

**THE FOLLOWING RESOLUTION WAS INTRODUCED BY COUNCIL  
MEMBER DANIELSON AND SECONDED FOR ADOPTION BY  
COUNCIL MEMBER \_\_\_\_\_**

**RESOLUTION NO. 22-51**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE  
AUTHORIZING THE MAYOR OF THE CITY OF MANDEVILLE TO AMEND THE  
PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF  
MANDEVILLE AND J.V. BURKES & ASSOCIATES, INC. FOR LOUISIANA  
HIGHWAY 22/ HIGHWAY 190 INTERSECTION IMPROVEMENTS PROJECT AND  
PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH**

**WHEREAS**, the City desires to amend the Professional Services Agreement with J.V. Burkes & Associates, Inc. (“Consultant”), through which Consultant provides professional engineering services to the City for the La 22/Hwy 190 Intersection Improvements Project and has been in effect since March 19, 2015; and

**WHEREAS**, the March 19, 2015 Professional Services Agreement (“Agreement”) is attached to the Resolution, and all terms set forth therein are to be renewed with the exception of those terms that have been set forth in Amendment No. 1 to the Agreement, which is also attached hereto; and

**WHEREAS**, the Amendment contemplates the additional scope requested by the LADOTD included traffic signalization items, drainage items, temporary pavement markings and construction plan, additional signage/mountings, and required nighttime work, resulting in a line item increase from 26 items to 98 items;

**WHEREAS**, the City and the Consultant now desire to further amend the Agreement to address the additional project scope from 26 line items to the 98 line items requested by the LADOTD;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Mandeville, hereby authorizes and empowers the Mayor of the City to amend the March 19, 2015 Professional Services Agreement with J.V. Burkes & Associates, Inc., as set forth in Amendment No. 1 to the Professional Services Agreement to address the professional engineering needs of the LA 22/HWY 190 Intersection Improvements Project.

With the above resolution having been properly introduced and duly seconded, the vote was as follows:

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

and the resolution was declared adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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Kristine Scherer  
Clerk of Council

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Rick Danielson  
Council Chairman

**AMENDMENT TO OWNER-ENGINEER AGREEMENT**  
**Amendment No. 1**

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1. *Background Data:*

- a. Effective Date of Owner-Engineer Agreement: March 19, 2015
- b. Owner: City of Mandeville
- c. Engineer: J.V. Burkes & Associates, Inc.
- d. Project: LA 22/HWY 190 Intersection Improvements

a. *Description of Modifications*

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

- a. Engineer shall perform the following Additional Services:
  - i. Engineer performed additional design services work within the project scope that resulted in increases in the final construction costs from a previously estimated \$2,894,560.81 to the actual bid (09/14/2022) price of \$10,327,935.25 at the request of LADOTD. Additional scope added included traffic signalization items, drainage items, temporary pavement markings and construction plan, additional signage/mountings, and required nighttime work. Project's LADOTD construction cost estimate line items increase nearly four times from the original 26 lines items to 98 line items.
- b. The Scope of Services currently authorized to be performed by Engineer in accordance with the Agreement and previous amendments, if any, is modified as follows:
  - i. See previous section for scope of services modifications/additions. There were no previous amendments.
- c. The responsibilities of Owner are modified as follows:
  - i. Owner shall compensate Engineer for the increase costs in Basic Services due to increased construction costs (determined by final bidding on 09/14/2022).
- d. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation:

- i. Owner shall pay Engineer the design phase cost difference based off of final bidding construction costs. Previous Contract design fee was based off of a \$2.9M cost estimate and it has since then elevated to \$10.3M at bidding due to scope increases. The Engineer agreed with the City to eliminate the nighttime work factor and utilize DOTD weighted averages on the project to come up with a final agreed upon construction cost estimate of \$7,430,638.00. Based off of a 7.5% fee at the \$7.4M cost estimate, the basic services shall increase an amount of \$208,718.99 from the original \$136,010.00 amount to \$344,728.99.
- e. The schedule for rendering services is modified as follows:
  - i. Contract schedule shall proceed through substantial completion of construction for the project
- f. Other portions of the Agreement (including previous amendments, if any) are modified as follows:
  - i. N/A

*Attachments:*

- *Calculation of Additional Design Fees (1 page)*
- *H.011731 Bid Tabs w/ August 2022 Pricing (2 pages)*
- *Executed Contract (61 pages)*

2. Agreement Summary (Reference only)

a. Original Agreement amount:	<u>\$257,960.00</u>
b. Net change for prior amendments:	<u>\$0.00</u>
c. This amendment amount:	<u>\$208,718.99</u>
d. Adjusted Agreement amount:	<u>\$466,678.99</u>

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

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

OWNER:	ENGINEER:
By: <u>Clay Madden</u>	By: <u>Sean Burkes</u>
Title: <u>Mayor, City of Mandeville</u>	Title: <u>Chief Executive Officer</u>
Signed: _____	Signed: _____
Dated: _____	Dated: _____



