charles@lrgauthority.org
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<i>Mike Mcmurry</i>	MIKE McMURRY LRGPWWA	970-3027692	
<i>Jd Smith</i>	FURMAN SMITH LRGPWWA	382 5982	SAMR
<i>Phyllis J. Smith</i>	Phyllis J. Smith	575) 642-7474	
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<i>Karen Nichols</i>	Karen Nichols, PM LRGPWWA	915-203-2057	karen.nichols@lrgauthority.org
<i>Bill Holand</i>	BILL Holand TAMARCA WATER	575-522-3211	wendland@q.com
<i>Karen Perez</i>	Karen Perez Talarvera MDWCA	575-312-2298	kgp@hughes.net
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<i>Mike Lopez</i>	MIKE Lopez	635-3921	mike.lopez@lrgauthority.org
<i>Kathie Jackson</i>	Kathie Jackson Finance Manager LRGPWWA	640-4330	kathie.jackson@lrgauthority.org

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY

Minutes—REGULAR BOARD OF DIRECTORS MEETING

9:30 a.m. Wednesday, April 18, 2018 at our La Mesa Office, 521 Saint Valentine., La Mesa NM

Agendas are final 72 hours prior to the meeting and may be obtained at any LRGPWWA Office—call 575-233-5742 for information

- I. **Call to Order, Roll Call to Establish Quorum:** Chairman Mike McMullin called the meeting to order at 9:30 a.m. and called roll. Mr. Raymundo Sanchez representing District #1 was absent, District #2 is vacant, Mr. Joe Evaro representing District #3 was absent, Mrs. Esperanza Holguin representing District #4 was present, Mr. Henry Magallanez representing District # 5 was present, Mr. McMullen representing District #6 was present, Mr. Furman Smith representing District #7 was present. Staff present were General Manager Martin Lopez, Projects Manager Karen Nichols, Operations Manager Mike Lopez, Finance Manager Kathi Jackson, Projects Specialist Patricia Charles and Project Specialist Angie Meza. Guests in attendance were Phyllis J. Smith, President of the Talavera MDWCA Board Bill Noland and Vice-President of the Talavera MDWCA Board Karen Perez.
- II. **Pledge of Allegiance:** Mr. McMullen led the pledge of Allegiance.
- III. **Motion to approve Agenda (VIII A. may be postponed, move IX. D & IX E to follow VI):** Mr. Smith made the motion to approve the April 18, 2018 agenda with IX.D and IX.E to follow VI. Item VIII.A will not be postponed. Item 9.E will be postponed for next month's Board Meeting. Mrs. Holguin seconded the motion. The motion passed with all in favor.
- IV. **Approval of Minutes**
 - A. **Motion to approve the minutes of the March 21, 2018 Regular Board Meeting:** Mrs. Holguin made the motion to approve the March 21, 2018 minutes and Mr. Magallanez seconded the motion. The motion passed with all in favor.
 - B. **Motion to approve the minutes of the April 4, 2018 Special Board Meeting:** Mr. Smith made the motion to approve the April 4, 2018 special board meeting minutes and Mrs. Holguin seconded the motion. The motion passed with all in favor.
 - C. **Motion to approve the minutes of the April 16, 2018 Special Board Meeting:** Mrs. Holguin made the motion to approve the April 16, 2018 special board meeting minutes and Mr. Magallanez seconded the motion. The motion passed with all in favor.
- V. **Presentations:** None
- VI. **Public Input:** None

At this time the LRGPWWA Board addressed items IX.D and IXE to follow next.
- VII. **Managers' Reports**
 - A. **General Manager:** Mr. Lopez provided a written report and stood for questions. He met with the NMED inspector at the Mesquite Wetlands, there will need to be some grading done there. We will have to abandon the 5 monitoring wells and drill three new ones. It will cost some money, but we will have an assessment done to see what the estimated cost will be. There will be an additional cost to the Hwy 70 bore. The additional cost will be about \$6,100.00 due to a mix up in the size of the lines, but will remain within the project budget. One of our operators resigned and hired two operations employees and one finance employee. One of our current operators obtained the Small System Operator Certification. Attached is a copy of the DAC approved upgrades list of roads. The highlighted streets are the streets in which LRGPWWA has water lines. Operations will have to coordinate with DAC to make sure that our lines are not affected in the process. The work will probably start next year.
 - B. **Projects:** Ms. Nichols provided a written report and stood for questions. Ms. Nichols indicated that she did not have anything to highlight on the report. The contract for the Central Office with Wilson & Company is nearly

complete, they have a draft ready. The person that prepares the contracts at Wilson & Company has been out sick. This item will be on next month's agenda. Ms. Nichols excused herself from the meeting due to a medical appointment. She informed the board that Projects Specialist Angie Meza would be stepping in to help with the audio recording of the board meeting.

- C. **Operations:** Mr. Mike Lopez provided a written report and stood for questions. He mentioned that the reason why he did not provide a report and did not attend the meeting is because Well #2 (Butterfield Park) was pumping at 45 GPM the normal rate is 190 GPM. He had to trouble shoot the well and had to have State Wide Drilling pull the pump out. They found a round part of the check valve stuck inside the pipe above it, the repair cost was about \$8,000.00. This past weekend the Arroyo well was having problems. The electrician took apart the Electric panel and was able to replace the breaker. Mr. Smith said that, the electric panel needs ventilation in order for it to work properly. Mr. Mike Lopez said he would mention the need for ventilation to the electrician.
- D. **Finance:** Ms. Jackson provided a written report and stood for questions. Revenues month to date activity was \$300,000. Quarter to date activity was \$750,000.00 and the year to date activity was 2,600,000.00. Revenue is currently 6% higher that expected and the expenses are currently 6% below projections. Over all we are within the Approved Budget and we have a 12% cushion. There are a few expenses that are over budget but we will move funds or reclassify expenses during the last quarter to finish the year in budget. The FY2018 Audit Contract has been submitted to the OSA for approval. We have hired John Schroder he is retired from the Navy. He worked at several accounting companies and also worked a manufacturing company in Arizona, where he did some inventory work. Ms. Jackson is happy to have him on board.

VIII. Unfinished Business

- A. **Appointment of Director for District 2:** Mr. Lopez informed the board that he had an individual from District 6 requesting to represent District 2. Mr. Lopez informed the individual that we could not do that legally the person has to live in the District in order to represent the particular District. Mr. Smith said he thought the board had changed that policy. Mr. McMullen said they had talked about making changes but never did, he thinks they need to make changes to that policy. Mr. Lopez suggested that at the next elections maybe making a change to ready "If LRGPWWA is unable to find someone that lives in the District to represent that District within 45 days, then it should be opened to the membership". District 2 has been vacant approximately 2 years now.
- B. **Motion to approve purchase of either: (A) Employee Disability Policy for \$2,000/mo. Up to 24 months, or (B) Long-Term Employee Disability Policy of 60% of pay up to \$6,000/mo. Until Social Security normal retirement age + Short-Term Disability & \$25k Life Insurance Policy, or (C) Long-Term Employee Disability Policy of 60% of pay up to \$6,000/mo. for 5 years + Short Term Disability & \$25k Life Insurance Policy {NOTE: Short-Term Employee Disability is 60% of pay up to \$1,000/wk. for 13 weeks}**
 - i. **Determine percentages of cost of Employee Disability Policy to be paid by the LRGPWWA**
 - ii. **Motion to authorize an update of the Employee Policy Manual Employee Benefits section based on the plan selected**

Mr. Lopez said there are 3 options to look at. Option A. costs \$55.00 per employee includes disability for \$2000 per month up to 24 months. Option B. costs \$54.00 per employee includes long-term disability of 60% of pay up to \$6000 per month until SS retirement age, plus short-term disability of 60% of pay up to \$1000.00 per week for 13 weeks includes a \$25K life insurance. Option C. costs \$46.00 per employee includes long-term disability up to \$6000.00 per week for 5 years, short-term of 60% of pay up to \$1000.00 per week and \$25K life insurance. Mr. Smith asked Mr. Lopez what his recommendation would be. Mr. Lopez said he recommended Option B. Mrs. Holguin made the motion to approve Option B, Mr. Smith seconded the motion. Motion passed with all in favor. Mrs. Holguin made the motion to approve LRGPWWA paying 100% of Option B disability plan. Mr. Smith seconded the motion. The motion passed with all in favor. Mrs. Holguin made the motion to authorize an update to the Employee Policy Manual Employee Benefits section based on the selection of Option B. Mr. Smith seconded the motion. The motion passed with all in favor.

IX. New Business

- A. Approve 3rd Quarter Budget Report w/Resolution – due April 30, 2018:** Mr. Lopez said that the resolution is for the report that Kathi presented in her financial report. Mr. Smith made the motion to approve the 3rd quarter Budget Report with Resolution FY2018-17. Mrs. Holguin seconded the motion. The motion passed with all in favor.
- B. Assign High Valley area members to District two:** Mr. Lopez informed the board that he had Ms. Angie Meza look at the election rosters and concluded that we need to stay at more or less 10% within each District for number of eligible voters. Based on Ms. Meza's evaluation and his concurrence he would like to assign the 16 home owners to District 2. Mrs. Holguin made the motion to assign High Valley members to District 2. Mr. Smith seconded the motion. The motion passed with all in favor.
- C. Motion to approve Engineering Contract with Bohannon Houston, Inc for the Mesquite Brazito Sewer Project 2:** Mr. Magallanez made the motion to approve the Engineering Contract with Bohannon Houston, Inc. for the Mesquite Brazito Sewer Project 2. Mrs. Holguin seconded the motion. The motion passed with all in favor.
- D. Motion to approve request from Talavera MDWCA for an emergency operating agreement:** Mr. Lopez was approached by the board that the Talavera MDWCA's Board of Directors to discuss entering into an emergency operating agreement. Two members of their board are present at this meeting, Mr. Bill Noland and Mrs. Karen Perez. Mr. Noland said they received notice from their current operator that their last day is May 2, 2018. Mrs. Perez said that they have tried to keep the system together with volunteers the tanks are in good shape but they are small, they have 62 meters on the system. Mr. Smith asked Mr. Mike Lopez if it would be a burden on our system to enter into this agreement. Mr. Mike Lopez said LRGPWVA could handle the addition. He needs to take a close look at the system to do an inspection and to evaluate it. Mr. Smith asked how close it was to our system, Mr. Martin Lopez said it is not anywhere near any of LRGPWVA locations. Their system is a standalone system but is close to Moon Gate System. There have been talks about merging those systems together but nothing has come of it. Mr. Smith made the motion to approve the request for the agreement, Mrs. Holguin seconded the motion. After further discussion regarding the time line and inspection of the system Mr. Smith amended his motion, to motion to approve the agreement authorizing General Manager Mr. Martin Lopez to execute agreement for 90 days based on Operations Manager Mr. Mike Lopez's evaluation of the system. Mrs. Holguin seconded the motion. Mr. Magallanez had two questions for the Talavera Board members he wanted to know the date the operator was ending their contract with them, Mrs. Perez indicated the date was May 2, 2018 the second question was are there any mandatory reports that are pending, Mrs. Perez said there were no reports pending. Mr. McMullin continued with the motion and asked if all were in favor, the motion passed with all in favor. At this point The Board resumed the original order of the agenda to the Managers Reports.
- E. Motion to approve a request from Talavera MDWCA to investigate a potential merger:** Mr. Magallanez made the motion to approve the request to investigate a potential merger with Talavera MDWCA. Mrs. Holguin seconded the motion. Mrs. Holguin was concerned that the Talavera community is very different from the Communities served by LRGPWVA. Her concern is, how adding Talavera MDWCA to LRGPWVA could impact future request for funding. Ms. Nichols said that the Valle Del Rio community is not designated a Colonia, but because the costs are spread out evenly there really is no impact on our ability to access Colonia's funding. Mrs. Holguin was concerned about any improvement costs or repairs needed at Talavera MDWCA and how those costs would have to be shared with the rest of the membership. Mrs. Holguin would like to bring the finds back to the board to take a look at the impact. Mr. Magallanez asked if deadlines for the investigation should be set. Mr. Lopez said 90 days would be sufficient time to investigate both the emergency agreement and the merger. Mr. Magallanez amended his motion to add a deadline to complete the investigation, he was open to setting an actual date to complete the investigation. Mrs. Holguin recommended giving Staff the 90 days and if needed another 90 days could be offered. Mr. Martin Lopez suggested that 90 days was enough time for Operations, Finance and Projects departments to gather their findings. Ms. Nichols said that before the LRGPWVA Board could approve a merger the Talavera Membership would have to authorize their board to move forward. Then a joint resolution between the two boards would be required to move forward with the merger. Mr. Magallanez amended his motion to add 6 months to complete the investigation. Mr. McMullin asked for a seconded none was given motion died. Mr. McMullin went back to the original motion to approve a request to investigate a potential merger. Motion did not pass with 1 yes and 2 no. After determining that there was some confusion about the motion on the table, Mrs. Holguin made the motion to approve the request to investigate a

potential merger with Talavera MDWCA with no deadline. Mr. Smith seconded the motion. The motion passed with 2 yes and 1 no.

F. Motion to approve Professional Services Agreement with Wilson & Co. for Central Operations Facility Project:
This item was postponed for next month's board meeting because the person in charge of preparing the agreement has been out sick.

X. Other discussion and agenda items for next meeting at 9:30 a.m. Wednesday, May 16, 2018 at the La Mesa Office:

A. Have any Board Members participated in training? If so, please give us a copy of your certificate: no one had any training certificates.

B. Amend the Cross-Connection Prevention Control Policy. Mr. Lopez was contacted by GISD to request performing their own back flow testing.

C. Amendment to the Employee Policy Manual

XI. Adjourn: Mr. Smith made the motion to adjourn the Regular Board Meeting at 10:48 a.m., Mrs. Holguin seconded the motion. The motion passed with all in favor.

