

CITY OF OBERLIN, OHIO

ORDINANCE No. 24-45 AC CMS

AN ORDINANCE AUTHORIZING THE INTERIM CITY MANAGER TO ENTER INTO A CONTRACT WITH PMG CONSULTING, INC. OF DELAWARE, OHIO, FOR PROFESSIONAL ENGINEERING SERVICES FOR THE PREPARATION OF A GENERAL PLAN OF IMPROVEMENTS FOR THE CITY OF OBERLIN WATER TREATMENT PLANT TO GO INTO IMMEDIATE EFFECT

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio:

SECTION 1. That the City Manager is hereby authorized and directed to enter into a contract with PMG Consulting, Inc. of Delaware, Ohio for professional engineering services for the preparation of a General Plan of Improvements for the City of Oberlin Water Treatment Plant in an amount not-to-exceed \$132,000. A copy of the proposed contract is attached hereto and incorporated herein by reference.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. To expedite planning, design and future construction of improvements to ensure optimal water quality for the citizens of the City of Oberlin and provided that at least five (5) members of Council determine by motion, this Ordinance shall go into full force and effect immediately after its passage; otherwise, it shall take effect on the earliest date allowed by law.

PASSED: 1st Reading: July 1, 2024

2nd Reading: _____

3rd Reading: _____

ATTEST:



BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL



EBONI A. JOHNSON
PRESIDENT OF COUNCIL

POSTED: 07/02/2024

EFFECTIVE DATE: 07/01/2024

ORIGINAL

**AGREEMENT
BETWEEN City of Oberlin, Ohio (OWNER)
and
PMG Consulting, Inc. (ENGINEER)
863 Clear Brook Lane, Delaware, OH 43015**

**FOR PROFESSIONAL SERVICES FOR THE PROJECT:
GENERAL PLAN OF IMPROVEMENTS WATER TREATMENT PLANT**

Prepared by



Issued and Published Jointly by



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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. 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:

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.

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; and (3) 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.

6.03 *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 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.

6.04 *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 procure and maintain insurance as set forth in Exhibit G. Owner shall 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.

- 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

- 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.

6.10 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, 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. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- C. *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 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.

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. *City of Oberlin* - An Ohio Municipal Corporation, its elected and appointed officials in their individual and official capacities, together with its employees, volunteers, principals, agents, insurers, attorneys, officers, directors, predecessors, successors and assigns.
9. *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 Water 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.
10. *Construction Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.

22. *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.
23. *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.
24. *Owner*—The City of Oberlin, Ohio
25. *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.
26. *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.
27. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.
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

- F. Exhibit F, Construction Cost Limit. **NOT USED**
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution. **NOT USED**
- I. Exhibit I, Limitations of Liability.
- J. Exhibit J, Special Provisions. **NOT USED**
- K. Exhibit K, Amendment to Owner-Engineer Agreement. **NOT USED**
- L. Exhibit L, Negotiated scope of services ~~(to be completed soon)~~.

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.

Engineer's Services

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

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

PART 1 – BASIC SERVICES

BACKGROUND

The Oberlin Water Treatment Plant (WTP) was constructed in about 1960. Details of the reservoir and treatment plant operations are not included in this background. Treatment challenges have been observed in recent years partly due to revised drinking water standards and aging equipment, and partly due to continued source water issues. While the WTP currently meets applicable Safe Drinking Water Act regulations, Oberlin continues to face challenges that are expected to require future capital improvements. These challenges include (but are not limited to):

- Relatively high Total Organic Carbon (TOC) in the raw water supply leading to D/DBP formation, most specifically TTHM's
- Fall 2023 taste and odor issues attributed to geosmin in the Parsons Road Reservoir. Microcystin was also produced during this event. The City's 2020 Harmful Algal Bloom Plan has been updated accordingly and submitted as our Cyanotoxin General Plan in January 2024
- Turbidity management due to lime carryover from softening and recarbonation treatments
- Balancing corrosion control with lime deposition in the distribution system

The City has completed a sand filter media assessment and intends to move forward to develop a separate bid package for replacement of the existing media as a stand-alone project.

Oberlin requested statements of qualifications from interested firms in May 2024 and selected a Project Team from those qualifications statements to conduct reviews and investigations for a General Plan of improvements for the Water Treatment Plant.

PROJECT DESCRIPTION

Reviews of the existing plant process equipment, buildings, grounds, raw water pumping station, solids handling, and reservoir will be conducted to evaluate current plant operations and its capabilities to treatment raw water for compliance will drinking water standards. Where necessary demonstration studies will be conducted to verify expected treatment and water quality. A review of current and future drinking water standards will be made along with anticipated needs to meet those regulations. The reviews and evaluations will be outlined in a written General Plan of Improvements for the water treatment plant detailing the necessary improvements, probable costs for engineering and construction of the improvements, and a possible project schedule. Financing options for the improvements will be

This is **EXHIBIT B**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated July 1, 2024.

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. In most cases, this consists solely in the Owner providing the Engineer specific "front end" specifications and/or specific technical specifications on common items (pipe, fittings, etc.) utilized by the Owner.
- 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 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. To be ~~determined~~completed
- E. Arrange for safe access to and make all provisions for Engineer to enter upon public 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.