732-03-02030	Plastic Pavement Striping (Dotted Line)(8" W)(2' L)(Thermo 90 mil)	MILE	0.56	\$10,000.00	\$5,600.00	\$14,000.00	\$7,840.00	40.00%	\$2,240.00	\$14,000.00	\$7,840.00	40.00%	\$2,240.00
732-04-01040	Plastic Pavement Legends and Symbols (Arrow - Double)	EACH	6	\$900.00	\$5,400.00	\$1,000.00	\$6,000.00	66.67%	\$600.00	\$1,050.00	\$6,300.00	75.00%	\$900.00
732-04-01080	Plastic Pavement Legends and Symbols (Arrow - Left Turn)	EACH	11	\$662.00	\$7,282.00	\$1,000.00	\$11,000.00	100.00%	\$3,718.00	\$1,050.00	\$11,550.00	110.00%	\$4,268.00
732-04-01100	Plastic Pavement Legends and Symbols (Arrow - Right Turn)	EACH	16	\$600.00	\$9,600.00	\$1,000.00	\$16,000.00	100.00%	\$6,400.00	\$1,050.00	\$16,800.00	110.00%	\$7,200.00
736-01-00100	Trenching and Backfilling	LNFT	1623	\$10.00	\$16,230.00	\$12.50	\$20,287.50	25.00%	\$4,057.50	\$15.00	\$24,345.00	50.00%	\$8,115.00
736-03-00100	Jacking or Boring	LNFT	700	\$25.00	\$17,500.00	\$100.00	\$70,000.00	300.00%	\$52,500.00	\$66.00	\$46,200.00	164.00%	\$28,700.00
736-04-01300	Signal Pole (30 foot Steel Strain Pole)	EACH	1	\$9,000.00	\$9,000.00	\$20,000.00	\$20,000.00	122.22%	\$11,000.00	\$25,000.00	\$25,000.00	177.78%	\$16,000.00
736-04-10450	Signal Pole (Single Mast Arm, 45ft)	EACH	1	\$15,000.00	\$15,000.00	\$25,000.00	\$25,000.00	66.67%	\$10,000.00	\$45,000.00	\$45,000.00	200.00%	\$30,000.00
736-04-10500	Signal Pole (Single Mast Arm, 50ft)	EACH	1	\$20,000.00	\$20,000.00	\$32,500.00	\$32,500.00	62.50%	\$12,500.00	\$50,500.00	\$50,500.00	152.50%	\$30,500.00
736-04-25540	Signal Pole (Dual Mast Arm, 55ft-Arm 1, 40ft-Arm 2)	EACH	2	\$50,000.00	\$100,000.00	\$55,000.00	\$110,000.00	10.00%	\$10,000.00	\$83,000.00	\$166,000.00	66.00%	\$66,000.00
736-05-30000	Signal Heads (3 Section, 12 inch Led Lens, R, Y, G)	EACH	14	\$1,000.00	\$14,000.00	\$2,000.00	\$28,000.00	100.00%	\$14,000.00	\$2,750.00	\$38,500.00	175.00%	\$24,500.00
736-05-31001	Signal Heads (3 Sec. 12 inch Led Lens, LT, R, LT, Y, LT, G)	EACH	5	\$1,000.00	\$5,000.00	\$2,000.00	\$10,000.00	100.00%	\$5,000.00	\$2,650.00	\$13,250.00	165.00%	\$8,250.00
736-05-41000	Signal Heads (4 Section, 12" Led Lens, R, Y, LT, G, G)	EACH	1	\$1,500.00	\$1,500.00	\$2,000.00	\$2,000.00	33.33%	\$500.00	\$3,150.00	\$3,150.00	110.00%	\$1,650.00
736-06-00100	Signal Service	EACH	2	\$4,000.00	\$8,000.00	\$12,000.00	\$24,000.00	200.00%	\$16,000.00	\$4,800.00	\$9,600.00	20.00%	\$1,600.00
736-06-00500	Signal Service Pedestal Disconnect	EACH	2	\$3,000.00	\$6,000.00	\$5,500.00	\$11,000.00	83.33%	\$5,000.00	\$5,200.00	\$10,400.00	73.33%	\$4,400.00
736-08-00102	Signal Controller (980 ATC, Type 2)(Furnish & Install)	EACH	2	\$8,000.00	\$16,000.00	\$15,000.00	\$30,000.00	87.50%	\$14,000.00	\$13,500.00	\$27,000.00	68.75%	\$11,000.00
736-09-00100	Loop Detector	LNFT	1855	\$40.00	\$74,200.00	\$60.00	\$111,300.00	100.00%	\$37,100.00	\$45.00	\$83,475.00	50.00%	\$9,275.00
736-10-00200	Underground Junction Box (Type E)	EACH	9	\$1,500.00	\$13,500.00	\$3,500.00	\$31,500.00	191.67%	\$18,000.00	\$2,500.00	\$22,500.00	108.33%	\$9,000.00
736-10-00300	Underground Junction Box (Type F)	EACH	19	\$1,500.00	\$28,500.00	\$3,500.00	\$66,500.00	250.00%	\$38,000.00	\$3,400.00	\$64,600.00	240.00%	\$36,100.00
736-10-00400	Underground Junction Box (Type G)	EACH	2	\$2,000.00	\$4,000.00	\$5,500.00	\$11,000.00	223.53%	\$7,000.00	\$5,700.00	\$11,400.00	235.29%	\$7,400.00
736-11-00050	Conduit (1/2" HDPE, Schedule 80)	LNFT	110	\$10.00	\$1,100.00	\$10.00	\$1,100.00	0.00%	\$0.00	\$22.00	\$2,420.00	120.00%	\$1,320.00
736-11-00200	Conduit (2" HDPE, Schedule 80)	LNFT	1918	\$10.00	\$19,180.00	\$20.00	\$38,360.00	100.00%	\$19,180.00	\$22.00	\$42,196.00	120.00%	\$23,016.00
736-11-00300	Conduit (3" HDPE, Schedule 80)	LNFT	446	\$15.00	\$6,690.00	\$25.00	\$11,150.00	66.67%	\$4,460.00	\$28.00	\$12,488.00	86.67%	\$5,798.00
736-12-00000	Conductor (2c, Loop Lead in, imsa 50-2, #14 awg, Twisted Pair)	LNFT	2738	\$10.00	\$27,380.00	\$10.00	\$27,380.00	150.00%	\$0.00	\$5.00	\$13,690.00	25.00%	-\$13,690.00
736-12-03006	Conductor (3c, 6 gauge / #6 awg)	LNFT	264	\$10.00	\$2,640.00	\$10.00	\$2,640.00	0.00%	\$0.00	\$12.00	\$3,168.00	20.00%	\$528.00
736-12-06014	Conductor (6c, #14 awg)	LNFT	696	\$5.00	\$3,480.00	\$6.00	\$4,176.00	20.00%	\$696.00	\$5.25	\$3,654.00	5.00%	\$174.00
736-12-10014	Conductor (10c, #14 awg)	LNFT	2156	\$5.00	\$10,780.00	\$6.00	\$12,936.00	20.00%	\$2,156.00	\$5.50	\$11,858.00	10.00%	\$1,078.00
736-13-00002	Cable (3/8")	LNFT	70	\$10.00	\$700.00	\$15.00	\$1,050.00	200.00%	\$350.00	\$50.00	\$3,500.00	900.00%	\$2,800.00
736-15-03600	Signal Support (Foundation, 36 inch Minimum Diameter)	EACH	3	\$10,000.00	\$30,000.00	\$25,000.00	\$75,000.00	150.00%	\$45,000.00	\$17,500.00	\$52,500.00	75.00%	\$22,500.00
736-15-04200	Signal Support (Foundation, 42 inch Minimum Diameter)	EACH	2	\$12,000.00	\$24,000.00	\$35,000.00	\$70,000.00	191.67%	\$46,000.00	\$26,300.00	\$52,600.00	119.17%	\$28,600.00
739-01-00100	Hydro-Seeding	ACRE	2	\$3,500.00	\$7,000.00	\$5,000.00	\$10,000.00	66.67%	\$3,000.00	\$3,500.00	\$7,000.00	16.67%	\$0.00
740-01-00100	Construction Layout	LUMP	1	\$90,000.00	\$90,000.00	\$180,000.00	\$180,000.00	100.00%	\$90,000.00	\$300,000.00	\$300,000.00	233.33%	\$210,000.00
NS-500-00340	Saw Cutting Asphalt Concrete Pavement	INLF	17048	\$5.00	\$85,240.00	\$1.50	\$25,572.00	-25.00%	-\$59,668.00	\$1.00	\$17,048.00	-50.00%	-\$68,192.00
NS-702-00100	Paved Gutter Drain	EACH	20	\$3,500.00	\$70,000.00	\$5,500.00	\$110,000.00	57.14%	\$40,000.00	\$9,700.00	\$194,000.00	177.14%	\$124,000.00
NS-713-00009	Portable Changeable Message Sign (with communications)	EACH	4	\$10,000.00	\$40,000.00	\$12,000.00	\$48,000.00	71.43%	\$8,000.00	\$16,000.00	\$64,000.00	128.57%	\$24,000.00
NS-729-00029	Breakaway Square Tubing Sign Support w/ Mowing Pad	EACH	19	\$1,000.00	\$19,000.00	\$1,200.00	\$22,800.00	50.00%	\$3,800.00	\$1,200.00	\$22,800.00	50.00%	\$3,800.00
NS-729-00031	Breakaway Square Tubing Sign Support (Surface Mount)	EACH	5	\$500.00	\$2,500.00	\$1,000.00	\$5,000.00	100.00%	\$2,500.00	\$900.00	\$4,500.00	80.00%	\$2,000.00
NS-736-00001	GPS	EACH	2	\$640.00	\$1,280.00	\$5,000.00	\$10,000.00	733.33%	\$8,720.00	\$1,300.00	\$2,600.00	116.67%	\$1,320.00
NS-736-00130	TS-2 Traffic Signal Cabinet (Ground Mounted)	EACH	2	\$25,000.00	\$50,000.00	\$40,000.00	\$80,000.00	100.00%	\$30,000.00	\$43,000.00	\$86,000.00	115.00%	\$36,000.00

\$7,430,638.06

\$10,327,935.25

\$2,897,297.19

**CALCULATION OF ADDITIONAL DESIGN FEES FOR HWY 190/22 IMPROVEMENTS - BASED UPON ACTUAL BID PRICE**

		TOTAL %	CUMULATIVE %
Task 1	PROGRAM COMPLETION PHASE	5	5
Task 2	SCHEMATIC DESIGN PHASE	10	15
Task 3	DESIGN DEVELOPMENT PHASE	20	35
Task 4	CONSTRUCTION DOCUMENTS PHASE	25	60
Task 5	BIDDING AND CONTRACT PHASE	5	65
Task 6	CONSTRUCTION PHASE	30	NOT INCLUDED - DOTD PROVIDING
Task 7	CONSTRUCTION CLOSE OUT PHASE	5	NOT INCLUDED - DOTD PROVIDING

Original Contract for Tasks 1-4 - \$136,010.00

65% TOTAL JVB ACTUAL WORK PERFORMED

2022 FEE FORMULA STATE OF LOUISIANA			
BCI	YEAR	CPI	
1306	1975		53.8
6912	2021		271

CONSTRUCTION COSTS FOR FEE CALCULATIONS	FEE %	FEE-AFC	FOR 100% SCOPE OF WORK - FEE AMOUNT	ADJUSTED FEE (65%)	CONTRACT AMOUNT	NOTES
ORIGINAL CONSTRUCTION ESTIMATE (2015)			\$ 2,900,000.00		\$ 136,010.00	Original Contract for Tasks 1-4
FINAL DESIGN CONSTRUCTION ESTIMATE			\$ 5,645,203.00			
BID PRICE (Inflation + Night Construction)	7.33	6.98%	\$ 720,387.01	\$ 468,251.55		Adjusted Fee (Bid PRICE)
August 2022 Inflation Cost			\$ 1,785,435.00			
FINAL DESIGN INFLATION ADDED (No Night Cost)	7.50%	7.14%	\$ 530,352.30	\$ 344,728.99		
				\$ (136,010.00)		
<b>TOTAL INCREASE IN FEE - LAST INVOICE</b>				\$ 208,718.99		<b>ADJUSTED CONTRACT FEE</b>

# **CITY OF MANDEVILLE**



**AGREEMENT BETWEEN OWNER AND ENGINEER**

**FOR**

**PROFESSIONAL ENGINEERING SERVICES**

**LA 22/HWY 190 INTERSECTION  
IMPROVEMENTS**

**OWNER: City of Mandeville**

**ENGINEER: J.V. BURKES & ASSOCIATES, INC.**



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

THIS IS AN AGREEMENT effective as of 3/19, 2015 ("Effective Date") between

City of Mandeville ("Owner") and

JV Burkes & Associates, Inc. ("Engineer").