Minutes approved May 16, 2018

Michael McMullen, Chairman (District 6)

Furman Smith, Vice-Chairman (District 7)

Esperanza Holguin, Secretary (District 4)

ABSENT

Raymundo Sanchez, Director (District 1)

ABSENT

Joe Evaro, Director (District 3)

Henry Magallanez, Director (District 5)

VACANT

Director (District 2)

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY

Meeting Notice & Agenda—REGULAR BOARD OF DIRECTORS MEETING

9:30 a.m. Wednesday, April 18, 2018 at our La Mesa Office, 521 Saint Valentine., La Mesa NM

Agendas are final 72 hours prior to the meeting and may be obtained at any LRGPWWA Office—call 575-233-5742 for information

- I. Call to Order, Roll Call to Establish Quorum: District #1 (Mr. Sanchez) ____, #2 (Vacant) ____, #3 (Mr. Evaro) ____, #4 (Mrs. Holguin) ____, #5 (Mr. Magallanez) ____, #6 (Mr. McMullen) ____, #7 (Mr. Smith) ____
- II. Pledge of Allegiance
- III. Motion to approve Agenda (VIII A. may be postponed, move IX. D & IX E to follow VI)
- IV. Approval of Minutes
 - A. Motion to approve the minutes of the March 21, 2018 Regular Board Meeting
 - B. Motion to approve the minutes of the April 4, 2018 Special Board Meeting
 - C. Motion to approve the minutes of the April 16, 2018 special Board Meeting
- V. Presentations:
- VI. Public Input—15 minutes are allotted for this item, 3 minutes per person
- VII. Managers' Reports
 - A. General Manager
 - B. Projects
 - C. Operations
 - D. Finance
- VIII. Unfinished Business
 - A. Appointment of Director for District 2 – this item may be postponed
 - B. Motion to approve purchase of either: **(A)** Employee Disability Policy for \$2,000/mo. Up to 24 months, or **(B)** Long-Term Employee Disability Policy of 60% of pay up to \$6,000/mo. Until Social Security normal retirement age + Short-Term Disability & \$25k Life Insurance Policy, or **(C)** Long-Term Employee Disability Policy of 60% of pay up to \$6,000/mo. for 5 years + Short Term Disability & \$25k Life Insurance Policy {NOTE: Short-Term Employee Disability is 60% of pay up to \$1,000/wk. for 13 weeks}
 - i. Determine percentages of cost of Employee Disability Policy to be paid by the LRGPWWA
 - ii. Motion to authorize an update of the Employee Policy Manual Employee Benefits section based on the plan selected
- IX. New Business
 - A. Approve 3rd Quarter Budget Report w/Resolution – due April 30, 2018
 - B. Assign High Valley area members to District two
 - C. Motion to approve Engineering Contract with Bohannon Houston, Inc for the Mesquite Brazito Sewer Project 2
 - D. Motion to approve request from Talavera MDWCA for an emergency operating agreement
 - E. Motion to approve a request from Talavera MDWCA to investigate a potential merger
 - F. Motion to approve Professional Services Agreement with Wilson & Co. for Central Operations Facility Project
- X. Other discussion and agenda items for next meeting at 9:30 a.m. Wednesday, May 16, 2018 at the La Mesa Office
 - A. Have any Board Members participated in training? If so, please give us a copy of your certificate
- XI. Adjourn

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aide or service to attend or participate in the hearing or meeting, please contact the LRGPWWA office at 575-233-5742, PO Box 2646, Anthony NM 88021 OR 215 Bryant St., Mesquite NM at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the LRGPWWA office if a summary or other type of accessible format is needed.

Si usted es una persona con una discapacidad que necesita un lector, amplificador, intérprete de lenguaje de signos o cualquier otra forma de ayudante auxiliar o servicio para asistir o participar en la audiencia o reunión, póngase en contacto con la oficina de LRGPWWA, 575-233-5742, PO Box 2646, Anthony, NM 88021 o 215 Bryant St., Mesquite, NM por lo menos una semana antes de la reunión o tan pronto como sea posible. documentos públicos, incluyendo el orden del día y actas, pueden proporcionarse en diferentes formatos accesibles. Póngase en contacto con la oficina LRGPWWA si es necesario un resumen u otro tipo de formato accesible.

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY

Minutes—REGULAR BOARD OF DIRECTORS MEETING

9:30 a.m. Wednesday, March 21, 2018 at our Vado Office, 325 Holguin Rd., Vado NM

Agendas are final 72 hours prior to the meeting and may be obtained at any LRGPWWA Office—call 575-233-5742 for information

- I. **Call to Order, Roll Call to Establish Quorum:** Chairman Mike McMullin called the meeting to order at 9:31 a.m. and called roll. Mr. Raymundo Sanchez representing District #1 was absent, District #2 is vacant, Mr. Joe Evaro representing District #3 was present, Mrs. Esperanza Holguin representing District #4 was present, Mr. Henry Magallanez representing District # 5 was present, Mr. Mike McMullen representing District #6 was present, Mr. Furman Smith representing District #7 was absent. Staff members in attendance were General Manager Mr. Martin Lopez, Projects Manager Ms. Karen Nichols, Financial Manager Ms. Kathi Jackson and Projects Specialist Patricia Charles. Guests present were Henry Torres, Jr. Board Secretary for High Valley Mutual Domestic Water Consumers Association and State Representative Bealquin “Bill” Gomez.
- II. **Pledge of Allegiance:** Mr. McMullen led the pledge of Allegiance.
- III. **Motion to approve Agenda:** Mrs. Holguin made the motion to approve the agenda as is. Mr. Evaro seconded the motion. The motion passed with all in favor.
- IV. **Motion to approve the minutes of the February 21, 2018 Regular Board Meeting:** Mrs. Holguin made the motion to approve the February 21, 2018 minutes and Mr. Magallanez seconded the motion. The motion passed with all in favor.
- V. **Presentations: Tiffany Goolsby, South Central Council of Governments will have a presentation on Infrastructure Capital Improvement Plans:** Mrs. Goolsby was not able to attend the Board Meeting. Ms. Nichols gave the Board Members the power point presentation on ICIP (Infrastructure Capital Improvement Plan). Ms. Nichols informed the Board Members that the ICIP Plan for LRGPWWA is on the website for their review and will welcome input from the Board. She will schedule a Staff meeting for next week to look at the ICIP. ICIP helps in applying for additional funding, planning, construction and building of projects. Ms. Nichols mentioned that the ICIP Plan has to be adopted annually by the Board thru Resolution.
- VI. **Public Input:** Representative Bealquin “Bill” Gomez informed the board about Legislative Session. Representative Gomez attended the Board meeting and gave the Board and update regarding the Bills that passed at the Legislative Session. He said that this was the best Legislative Session he has attended in the last 4 years. Republicans and Democrats alike worked together to get Bills passed. He said that everyone in his district had received some funding. Alto de Las Flores received \$100,000.00 for water rights. Chamberino received \$110,000 for a park. He would like to get money for Senior Citizens Programs in his District.
 - A. **General Manager:** Mr. Lopez provided a written report and stood for questions. LRGPWWA received notification from DFA and the State Auditor to dispose of equipment and vehicles. Disposal of equipment will be scheduled for May 2018 after approval of the additional truck disposal. Two operations employees have completed the 6-month probationary period. One operator resigned due to medical issues. HB 142 passed (copy included in Board Packet) False Information to NMED pertaining to a Public Water System.
 - B. **Projects:** Ms. Nichols provided a written report and stood for questions. Mesquite Brazito Sewer Project 2- application for the planning stage was approved for a little over 14 million, the letter of conditions was received on 3/5/18. Ms. Nichols and Mr. Lopez meet with a Loan Officer at Citizens Bank, they seem interested in providing a loan for this project. DWSRLF funding in the amount of 3.4 million was approved by the NMFA board on 2/28/18. A Binding Letter of Commitment with a list items needed to be submitted by 9/1/18. Mesquite-Brazito Sewer Project had been delayed because we needed an easement. LRGPWWA’s Attorney will be preparing the paper work needed to file an Order of Immediate Possession for the property needed for easement. LRGPWWA will receive \$150,000 for the Interconnect & Looping Project from Legislature for Capital Outlay. The Waterline Extension Project received \$50,000.00 from Capital Outlay appropriations to complete Jacquez Road project. Closing on additional funding has been completed for Valle Del Rio Water System Project. Work is in suspension right now we are waiting on materials to come in. NMED has completed its Capacity Assessment, the NMFA application will be worked on right away. Planning Documents for East Mesa Water System Improvement Project-

The contracts with Vencor for PER and EID have been approved by NMED-CPB and work on the PER is underway. Mr. Lopez informed the board that a Rate Study will probably be needed the rate right now is capped at \$42.00. We will need to raise the price for sewer usage to about \$48.67. This new rate would be in line with DAC's estimated upcoming rates. He also said that it would be wise to also do a Rate Study for water rates at the same time. Mr. Magallanez asked if the price for sewer was different in different areas. Mr. Lopez said the prices in all the LRGPWWA district are the same.

- C. **Operations:** Mr. Mike Lopez was not able to attend the Board Meeting or provide a report. He has a well that is down. But will have a full report next month.
- D. **Finance:** Ms. Jackson provided a Financial report and stood for questions. She informed the board that we had no extraordinary expenses. We took 5% more than projected and spent 10% less than was budgeted. Ms. Jackson will be adjusting the line items on the budget during the last quarter.

VII. Unfinished Business

- A. **Appointment of Director for District 2:** Mr. Lopez informed the board that he received a letter of interest from someone who is interested in becoming a board member for LRGWWA. When he started the initial review with DAC there were some discrepancies. He notified the candidate to look over the governance documents but have not heard anything in over a month.

VIII. New Business

- A. **Motion to authorize ICIP Public Meetings, request SCCOG assistance with ICIP, and authorize SCCOG to access the ICIP database on behalf of the Lower Rio Grande PWWA:** Mr. Lopez is asking for authorization to organize two public meetings. The meetings will be held on April 11 (East Mesa Office) and April 12 (La Mesa Office) both would be held at 6:30 p.m. Mrs. Holguin made the motion to authorize the ICIP Public meetings. Mr. Magallanez seconded the motion. The motion passed with all in favor.
- B. **Motion to adopt Resolution FY2018-13 amending Board Meeting & Agenda Policy:** Mr. Lopez mentioned that the additional paragraph is needed in order to indicate what motions require a resolution. This verbiage will help standardize the process. Mrs. Holguin made the motion to adopt Resolution FY2018-13 and Mr. Evaro seconded the motion. The motion passed with all in favor.
- C. **Motion to adopt Resolution FY2018-14 amending Real Estate Contract Policy:** Mr. Lopez indicated that this resolution is needed in order to make corrections on the actual document. The phone number needs to be corrected and "USDA Rural Development" needs to be replaced with "Water &/or Sewer". Mr. Lopez said that the signature lines would be removed and would be adopted by resolution. Mrs. Holguin made the motion to adopt resolution FY2018-14 and Mr. Magallanez seconded the motion. The motion passed with all in favor.
- D. **Motion to approve lease agreement with Fastwave and assign signatory authority to General Manager:** Mr. Lopez informed the board that part of the upgrades at Valle Del Rio included installing a dish from an internet company that approached him. The internet company is willing to pay \$250 per month rental fee, which is the going rate. They would like to start with a 5-year lease, with a possible two additional terms. Mr. Lopez said that this would also give him authorization to make changes as needed due to any regulator updates. He said that LRGPWWA's Attorney had reviewed the lease agreement and had no issues with it. Mrs. Holguin made the motion to approve the lease agreement with Fastwave and Mr. Evaro seconded the motion. The motion passed with all in favor.
- E. **Motion to adopt Joint Resolution FY2018-01 High Valley-LRGPWWA Merger Plan:** Mr. Lopez informed the board that the Merger Plan that is being implemented between LRGPWWA and High Valley is a standard plan. Mr. Lopez told the board that Mr. Henry Torres, High Valley Board Secretary was in attendance and was available to answer any questions from the board. Mr. Magallanez asked if this plan is adopted and the High Valley Board and Members do not agree what happens then? Mr. Lopez told the board that at that point there would be no merger.

Ms. Nichols said that High Valley's Board and Members had previously been notified and had approved the merger before negotiations with LRGPWWA.

F. Motion to adopt Resolution FY2018-15 Authorizing Disposal of Property: Mr. Lopez notified the board that the Disposition Committee met at 9:15 am this morning before the Regular Board Meeting. The Disposition Committee approved the disposal of the last orange ford ranger. He would like to add this truck to the rest of the equipment and vehicles that have already been approved for disposal. He will wait to get the approval needed from DFA and the State Auditor and will dispose of all equipment and vehicles at the same time. Mr. Magallanez made the motion to adopt Resolution FY2018-15 to authorize disposal of ford ranger, Mrs. Holguin seconded the motion. The motion passed with all in favor.

IX. Other discussion and agenda items for next meeting at 9:30 a.m. Wednesday, April 18, 2018 at the La Mesa Office

A. Have any Board Members participated in training? If so, please give us a copy of your certificate: No board members had any training certificates.

B. 3rd Quarter Budget Resolution:

C. Approve Employee Disability and Life Insurance: Mr. Lopez said we need to add the employee disability and life insurance item to April's agenda for action. This item was removed from the agenda by mistake.

X. Adjourn: Mr. Magallanez made the motion to adjourn the Regular Board Meeting at 10:49 a.m., Mr. Evaro seconded the motion. The motion passed with all in favor.

Minutes approved April 18, 2018

Michael McMullen, Chairman (District 6)

ABSENT

Furman Smith, Vice-Chairman (District 7)

Esperanza Holguin, Secretary (District 4)

ABSENT

Raymundo Sanchez, Director (District 1)

Joe Evaro, Director (District 3)

Henry Magallanez, Director (District 5)

VACANT

Director (District 2)

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY

Minutes—SPECIAL BOARD OF DIRECTORS MEETING

3:00 p.m. Wednesday, April 4, 2018 at our Vado Office, 325 Holguin Rd, Vado, NM

Agendas are final 72 hours prior to the meeting and may be obtained at any LRGPWWA Office—call 575-233-5742 for information

- I. **Call to Order, Roll Call to Establish Quorum:** Chairman Mike McMullen called the meeting to order at 3:00 p.m. and called roll. Mr. Raymundo Sanchez representing District #1 was absent, District #2 is Vacant, Mr. Joe Evaro representing District #3 was present, Mrs. Esperanza Holguin representing District #4 was present, Mr. Henry Magallanez representing District # 5 was present, Mr. Mike McMullen representing District #6 was present, Mr. Furman Smith representing District #7 was absent. Staff members in attendance were General Manager Martin Lopez, Projects Manager Karen Nichols and Projects Specialist Patricia Charles. Guests present were Henry J. Torres.
- II. **Pledge of Allegiance:** Mr. McMullen led the pledge of Allegiance.
- III. **Motion to approve the Agenda:** Mr. Magallanez made the motion to approve the agenda, Mr. Evaro seconded the motion. The motion passed with all in favor.
- IV. New Business
 - A. **Motion to authorize entering into an MOU for emergency backup water supply with Vista Del Rey MDWCA and High Valley MDWCA:** Mr. Magallanez made the motion to authorize entering into an Memorandum of Understanding for emergency backup water supply with Vista Del Rey MDWCA and High Valley MDWCA, Mrs. Holguin seconded the motion. General Manager Mr. Lopez informed the board that the MOU is in support of applications submitted by both Vista Del Rey MDWCA and High Valley MDWCA to the Colonia's Board. The Colonia's Board recommended that they work on an interconnect in case either well breaks down or either is rehabilitated. He said that if the applications got denied then this MOU could be rescinded. High Valley and the LRGPWWA have initiated a merger, so the LRGPWWA will be the successor entity for the purpose of this MOU. Projects Manager Ms. Nichols indicated that she believed that the application for Vista Del Rey MDWCA was for design and High Valley MDWCA application was for design, construction and rehab. Mr. Lopez said that the reason why this MOU is needed right away is because the Colonia's Board, Projects Committee is meeting on April 24th and will start looking at the applications and start ranking them. Without this MOU included in both their applications neither may rank high. With no further questions the motion passed with all in favor.
- V. **Adjourn:** Mrs. Holguin made the motion to adjourn the meeting at 3:21 p.m. Mr. Evaro seconded the motion. The motion passed with all in favor.