This is **EXHIBIT C**, consisting of 1 page, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated July 1, 2024

Payments to Engineer for Services and Reimbursable Expenses
Basic Services – Estimated Not-to-Exceed

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 – Estimated Not-to-Exceed Method of Payment

- A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, as follows:
1. An estimated not-to-exceed amount of **\$132,000** based on the following estimated distribution of compensation:
 - a. Study and Report Phase (including General Plan development) **\$132,000**
 2. The fee includes compensation for Engineer’s services and services of Engineer’s Consultants, if any. Appropriate amounts have been incorporated in the fees to account for labor costs, overhead, profit, expenses (other than any expressly allowed Reimbursable Expenses), and Consultant charges.

This is **EXHIBIT I**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated July 1, 2024.

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*

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.

Chloramination Study	2023	Document data in the General Plan
Chlorine Residual Decay Analysis	2023	Document data in the General Plan
Water Age Mapping	2023	Updates needed with new sample points
Stabilization Basin Reviews	2024	Finalize advanced settling needs and costs, document in the General Plan
Filter Assessments Report	2024	Finalize document with plant staff
GAC Filter Caps Assessment	2024	Finalize document with plant staff
Water Quality Management Plan	2024	Finalize document with plant staff
Ultrasound Technology Investigations	2024	Document data in the General Plan
Filter Media Replacement	2024	Filter rehabilitation ongoing under separate contract

The remainder of the assessments will be conducted as part of this project and then documented in the final General Plan of Improvements report for the City. The proposed scope of services for the General plan of Improvements follows.

1. Conduct onsite reviews of the raw water pump station, the existing process equipment, the current chemical feed systems, buildings and roofing along with any drainage issues, electrical systems, SCADA systems, and distribution out building. These reviews will be used to assess the condition of the existing buildings and systems for continued use and/or replacement related to equipment, structural, mechanical, and electrical needs as well as chemical feed systems. If additional distribution equipment and spare parts storage is needed, the required storage will be outlined with sizing and probable costs as necessary. It is believed that a new SCADA system will be needed for the treatment plant simply based on its age and components. Some of the existing buildings may need minor repairs or replacements of components (such as roofing) due to age and wear.
2. Review the past 10 years of water production records to determine any water system growth patterns or stagnant production flows for the future average daily demand and maximum daily demand determinations. The current production curves will be used to project future water demands and the needs for production capability.
3. Review the City's economic development plans and the needs for future water growth in those areas. Any known or planned future economic development growth will be incorporated into the water demand projections.
4. Review the City's current 5-year planning budget to incorporate into the General Plan of Improvements.

Exhibit I - Limitations on Liability.

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

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16. Conduct optimization of potential treatment technologies that appear feasible for Oberlin so that cost efficient operations are realized while maximizing water quality. Optimization also aligns water quality with treatment costs to minimize operating costs and maximize water quality.
17. Conduct a prioritization review of the intended plant improvements outlining those improvements that are needed for compliance, for continued use of the plant facilities, and for items that would be nice to have but are not critical.
18. Detail opinions of probable costs for operations and for construction of feasible improvements identified in the General Plan.
19. Conduct the required regulatory reviews of Lead and Copper compliance and THM compliance due to potential changes in treatment processes and water production. These reviews and their results will be included in the General Plan document.
20. Conduct a future regulatory review to demonstrate how Oberlin can comply with applicable future drinking water standards as well as simultaneous (or competing) compliance issues. Future regulatory agendas, as we see them, will be defined along with potential monitoring and/or improvements necessary to meet the regulations. Any probable costs for improvements on these issues will be included in the General Plan.
21. Define how the plan of improvements will merge into the existing plant processes and any necessary piping configurations, basins, pumps, and chemical feed systems will integrate into the proposed process scheme. A proposed schematic and conceptual layout of the selected process treatments will be provided in the General Plan.
22. Meet with the City staff monthly to go over progress and to discuss ongoing investigations and assessments necessary for the General Plan development. Operational costs and construction costs will be disclosed as they are developed. The overall costs, water quality improvements, and process control needs will be discussed at each meeting.
23. Develop possible funding alternatives for the selected improvements in the General Plan and assist the City in selecting the most agreeable funding sources for construction of the improvements.
24. Provide an academic review of the proposed engineering selections and overall General Plan to confirm that it meets the typical engineering requirements and constructability using a current university engineering professor. These reviews will be incorporated into the final General Plan document to assure the City that customary engineering principles are accomplished in the Plan.
25. Submit a final draft of the General Plan of Improvements for the City for review and to provide comments. The Project Team will present the General Plan of Improvements to City of Oberlin Public Utilities Commission (PUC) and to the Oberlin City Council. Comments received will be incorporated in the final General Plan of Improvements document. The final document will be submitted to Ohio EPA as a General Plan of Improvements for review and acceptance for future funding opportunities. We also will negotiate any editing needed to gain acceptance from Ohio EPA for the Plan as necessary.