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

US 190 & LA 22 Improvements ("Project").

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

**Design, Bidding and Construction Phase Services as per the Scope of Work in Exhibit A & J.**

Any part or section of this document that is in "strikethrough" shall not be considered a part hereof.

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 and J.

**ARTICLE 2 – OWNER'S RESPONSIBILITIES**

2.01 *General*

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

## ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

### 3.01 *Commencement*

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

### 3.02 *Time for Completion*

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in 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 by Owner, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

## ARTICLE 4 – INVOICES AND PAYMENTS

### 4.01 *Invoices*

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 45 days of receipt.

### 4.02 *Payments*

- A. Reserved.
- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 45 days after receipt of Engineer's invoice, then:
  - 1. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.

- C. *Disputed Invoices:* If Owner contests an invoice, Owner shall promptly advise Engineer of the specific basis for doing so, may withhold only that portion so contested, and must pay the undisputed portion.
- D. *Legislative Actions:* If after the Effective Date any governmental entity takes a legislative action that imposes taxes, fees, or charges on Engineer's services or compensation under this Agreement, then the Engineer may invoice such new taxes, fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall reimburse Engineer for the cost of such invoiced new taxes, fees, and charges; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.

## ARTICLE 5 – OPINIONS OF COST

### 5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, Owner must employ an independent cost estimator as provided in Exhibit B.

### 5.02 *Designing to Construction Cost Limit*

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

## 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 at the same time and in the same locality.
- 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. Reserved.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily

furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

E. Compliance with Laws and Regulations, and Policies and Procedures:

1. Engineer and Owner shall comply with applicable Laws and regulations.
2. Prior to the Effective Date, Owner shall provide to Engineer in writing any and all policies and procedures of Owner applicable to Engineer's performance of services under this Agreement. Engineer shall comply with such policies and procedures, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. Changes after the Effective Date to these Laws and Regulations, or to Owner-provided written policies and procedures may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.

F. Reserved.

G. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (EJCDC C-700, 2007 Edition) and amended or changed by the City of Mandeville, unless both parties mutually agree to use other general conditions by specific reference in Exhibit J.

H. Engineer shall not at any time supervise, direct, control, or have authority over any contractor work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's furnishing and performing of its work.

I. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

J. Engineer shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.

K. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by Engineer.

- L. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *This section intentionally left blank*

6.03 *Use of Documents*

- A. The use of documents by the Engineer in this project shall be governed by La. R.S. 38:2317.

6.04 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer shall cause Owner and City Engineer to be listed as an additional insured and provide a waiver of subrogation on any applicable liability insurance policy carried by Engineer and as indicated in Exhibit G.
- B. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, property damage (other than to the Work itself), motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.
- C. Engineer shall deliver 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.
- D. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 30 days prior written notice has been given to Owner and Engineer and to each other additional insured (if any) to which a certificate of insurance has been issued.
- E. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.05 *Suspension and Termination*

A. *Suspension:*

- 1. *By Owner:* Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.

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.
  2. For convenience,
    - a. By Owner effective upon Engineer's receipt of notice from Owner which could include the lack of appropriation of funds by the Owner.
- C. *Effective Date of Termination:* The terminating party under Paragraph 6.05.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- D. *Controlling Law:* This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located.

6.06 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.07.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
  1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Subcontractor, Supplier, other individual or entity, or to any surety for or employee of any of them.
  2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
  3. Owner agrees that the substance of the provisions of this Paragraph 6.07.C shall appear in the Contract Documents.

## 6.07 *Dispute Resolution*

- A. If the parties fail to resolve a dispute through negotiation, then Owner may invoke the procedures of Exhibit H.

## 6.08 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from reasonable claims, costs, losses, and damages (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, 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.

## 6.09 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver:* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

## ARTICLE 7 – DEFINITIONS

### 7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following provisions:
  - 1. *Additional Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.



2. *Agreement* – This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
3. *Asbestos* – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
4. *Basic Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
5. *Construction Contract* – The entire and integrated written agreement between Owner and Contractor concerning the Work.
6. *Construction Cost* – The cost to Owner of those portions of the entire Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to properties; Owner's costs for legal, accounting, insurance counseling or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.
7. *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.
8. *Contract Documents* – Those items so designated in the Construction Contract, including the Drawings, Specifications, construction agreement, and general and supplementary conditions. Only printed or hard copies of the items listed in the Construction Contract are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
9. *Contractor* – The entity or individual with which Owner has entered into a Construction Contract.
10. *Documents* – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
11. *Drawings* – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
12. *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.
13. *Engineer* – The individual or entity named as such in this Agreement.

14. *Hazardous Waste* – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
15. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
16. *Owner* – The individual or entity with which Engineer has entered into this Agreement and for which the Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
17. *PCBs* – Polychlorinated biphenyls.
18. *Petroleum* – Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-hazardous waste and crude oils.
19. *Project* – The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
20. *Radioactive Material* – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
21. *Record Drawings* – Drawings depicting the completed Project, prepared by Engineer and based solely on Contractor's record copy of all Drawings, Specifications, addenda, change orders, work change directives, field orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
22. *Reimbursable Expenses* – The unforeseen expenses incurred directly by Engineer and approved by Owner in connection with the performing or furnishing of Basic and Additional Services for the Project.
23. *Resident Project Representative* – The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative agreed to by Owner. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.
24. *Samples* – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
25. *Shop Drawings* – All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

26. *Site* – Lands or areas to be indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
27. *Specifications* – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
28. *Subcontractor* – An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
29. *Substantial Completion* – The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
30. *Supplier* – A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
31. *Total Project Costs* – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner’s costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.
32. *Work* – The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

## **ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS**

### **8.01 Exhibits Included:**

- A. Exhibit A, Engineer’s Services.
- B. Exhibit B, Owner’s Responsibilities.
- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.
- D. Exhibit D, (Intentionally Not Used)

- 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 – (Intentionally Not Used)
- J. Exhibit J – Special Provisions and Scope of Work
- K. Exhibit K, Amendment to Owner-Engineer Agreement (Provided as an Example)
- L. Exhibit L, City of Mandeville Ordinance 12-21

8.02 *Total Agreement:*

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

8.03 *Designated Representatives:*

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

8.04 *Engineer's Certifications:*

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

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

Owner: City of Mandeville

Engineer: JV Burkes & Associates, Inc.

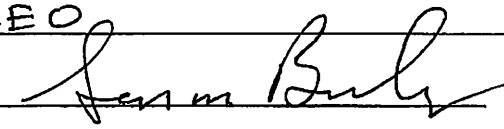
By: Donald J. Villere

By: Sean Burkes

Title: Mayor

Title: CEO

Signed: 

Signed: 

Dated: 3/15/15

Dated: 3-16-15

Engineer License or Firm's Certificate No. EF. 0001269  
State of: Louisiana

Address for giving notices:

Address for giving notices:

Principal Engineering, Inc.

JV Burkes & Associates, Inc.

1011 N. Causeway Blvd, Suite 19

1805 Shortcut Highway

Mandeville, LA 70471

Slidell, LA 70458

Designated Representative (Paragraph 8.03.A):

Designated Representative (Paragraph 8.03.A):

Henry I. DiFranco, Jr.

Sean Burkes

Title: President

Title: CEO

Phone Number: (985) 624-5001

Phone Number: (985) 649-0075

Facsimile Number: (985) 624-5303

Facsimile Number: (985) 649-0154

E-Mail Address: henry@pi-aec.com

E-Mail Address: sburkes@jvburkes.com

This is **EXHIBIT A**, consisting of 11 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

## **Engineer's Services**

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

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

### **PART 1 – BASIC SERVICES**

#### *A1.01 Conceptual Design Phase*

A. Upon written authorization from Owner, Engineer shall:

1. Prepare Conceptual Design Phase documents consisting of conceptual design report, design criteria, conceptual drawings, outline specifications, and written descriptions of the Project.
2. Engineer shall perform all land surveying services and surveying work required. Engineer shall be responsible for informing Owner of any servitudes, easements, rights-of-way, or other acquisitions needed for the project.
3. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.
4. Prepare an opinion of probable Construction Cost, and assist Owner in collating the various cost categories which comprise Total Project Costs.
5. Furnish 4 review copies of the 30% Conceptual Design Phase documents and any other deliverables to Owner within 120 calendar days of authorization to proceed with this phase, and review them with Owner. Within 15 calendar days of receipt, Owner shall submit to Engineer any comments regarding the Conceptual Design Phase documents and any other deliverables.