Minutes approved April 18, 2018

Michael McMullen, Chairman (District 6)

ABSENT

Furman Smith, Vice-Chairman (District 7)

Esperanza Holguin, Secretary (District 4)

ABSENT

Raymundo Sanchez, Director (District 1)

Joe Evaro, Director (District 3)

Henry Magallanez, Director (District 5)

LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY

Minutes —SPECIAL BOARD OF DIRECTORS MEETING

11:00 a.m. Monday, April 16, 2018 at our Vado Office, 325 Holguin Rd, Vado, NM

Agendas are final 72 hours prior to the meeting and may be obtained at any LRGPWWA Office—call 575-233-5742 for information

- I. **Call to Order, Roll Call to Establish Quorum:** Chairman Mike McMullin called the meeting to order at 11:06 a.m. and called roll. Mr. Raymundo Sanchez representing District #1 was absent, District #2 is Vacant, Mr. Joe Evaro representing District #3 was present via telephone call, Mrs. Esperanza Holguin representing District #4 was present, Mr. Henry Magallanez representing District # 5 was absent, Mr. Mike McMullen representing District #6 was present, Mr. Furman Smith representing District #7 was present via telephone call. Staff members in attendance were General Manager Martin Lopez, Projects Manager Karen Nichols and Projects Specialist Patricia Charles. Guests present were Members of the Board of Directors from High Valley MDWCA, Stan Hill, Larz Oberle and Henry J. Torres.
- II. **Pledge of Allegiance:** Mr. McMullin led the pledge of Allegiance.
- III. **Motion to approve the Agenda:** Mrs. Holguin made the motion to approve the agenda, Mr. Evaro seconded the motion. The motion passed with all in favor.
- IV. New Business
 - A. **Resolution FY2018-16 regarding the assigning of High Valley Colonia’s Infrastructure Trust Fund Application to the Lower Rio Grande Public Water Works Authority:** Mrs. Holguin made the motion to adopt Resolution FY2018-16 accepting assignment of High Valley MDWCA’s 2018 Colonia’s Infrastructure Trust Fund Application for funding for Water System Improvements Project. Mr. Smith seconded the motion. Ms. Nichols informed the board that the NMFA Staff required this Resolution in order to consider High Valley Mutual Domestic Water Consumers Association’s application for funding. The motion passed with all in favor.
- V. **Adjourn:** Mrs. Holguin made the motion to adjourn the meeting at 11:09 a.m., Mr. Smith seconded the motion. The motion passed with all in favor.

Minutes approved April 18, 2018

Michael McMullen, Chairman (District 6)

Via telephone call
Furman Smith, Vice-Chairman (District 7)

Esperanza Holguin, Secretary (District 4)

ABSENT
Raymundo Sanchez, Director (District 1)

Via telephone call
Joe Evaro, Director (District 3)

ABSENT
Henry Magallanez, Director (District 5)

VACANT
Director (District 2)

LRGPWWA
Manager's Report
April 12, 2018

- NMED inspected the Mesquite Wetlands: Permit will probably have to be renewed in 2020 and have 3 new monitors installed along with the plugging of the 5 existing ones and grading of the site
- Additional cost with Hwy 70 bore repair-bore size and water line size enlarged as part of Hwy 70 Road work by NMDOT-no documentation was available, but still within the project budget
- Finalized the insurance claim for Tank #1 (Desert Sands) which was shot at in January causing bullet hole damage to metal, coating and paint-pending repair
- 401k transfer will be at the end of April
- I attended the SCCOG meeting in Elephant Butte City on April 6th RD presented on their program
- High Valley MDWCA merger- the attorney is drafting the Property and Water Rights Deed; after signature and recording merger process will be initiated with all federal, state and local agencies as well as all businesses
- Employee Arturo Talamantes obtained the Small System Operator Certification
- One operations employee resigned-accepted a job elsewhere
- Hired two operations employees and one finance employee
- DAC BOCC approved upgrades to some of their roads and some private ones which could impact our water lines-attached is the list

Surfaced county-maintained roads (*denotes LRGPWWA Water Lines)

***Corpening Avenue (District 1), \$34,416**

***Esslinger Road (District 1), \$337,326**

***Three Saints Road (District 1), \$590,535**

Butte Drive (District 2), \$92,952

Lisa Drive (District 2), \$1,012,407

San Jacinto Road (District 2), \$89,016

Dripping Springs Roads (District 3), \$1,972,672

***Found Avenue (District 4), \$33,696**

***Nike Avenue (District 4), \$58,296**

Calle de Oro (District 5), \$156,504

Horseshoe Circle (District 5), \$251,424

King Edward Ave (District 5), \$126,216

Manooth Loop (District 5), \$121,200

Shalem Colony Trail (District 5), \$1,085,125

Unsurfaced county-maintained roads

***Missionary Ridge Road (District 1), \$510,540**

Desert Aire (District 2), \$139,700

Charolais Drive (District 4), \$120,000

Fossil View Road (District 5), \$213,143

Hurt Road (District 5), \$234,037

Non-county-maintained roads

***Teak Lane (District 1), \$305,969.72**

***Flower Road (District 1), \$125,048.08**

***Estancia Road (District 1), \$127,217.33**

***Ward Road (District 1), \$138,920.69**

***Singh Road (District 1), \$104,319.46**

Chamberino Secondary Access (District 2), \$527,589.14

Koogle Road (District 2), \$432,955.19

***Berry Patch (District 4), \$364,195.72**

***Balsam Road (District 4), \$116,835.80**

Chiricahua Road (District 4), \$82,838.02

Corona Road (District 4), \$613,359.12

Blazing Trails Road (District 5), \$113,470.03

**LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY
PROJECTS REPORT – 4/18/18**

LRG-11-02.2 – Mesquite-Brazito Sewer Project – Bohannon Huston, Inc. – LOC-Design Stage – NMFA PG/SAP funded Planning, \$30k 2014 SAP, \$540,608 2014 CITF (10% Loan), USDA-RD Loan \$357,000 @ 3.250%, Grant \$1,194,919, Colonia’s Grants of \$6,356,474 & \$119,407 – Attorney has filed an eminent domain action for the final lift station property acquisition. We can submit final LOC documents to RD for final review (about 60 days) and authorization to bid once an Order of Immediate Possession has been issued by the court.

LRG-17-01 – Mesquite-Brazito Sewer Project 2 – Bohannon Huston, Inc. – Planning Stage – USDA-RD Application \$15,030,780 – Letter of Conditions was issued by USDA-RD on 3/5/18 for \$6,189,000 loan and \$8,030,000 Colonia’s Grant. We have contacted Citizens Bank of Las Cruces about an interim loan to be guaranteed by USDA-RD, and they will discuss in committee on the 17th and put before their board on 4/26/18. We will be checking with CoBank and RCAC as well.

LRG-11-03 – Interconnect & Looping Project – see 12-01 Authority PER – Legislative Capital Outlay appropriation of \$150k was not vetoed by the governor, and we completed the Project Bond Questionnaire. Grant Agreement has not yet been received.

LRG-11-05 – South Valley Water Supply & Treatment Project WTB #252– Bohannon Huston - Design stage - \$750,000 WTB – 10% Loan 10% Match: We met with BHI on 4/5/18 to initiate the USDA-RD format PER in order to apply for funding. Project design is complete.

LRG-17-01 – Water Master Plan – WTB #252 – Bohannon Huston: CDBG Public Hearing was held 1/9/18. We are working with Ms. Goolsby, SCCOG, to apply for \$100k planning grant for this project.

LRG-17-02 – Central Office Building: DWSRLF funding in the amount of \$3,285,619 was approved by the NMFA board on 2/28/18 and we have received a Binding Letter of Commitment outlining the items we must submit by 9/1/18 prior to closing on funds and the items that must be submitted prior to construction. I have submitted most of these items. Contract with Wilson & Company is pending.

Forty-Year Water Plan – CE&M – complete – needs update for new mergers after Brazito and combine & commingle: pending NM-OSE comments/approval. Currently only includes the initial five systems.

LRG-13-03 – Valle Del Rio Water System Project – RFP/Planning/Design Stage - \$1,197,708 DWSRLF funding - \$898,281 principal forgiveness – 299,427 loan repayment – Souder, Miller & Associates: Closing transcript for additional funding has been received. Morrow Construction began work on February 12. NMED has completed its Capacity Assessment and is moving forward with assessing project readiness for the Ph. II funding application.

LRG-14-01 – Waterline Extension Project (incl. Veterans Road) – Design/Build - \$882,430 CITF incl. 10% Loan – Parkhill, Smith & Cooper - Monthly Project Update: Capital Outlay appropriation of \$50k to complete Jacquez Rd. line was not vetoed, and we have completed the Project Bond Questionnaire. Grant Agreement is pending.

LRG-17-03 – Planning Documents for East Mesa Water System Improvements Project – NMFA 3803-PG & 3804-PG – Engineer Selection – Contracts with Vencor for PER & EID have been approved by NMED-CPB and work on the PER is underway.

Other projects:

Infrastructure Capital Improvements Plan 2020-2024: ICIP deadline has been moved to mid-July by NM DFA. Patty and I are signed up for training in Deming, and that date has been changed to June 14th. Staff meeting and two public input meetings have been held, and Tiffany will work on updating the NM-DFA database when it is made available.

Documents Retention & Destruction – Sorting of old association documents for storage or destruction is ongoing, and staff is implementing approved retention/destruction schedules for LRGPWWA documents. Delivery of documents from the East Mesa Office for sorting and storage or shredding is still pending. One bin has been sent out for shredding

Website and Email – Notices and Board Minutes pages are current. Other updates are ongoing. Board Training information on the Directors Only page is up to date.

Training – Patty and I attended an NRWA EFC webinar on Sustainable Utility Management on 4/12/18. Patty attended an EPA webinar on Risk of Drinking Water Contamination on 3/20/18 and a Tyler Online Support webinar on 3/22/18.

Lower Rio Grande Water Users Organization – nothing new to report

EBID Surface Water Plant: - We have provided documentation for their resubmission of NMED permit application. Some issues have arisen with the final construction of this plant. It has been reviewed again by NMED-DWB and is still not approved.

As Needed Engineering Services: Currently we have 3 active Task Orders: 1. Bohannon Huston, Inc. for construction oversight for replacing the pipeline in the Hwy. 70 crossing in Organ was issued 4/24/17; 2. Vencor for the next phase of GIS work to pick up some missed items in La Mesa, add the Veterans Road project and Vado; and 3. Vencor for an NMDOT permit for two service connections on Hwy 478 near O'Hara.

Water Audit: Data spreadsheet has been set up for calendar 2017. Data entry is complete and under review for accuracy. Will be starting to coordinate the 2017 audit later this month.

NM Legislature:

Lower Rio Grande PWWA

Operators Report

April 18, 2018

System Problems and Repairs.

- Backflow inspections are Current. (Mesquite District)
- For the month of February, we were issued 373 work and service orders.
- For the month of March, we were issued 529 work and service orders.
- For the month of March, we installed 6 new water services.
- We had no main line water breaks at Alto De Los Flores for the month of March.
- We installed a new Mag Meter on the booster skid in Alto De Los Flores.
- We have had a few mainline water breaks between the East Mesa and the South valley.
- Well #2(Butterfield park) normally pumps 190 GPM, and from one day to the next it went down to 45gpm. I had State wide drilling pull it out to find a round part of the check valve stuck inside the pipe above it.

NMED: All of our Monthly Bac-T-Samples were taken for the month of March and all samples were negative.

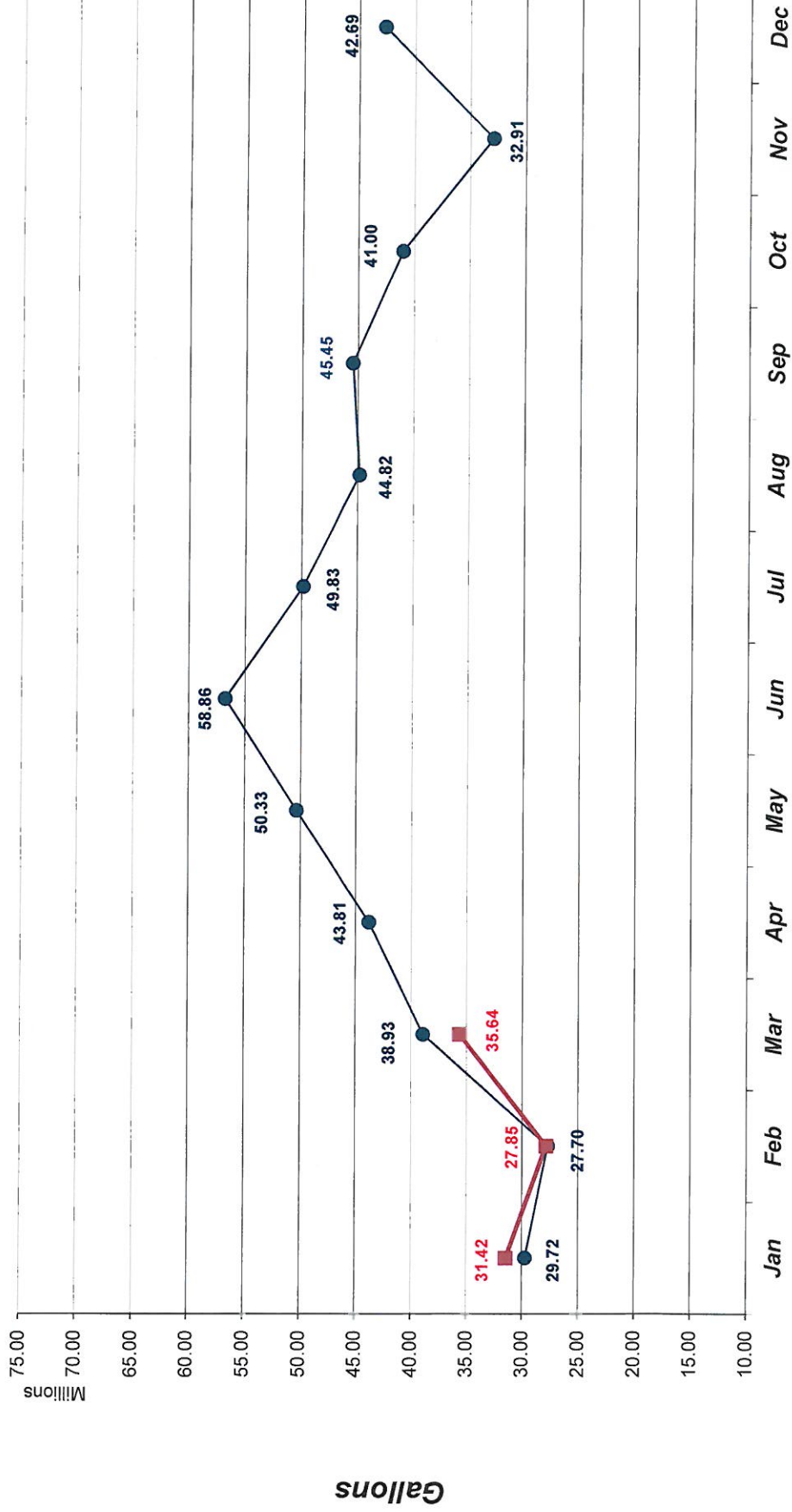
Mesquite district Wetlands: Almost Complete, also the power lines were removed by EPE.

Mesquite and Organ Sewer Reports. The Organ Wastewater and the Mesquite wastewater reports were sent on February 1st.

Chlorine: No problems.

Reports: NMED, State Engineers, and the water conservation reports have been sent.

Lower Rio Grande PWWA Water Production Report



● 2017 Production
 ■ 2018 Production



Income Statement

Lower Rio Grande Public Water Works Authority

For Fiscal: FYE2018 Quarter Ending: 03/31/2018

Revenue	Current Total Budget	MTD Activity	QTD Activity	YTD Activity	Budget Remaining
40000 - Operating Revenue	\$ 2,961,000.00	\$ 192,788.60	\$ 576,724.48	\$ 2,215,264.34	\$ 745,735.66
40002 - Installation Fees	\$ 25,000.00	\$ 10,311.02	\$ 16,343.54	\$ 56,069.30	\$ (31,069.30)
40003 - Activation & Connection Fees-Water	\$ 3,600.00	\$ 700.00	\$ 1,850.00	\$ 3,850.00	\$ (250.00)
40004 - Meter Relocation	\$ 1,500.00	\$ 143.26	\$ 143.26	\$ 143.26	\$ 1,356.74
40005 - Backflow Testing	\$ 3,500.00	\$ -	\$ 1,415.39	\$ 6,273.28	\$ (2,773.28)
40006 - Tampering Fee/Line Breaks	\$ 1,500.00	\$ 63.07	\$ 704.53	\$ 3,090.79	\$ (1,590.79)
40007 - Delinquency Fee	\$ 20,000.00	\$ 6,600.00	\$ 22,100.00	\$ 70,650.00	\$ (50,650.00)
40008 - Penalties-Water	\$ 50,000.00	\$ 5,925.87	\$ 19,439.84	\$ 74,473.48	\$ (24,473.48)
40009 - Membership Fees	\$ 3,000.00	\$ 1,250.00	\$ 2,317.83	\$ 6,374.31	\$ (3,374.31)
40010 - Impact Fees	\$ 50,000.00	\$ 88,157.33	\$ 94,568.69	\$ 129,882.35	\$ (79,882.35)
40011 - Returned Check Fees	\$ 1,500.00	\$ 70.00	\$ 151.00	\$ 606.00	\$ 894.00
40012 - Credit Card Fees	\$ 6,000.00	\$ 1,100.28	\$ 3,120.02	\$ 8,766.02	\$ (2,766.02)
40013 - Miscellaneous Revenue	\$ 500.00	\$ 55.00	\$ 130.00	\$ 390.00	\$ 110.00
40015 - Penalties-Sewer	\$ 7,000.00	\$ 505.74	\$ 1,679.82	\$ 5,124.64	\$ 1,875.36
40016 - Meter Test Fee	\$ 500.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 400.00
40017 - Hydrant Meter Rental Fee	\$ 2,000.00	\$ 1,000.00	\$ 1,250.00	\$ 2,250.00	\$ (250.00)
40019 - DAC Trash Coupons	\$ 900.00	\$ 78.00	\$ 194.00	\$ 556.00	\$ 344.00
40020 - Miscellaneous Revenue-Sewer	\$ 1,500.00	\$ 42.03	\$ 125.35	\$ 1,806.13	\$ (306.13)
45000 - Tower Rent	\$ 15,000.00	\$ 250.00	\$ 750.00	\$ 2,250.00	\$ 12,750.00
45001 - Billing Adjustments-Water	\$ -	\$ (7,554.95)	\$ (14,208.70)	\$ (38,355.69)	\$ 38,355.69
45005 - Fiscal Agent Fees	\$ 35,000.00	\$ 3,785.11	\$ 12,161.62	\$ 41,613.67	\$ (6,613.67)
45010 - Interest	\$ 600.00	\$ 27.73	\$ 116.12	\$ 360.11	\$ 239.89
45015 - Copy/Fax	\$ 400.00	\$ 32.25	\$ 71.25	\$ 253.75	\$ 146.25
45020 - Other Income	\$ 10,000.00	\$ 8.41	\$ 1,831.27	\$ 4,972.50	\$ 5,027.50
45025 - Contract Services	\$ 50,000.00	\$ 1,822.20	\$ 9,079.06	\$ 30,468.22	\$ 19,531.78
45030 - Transfers In	\$ 400,000.00	\$ -	\$ -	\$ -	\$ 400,000.00
Revenue Total:	\$ 3,650,000.00	\$ 307,260.95	\$ 752,158.37	\$ 2,627,232.46	\$ 1,022,767.54
Expense	Current Total Budget	MTD Activity	QTD Activity	YTD Activity	Budget Remaining
60005 - Accounting Fees	\$ 5,000.00	\$ -	\$ -	\$ 9,367.31	\$ (4,367.31)
60010 - Audit	\$ 13,500.00	\$ -	\$ 4,205.00	\$ 12,615.00	\$ 885.00
60020 - Bank Service Charges	\$ 15,000.00	\$ 239.52	\$ 2,259.72	\$ 9,004.91	\$ 5,995.09
60025 - Cash Short/Over	\$ 300.00	\$ 36.62	\$ 2.58	\$ (24.77)	\$ 324.77
60030 - Dues and Subscriptions	\$ 5,000.00	\$ -	\$ 959.34	\$ 1,924.90	\$ 3,075.10
60035 - Engineering Fees	\$ 80,000.00	\$ -	\$ -	\$ -	\$ 80,000.00
60045 - Late Fees	\$ 1,000.00	\$ -	\$ -	\$ -	\$ 1,000.00
60050 - Legal Fees	\$ 10,000.00	\$ 201.46	\$ 1,257.51	\$ 4,045.46	\$ 5,954.54
60055 - Legal Notices	\$ 6,000.00	\$ -	\$ 80.76	\$ 227.63	\$ 5,772.37
60060 - Licenses & Fees	\$ 8,000.00	\$ 116.00	\$ 1,393.59	\$ 3,556.04	\$ 4,443.96
60065 - Meals	\$ 2,500.00	\$ 60.52	\$ 176.78	\$ 958.67	\$ 1,541.33
60070 - Organizational Cost	\$ 20,000.00	\$ -	\$ -	\$ -	\$ 20,000.00
60075 - Permit Fees	\$ 6,500.00	\$ 300.00	\$ 900.00	\$ 900.00	\$ 5,600.00
60080 - Postage	\$ 45,000.00	\$ 2,536.93	\$ 8,256.02	\$ 23,468.29	\$ 21,531.71
60090 - Professional Fees-Other	\$ 10,000.00	\$ -	\$ -	\$ 800.00	\$ 9,200.00
60100 - Project Development	\$ 200,000.00	\$ 813.63	\$ 279,222.77	\$ 341,264.50	\$ (141,264.50)
60120 - Retirement Account Fees	\$ 2,500.00	\$ 826.62	\$ 1,257.87	\$ 2,101.62	\$ 398.38
60125 - Easements & Leases	\$ 5,000.00	\$ -	\$ -	\$ -	\$ 5,000.00
60130 - Training	\$ 10,000.00	\$ 2,355.45	\$ 2,800.00	\$ 6,804.55	\$ 3,195.45
60150 - Travel:Lodging Per Diem	\$ 10,000.00	\$ 371.59	\$ 709.05	\$ 4,379.60	\$ 5,620.40

Expense (continued)	Current Total Budget	MTD Activity	QTD Activity	YTD Activity	Budget Remaining
60175 - Fixed Asset Disposal Fees	\$ 1,500.00	\$ -	\$ -	\$ -	\$ 1,500.00
60600 - Debit Service	\$ 146,360.00	\$ 7,099.14	\$ 79,102.42	\$ 170,344.76	\$ (23,984.76)
60650 - Interest paid to NMFA	\$ 37,091.00	\$ 1,899.37	\$ 5,922.08	\$ 19,361.75	\$ 17,729.25
60675 - Interest paid to USDA	\$ 130,508.00	\$ 10,629.36	\$ 31,888.08	\$ 95,664.24	\$ 34,843.76
63000 - Regular Pay	\$ 825,000.00	\$ 101,697.10	\$ 227,914.75	\$ 652,177.91	\$ 172,822.09
63001 - Overtime	\$ 21,000.00	\$ 1,065.00	\$ 3,120.04	\$ 15,268.12	\$ 5,731.88
63006 - Holiday Pay	\$ 55,000.00	\$ 4,056.90	\$ 16,337.22	\$ 39,517.24	\$ 15,482.76
63007 - Sick Pay	\$ 97,500.00	\$ 7,616.59	\$ 19,530.25	\$ 42,732.41	\$ 54,767.59
63008 - Annual Leave Pay	\$ 117,500.00	\$ 4,903.94	\$ 18,905.34	\$ 50,820.43	\$ 66,679.57
63010 - 401K 10% Company Contribution	\$ 99,000.00	\$ -	\$ -	\$ -	\$ 99,000.00
63060 - Contract Labor	\$ 10,000.00	\$ -	\$ -	\$ -	\$ 10,000.00
63070 - Employee Benefits-401K Contrib	\$ 40,000.00	\$ 3,712.42	\$ 8,764.04	\$ 24,163.42	\$ 15,836.58
63090 - HISC-Blue Medicare Rx.	\$ 500.00	\$ 84.90	\$ 303.90	\$ 588.70	\$ (88.70)
63100 - Insurance-Dental	\$ 15,000.00	\$ 995.96	\$ 3,059.56	\$ 8,896.83	\$ 6,103.17
63110 - Insurance-Health	\$ 170,000.00	\$ 21,929.66	\$ 68,272.16	\$ 188,793.34	\$ (18,793.34)
63115 - Salaries: Insurance - Work Comp	\$ 20,000.00	\$ 2,097.00	\$ 6,293.00	\$ 14,994.00	\$ 5,006.00
63130 - Mileage	\$ 1,500.00	\$ 16.02	\$ 337.86	\$ 443.43	\$ 1,056.57
63135 - Drug Testing	\$ 1,500.00	\$ -	\$ -	\$ 150.00	\$ 1,350.00
63160 - Payroll Taxes-Medicare	\$ 18,000.00	\$ 1,730.45	\$ 4,144.29	\$ 11,607.67	\$ 6,392.33
63170 - Payroll Taxes-Social Security	\$ 71,000.00	\$ 7,399.03	\$ 17,720.04	\$ 49,632.08	\$ 21,367.92
63195 - Taxes, Liability, Insurance: Cobra Fee	\$ 1,000.00	\$ -	\$ -	\$ -	\$ 1,000.00
63200 - Vision Insurance	\$ 5,000.00	\$ 285.56	\$ 907.18	\$ 2,702.07	\$ 2,297.93
64100 - Sewer:DAC Waste Water Flow Charge	\$ 50,000.00	\$ -	\$ 12,662.70	\$ 27,574.05	\$ 22,425.95
64200 - Sewer:Electricity-Sewer	\$ 9,000.00	\$ 722.02	\$ 1,520.38	\$ 7,016.71	\$ 1,983.29
64300 - Sewer:Lab & Chemicals-Sewer	\$ 10,000.00	\$ -	\$ 259.95	\$ 1,885.96	\$ 8,114.04
65010 - Automobile Repairs & Maint.	\$ 36,000.00	\$ 13,595.34	\$ 10,161.21	\$ 44,438.85	\$ (8,438.85)
65230 - Computer Maintenance	\$ 65,000.00	\$ 2,494.95	\$ 10,644.85	\$ 47,144.86	\$ 17,855.14
65240 - Equipment Rental	\$ 2,500.00	\$ -	\$ -	\$ 730.41	\$ 1,769.59
65250 - Fuel	\$ 65,000.00	\$ 5,514.18	\$ 14,891.45	\$ 42,700.83	\$ 22,299.17
65260 - Kitchen & Cleaning Supplies	\$ 5,000.00	\$ -	\$ -	\$ -	\$ 5,000.00
65270 - Lab Chemicals-Water	\$ 15,000.00	\$ -	\$ 320.38	\$ 674.95	\$ 14,325.05
65280 - Lab Chemicals-Water:Chemicals	\$ 40,000.00	\$ 1,468.10	\$ 4,141.57	\$ 21,855.52	\$ 18,144.48
65300 - Locates	\$ 7,000.00	\$ -	\$ -	\$ 775.96	\$ 6,224.04
65310 - Maint. & Repairs-Infrastructure	\$ 199,741.00	\$ 1,978.53	\$ 8,133.83	\$ 47,370.62	\$ 152,370.38
65320 - Maint. & Repairs-Office	\$ 10,000.00	\$ 226.34	\$ 654.65	\$ 6,883.66	\$ 3,116.34
65330 - Maintenance & Repairs-Other	\$ 169,000.00	\$ 1,300.29	\$ (25,557.46)	\$ 34,314.68	\$ 134,685.32
65340 - Materials & Supplies	\$ 50,000.00	\$ 19,496.31	\$ 30,626.92	\$ 70,445.96	\$ (20,445.96)
65345 - Non Inventory-Consumables	\$ 111,000.00	\$ 937.19	\$ 7,377.17	\$ 29,868.44	\$ 81,131.56
65350 - Office Supplies	\$ 15,000.00	\$ 285.98	\$ 1,767.74	\$ 7,093.60	\$ 7,906.40
65360 - Printing and Copying	\$ 20,000.00	\$ 1,121.45	\$ 3,320.40	\$ 10,196.94	\$ 9,803.06
65370 - Tool Furniture	\$ 5,000.00	\$ 2,648.17	\$ 2,803.59	\$ 12,455.64	\$ (7,455.64)
65390 - Uniforms-Employee	\$ 15,000.00	\$ 395.28	\$ 2,130.82	\$ 8,277.55	\$ 6,722.45
65490 - Cell Phone	\$ 20,000.00	\$ 1,470.46	\$ 4,461.81	\$ 13,718.70	\$ 6,281.30
65500 - Electricity-Lighting	\$ 10,000.00	\$ 448.06	\$ 999.58	\$ 4,145.38	\$ 5,854.62
65510 - Electricity-Offices	\$ 17,000.00	\$ 977.90	\$ 2,348.48	\$ 10,591.98	\$ 6,408.02
65520 - Electricity-Wells	\$ 225,000.00	\$ 24,776.61	\$ 48,944.63	\$ 157,401.49	\$ 67,598.51
65530 - Garbage Service	\$ 2,500.00	\$ 196.29	\$ 564.87	\$ 1,769.34	\$ 730.66
65540 - Natural Gas	\$ 3,000.00	\$ 160.45	\$ 676.31	\$ 1,402.02	\$ 1,597.98
65550 - Security/Alarm	\$ 10,000.00	\$ 216.63	\$ 698.92	\$ 3,460.30	\$ 6,539.70
65560 - Telephone	\$ 20,000.00	\$ 1,575.53	\$ 10,792.88	\$ 22,853.29	\$ (2,853.29)
65570 - Wastewater	\$ 1,500.00	\$ 176.40	\$ 529.20	\$ 1,499.40	\$ 0.60
66100 - Government Penalties & Interest	\$ 2,500.00	\$ -	\$ -	\$ -	\$ 2,500.00
66200 - Insurance-General Liability	\$ 80,000.00	\$ -	\$ 16,083.00	\$ 52,242.00	\$ 27,758.00
66700 - Water Conservation Fee	\$ 20,000.00	\$ 835.42	\$ 835.42	\$ 8,957.69	\$ 11,042.31
Expense Total:	\$ 3,650,000.00	\$ 268,094.62	\$ 988,798.45	\$ 2,508,998.89	\$ 1,141,001.11
Total Surplus (Deficit):	\$ -	\$ 39,166.33	\$ (236,640.08)	\$ 118,233.57	\$ (118,233.57)

Income Statement

Lower Rio Grande Public Water Works Authority

For Fiscal: FYE2018 Quarter Ending: 03/31/2018

Presented to the Board of Directors at the regular Board Meeting on April 18, 2018

Prepared by: _____

Kathi Jackson, Finance Manger

Reviewed by: _____

Martin Lopez, General Manager

Notes:

Revenue is currently 6% higher than expected

Expenses:

Expenses are currently 6% below projections

60090 - Project Development includes \$85,000 being held in Escrow for the Sewer Project Easment Case
The rest of the balance is amounts paid by LRGPWVA for the Water Line Extension Project & Brazito Sewer
We are expecting to be reimbursed for a large part of those expenses

60600 Debit Service - Reflects the amounts applied to Loan Principal (Balance Sheet Item) and the payoff of
The loan payoffs cause us to appear overbudget but we will apply for a Budget Adjustment during the 4th

63101 401K Contribution - has not been paid yet, it will be posted during the 4th Quarter

Over all we are with in the Approved Budget and we have a 12% cushion. There are a few expense that are
over budget but we will move funds or reclassify expenses during the last quarter to finish the year in

Other:

The FY2018 Audit Contract has been submitted to the OSA for approval

We have hired John Schroder to fill the accounting position left by Jennifer. John is a retired Navy veteran,

Interim Budgets are due to DFA by June 1st and Final Budgets are due July 31, 2018



www.lrgauthority.org

LOWER RIO GRANDE

Public Water Works Authority

Resolution #FY2018-17

Approving Third Quarter Budget for Fiscal Year 2018

Whereas, in order to comply with Sections 6-6-1 and 6-6-2 NMSA 1978 and to apply for CDBG funding, the Board of Directors wishes to adopt and pass a resolution to approve the FY2018 Third Quarter Budget on April 18, 2018.