When accepted by Owner, Conceptual Design Phase documents will be forwarded to LADOTD for review and comment. Engineer's services under the Conceptual Design Phase will be considered complete on the date when the Conceptual Design Phase comments provided to Engineer from LADOTD have been fully annotated and annotations accepted by LADOTD.

#### *A1.02 Preliminary Design Phase*

- A. After approval in writing by Owner of a recommended solution and indication of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, and upon written authorization from Owner, Engineer shall:

1. Prepare Preliminary Design Phase documents consisting of final design criteria, 65% preliminary drawings, and outline specifications.
  2. 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.
  3. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in collating the various cost categories which comprise Total Project Costs.
  4. Perform or provide the following additional Preliminary Design Phase tasks or deliverables: See Exhibit J.
  5. Furnish 4 review copies of the 60% Preliminary Design Phase documents and any other deliverables to Owner within 120 calendar days of authorization to proceed with this phase, and review them with Owner. Within 30 calendar days of receipt, Owner shall submit to Engineer any comments regarding the Preliminary Design Phase documents and any other deliverables.
  6. Revise the Preliminary Design Phase documents and any other deliverables in response to Owner's comments, as appropriate, and furnish to Owner 4 copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within 15 calendar days after receipt of Owner's comments.
- B. When accepted by Owner, Preliminary Design Phase documents will be forwarded to LADOTD for review and comment. Engineer's services under the Preliminary Design Phase will be considered complete on the date when the Preliminary Design Phase comments provided to Engineer from LADOTD have been fully annotated and annotations accepted by LADOTD.

#### A1.03 *Final Design Phase*

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

3. Advise Owner of any adjustments to the opinion of probable Construction Cost known to Engineer.
  4. Perform or provide the following additional Final Design Phase tasks or deliverables: See Exhibit J.
  5. Within 90 days from Notice to Proceed, prepare and furnish four (4) copies of 95% bidding documents for review by Owner, its legal counsel, and other advisors, and assist Owner in the preparation of other related documents. Within 30 days of receipt, Owner shall submit to Engineer any comments and, subject to the provisions of Paragraph 6.01.G, instructions for revisions. Within 15 days of receiving City comments, prepare and furnish 100% pre-final bidding documents for review. Within 15 days of receipt, Owner shall submit to Engineer any comments.
  6. Revise the bidding documents in accordance with comments and instructions from the Owner, as appropriate, and submit 4 final copies of the bidding documents, two cd's or dvd's with electronic file of plans in pdf and AutoCad (AutoCad 2010 or later) and electronic file of specifications in pdf and text format), a revised opinion of probable Construction Cost, and any other deliverables to Owner within 7 calendar days after receipt of Owner's comments and instructions.
- B. Engineer's services under the Final Design Phase will be considered complete on the date when the submittals required by Paragraph A1.03.A.6 have been delivered to Owner, and when LADOTD has accepted same submittals as complete.
- 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 prime contract). If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.

A1.04 *Bidding or Negotiating Phase*

- A. After acceptance by Owner of the bidding documents and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:



- ~~1. Assist Owner in advertising for and obtaining bids or proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the bidding documents. Engineer shall provide all copies of the bidding documents requested by licensed contractors at no additional compensation.~~
- ~~2. Issue addenda as appropriate to clarify, correct, or change the bidding documents.~~
- ~~3. Provide information or assistance needed by Owner in the course of any negotiations with prospective contractors.~~
- ~~4. Consult with Owner as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors for those portions of the Work as to which such acceptability is required by the bidding documents.~~
- ~~5. If bidding documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by bidders, but subject to the provisions of paragraph A2.02.A.2 of this Exhibit A.~~
- ~~6. Attend the Bid opening, prepare Bid tabulation sheets, and assist Owner in evaluating Bids or proposals and in assembling and awarding contracts for the Work.~~
- ~~7. Perform or provide the following additional Bidding or Negotiating Phase tasks or deliverables: See Exhibit J~~

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. Engineer shall provide Contractor with 5 complete copies of the contract documents. The extent and limitations of the duties, responsibilities, and authority of Engineer as assigned in the Construction Contract shall not be modified, except as Engineer may otherwise agree in writing. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.~~
  - ~~2. *Selecting Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified in Exhibit B, Paragraph B2.01.0.~~
  - ~~3. *Pre-Construction Conference:* Participate in a Pre-Construction Conference prior to commencement of Work at the Site.~~

4. ~~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.
5. ~~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.
6. ~~Visits to Site and Observation of Construction:~~ In connection with observations of Contractor's Work while it is in progress:
  - a. ~~Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of Contractor's Work in progress or to involve detailed inspections of Contractor's Work in progress beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.~~
  - b. ~~The purpose of Engineer's visits to, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Engineer shall not, during such visits or as a result of such observations of Contractor's Work in progress, supervise, direct, or have control over Contractor's Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to Contractor's Work, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish or perform the Work in accordance with the Contract Documents.~~
7. ~~Defective Work:~~ Recommend to Owner to Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work (a) is defective under the standards set forth in the Contract Documents, (b) will not produce a completed Project that conforms to the

Contract Documents, or (e) will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

8. *Clarifications and Interpretations; Field Orders:* Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Subject to any limitations in the Contract Documents, Engineer may issue field orders authorizing minor variations in the Work from the requirements of the Contract Documents.
9. *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.~~
10. *Shop Drawings and Samples:* ~~Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.~~
11. *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.~~
12. *Inspections and Tests:* ~~Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Engineer shall be entitled to rely on the results of such tests.~~
13. *Disagreements between Owner and Contractor:* ~~Render formal written decisions on all duly submitted issues relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Contractor's Work; review each duly submitted Claim by Owner or Contractor, and in writing either deny such Claim in whole or in part, approve such Claim, or decline to resolve such Claim if Engineer in its discretion concludes that to do so would be inappropriate. In rendering such decisions, Engineer shall be fair and not show partiality to Owner or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.~~

~~14. *Applications for Payment:* Based on Engineer's observations and on review of Applications for Payment and accompanying supporting documentation:~~

- ~~a. Determine the amounts that Engineer recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe Contractor's Work. In the case of unit price work, Engineer's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).~~
- ~~b. By recommending any payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control Contractor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, materials, or equipment has passed to Owner free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.~~

~~15. *Contractor's Completion Documents:* Receive, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as provided under Paragraph A1.05.A.11, and transmit the annotated record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. The extent of such review by Engineer will be limited as provided in Paragraph A1.05.A.11.~~

~~16. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Project to determine if the Work is substantially complete. If after considering any~~

~~objections of Owner, Engineer considers the Work substantially complete; Engineer shall deliver a certificate of Substantial Completion to Owner and Contractor.~~

~~17. *Additional Tasks:* Perform or provide the following additional Construction Phase tasks or deliverables: See Exhibit J.~~

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

~~B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves more than one prime contract as indicated in Paragraph A1.03.C, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required through no fault of Engineer after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.~~

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

#### ~~A1.06 *Post Construction Phase*~~

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

- ~~1. Together with Owner, visit the Project to observe any apparent defects in the Work, assist Owner in consultations and discussions with Contractor concerning correction of any such defects, and make recommendations as to replacement or correction of defective Work, if any.~~
- ~~2. Together with Owner or Owner's representative, visit the Project within one month before the end of the correction period to ascertain whether any portion of the Work is subject to correction.~~
- ~~3. Perform or provide the following additional Post Construction Phase tasks or deliverables: See Exhibit J. In addition, Post Construction Services includes the preparation and submittal of 2 sets of Project Record Documents and Drawings within 60 days of final~~

~~acceptance of the project. Engineer shall revise any Owner comments and submit 2 sets and electronic versions (as required in Final Design) of final Record Documents within 30 days of receipt of the comments. Upon submittal of record documents, Engineer shall submit Resident Inspectors Field Books, Daily Diaries, Operation Manuals and any other project documents to the Owner.~~

- ~~B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.~~

## **PART 2 – ADDITIONAL SERVICES**

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

- A. If authorized in writing by Owner, Engineer shall furnish or obtain from others Additional Services of the types listed below.
1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
  2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
  3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer or its design requirements including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
  4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those identified in Paragraph A1.01.A.4.
  5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
  6. Providing renderings or models for Owner's use.
  7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of financial feasibility and cash flow studies, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting Owner in obtaining

process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by Owner.