Therefore, be it resolved, the Board of Directors adopts and passes this resolution to approve the FY2018 Third Quarter Budget officially approved on April 18, 2018.

PASSED, APPROVED, AND ADOPTED: April 18, 2018

Mike McMullen, Chairman

Seal:

Esperanza Holguin, Secretary

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



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

Prepared by



Issued and Published Jointly by



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

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TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 – SERVICES OF ENGINEER	1
1.01 Scope	1
ARTICLE 2 – OWNER’S RESPONSIBILITIES.....	1
2.01 General	1
ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES.....	2
3.01 Commencement.....	2
3.02 Time for Completion	2
ARTICLE 4 – INVOICES AND PAYMENTS	3
4.01 Invoices.....	3
4.02 Payments.....	3
ARTICLE 5 – OPINIONS OF COST	3
5.01 Opinions of Probable Construction Cost	3
5.02 Designing to Construction Cost Limit	4
5.03 Opinions of Total Project Costs.....	4
ARTICLE 6 – GENERAL CONSIDERATIONS.....	4
6.01 Standards of Performance	4
6.02 Design Without Construction Phase Services	6
6.03 Use of Documents	6
6.04 Electronic Transmittals.....	7
6.05 Insurance	7
6.06 Suspension and Termination	8
6.07 Controlling Law.....	10
6.08 Successors, Assigns, and Beneficiaries	10
6.09 Dispute Resolution	10
6.10 Environmental Condition of Site.....	11
6.11 Indemnification and Mutual Waiver	11
6.12 Records Retention.....	12
6.13 Miscellaneous Provisions	12
ARTICLE 7 – DEFINITIONS.....	13
7.01 Defined Terms	13
ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS	17
8.01 Exhibits Included:	17
8.02 Total Agreement.....	17
8.03 Designated Representatives	18
8.04 Engineer's Certifications.....	18
8.05 Federal Requirements	18

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

THIS IS AN AGREEMENT effective as of [] (“Effective Date”) between
[Lower Rio Grande Public Wastewater Works Authority] (“Owner”) and
[Bohannan Huston Inc.] (“Engineer”).

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:
Wastewater System Improvements 2017 (“Project”).

Other terms used in this Agreement are defined in Article 7.

Engineer's services under this Agreement are generally identified as follows: Design and Construction phase services for Mesquite-Brazito Wastewater system improvements project 2 including:

- 7 Duplex Lift Stations with depths between 16’ and 21’
- 42,000 LF of 8” gravity collection pipeline
- 12,700 LF of 10” gravity collection pipeline
- 164 4’ diameter manholes
- 17,000 LF of 4” forcemain
- 4,500 LF of 6” forcemain
- 8 package grinder pump units
- 381 sewer connections

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

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

ARTICLE 2 – OWNER’S RESPONSIBILITIES

2.01 *General*

- A. Owner shall have the responsibilities set forth herein and in Exhibit B.

- B. Owner shall pay Engineer as set forth in Article 4 and Exhibit C.
- C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
 - 1. any development that affects the scope or time of performance of Engineer's services;
 - 2. the presence at the Site of any Constituent of Concern; or
 - 3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 Commencement

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

3.02 Time for Completion

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

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 Invoices

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

4.02 Payments

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
 - 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
 - 2. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices:* If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to the terms of Paragraph 4.01.
- D. *Sales or Use Taxes:* If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.

ARTICLE 5 – OPINIONS OF COST

5.01 Opinions of Probable Construction Cost

- A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate. **Opinions of Probable Cost and any revisions thereof should reflect compliance**

with American Iron & Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.

5.02 *Designing to Construction Cost Limit*

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

5.03 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.
- B. **Opinions of Total Project Costs and any revisions thereof should reflect compliance with American Iron & Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.**

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:*

1. Engineer and Owner shall comply with applicable Laws and Regulations.
2. Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date to Laws and Regulations;
 - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures;
 - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.
- G. The general conditions for any construction contract documents prepared hereunder are to be EJCDC® C-700 "Standard General Conditions of the Construction Contract" (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in Exhibit J or elsewhere in this Agreement.
- H. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- I. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- J. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.

- K. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- L. Engineer's services do not include providing legal advice or representation.
- M. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- N. While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

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

6.03 *Use of Documents*

- A. All Documents are instruments of service, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed.
- B. If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- C. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project. Engineer grants Owner a limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or

represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.

- D. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Electronic Transmittals*

- A. Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- B. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer ~~shall~~ **may** jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G. Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.
- B. Owner ~~shall~~ **may** procure and maintain insurance as set forth in Exhibit G. Owner ~~shall~~ **may** cause Engineer and its Consultants to be listed as additional insureds on any general liability policies carried by Owner, which are applicable to the Project.
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project.

- D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- E. All policies of property insurance relating to the Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer or its Consultants. Owner and Engineer waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.
- G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.06 *Suspension and Termination*

A. *Suspension:*

- 1. *By Owner:* Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.
- 2. *By Engineer:* Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraph 4.02.B, or in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.10.D.

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

- 1. For cause,

- a. by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - b. by Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.10.D.
 - 3) Engineer shall have no liability to Owner on account of such termination.
 - c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.06.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
2. For convenience, by Owner effective upon Engineer's receipt of notice from Owner.
- C. *Effective Date of Termination:* The terminating party under Paragraph 6.06.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- D. *Payments Upon Termination:*
1. In the event of any termination under Paragraph 6.06, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.
 2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.06.D.1, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with

Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

6.07 *Controlling Law*

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.

6.08 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.08.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
 - 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
 - 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 - 3. Owner agrees that the substance of the provisions of this Paragraph 6.08.C shall appear in the Construction Contract Documents.

6.09 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights at law.
- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.09.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.10 *Environmental Condition of Site*

- A. Owner represents to Engineer that as of the Effective Date to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- C. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
- D. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until such portion of the Project is no longer affected.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on seven days notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.11 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. **This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."**

- B. *Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations **and to the extent (if any) required in Exhibit I, "Limitations of Liability."**
- C. *Environmental Indemnification:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorneys fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- D. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- E. *Percentage Share of Negligence:* To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- F. *Mutual Waiver:* To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes.

6.12 *Records Retention*

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

6.13 *Miscellaneous Provisions*

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

- C. *Severability*: Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver*: A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims*: To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:
 - 1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
 - 2. *Additional Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
 - 3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
 - 4. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
 - 5. *Basic Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
 - 6. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
 - 7. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both;

contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.

8. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Wastewater Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
9. *Construction Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
10. *Construction Contract Documents*—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract.
11. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
12. *Construction Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
13. *Construction Cost*—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner’s costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
14. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner’s work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.

15. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.
16. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.
17. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
18. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
20. *Engineer*—The individual or entity named as such in this Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
23. *Owner*—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
24. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.
25. *Record Drawings*—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer ~~as an Additional Service~~ and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
26. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.

27. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.
28. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
29. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
30. *Site*—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
31. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
32. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
34. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
35. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.

36. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
37. *Work Change Directive*—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.
38. ***Agency*— The Rural Utilities Service or any designated representative of Rural Utilities Services, including USDA, Rural Development.**

B. *Day*:

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included:*

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

8.02 *Total Agreement*

- A. This Agreement, (together with the exhibits included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral

understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit K to this Agreement.

8.03 *Designated Representatives*

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

8.04 *Engineer's Certifications*

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

8.05 *Federal Requirements*

- A. **Agency Concurrence.** Signature of a duly authorized representative of the Agency in the space provided on the signature page of EJCDC form E-500 hereof does not constitute a commitment to provide financial assistance or payments hereunder but does signify that this Agreement conforms to Agency's applicable requirements. This Agreement shall not be effective unless the Funding Agency's designated representative concurs. No amendment to this Agreement shall be effective unless the Funding Agency's designated representative concurs.
- B. **Audit and Access to Records.** Owner, Agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Engineer which are pertinent to the Agreement, for the purpose of making audits, examinations, excerpts, and transcriptions. Engineer shall maintain all required records for three years after final payment is made and all other pending matters are closed.
- C. **Restrictions on Lobbying.** Engineer and each Consultant shall comply with "Byrd anti-lobbying amendment (31 U.S.C. 1352)" if they are recipients of engineering services contracts and subcontracts that exceed \$100,000 at any tier. If applicable, Engineer must complete a certification form on lobbying activities related to a specific Federal loan or

grant that is a funding source for this Agreement. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other applicable award. Each tier shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Certifications and disclosures are forwarded from tier to tier up to the Owner. Necessary certification and disclosure forms shall be provided by Owner.

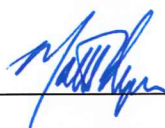
- D. **Suspension and Debarment.** Engineer certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. Engineer will not contract with any Consultant for this project if it or its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Necessary certification forms shall be provided by the Owner. The Engineer will complete and submit a form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – lower tier transactions," to the Owner who will forward it the USDA, Rural Development processing office.

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

Owner: Lower Rio Grande Public Wastewater Works Authority

Engineer: Bohannon Huston Inc.

By: _____

By: 

Print name: _____

Print name: Matthew R. Thompson

Title: _____

Title: Senior Vice President

Date Signed: _____

Date Signed: 4/6/18

Engineer License or Firm's Certificate No. (if required): 13868

State of: New Mexico

By: 

Print name: Leslie Small

Title: Chief Operations Officer

Date Signed: 4/5/2018

Address for Owner's receipt of notices:
PO Box 2646
Anthony NM 88021

Address for Engineer's receipt of notices:
425 S. Telshor Blvd., C-103
Las Cruces, NM 88011

Designated Representative (Paragraph 8.03.A):
Karen Nichols

Designated Representative (Paragraph 8.03.A):
Matthew Thompson

Title: Project Manager
Phone Number: 575-233-5742 ext.1018
E-Mail Address: karen.nichols@lrgauthority.org

Title: Senior Vice President
Phone Number: 575-532-8670
E-Mail Address: mthompson@bhinc.com

This is **EXHIBIT A**, consisting of [19] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [] .

Engineer's Services

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

Engineer shall provide Basic and Additional Services as set forth below and as further detailed in Appendix 1 to Exhibit A.

PART 1 – BASIC SERVICES

A1.01 *Study and Report Phase*

A. Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.
 - a. If Owner has already identified one or more potential solutions to meet its Project requirements, then proceed with the study and evaluation of such potential solutions: [Wastewater system expansion has been identified previously in an existing engineering report.]
 - b. ~~If Owner has not identified specific potential solutions for study and evaluation, then assist Owner in determining whether Owner's requirements, and available data, reports, plans, and evaluations, point to a single potential solution for Engineer's study and evaluation, or are such that it will be necessary for Engineer to identify, study, and evaluate multiple potential solutions. In addition, Engineer must identify, study, and evaluate multiple potential alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree with Agency concurrence that only one feasible solution exists. The number of alternative solutions should be appropriate to the specific project as concurred in by the Agency.~~
 - c. ~~If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify [] *[insert specific number]* alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree that some other specific number of alternatives should be identified, studied, and evaluated.~~
2. Identify potential solution(s) to meet Owner's Project requirements, as needed.
3. Study and evaluate the potential solution(s) to meet Owner's Project requirements.

Exhibit A – Engineer's Services

4. Visit the Site, or potential Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.
5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project-related data and information, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.
6. After consultation with Owner, recommend to Owner the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.
7. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Project.
8. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and Engineer's recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by Owner, a tabulation of other items and services included within the definition of Total Project Costs. **The Report mentioned in paragraph 1.01.A.8 of Exhibit A to the Agreement is the Preliminary Engineering Report as defined in RUS Bulletin 1780-2. This document must meet customary professional standards as required by 7 CFR 1780.55. The Report must be concurred in by the Agency.**
9. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B, for use in Project design, or in preparation for Contractor selection and construction.
10. When mutually agreed **and approved by the Agency**, assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph shall be referred to in Exhibit A and B as "Project Strategies, Technologies, and Techniques."
11. If requested to do so by Owner, assist Owner in identifying opportunities for enhancing the sustainability of the Project, and pursuant to Owner's instructions plan for the inclusion of sustainable features in the design.
12. Use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" as a means to advise the Owner on a recommended scope of work and procedure for the identification and mapping of existing utilities.

Exhibit A – Engineer's Services

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

13. Develop a scope of work and survey limits for any topographic and other surveys necessary for design.
 14. Perform or provide the following other Study and Report Phase tasks or deliverables: **[Provide an Environmental Report as defined at 7 CFR 1970 or other Agency approved format. The Environmental Report must be concurred in by the Agency.]**
 15. Furnish review copies of the Report and any other Study and Report Phase deliverables to Owner within days of the Effective Date and review it with Owner. Within days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.
 16. **Revise the Report and any other Study and Report Phase deliverables in response to Owner's and Agency's comments, as appropriate, and furnish three (3) written copies and one (1) electronic copy of the revised Report and any other Study and Report Phase deliverables to the Owner within [] days of receipt of Owner's and Agency's comments.**
- B.** Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the revised Report and any other Study and Report Phase deliverables.

A1.02 *Preliminary Design Phase*

- A.** After acceptance by Owner **and concurrence by Agency** of the Report and any other Study and Report Phase deliverables; selection by Owner of a recommended solution; issuance by Owner of any instructions of for use of Project Strategies, Technologies, and Techniques, or for inclusion of sustainable features in the design; and indication by Owner of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, (1) Engineer and Owner shall discuss and resolve any necessary revisions to Engineer's compensation (through application of the provisions regarding Additional Services, or otherwise), or the time for completion of Engineer's services, resulting from the selected solution, related Project Strategies, Technologies, or Techniques, sustainable design instructions, or specific modifications to the Project, and (2) upon written authorization from Owner, Engineer shall:
1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.
 2. In preparing the Preliminary Design Phase documents, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner **and Agency** during or following the Study and Report Phase, and include sustainable features, as appropriate, pursuant to Owner's instructions.
 3. Provide necessary field surveys and topographic and utility mapping for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities selected and authorized by Owner pursuant to advice from Engineer based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as set forth in Paragraph A1.01.A.12 above. If no such scope of work and procedure for utility mapping has been selected and authorized,

then at a minimum the utility mapping will include Engineer contacting utility owners and obtaining available information.