8. Furnishing services of Consultants for other than Basic Services.
9. Services attributable to more prime construction contracts than specified in Paragraph A1.03.D.
10. Services during out-of-town travel required of Engineer other than for visits to the Site or Owner's office.
11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
12. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by Owner for the Work or a portion thereof.
13. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required by Exhibit F.
14. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Paragraph A1.05.A.6, and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
15. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor.
16. Providing assistance in responding to the presence of any Constituent of Concern at the Site, in compliance with current Laws and Regulations.
17. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, or other dispute resolution process related to the Project.
18. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
19. Assistance in connection with the adjusting of Project equipment and systems.
20. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
21. Assistance to Owner in developing procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related record-keeping.

22. Overtime work requiring higher than regular rates.

25. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

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

B. Engineer shall advise Owner in advance that Engineer will immediately commence to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice from Owner.

1. Services in connection with work change directives and change orders to reflect changes requested by Owner.
2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.
3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
4. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work (advance notice not required), (2) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.
5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work by Owner prior to Substantial Completion.
6. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.
7. Services during the Construction Phase rendered after the original date for completion of the Work referred to in A1.05.B.
8. Reviewing a Shop Drawing more than three times, as a result of repeated inadequate submissions by Contractor.
9. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that



exceed those normally required of engineering personnel by federal, state, or local safety authorities for similar construction sites.

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

## **Owner's Responsibilities**

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

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

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

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

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

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 Basic Services of Design, Bidding and Construction Administration  
Basic Services**

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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*

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, lump sum amounts, as follows:

1. A Lump Sum amount of **\$136,010.00** based on a construction cost estimate of **\$2,900,000** and 70 percent of ASCE Curve A. (The estimated distribution of compensation for the Basic Services in a. through c.; and an amount equal to the number of hours expended by employee classification multiplied by the hourly rates included in this Exhibit C under paragraph 5, for the Basic Services d. and e.)

- |                                  |                           |                         |
|----------------------------------|---------------------------|-------------------------|
| a. Conceptual Design             | <b><u>\$10,000.00</u></b> | (lump sum)              |
| b. Preliminary Design            | <b><u>\$77,435.00</u></b> | (lump sum)              |
| c. Final Design                  | <b><u>\$48,575.00</u></b> | (lump sum)              |
| d. Bidding and Negotiating Phase | <b><u>\$ 2,000.00</u></b> | (hourly, not-to-exceed) |
| e. Construction Phase            | <b><u>\$ 5,000.00</u></b> | (hourly, not-to-exceed) |

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

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

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

5. Hourly rates and expenses used to determine payment to Engineer for services under 1(d.) and 1(e.) shall be in accordance with the J.V. Burkes and Associates Rate Sheet dated April 7, 2014, consisting of two pages, attached to this contract.

B. *Period of Service:* The compensation amount stipulated is conditioned on a period of service not exceeding 36 months. If such period of service is extended, the compensation amount for Engineer's services shall be appropriately adjusted.

*C2.02 Compensation for Supplemental Services:*

- A. Signal Timing, West Service Road to St. Ann: Owner shall pay Engineer a lump sum of \$15,000.00.
- B. Geotechnical Investigation and Report: Owner shall pay Engineer a lump sum of \$4,950.00.
- C. Topographic Survey: Owner shall pay Engineer a lump sum equal to actual cost plus 10%, not to exceed a total of \$95,000.00. Subconstulant proposal for topographic survey shall be approved by the Owner.

*C2.03 City of Mandeville Ordinance 12-21:* Engineer shall comply with Ordinance 12-21, included herein as Exhibit L.

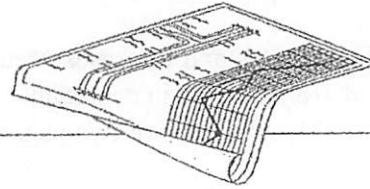
# J.V. Burkes & Associates

Engineering ♦ Surveying ♦ Planning ♦ Environmental

1805 Shortcut Highway  
Slidell, LA 70458

Phone: (985) 649-0075  
Fax: (985) 649-0154

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## 2014 RATE SHEET & SERVICES

### ITEMIZED PRICE LIST – EFFECTIVE APRIL 7, 2014

#### *Engineering Personnel*

Principal Engineer	\$165/hr
Engineer	\$125/hr

#### *Surveying Personnel*

Principal Surveyor	\$165/hr
Surveyor	\$145/hr
Survey Party Chief	\$85/hr
Field Surveying Crew includes standard equipment	\$160/hr

#### *Environmental Personnel*

Environmental Scientist	\$95/hr
Wetland Delineation Team	\$125/hr

#### *Planning and Technical Personnel*

CAD Illustrator	\$95/hr
CAD Draftsman	\$65/hr
Non-Administrative Researcher	\$65/hr
Administrative Researcher	\$35/hr

#### *Equipment*

ATV – 4 wheeler	\$85/day
Pirogue	\$50/day
Flat Bottom Boat with Motor	\$250/day
Surveying Boat with Cabin	Call for Quote
Digital Camera	\$5/day
GPS – Trimble for Wetland Delineations	\$40/day
GPS – Leica	\$55/day
Auto/Fuel Charges	\$0.58/mile

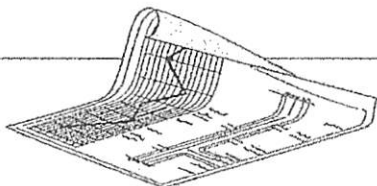
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Siddell, LA 70458

Phone: (985) 649-0075  
Fax: (985) 649-0154

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## 2014 Rate Sheet and Services (continued)

### Miscellaneous Charges

Color Copies:	8-1/2" x 11"	\$1.50/copy
	8-1/2" x 14"	\$2.00/copy
	11" x 17"	\$3.00/copy
Copies:	8-1/2" x 11"	\$0.10/copy
	8-1/2" x 14"	\$0.15/copy
	11" x 17"	\$0.25/copy
Drawing Copies (Bond)	18" x 24"	\$3.00/copy
	24" x 36"	\$6.00/copy
	30" x 42"	\$8.75/copy
Drawing Copies (Vellum)	18" x 24"	\$8.00/copy
	24" x 36"	\$12.00/copy
	30" x 42"	\$17.00/copy
Delivery	FedEx, UPS, USPS, etc.	actual cost + 15%
	Local Courier	actual cost + 15%



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

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NOTICE OF ACCEPTABILITY OF WORK

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PROJECT:

OWNER:

CONTRACTOR:

OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER:

NOTICE DATE:

---

To:

\_\_\_\_\_  
Owner

And To:

\_\_\_\_\_  
Contractor

From:

\_\_\_\_\_  
Engineer

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

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

## CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

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

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

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

### **Construction Cost Limit**

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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 \$2,900,000.
- B. A bidding or negotiating contingency of 5 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.
- 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.
- 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, or (4) cancel the Project. In the case of (3), Engineer shall modify the 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 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.

US 190 @ LA 22 Recommendations  
 LADOTD District 62 - Stage 0 Feasibility Study  
 Opinion of Probable Cost

ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL
202-01-00100	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	L.S.	1	15,000.00	15,000.00
203-01-00100	GENERAL EXCAVATION	C.Y.	10600	4.50	47,700.00
203-03-00100	EMBANKMENT	C.Y.	300	7.50	2,250.00
203-08-00100	GEOTEXTILE FABRIC	S.Y.	10600	1.75	18,550.00
302-02-06000	CLASS II BASE COURSE (12" THICK)	S.Y.	10400	60.00	624,000.00
502-01-00100	SUPERPAVE ASPHALTIC CONCRETE	TON	3800	110.00	418,000.00
502-01-00100	SUPERPAVE ASPHALTIC CONCRETE (FOR EXISTING ROADWAY)	TON	5700	110.00	627,000.00
713-01-00100	TEMPORARY SIGNS AND BARRICADES	L.S.	1	15,000.00	15,000.00
722-01-00100	PROJECT SITE LABORATORY	EACH	1	7,500.00	7,500.00
723-01-00100	GRANULAR MATERIAL (NET SECTION 2')	C.Y.	7000	28.00	196,000.00
727-01-00100	MOBILIZATION	L.S.	1	30,000.00	30,000.00
729-01-00100	SIGN (TYPE A)	S.F.	110	35.00	3,850.00
729-08-00100	MOUNTING (2 1/2" SIZE POST)	EACH	12	825.00	9,900.00
731-02-00100	REFLECTORIZED RAISED PAVEMENT MARKINGS	EACH	600	5.50	3,300.00
732-01-01040	PLASTIC PAVEMENT STRIPING (8" WIDTH)(THERMOPLASTIC 90 MIL)	L.F.	500	2.50	1,250.00
732-01-01080	PLASTIC PAVEMENT STRIPING (24" WIDTH)(THERMOPLASTIC 90 MIL)	L.F.	350	3.50	1,225.00
732-02-01000	PLASTIC PAVEMENT STRIPING (SOLID LINE)(4" WIDTH)(THERMOPLASTIC 40 MIL)	MILE	7.1	1,100.00	7,810.00
732-03-01000	PLASTIC PAVEMENT STRIPING (BROKEN LINE)(4" WIDTH)(THERMOPLASTIC 40 MIL)	MILE	4.8	753.00	3,614.40
732-04-01020	PLASTIC PAVEMENT LEGENDS AND SYMBOLS (ARROW - LEFT TURN)	EACH	24	230.00	5,520.00
732-04-01100	PLASTIC PAVEMENT LEGENDS AND SYMBOLS (ARROW - RIGHT TURN)	EACH	8	230.00	1,840.00
739-01-00100	HYDRO SEEDING	ACRE	1	1,600.00	1,600.00
740-01-00100	CONSTRUCTION LAYOUT	L.S.	1	15,000.00	15,000.00
NS-500-00340	SAW CUTTING ASPHALTIC CONCRETE PAVEMENT	PER IN PER LIN. FT	3600	2.25	8,100.00
NS-700-00120	DYNAMIC MESSAGE SIGN UNIT	EACH	2	1,500.00	3,000.00
NS-000-00000	MODIFICATION TO EXISTING TRAFFIC SIGNAL	EACH	2	125,000.00	250,000.00
NS-000-00000	DRAINAGE SYSTEM	L.S.	1	200,000.00	200,000.00
<b>SUB-TOTAL=</b>					<b>2,517,009.40</b>
<b>15% CONTINGENCY=</b>					<b>377,551.41</b>
<b>TOTAL=</b>					<b>2,894,560.81</b>

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

## **Insurance**

---

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

### **G6.04 Insurance**

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

a. **General Liability**

Each Occurrence	<u>\$1,000,000.00</u>
Damage to Rented Premises (Ea Occurrence)	<u>\$100,000.00</u>
Medical Expense (Any one person)	<u>\$5,000.00</u>
Personal & ADV Injury	<u>\$1,000,000.00</u>
General Aggregate	<u>\$2,000,000.00</u>
Products – Comp/Op AGG	<u>\$1,000,000.00</u>

City of Mandeville and City Engineer shall be named as additional insured and a waiver of subrogation in favor of City of Mandeville and City Engineer shall be indicated on the insurance certificate.

b. **Automobile Liability**

Hired & Non-Owned	<u>\$1,000,000.00</u>
Any Auto & All Owned	<u>\$1,000,000.00</u>

City of Mandeville and City Engineer shall be named as additional insured and a waiver of subrogation in favor of City of Mandeville and City Engineer shall be indicated on the insurance certificate.

c. **Workers Compensation and Employers' Liability**

Workers Compensation	<u>Statutory Limits</u>
E.L. Each Accident	<u>\$500,000.00</u>
E.L. Disease (EA Employee)	<u>\$300,000.00</u>
E.L. Disease (Policy Limit)	<u>\$500,000.00</u>

A waiver of subrogation in favor of the City of Mandeville and City Engineer shall be indicated on the insurance certificate.

d. **Professional Liability**

Per Claim Limit and Aggregate Limit	<u>\$1,000,000.00</u>
-------------------------------------	-----------------------

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

## **Dispute Resolution**

---

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

### *H6.08 Dispute Resolution*

- A. Owner and Engineer agree that, at the Owner's option, 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 Arbitration in accordance with rules of the American Arbitration Association, by a mutually agreed upon arbitrator. The award by the Arbitrator(s) shall be final and binding, and judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to modification or appeal except to the extent permitted by Section 10 and 11 of the Federal Arbitration Act (9 U.S.C. 10.11). If the Owner opts to forgo arbitration, the Dispute shall be resolved by a court of competent jurisdiction.

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

## **Special Provisions**

---

Engineer shall design the project in general accordance with the scope recommended to Owner in the document "US 190 / LA 22 Recommendations", prepared by District 62 Traffic Operations Section, summarized below. The project is to be executed under the DOTD Urban Systems Program, and Engineer shall perform work under this scope so as to be acceptable to the DOTD.

### **SCOPE OF WORK**

Design geometric roadway improvements to the US 190 & LA 22 east-west roadway segment at the interchange with N. Causeway Blvd, generally between the service road intersections; but including additional roadway length to the east and west of those intersections as required to transition to recently completed improvements (US 190 to the east) and contemplated improvements (LA 22 to the west). Design geometric roadway improvements to the on/off ramps at the interchange, and on the intersecting service roads in the vicinity of the intersections. Perform signal, drainage, and roadside design as required. As supplemental service, develop signal timing between and inclusive of the west service road/LA 22 intersection and the St. Ann/US 190 intersection.

Bidding and construction phase services will be limited to technical commentary when requested by the Owner, as the DOTD will perform the bidding; and either DOTD or the Owner will perform Construction Phase Services.

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. \_\_\_\_\_**

1. *Background Data:*

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

a. *Description of Modifications:*

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

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



5. Agreement Summary (Reference only)

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

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

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

OWNER:

ENGINEER:

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

This is EXHIBIT L, consisting of 2 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated \_\_\_\_\_, \_\_\_\_\_.

1 **THE FOLLOWING ORDINANCE WAS MOVED FOR INTRODUCTION**  
2 **BY COUNCIL MEMBER MADDEN; SECONDED FOR INTRODUCTION**  
3 **BY COUNCIL MEMBER ELLIS; MOVED FOR ADOPTION BY COUNCIL**  
4 **MEMBER ELLIS; AND SECONDED FOR ADOPTION BY COUNCIL**  
5 **MEMBER BURGUIÈRES**

6  
7 **ORDINANCE NO. 12-21**  
8  
9

10 **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF**  
11 **MANDEVILLE ESTABLISHING POLICIES AND PROCEDURES FOR**  
12 **ALL ENGINEERING CONTRACTS IN WHICH THE CITY OF**  
13 **MANDEVILLE IS A PARTY; AND PROVIDING FOR OTHER MATTERS**  
14 **IN CONNECTION THEREWITH**

15  
16 **WHEREAS**, Section 3-05 of the Mandeville Home Rule Charter states that the  
17 Mayor, as Chief Executive Officer of the City, shall sign contracts, deeds and other  
18 obligations on behalf of the City as authorized by the City Council; and  
19

20 **WHEREAS**, the City Council desires to establish policies and procedures  
21 consistent with State Law for contracts for all engineering professional services in which  
22 the City is a party; and  
23

24 **WHEREAS**, the City Council desires to add an additional management tool that  
25 will have the added benefit of providing for transparency in the employment of outside  
26 engineers.  
27

28  
29 **NOW, THEREFORE**, be it ordained by the City Council of the City of Mandeville  
30 that the following policies and procedures are established:  
31

- 32 1. All engineering contracts in which the City of Mandeville is a party shall include  
33 the following contract language:  
34 a. The engineering firm shall maintain records of the amount of time (in  
35 minimum increments of 15 minutes) date, and hourly rate that each  
36 employee, consultant or subcontractor spends on the project.  
37 b. Whenever a request for payment is made by the engineering firm, or  
38 when the project is completed, or every six months from the date of the  
39 original contract is signed, the authorized representative of the  
40 engineering firm shall submit a certification to the City attesting to  
41 the time, date and hourly rate each employee, consultant or subcontractor  
42 spends on the project.  
43 2. The City Attorney or Assistant Attorney for the City of Mandeville shall include a  
44 signed and dated certification at the end of each engineering contract  
45 confirming that:  
46 a. He/She has reviewed the contract on behalf of the City of Mandeville  
47  
48  
49

1 **BE IT FURTHER ORDAINED**, that this Ordinance shall take effect immediately  
2 upon the signature of the Mayor of the City of Mandeville; and

3  
4 **BE IT FURTHER ORDAINED**, that the clerk of this Council be and she is hereby  
5 authorized and instructed to take such action as she deems necessary or advisable to  
6 promulgate the provisions of this ordinance.

7  
8 The ordinance being submitted to a vote, the vote thereon was as follows:

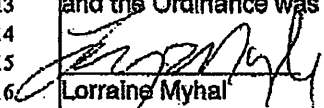
9 AYES: 5(Danielson, Madden, Ellis, Buchholz, Burguières)

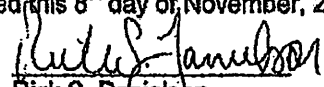
10 NAYS: 0

11 ABSENT: 0

12 ABSTENTION: 0

13 and the Ordinance was declared adopted this 8<sup>th</sup> day of November, 2012.

14  
15   
16 Lorraine Myhal  
17 Clerk of Council

18   
19 Rick S. Danielson  
20 Mayor Pro Tem

21 **SUBMITTAL TO MAYOR**

22 The foregoing Ordinance was SUBMITTED by me to the Mayor of the City of  
23 Mandeville this 9<sup>th</sup> day of November, 2012 at 9:00 o'clock a.m.