4. Visit the Site as needed to prepare the Preliminary Design Phase documents.
 5. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.
 6. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement.
 7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in tabulating the various cost categories which comprise Total Project Costs.
 8. Obtain and review Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Also obtain and review copies of Owner's design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents or content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in the draft Construction Contract Documents, when applicable. **Engineer must also incorporate all Agency regulations, forms, and design and construction standards applicable to the project in development of the documents indicated in this Article.**
 9. Perform or provide the following other Preliminary Design Phase tasks or deliverables:
None
 10. Furnish (One) review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner within (277) days of authorization to proceed with this phase, and review them with Owner. Within (14) days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.
 11. Revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner (**) copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within (**) days after receipt of Owner's comments.
- B.** Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the revised Preliminary Design Phase documents,

Exhibit A – Engineer's Services

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revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

A1.03 *Final Design Phase*

- A. After acceptance by Owner of the Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other Preliminary Design Phase deliverables, subject to any Owner-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from Owner, Engineer shall:
1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
 2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
 3. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.
 4. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost.
 5. After consultation with Owner, include in the Construction Contract Documents any specific protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website. Any such protocols shall be applicable to transmittals between and among Owner, Engineer, and Contractor during the Construction Phase and Post-Construction Phase, and unless agreed otherwise shall supersede any conflicting protocols previously established for transmittals between Owner and Engineer.
 6. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
 7. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from Owner.
 8. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from Owner.
 9. Perform or provide the following other Final Design Phase tasks or deliverables:
The Engineer shall identify the building codes and accessibility standards used in the design and indicate them on the drawings and specifications and certify that the final drawings and specifications comply with those standards.

10. Furnish for review by Owner, its legal counsel **and Agency**, and other advisors, (one) copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, within (112) days of authorization to proceed with the Final Design Phase, and review them with Owner. Within (14) days of receipt, Owner shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions.
 11. Revise the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables in accordance with comments and instructions from the Owner, as appropriate, and submit (one) final copies of such documents to Owner within (14) days after receipt of Owner's comments and instructions.
 12. **Provide the Owner and Agency with a written certification that the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables comply with all requirements of Agency. Use the Engineer's Certification of Final Plans and Specifications (Attachment J of the RUS Bulletin 1780-26) for this purpose.**
 13. **Services required to determine and certify that to the best of the Engineer's knowledge and belief all iron and steel products referenced in engineering analysis, the Plans, Specifications, Bidding Documents, and associated Bid Addenda requiring design revisions are either produced in the United States or are the subject of an approved waiver; and services required to determine to the best of the engineer's knowledge and belief that approved substitutes, equals, and all iron and steel products proposed in the shop drawings, Change Orders and Partial Payment Estimates are either produced in the United States or are the subject of an approved waiver under Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. The term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The deminimis and minor components waiver {add project specific waivers as applicable} apply to this contract.**
- B.** Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables **and all final design phase deliverables have been accepted by Owner.**
- C.** In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), Owner

and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.

- D. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is **One** (1). If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.

A1.04 *Bidding or Negotiating Phase*

- A. After acceptance by Owner of the final Drawings and Specifications, other Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:
1. Assist Owner in advertising for and obtaining bids or proposals for the Work, assist Owner in issuing assembled design, contract, and bidding-related documents (or requests for proposals or other construction procurement documents) to prospective contractors, and, where applicable, maintain a record of prospective contractors to which documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the issued documents.
 2. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents. **Obtain Agency concurrence on any addenda that modify the bidding documents. Obtain prior concurrence where possible.**
 3. Provide information or assistance needed by Owner in the course of any review of proposals or negotiations with prospective contractors.
 4. Consult with Owner as to the qualifications of prospective contractors.
 5. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
 6. ~~If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.~~ **The Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors prior to award of contracts for the Work. Engineer shall issue a bid addendum for any and all approved "or equals" and substitutes. Review of substitutes and "or equals" shall be in accordance with the**

General Conditions of the Construction Contract and applicable Agency regulations. Services under this paragraph are subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.

7. Attend the bid opening, prepare bid tabulation sheets to meet Owner's schedule, and assist Owner in evaluating bids or proposals, assembling final contracts for the Work for execution by Owner and Contractor, and in issuing notices of award of such contracts.
 8. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.
 9. Perform or provide the following other Bidding or Negotiating Phase tasks or deliverables: **Upon award of the Construction Contract, the Engineer shall furnish to Owner five executed copies of the Contract Documents and one electronic copy of the signed documents, including Drawings and Specifications.**
 10. **Provide copies of Manufacturers' Certification letters to the Bidders on any brand name iron and steel products along with the Plans, Specifications and Bidding Documents. Manufacturers' Certification Letters are to be included in the Bidding Documents and must be kept in the engineer's project file and on site during construction.**
 11. **Provide copies of Manufacturers' Certification letters to the Contractor on any brand name iron and steel products along with the Plans, Specifications, Bidding Documents including any Bid Addenda and Change Orders. Manufacturers' Certification Letters must be kept in the engineer's project file and on site during construction.**
- B.** The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if Exhibit F is a part of this Agreement).

A1.05 *Construction Phase*

- A.** Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner, Engineer shall:
1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer shall be as assigned in EJCDC® C-700, Standard General Conditions of the Construction Contract (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, or other construction general conditions specified in this Agreement. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with

Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.

2. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D.
3. *Selection of Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified in Exhibit B, Paragraph B2.01.
4. *Pre-Construction Conference:* Participate in **and chair** a pre-construction conference prior to commencement of Work at the Site.
5. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with Owner and Contractor jointly develop such protocols for transmittals between and among Owner, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.
6. *Original Documents:* ~~If requested by Owner to do so,~~ maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.
7. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
8. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
9. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:
 - a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of

Exhibit A – Engineer's Services

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general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.

- b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.
 - c. **The visits described in Article A1.05.A.9.a shall be at least monthly and the Engineer shall document all visits to the project with copies furnished to the Owner and Agency.**
10. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.
 11. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.
 12. *Clarifications and Interpretations:* Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision

on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.

13. *Non-reviewable Matters:* If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (1) the performance or acceptability of the Work under the Construction Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.
14. *Field Orders:* Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
15. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
16. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use.
17. *Shop Drawings, Samples, and Other Submittals:* **Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals to ensure compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. Any iron and steel products included in any submittal by the General Contractor, must include a Manufacturers' Certification letter to verify the products were produced in the United States. Copies of Manufacturers' Certification letters must be kept in the engineer's project file and on site during construction.** Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.
18. *Substitutes and "Or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A. **Review of substitutes and "or equals" shall be in accordance with the General Conditions of the Construction Contract and applicable Agency regulations. Prior to approval of any substitute "or equal" obtain a Manufacturers' Certification letter to verify the products were produced in the United States. Manufacturers' Certification letters must be kept in the engineer's project file and on site during construction to ensure compliance with**

American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference, if applicable.

19. *Inspections and Tests:*

- a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
- b. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
- c. Pursuant to the terms of the Construction Contract, require special inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- d. **Receive and review all Manufacturers' Certification Letters for materials required to comply with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference to verify the products were produced in the United States. Manufacturers' Certification letters must be kept in the engineer's project file and on site during construction.**

20. *Change Proposals and Claims:* (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to Owner regarding engineering or technical matters pertaining to Claims. (c) **Review Change Proposals to ensure compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.**

21. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

- a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).
 - b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.
22. *Contractor's Completion Documents:* Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Paragraph A1.05.A.17. ~~Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages.~~ **Receive from Contractor and review the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The Engineer shall prepare Record Drawings, and furnish such Record Drawings to Owner.**

23. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.
24. *Other Tasks:* Perform or provide the following other Construction Phase tasks or deliverables:
- a. **Upon Substantial Completion, the Engineer shall provide a copy of the Certificate of Substantial Completion to the Agency.**
25. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to Owner and Contractor in the form attached hereto as Exhibit E ("Notice of Acceptability of Work") that the Work is acceptable (subject to the provisions of the Notice and Paragraph A1.05.A.21.b) to the best of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.
- a. **Obtain the Contractors' Certification letter and copies of Manufacturers' Certification letters for all American Iron and Steel products used in the project. Upon Substantial Completion, provide copies of Engineer's, Contractors', and Manufacturers' Certification letters to the Owner and a copy of Contractor's Certification letter to the Agency. Provide a list of manufacturers of American Iron and Steel products used in the project and include manufacturer's name and location, and product(s) to the Agency.**
26. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.
- B. *Duration of Construction Phase:*** The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves more than one prime contract as indicated in Paragraph A1.03.D, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

A1.06 *Post-Construction Phase*

- A.** Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:
1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.
 2. Together with Owner, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.
 3. Perform or provide the following other Post-Construction Phase tasks or deliverables:
 - a. None
- B.** The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.

PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Written Authorization*

- A.** If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit C.
1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements **not including preparation of the Environmental Report defined under Basic Services**; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
 2. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
 3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted

subsequent to the Effective Date or are due to any other causes beyond Engineer's control.

4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those agreed to in Paragraph A1.01.A.1 and 2, **but only if the Owner's request is made after completion of the Study and Report Phase.**
5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
6. Providing renderings or models for Owner's use, including services in support of building information modeling or civil integrated management.
7. Undertaking investigations and studies including, but not limited to:
 - a. detailed consideration of operations, maintenance, and overhead expenses;
 - b. the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services are based on the engineering and technical aspects of the Project, and do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
 - c. preparation of appraisals;
 - d. evaluating processes available for licensing, and assisting Owner in obtaining process licensing;
 - e. detailed quantity surveys of materials, equipment, and labor; and
 - f. audits or inventories required in connection with construction performed or furnished by Owner.
8. Furnishing services of Consultants for other than Basic Services.
9. Providing data or services of the types described in Exhibit B, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
10. Providing the following services:
 - a. Services attributable to more prime construction contracts than specified in Paragraph A1.03.D.
 - b. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, and administering Owner's contract for such services.
11. Services during out-of-town travel required of Engineer, other than for visits to the Site or Owner's office as required in Basic Services (Part 1 of Exhibit A).

Exhibit A – Engineer's Services

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12. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructibility review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.
13. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents) or Construction Contract Documents for alternate bids or cost estimates requested by Owner for the Work or a portion thereof.
14. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services required by Paragraph 5.02.A and Exhibit F.
15. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all Addenda and any amendments negotiated by Owner and Contractor.
16. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.
- ~~17. Preparing Record Drawings, and furnishing such Record Drawings to Owner. [Deleted]~~
18. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources.
19. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed.
20. Preparation of operation, maintenance, and staffing manuals.
21. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
22. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
23. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
24. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, lien or bond claim, or other legal or administrative proceeding involving the Project.
25. Overtime work requiring higher than regular rates.

26. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Paragraph A1.05.A.8; any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
27. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
28. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
29. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

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

- A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner.
1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by Owner.
 2. ~~Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.~~ **Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.**
 3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
 4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.
 5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.

6. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.
7. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.
8. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.

This is **EXHIBIT B**, consisting of [4] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [] .

Owner's Responsibilities

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

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

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations.
- B. Give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Furnish copies (or give specific directions requesting Engineer to use copies already in Engineer's possession) of all design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and draft Construction Contract Documents, when applicable. Owner shall have responsibility for the final content of (1) such bidding-related documents (or requests for proposals or other construction procurement documents), and (2) those portions of any Construction Contract other than the design (as set forth in the Drawings, Specifications, or otherwise), and other engineering or technical matters; and Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- D. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, obtain, furnish, or otherwise make available (if necessary through title searches, or retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - 1. Property descriptions.
 - 2. Zoning, deed, and other land use restrictions.

Exhibit B – Owner's Responsibilities

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3. Utility and topographic mapping and surveys.
 4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
 6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
 7. Data or consultations as required for the Project but not otherwise identified in this Agreement.
- E.** Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
- F.** Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
1. Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
 3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.
- G.** Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- H.** Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

- I. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
- J. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- K. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, then designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
- L. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
- M. Examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- N. Inform Engineer regarding any need for assistance in evaluating the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
- O. Advise Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- P. Place and pay for advertisement for Bids in appropriate publications.
- Q. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
- R. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
- S. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement, as required.
- T. Perform or provide the following: [None]

Exhibit B – Owner's Responsibilities

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

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B2.02 Owners are ultimately responsible for compliance with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference and will be responsible for the following:

- a) Signing loan resolutions, grant agreements and letters of intent to meet conditions which include American Iron and Steel language, accepting American Iron and Steel requirements in those documents and in the letter of conditions.**
- b) Signing change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC) and thereby acknowledging responsibility for compliance with American Iron and Steel requirements.**
- c) Obtaining the certification letters from the consulting engineer upon substantial completion of the project and maintaining this documentation for the life of the loan.**
- d) Where the owner provides their own engineering and/or construction services, providing copies of engineers', contractors', and manufacturers' certification letters (as applicable) to the Agency. All certification letters must be kept in the engineer's project file and on site during construction. For Owner Construction (Force Account), all clauses from Section 17 of RUS Bulletin 1780-35 must be included in the Agreement for Engineering Services.**
- e) Where the owner directly procures American Iron and Steel products, including American Iron and Steel clauses in the procurement contracts and obtaining manufacturers' certification letters and providing copies to consulting engineers and contractors.**

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

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

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

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 Compensation for Basic Services (other than Resident Project Representative) – Lump Sum Method of Payment

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

1. A Lump Sum amount of \$999,625 based on the following estimated distribution of compensation:

a. Study and Report Phase	\$19,500 (PER separate contract)
b. Preliminary Design Phase	\$463,525
c. Final Design Phase	\$300,600
d. Bidding and Negotiating Phase	\$23,000
e. Construction Phase	\$178,000
f. Post-Construction Phase	\$15,000

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

3. The Lump Sum includes compensation for Engineer’s services and services of Engineer’s Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor costs, overhead, profit, expenses (other than any expressly allowed Reimbursable Expenses), and Consultant charges.

4. In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following Reimbursable Expenses (see Appendix 1 for rates or charges): **Reimbursable expenses for basic Services will be itemized in Appendix 1 to Exhibit c, with rates and charges listed, and with a not to exceed value for each reimbursable expense.**

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

billing period. If any Reimbursable Expenses are expressly allowed, Engineer may also bill for any such Reimbursable Expenses incurred during the billing period.

- B. *Period of Service:*** The compensation amount stipulated in Compensation Packet BC-1 is conditioned on a period of service not exceeding 24 months. If such period of service is extended, the compensation amount for Engineer's services shall be appropriately adjusted **with concurrence of the Owner and Agency.**

This is **EXHIBIT C**, consisting of [8] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

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

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

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 Compensation For Basic Services (other than Resident Project Representative) – Standard Hourly Rates Method of Payment

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

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer’s personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer’s Consultants’ charges, if any.
2. The Standard Hourly Rates charged by Engineer constitute full and complete compensation for Engineer’s services, including labor costs, overhead, and profit; the Standard Hourly Rates do not include Reimbursable Expenses or Engineer’s Consultants’ charges.
3. Engineer’s Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit C as Appendices 1 and 2.
4. The total compensation for services under Paragraph C2.01 is estimated to be \$151,400 based on the following estimated distribution of compensation:

a. Study and Report Phase	\$
b. Preliminary Design Phase	\$65,775
c. Final Design Phase	\$85,625
d. Bidding or Negotiating Phase	\$
e. Construction Phase	\$
f. Post-Construction Phase	\$

5. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed

the total estimated compensation amount unless approved in writing by Owner **and Agency**. See also C2.03.C.2 below.

6. The total estimated compensation for Engineer's services included in the breakdown by phases as noted in Paragraph C2.01.A.3 incorporates all labor, overhead, profit, Reimbursable Expenses, and Engineer's Consultants' charges.
7. The amounts billed for Engineer's services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer's Consultants' charges.
8. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of **March 30**) to reflect equitable changes in the compensation payable to Engineer. **Changes will not be effective unless and until concurred in by the Owner and Agency.**

C2.02 *Compensation For Reimbursable Expenses*

- A. Owner shall pay Engineer for all Reimbursable Expenses at the rates set forth in Appendix 1 to this Exhibit C.
- B. Reimbursable Expenses include the expenses identified in Appendix 1 and the following: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items; and Consultants' charges. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment. **Reimbursable expenses for Basic Services will be itemized in Appendix 1 of Exhibit C, with rates and charges listed, and with a not to exceed value for each reimbursable expense.**
- C. The amounts payable to Engineer for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to the Project, the latter multiplied by a factor of **1.10**.

C2.03 *Other Provisions Concerning Payment*

- A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of **1.10**.
- B. *Factors:* The external Reimbursable Expenses and Engineer's Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
- C. *Estimated Compensation Amounts:*

1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner **and Agency** written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
- D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

**COMPENSATION PACKET RPR-1:
Resident Project Representative – Lump Sum**

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

C2.04 Compensation for Resident Project Representative Basic Services – Lump Sum Method of Payment

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

1. *Resident Project Representative Services:* For services of Engineer's Resident Project Representative, if any, under Paragraph A1.05 of Exhibit A, the Lump Sum amount of \$[N/A]. The Lump Sum includes compensation for the Resident Project Representative's services. Appropriate amounts have been incorporated in the Lump Sum to account for labor costs, overhead, profit, and expenses (other than any expressly allowed Reimbursable Expenses) related to the Resident Project Representative's Services.
2. *Reimbursable Expenses:* In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following RPR Reimbursable Expenses (see Appendix 1 for rates or charges): ***Reimbursable expenses for Resident Project Representative will be itemized in Appendix 1 of Exhibit C, with rates and charges listed, and with a not to exceed value for each reimbursable expense.***
3. *Resident Project Representative Schedule:* The Lump Sum amount set forth in Paragraph C2.04.A.1 above is based on full-time RPR services on an eight-hour workday Monday through Friday over a [N/A] day construction schedule. Modifications to the schedule shall entitle Engineer to an equitable adjustment of compensation for RPR services. **Changes will not be effective unless and until concurred in by the Owner and Agency.**

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

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

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

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

1. *Resident Project Representative Services:* For services of Engineer's Resident Project Representative under Paragraph A1.05.A of Exhibit A, an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Resident Project Representative services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any. The total compensation under this paragraph is estimated to be \$245,977 based upon full-time RPR services on an eight-hour workday, Monday through Friday, over a 395 day construction schedule.
2. **If rate(s) for RPR services is not indicated in Appendix Two to Exhibit C, "Standard Hourly Rates Schedule," the Standard Hourly Rate for RPR services is \$105 per hour.**

B. *Compensation for Reimbursable Expenses:*

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01, and are directly related to the provision of Resident Project Representative or Post-Construction Basic Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
2. Reimbursable Expenses include the expenses identified in Appendix 1 and the following: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representative and assistants; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment. **Reimbursable expenses for Resident Project Representative will be itemized in Appendix 1 of Exhibit C, with rates and charges listed, and with a not to exceed value for each reimbursable expense.**
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be those internal expenses related to the Resident Project Representative Basic Services that are actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such services, the latter multiplied by a factor of 1.00.
4. The Reimbursable Expenses Schedule will be adjusted annually (as of March 30) to reflect equitable changes in the compensation payable to Engineer. **Changes will not be effective unless and until concurred in by the Owner and Agency.**

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

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

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of **1.10**.
2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. *Estimated Compensation Amounts:*
 - a. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 - b. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner **and Agency** written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend Engineer's services during negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
4. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner ~~at cost~~ **at no cost**.

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

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

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

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

1. *General:* For services of Engineer's personnel engaged directly on the Project pursuant to Paragraph A2.01 or A2.02 of Exhibit A, except for services as a consultant or witness under Paragraph A2.01.A.20, (which if needed shall be separately negotiated based on the nature of the required consultation or testimony) an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Additional Services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any.
2. **Additional Services will be itemized in Appendix 2 of Exhibit C, and will provide for a not to exceed value for each additional service.**

B. *Compensation For Reimbursable Expenses:*

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01 and are directly related to the provision of Additional Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
2. Reimbursable Expenses include the expenses identified in Appendix 1 and the following categories: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items; and Consultants' charges. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of **1.00**.
4. The Reimbursable Expenses Schedule will be adjusted annually (as of **March 30**) to reflect equitable changes in the compensation payable to Engineer. **Changes will not be effective unless and until concurred in by the Owner and Agency.**

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

Exhibit C – Compensation Packet AS-1: Additional Services –
Standard Hourly Rates Method of Payment.

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1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.10.
2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's Factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner ~~at cost~~ **at no cost**.

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

Reimbursable Expenses Schedule

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

MATERIALS AND REIMBURSABLE EXPENSES

Plotting, Printing, and Binding – As invoiced at cost of labor and materials.

Courier / Delivery Service – As invoiced by provider.

Mileage – Two-Wheel Drive Vehicle rate as published for the IRS Standard Mileage Rate.
Four-Wheel Drive Vehicle as published for the IRS Standard Mileage Rate.

Per Diem / Travel – Field personnel in accordance with the latest GSA Schedule based on location of service.

Office / Professional staff travel costs, meals and lodging will be billed at cost.

Survey Equipment Charge – \$25.00/Hour.

Survey Material Charge – \$1.75/Hour.

Expert Witness – Rates shall be negotiated based on the requirements of the contract with a minimum of four hours while in court.

Other Direct Project Expenses – At Cost.

Overtime – Performed upon request of the client; will be invoiced at 1.30 times the standard hourly rate.

Applicable Gross Receipts or Sales and Use Tax – Added to all fees charged for professional services unless they are exempt and official documentation is on file with Bohannon Huston, Inc.

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

Standard Hourly Rates Schedule

A. Standard Hourly Rates:

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

B. Schedule:

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

**BOHANNAN HUSTON, INC.
FEE SCHEDULE HOURLY RATES
FEBRUARY 3, 2018**

	1	2	3	4	5	6	7
PROFESSIONAL Engineers, Surveyors, Photogrammetrists	\$98	\$113	\$133	\$150	\$170	\$210	\$235
TECHNICAL SPECIALIST Engineering Designers, CADD Consultants, Survey Technicians, Mapping Technicians, GIS Technicians, Graphics Specialists	\$72	\$77	\$82	\$90	\$100	\$115	\$135
PLANNER	\$90	\$100	\$115	\$130	\$145	\$175	\$205
CONSTRUCTION OBSERVER Inspectors, Observers	\$70	\$75	\$80	\$90	\$105	\$120	\$160
LABORATORY TECHNICIAN	\$50	\$55	\$60	\$65	\$70	\$75	\$80
ANALYST Programmers, Computer Specialists, Spatial Data/GIS Analysts	\$85	\$100	\$115	\$130	\$175	\$210	\$235
ADMINISTRATIVE PROFESSIONAL Administrators, Marketers, Technical Writers, HR Professionals, Accountants	\$105	\$115	\$125	\$140	\$160	\$210	\$235
ADMINISTRATIVE ASSISTANT	\$55	\$65	\$75	\$85	\$95	\$105	\$120

C. Additional Services:

The following additional services will be provided as part of the above standard hourly rates, with a not to exceed value as indicated below:

Geotechnical Investigation Lump Sum \$10,000

A. Study and Report Phase

Task	Description	Type	Fee Amount
1.	Preliminary Engineering Report	Lump Sum	\$19,500
2.	Environmental Documentation	Lump Sum	in Project 1
Study and Report Phase Services Subtotal:			\$19,500

B. Preliminary Design Phase

Task	Description	Type	Fee Amount
1.	Project Management	Lump Sum	\$54,025
2.	Supplemental Site Planimetrics	Lump Sum	\$33,925
3.	Property Boundary Corner Search	T&M	\$53,725
4.	Photogrammetric Mapping	Lump Sum	\$21,575
5.	Survey Coordination Meetings	T & M	\$12,050
6.	30% Preliminary Draft Design	Lump Sum	\$177,000
7.	60% Preliminary Draft Design	Lump Sum	\$177,000
Preliminary Design Phase Services Subtotal:			\$529,300

C. Final Design Phase

Task	Description	Type	Fee Amount
1.	Easement Exhibits*	T & M	\$28,125
2.	Easement Coordination**	T & M	\$50,000
3.	Subdivision/Land Division Plats	Lump Sum	\$33,100
4.	Plat Processing	T & M	\$7,500
5.	SWPPP for Permit Acquisition	Lump Sum	\$7,500
6.	Permit Acquisition***	Lump Sum	\$25,000

This is **Appendix 3 to EXHIBIT C**, consisting of [2] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

7.	ROW Map	Lump Sum	\$30,000
8.	95% Final Draft and Final Design	Lump Sum	\$205,000

* initial budget assuming no more than 35 private easements will be acquired

** initial budget assuming no more than 35 private easements

*** this includes coordination for DAC permit, EBID permit, and NMDOT permit

Final Design Phase Services Subtotal: \$386,225

D. Bidding and Negotiating Phase

Task	Description	Type	Fee Amount
1.	Bid Administration	Lump Sum	\$23,000

Bidding and Negotiating Phase Services Subtotal: \$23,000

E. Construction Phase

Task	Description	Type	Fee Amount
1.	Construction Administration	Lump Sum	\$145,000
2.	O&M Manual	Lump Sum	\$15,000
3.	Record Drawings	Lump Sum	\$18,000

Construction Phase Services Subtotal: \$178,000

F. Post-Construction Phase

Task	Description	Type	Fee Amount
1.	Warranty Period Compliance Support	Lump Sum	\$15,000

Post-Construction Phase Services Subtotal: \$15,000

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

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

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

ARTICLE 1 - SERVICES OF ENGINEER

D1.01 Resident Project Representative

- A.** Engineer shall furnish a Resident Project Representative (“RPR”) to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree. RPR is Engineer’s representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR’s actions. **Full time Resident Project Representation is required unless requested in writing by the Owner and waived in writing by the Agency.**
- B.** Through RPR’s observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor’s work in progress, for the coordination of the Constructors’ work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor’s failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A, Paragraph A1.05, of this Agreement are applicable.
- C.** The duties and responsibilities of the RPR are as follows:
 - 1. *General:* RPR’s dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR’s dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 - 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.
 - 3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings

(but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. *Liaison:*
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor. ,
7. *Shop Drawings and Samples:*
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.
9. *Review of Work; Defective Work:*
 - a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected,

removed and replaced, or accepted as provided in the Construction Contract Documents.

- b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work. ; and
- c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups:*

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.

11. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.

- d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Project documentation.
- f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.
- g. **Maintain all Manufacturers' Certification letters in the project file and on site during construction to ensure compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference, as applicable.**

12. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- ~~b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor. [Deleted]~~
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately inform Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

15. *Completion:*

- a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).

D. Resident Project Representative shall not:

1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

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



NOTICE OF ACCEPTABILITY OF WORK

PROJECT:

OWNER:

CONTRACTOR:

OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER:

NOTICE DATE:

To: _____
_____ Owner

And To: _____
_____ Contractor

From: _____
_____ Engineer

The Engineer hereby gives notice to the above Owner and Contractor that Engineer has recommended final payment of Contractor, and that the Work furnished and performed by Contractor under the above Construction Contract is acceptable, expressly subject to the provisions of the related Contract Documents, the Agreement between Owner and Engineer for Professional Services dated _____, and the following terms and conditions of this Notice:

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

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

1. This Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer’s professional opinion.
3. This Notice is given as to the best of Engineer’s knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor’s work) under Engineer’s Agreement with Owner, and applies only to facts that are within Engineer’s knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Agreement.
5. This Notice is not a guarantee or warranty of Contractor’s performance under the Construction Contract, an acceptance of Work that is not in accordance with the related Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Construction Contract Documents, or to otherwise comply with the Construction Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner’s reservations of rights with respect to completion and final payment.

By: _____

Title: _____

Dated: _____

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

Construction Cost Limit

Paragraph 5.02 of the Agreement is supplemented to include the following agreement of the parties:

F5.02 *Designing to Construction Cost Limit*

- A. Owner and Engineer hereby agree to a Construction Cost limit in the amount of \$[10,313,603.00].
- B. A bidding or negotiating contingency of [10] percent will be added to any Construction Cost limit established.
- C. The acceptance by Owner at any time during Basic Services of a revised opinion of probable Construction Cost in excess of the then-established Construction Cost limit will constitute a corresponding increase in the Construction Cost limit.
- D. Engineer will be permitted to determine what types and quality of materials, equipment and component systems are to be included in the Drawings and Specifications. Engineer may make reasonable adjustments in the scope, extent, and character of the Project to the extent consistent with the Project requirements and sound engineering practices, to bring the Project within the Construction Cost limit. **Engineers determinations on types and quality of materials, equipment, and component systems to be included in the Drawings and Specifications are subject to approval by Agency in accordance with requirements of 7 CFR 1780, including open and free competition.**
- E. If the Bidding or Negotiating Phase has not commenced within three months after completion of the Final Design Phase, or if industry-wide prices are changed because of unusual or unanticipated events affecting the general level of prices or times of delivery in the construction industry, the established Construction Cost limit will not be binding on Engineer. In such cases, Owner shall consent to an adjustment in the Construction Cost limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or Bids are sought.
- F. If the lowest bona fide proposal or Bid exceeds the established Construction Cost limit, Owner shall (1) give written approval to increase such Construction Cost limit, or (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's scope, extent, or character to the extent consistent with the Project's requirements and with sound engineering practices. In the case of (3), Engineer shall modify the Construction Contract Documents as necessary to bring the Construction Cost within the Construction Cost Limit. Owner shall pay Engineer's cost to provide such modification services, including the costs of the services of its Consultants, all overhead expenses reasonably related thereto, and Reimbursable Expenses, but without profit to Engineer on account of such services. The providing of such services will be the limit of Engineer's responsibility in this regard and, having done so, Engineer shall be entitled to payment for

Exhibit F – Construction Cost Limit.

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

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services and expenses in accordance with this Agreement and will not otherwise be liable for damages attributable to the lowest bona fide proposal or bid exceeding the established Construction Cost limit.