24  
25   
26 Clerk of Council

27 **APPROVAL OF ORDINANCE**

28  
29 The foregoing Ordinance is by me hereby APPROVED, this 9<sup>th</sup> day of  
30 November, 2012 at 9:30 o'clock a.m.

31   
32 Donald J. Villere, Mayor

33 **VETO OF ORDINANCE**

34  
35  
36 The foregoing Ordinance is by me hereby VETOED, this \_\_\_\_ day of  
37 \_\_\_\_\_, 2012, at \_\_\_\_ o'clock \_\_\_\_m.

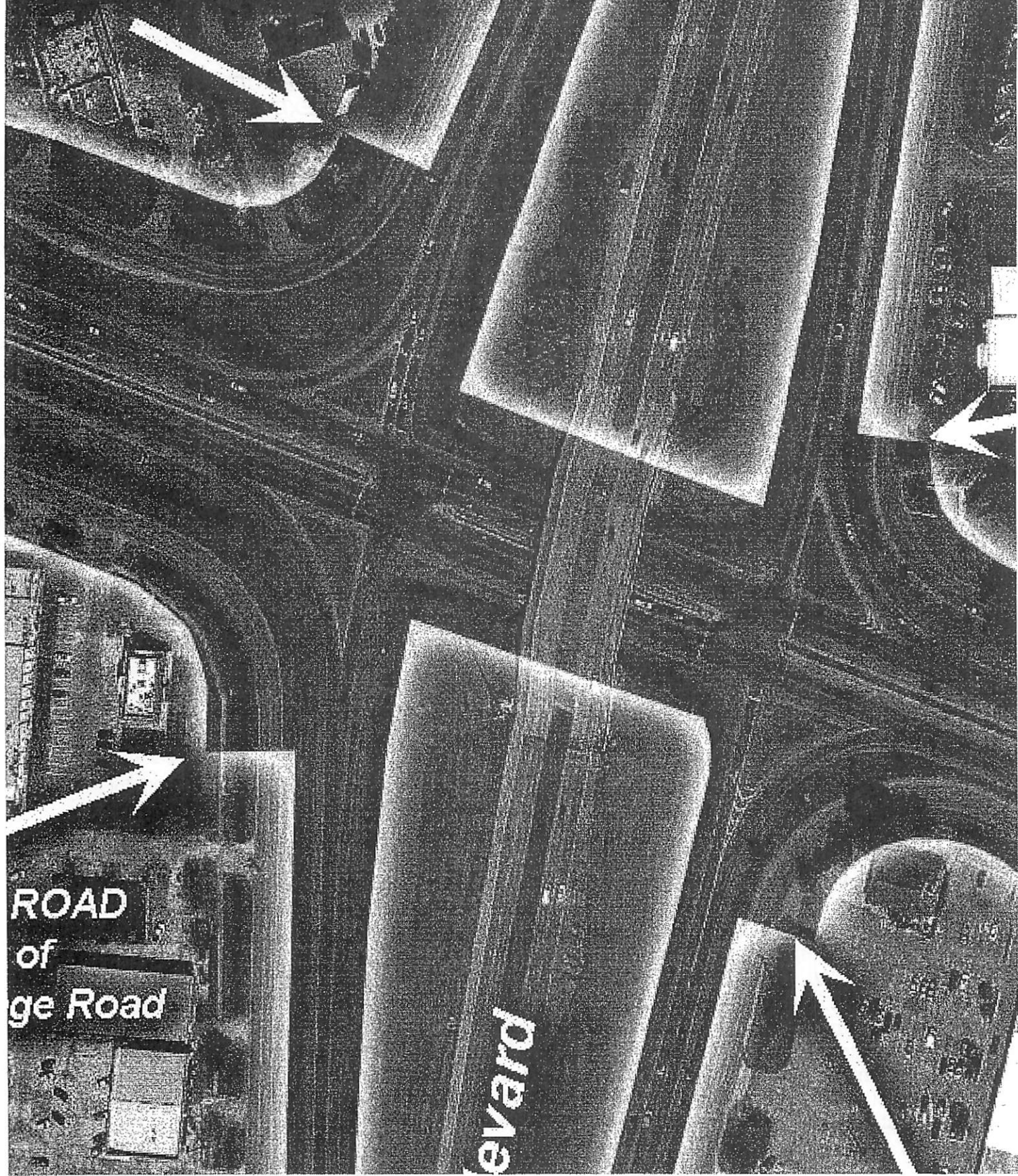
38  
39 \_\_\_\_\_  
40 Donald J. Villere, Mayor

41 **RECEIPT FROM MAYOR**

42  
43 The foregoing Ordinance was RECEIVED by me from the Mayor of the City of  
44 Mandeville this 9<sup>th</sup> day of November, 2012 at 9:35 o'clock a.m.

45  
46   
47 Clerk of Council

FRONTAGE ROAD  
Intersection of  
West Frontage Road



ROAD  
of  
ge Road

Levard

**THE FOLLOWING RESOLUTION WAS INTRODUCED BY COUNCIL MEMBER BUCHHOLZ; AND SECONDED FOR ADOPTION BY COUNCIL MEMBER BURGUIERES**

**RESOLUTION NO. 15-09**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF MANDEVILLE AND J.V. BURKES & ASSOCIATES, INC. FOR PROFESSIONAL ENGINEERING SERVICES FOR THE LA 22 AND HIGHWAY 190 INTERSECTION IMPROVEMENTS IN THE AMOUNT OF \$136,010 FOR BASIC SERVICES, PLUS AN HOURLY RATE FOR THE BIDDING, NEGOTIATION AND CONSTRUCTION PHASES NOT TO EXCEED \$7,000, PLUS COMPENSATION FOR SUPPLEMENTAL SERVICES TO INCLUDE SIGNAL TIMING, GEOTECHNICAL REPORTING AND A TOPOGRAPHIC SURVEY; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH**

**WHEREAS**, The City of Mandeville desires to improve the intersection of LA 22 and Highway 190 under the LA 22/HWY 190 improvements project; and

**WHEREAS**, the estimated construction cost of the project is \$2,900,000; and

**WHEREAS**, J.V. Burkes & Associates, Inc. was found to be the most qualified applicant; and

**WHEREAS**, The City of Mandeville desires to execute an agreement between The City of Mandeville and J.V. Burkes & Associates, Inc. for basic professional engineering services for LA 22/HWY 190 improvements project in the amount of \$136,010 plus compensation for supplemental services; and

**WHEREAS**, basic services shall include an hourly rate for the bidding, negotiating and construction phases not to exceed \$7,000; and

**WHEREAS**, compensation for supplemental services include: (1) \$15,000 for signal timing for West Service Road to St. Ann, (2) \$4,950 for geotechnical investigation and report, and (3) 10%, not to exceed a total of \$95,000 for a topographic survey; and

**WHEREAS**, the scope of work will include engineering services as described in the attached Exhibit A, under the terms and conditions contained in the Professional Services Agreement which attached hereto and made a part hereof.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Mandeville in regular session assembled on the 12th day of February, 2015 that the Mayor is authorized to execute an agreement between The City of Mandeville and J.V. Burkes & Associates, Inc. in the amount of \$136,010 for basic professional engineering services, plus an hour rate for the bidding, negotiating and construction phases not to exceed \$7,000, plus compensation for supplemental services (1) \$15,000 for signal timing for West Service Road to St. Ann, (2) \$4,950 for geotechnical investigation and report, and (3)

10%, not to exceed a total of \$95,000 for a topographic survey for the LA 22/HWY 190 improvements project.