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

Insurance

Paragraph 6.05 of the Agreement is supplemented to include the following agreement of the parties:

G6.05 Insurance

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

1. By Engineer:

- a. Workers' Compensation: Statutory
 - b. Employer's Liability --
 - 1) Bodily injury, each accident: \$[1,000,000]
 - 2) Bodily injury by disease, each employee: \$[REDACTED]
 - 3) Bodily injury/disease, aggregate: \$[REDACTED]
 - c. General Liability --
 - 1) Each Occurrence (Bodily Injury and Property Damage): \$[1,000,000]
 - 2) General Aggregate: \$[2,000,000]
 - d. Excess or Umbrella Liability --
 - 1) Per Occurrence: \$[10,000,000]
 - 2) General Aggregate: \$[10,000,000]
 - e. Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage):
\$[REDACTED]
 - f. Professional Liability --
 - 1) Each Claim Made \$[2,000,000]
 - 2) Annual Aggregate \$[4,000,000]
 - g. Other (specify): \$[REDACTED]
2. By Owner:
- a. Workers' Compensation: Statutory
 - b. Employer's Liability --

Exhibit G – Insurance.

- 1) Bodily injury, Each Accident \$[]
- 2) Bodily injury by Disease, Each Employee \$[]
- 3) Bodily injury/Disease, Aggregate \$[]

c. General Liability --

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

d. Excess Umbrella Liability

- 1) Per Occurrence: \$[]
- 2) General Aggregate: \$[]

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

\$[]

f. Other (specify):

\$[]

B. Additional Insureds:

1. The following individuals or entities are to be listed on Owner’s general liability policies of insurance as additional insureds:

- a. Bohannan Huston Inc.
Engineer
- b. N/A
Engineer’s Consultant
- c. N/A
Engineer’s Consultant
- d. [N/A]
[other]

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

3. The Owner shall be listed on Engineer’s general liability policy as provided in Paragraph 6.05.A.



BOHAHUS-01

JSTEINKE

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/12/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

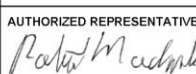
PRODUCER License # 0757776 HUB International Insurance Services (NMX) 7770 Jefferson Street NE Suite 101 Albuquerque, NM 87109	CONTACT NAME: PHONE (A/C, No, Ext): (505) 828-4000 FAX (A/C, No): (866) 487-3972 E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A : Hartford Casualty Insurance Company 29424 INSURER B : Hartford Fire Insurance Company 19682 INSURER C : New Mexico Mutual Casualty Company 40627 INSURER D : Advantage Workers Compensation Insurance Company 40517 INSURER E : Continental Casualty Company 20443 INSURER F :
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COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input checked="" type="checkbox"/> OTHER \$0	X	X	34UUNZG0204	08/01/2017	08/01/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPI/OP AGG \$ 2,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY \$50,000 Limit <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY \$500 Ded Comp/Colt	X	X	34UENZG0117	08/01/2017	08/01/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			34XHUVT9367	08/01/2017	08/01/2018	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
C	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input checked="" type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	70912	08/01/2017	08/01/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Work Comp/Oth States			3483893	08/01/2017	08/01/2018	Per Statute 1,000,000
E	Prof/Poll Liability			AEH288359977	08/01/2017	08/01/2018	\$2M ea claim \$4M Agg

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Project: Mesquite-Brazito Wastewater System Improvements Project 2

CERTIFICATE HOLDER Lower Rio Grande Public Water Works Authority PO Box 2646 Anthony, NM 88021	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
--	--

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

Dispute Resolution

Paragraph 6.09 of the Agreement is supplemented to include the following agreement of the parties:

H6.08 *Dispute Resolution*

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

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

Limitations of Liability

Paragraph 6.11 of the Agreement is supplemented to include the following agreement of the parties:

A. *Limitation of Engineer's Liability*

1. *Engineer's Liability Limited to Amount of Insurance Proceeds:* Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by Laws and Regulations, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal), up to the amount of insurance required under this Agreement. If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's Claims shall not exceed \$[100,000].

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

This is **EXHIBIT J**, consisting of [1] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

Special Provisions

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

- 1) Per USDA Guidance for the Use of Engineers Joint Contract Documents Committee (EJCDC) Documents on Wastewater and Waste Disposal Projects with RUS Financial Assistance, via RUS Bulletin 1780-26, with effective date 4/19/2017, the revisions detailed in Appendix 1 to Exhibit J have been made to the EJCDC E-500.
- 2) Exhibit B, Paragraph B.2.01 of the Agreement is amended to include the following agreement of the parties:
 - (i) Add Paragraph B.2.01.U:

The Owner agrees to acquire interim financing to effect payment to Engineer in accordance with the terms of Exhibit C and Article 4 of the Standard Form of Agreement between Owner and Engineer for Professional Services, without having to wait for loan/grant closing by the Agency.

Special Provisions: Electronic File Transfer Clause

This Contract Agreement is amended to include the following provisions between the mentioned parties:

Final submittal of documents shall also be submitted in pdf format that can be transmitted electronically (i.e., files must be small enough to be transmitted by email and to be uploaded). All elements of the final submittal (i.e., AutoCad files, water & wastewater models, GIS/GPS data files, technical specifications, MicroSoft Word files, etc.) shall be submitted in their original electronic working formats. In addition, final project Planning Reports and Preliminary Engineering Reports (PER) shall be provided in their original electronic working formats to facilitate the use of specific excerpts by the Lower Rio Grande Public Water Works Authority (LRGPWWA) for such reports assembled for grant and other funding applications, presentations to Legislative Committees or similar uses as deemed necessary by the LRGPWWA. Final electronic working reports will not be stamped or signed by the Engineer of Record.

The reports, plans, specifications and other engineering products created by Bohannon Huston Inc. and its subconsultants, are created specifically for the project and are intended to be used only for this project. The LRGPWWA agrees, to the fullest extent permitted by law, to indemnify and hold Bohannon Huston Inc. and its subconsultants harmless from any claim, liability or cost (including reasonable attorney fees and defense costs) arising or allegedly arising out of any reuse or modification to the approved final plans and specifications by the LRGPWWA or any person or entity that acquires the approved final plans and specifications from or through the LRGPWWA.

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

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. _____

The Effective Date of this Amendment is: _____.

Background Data

Effective Date of Owner-Engineer Agreement:

Owner:

Engineer:

Project:

Nature of Amendment: [Check those that are applicable and delete those that are inapplicable.]

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

Description of Modifications:

Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary.

Agreement Summary:

Original agreement amount:	\$ _____
Net change for prior amendments:	\$ _____
This amendment amount:	\$ _____
Adjusted Agreement amount:	\$ _____

Change in time for services (days or date, as applicable): _____

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

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

OWNER:

ENGINEER:

By: _____
Print name: _____

By: _____
Print name: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

RUS CERTIFICATION PAGEPROJECT NAME: Mesquite-Brazito Wastewater System Improvements Project 2

The Engineer and Owner hereby concur in the Funding Agency required revisions to E-500. In addition, Engineer certifies to the following:

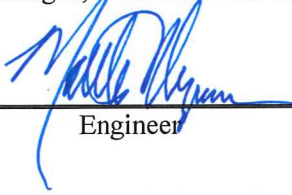
All modifications required by RUS Bulletin 1780-26 have been made in accordance the terms of the license agreement, which states in part that the Engineer “must plainly show all changes to the Standard EJCDC Text, using ‘Track Changes’ (redline/strikeout), highlighting, or other means of clearly indicating additions and deletions.” Such other means may include attachments indicating changes (e.g. Supplementary Conditions modifying the General Conditions).

SUMMARY OF ENGINEERING FEES

Note that the fees indicated on this table are only a summary and if there is a conflict with any provision of Exhibit C, the provisions there overrule the values on this table. Fees shown in will not be exceeded without the concurrence of the Agency.

Basic Services	\$ <u>1,151,025</u>
Resident Project Observation	\$ <u>245,977</u>
Additional Services	\$ <u>10,000</u>
TOTAL:	\$ <u>1,407,002</u>

Any adjustments to engineering fees or changes to maximum estimated values must be approved by the Agency and must include a table of what specific category or categories of fees are being changed, what fees were before and after the change, and the resulting total fee.



Engineer

4/6/18

Date

Matthew R. Thompson, Senior Vice President

Name and Title

Owner

Date

Name and Title

Agency Concurrence:

As lender or insurer of funds to defray the costs of this Contract, and without liability for any payments thereunder, the Agency hereby concurs in the form, content, and execution of this Agreement.

Agency Representative

Date

Name and Title

ID	Task Name	Duration	Start	Finish	2018												2019												2020												2021											
					J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
0	MESQUITE-BRAZITO PROJECT 2	1018 days	3/5/18	1/26/22																																																
1	PROJECT COORDINATION	60 days	3/5/18	5/25/18																																																
2	Engineering Agreement Preparation	25 days	3/5/18	4/6/18																																																
3	Contract Award Notice	25 days	4/9/18	5/11/18																																																
4	Project Kickoffs	10 days	5/14/18	5/25/18																																																
5	SURVEY AND PLANNING	285 days	5/28/18	6/28/19																																																
6	Evaluation R/W Acquisition Requirements	20 days	5/28/18	6/22/18																																																
7	Install Survey Control	15 days	5/28/18	6/15/18																																																
8	Supplemental Planimetric Survey	40 days	5/28/18	7/20/18																																																
9	Mapping	40 days	5/28/18	7/20/18																																																
10	Easement Acquisition	165 days	7/23/18	3/8/19																																																
11	Easement Creation	40 days	3/11/19	5/3/19																																																
12	R/W Map	65 days	3/11/19	6/7/19																																																
13	Attorney R/W Review	15 days	6/10/19	6/28/19																																																
14	ENGINEERING DESIGN	360 days	5/28/18	10/11/19																																																
15	30% Design	70 days	5/28/18	8/31/18																																																
16	Prepare 30% Design Plans and Cost Estimate	60 days	5/28/18	8/17/18																																																
17	30% Review Period	10 days	8/20/18	8/31/18																																																
18	60% Design	80 days	9/3/18	12/21/18																																																
19	Prepare 60% Design Plans and Cost Estimate	70 days	9/3/18	12/7/18																																																
20	60% Review Period	10 days	12/10/18	12/21/18																																																
21	95% Design	90 days	12/24/18	4/26/19																																																
22	Prepare 95% Construction and Contract Documents	80 days	12/24/18	4/12/19																																																
23	95% Review Period	10 days	4/15/19	4/26/19																																																
24	Final Design	30 days	4/29/19	6/7/19																																																
25	Prepare Stamped Construction and Contract Documents	10 days	4/29/19	5/10/19																																																
26	USDA/NMED Review Period	20 days	5/13/19	6/7/19																																																
27	Permits and Approvals	110 days	5/13/19	10/11/19																																																
28	Permit Submittals (NMDOT, DAC, EBID)	40 days	5/13/19	7/5/19																																																
29	Respond to Permit Comments	5 days	7/8/19	7/12/19																																																
30	Receive USDA/NMED/DAC/NMDOT/EBID approvals	20 days	7/15/19	8/9/19																																																
31	LOC Submittal	15 days	7/1/19	7/19/19																																																
32	USDA LOC Review	60 days	7/22/19	10/11/19																																																
33	Authorization To Go To Bid	0 days	10/11/19	10/11/19																																																
34	CONSTRUCTION PHASE	337 days	10/15/19	1/27/21																																																
35	Advertising Period	25 days	10/15/19	11/18/19																																																
36	Contractor Bids Due and Review	1 day	11/19/19	11/19/19																																																
37	Board Approval	10 days	11/20/19	12/3/19																																																
38	Contract Document Execution	15 days	12/4/19	12/24/19																																																
39	Pre-Construction Meeting/Notice To Proceed	1 day	12/25/19	12/25/19																																																
40	Project Construction Period	260 days	12/26/19	12/23/20																																																
41	Commissioning and Substantial Completion	5 days	12/24/20	12/30/20																																																
42	Final Completion - O&M, Record Drawings, GIS Update	20 days	12/31/20	1/27/21																																																
43	OPERATIONAL PHASE	260 days	1/28/21	1/26/22																																																
44	Warranty Period Compliance Support	260 days	1/28/21	1/26/22																																																

RUS CERTIFICATION PAGEPROJECT NAME: Mesquite-Brazito Wastewater System Improvements Project 2

The Engineer and Owner hereby concur in the Funding Agency required revisions to E-500. In addition, Engineer certifies to the following:

All modifications required by RUS Bulletin 1780-26 have been made in accordance the terms of the license agreement, which states in part that the Engineer “must plainly show all changes to the Standard EJCDC Text, using ‘Track Changes’ (redline/strikeout), highlighting, or other means of clearly indicating additions and deletions.” Such other means may include attachments indicating changes (e.g. Supplementary Conditions modifying the General Conditions).

SUMMARY OF ENGINEERING FEES

Note that the fees indicated on this table are only a summary and if there is a conflict with any provision of Exhibit C, the provisions there overrule the values on this table. Fees shown in will not be exceeded without the concurrence of the Agency.

Basic Services	\$ <u>1,151,025</u>
Resident Project Observation	\$ <u>245,977</u>
Additional Services	\$ <u>10,000</u>
TOTAL:	\$ <u>1,407,002</u>

April 12, 2018

Michael McMullen, Chair
Lower Rio Grande Public Water Works Authority
325 Holguin Road
Vado, New Mexico 88072

RE: Request for an emergency interagency operations and maintenance agreement between the Talavera MDWCA and the Lower Rio Grande PWWA and the consideration of a long-term operations and maintenance agreement or possible merger of the agencies

Dear Chair McMullen and Board of the LRG PWWA,

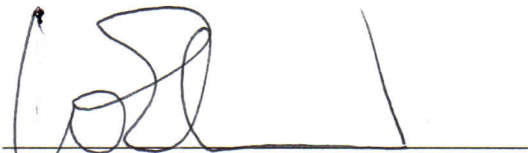
We are writing to request the Board of the Lower Rio Grande PWWA consider entering into an emergency operations and maintenance agreement with the Talavera MDWCA. Our current system contract operator has given us notice that their last day of service will be May 2, 2018. After that date, our water association will be without a licensed operator. Our association serves 62 homes on the east side of Las Cruces. We appreciate your consideration of this request, so that water service to our small community can continue uninterrupted.

Because of the suddenness of our current operator's departure, we have not yet had an opportunity to meet with our members to discuss options for future operations. Talavera MDWCA did have conversations, some years ago, regarding merger into the LRG PWWA, but then current statutes regarding water rights precluded the possibility of a merger, at that time. From conversations with LRG PWWA staff, we have discovered that legislation has been adopted that would eliminate the former road block to a merger.

We would like to discuss with our members the alternatives of a permanent O&M agreement with your authority or merger. An emergency 90-day O&M agreement would allow us time to discuss alternatives with our members and allow LRG PWWA staff time to do their due diligence in looking into those alternatives. We request that the LRG PWWA Board authorize your staff enter into an emergency 90-day agreement and to begin investigating a longer-term relationship with the Talavera MDWCA.

Thank you for considering these requests. We look forward to the opportunity to further discuss this matter.

Regards,

A handwritten signature in black ink, appearing to read 'William (Bill) Noland', written over a horizontal line.

William (Bill) Noland, Board President
Talavera MDWCA