With the above Resolution having been properly introduced and duly seconded, the vote was as follows:

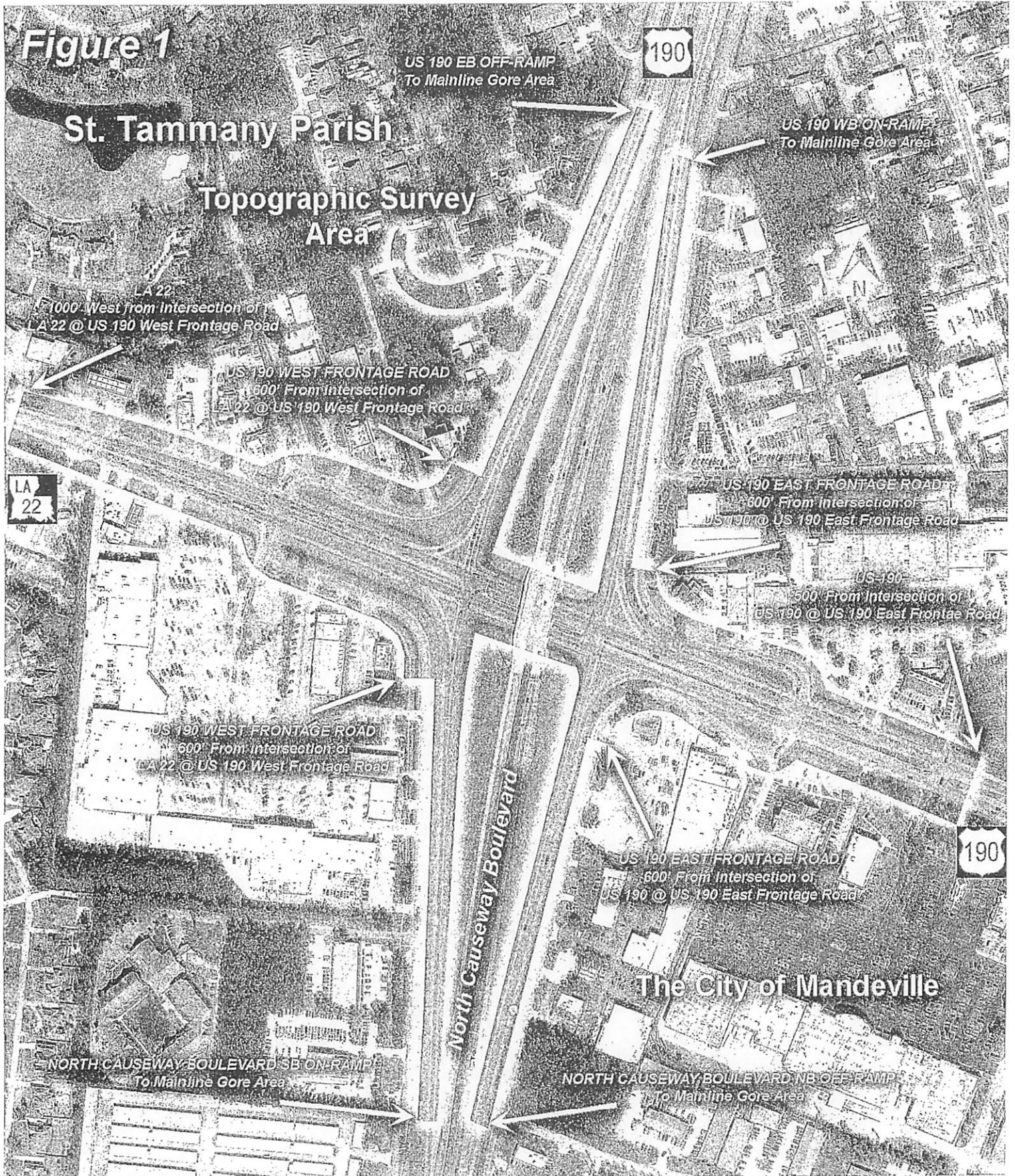
AYES:	5(Danielson, Madden, Ellis, Buchholz, Burguieres)
NAYS:	0
ABSENT:	0
ABSTENTIONS:	0

and the Resolution was declared adopted this 12th day of February, 2015.

  
\_\_\_\_\_  
Lorraine Chotin  
Clerk of Council

  
\_\_\_\_\_  
Rick S. Danielson  
Council Chairman

**Figure 1**



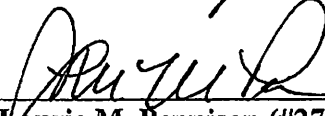
**CERTIFICATION OF REVIEW BY CITY ATTORNEY**

I hereby certify that I have reviewed a copy of the above and foregoing contract:

**Agreement Between Owner and Engineer for Professional Engineering Services  
LA 22/Hwy 190 Intersection Improvements**

for the City of Mandeville pursuant to City Ordinance No. 12-21 this date, hereby approve of the contract as to form and content.

Mandeville, Louisiana this 5<sup>th</sup> day of February, 2015.

  
\_\_\_\_\_  
Laurie M. Pennison (#27275)  
Assistant City Attorney



# CODE OF CONDUCT

## A. POLICY STATEMENT.

The citizens of the City of Mandeville rightfully expect elected municipal officials, unclassified employees and appointed personnel to adhere to the highest standards of professional and ethical conduct in the performance of their duties and responsibilities. The City of Mandeville Personnel Policies and Police Standard Operating Procedures Manual specifies the conduct of the classified civil service employee so that this code does not apply to this class of city employees. This code applies to the following persons:

1. Elected municipal officials of the City of Mandeville.
2. Unclassified employees of the City of Mandeville.
3. Persons appointed or elected to the various boards and commissions of the City of Mandeville.
4. Contractors as described in Section D of this code. Contractors are not obligated to participate in the training requirements of this code but will be required to demonstrate that they are familiar with this code and the Louisiana State Code of Ethics.

While this document in and of itself is not punitive in nature, it complements the existing laws incorporated in the Louisiana State Code of Ethics and other existing policies that cover persons employed by the City of Mandeville. All elected municipal officials, unclassified employees and appointed personnel of the city in whatever capacity should know that infractions of this Code of Conduct may also be violations prohibited by state ethical rules and regulations which do carry punitive provisions.

Every person covered by this Code has a unique position of trust in the community and, therefore, assumes a special responsibility to act with the highest standards of honesty, fidelity and fairness. Said persons should conduct themselves in a manner that merits public trust and confidence.

## B. PURPOSE OF THIS POLICY.

Section 7-02 of the City Charter for the City of Mandeville provides that "All officers and employees of the city government shall comply with the provisions of the Louisiana State Code of Ethics pertaining to local government." The purpose of the Code of Conduct is to complement the Code of Ethics with a code that requires conduct over and above the strict adherence to the letter of the general law and the Louisiana State Ethics Code. To establish a set of guidelines for the behavior of the persons covered by this code which will enhance the effectiveness of city government while maintaining the high standards of quality and professionalism necessary for the city to successfully project the best image possible.

**C. CITY OF MANDEVILLE CODE OF CONDUCT FOR ELECTED, UNCLASSIFIED EMPLOYEES AND APPOINTED PERSONNEL.**

All persons in each category as defined by the above title shall sign a copy of this Code of Conduct thereby acknowledging that they have received a copy and understand that it is therefore their responsibility to comply with this Code of Conduct and any revisions to it as follows:

1. Adhere to the principle that all activities undertaken by persons covered by this code shall be in the best interests of the citizens of the city and with the goal of perfection of city government. That no personal gain or benefit, except for compensation and benefits accompanying applicable personnel, should be accepted.
2. Accept the responsibility that any improper conduct can reflect negatively on the public image of the city and bring embarrassment and discontent to the citizens of the city. It is the intent of this Code of Conduct to make the persons covered by this code aware, through training, of the existing laws and city rules and regulations of employment that are designed to respond to any improper conduct in whatever context.
3. Participate in a comprehensive training program regarding the Louisiana State Code of Ethics and this Code of Conduct for all levels of personnel defined by this Code of Conduct except Contractors. This training shall include, but not be limited to, ongoing small and large group training sessions highlighting general rules of conduct and specific rules of conduct pertaining to elected municipal officials, unclassified employees or appointed personnel. This training shall amplify what personnel can or cannot do in complying with the Louisiana State Code of Ethics and this Code of Conduct. It shall also identify and help personnel recognize potential conflicts of interest and provide mechanisms for alerting the proper officials of such potential conflicts. Each person covered by this code, except Contractors, shall be required to participate in at least two hours of training per calendar year. These hours shall be certified to the Personnel Director and be a part of the person's record.
4. Always be in full compliance with all applicable federal, state and local laws and regulations.
5. Direct all requests for documents under the Public Records law to the City Attorney for response. All requests for documents under the Public Records law shall be in writing.
6. Respect the confidentiality of information concerning the City, City personnel or proceedings of the City.

**D. CONTRACTORS.**

Any individual or business entity that enters into a contract with the City of Mandeville shall be subject to this code and be referred to herein as a "Contractor". Every Contractor shall be mindful of the principles of law relating to the Code of Governmental Ethics of the State of Louisiana. The Contractor shall not make or authorize any payment or give anything of value directly or indirectly to an official of this government for the purpose of influencing an act or decision of official capacity or for assisting in obtaining or retaining business for or with, or for direction of business to any person. Likewise, the Contractor will not make or authorize any payment to anyone for the purpose of influencing any official

act or decision, or inducing such entity or person to use any influence with this government to assist anyone in obtaining or retaining business for or with, or directing business to, any person. Any breach or violation of this clause by the Contractor shall be considered a substantial and material breach of its contract with the City of Mandeville.

That all Contractors shall sign an affidavit in the form attached hereto as Attachment A as a condition of their contract with the City of Mandeville.

#### **E. COMPLAINTS.**

All complaints shall be in writing and signed by the person making the complaint. There shall be no "anonymous complaints". Any person wishing to file a complaint regarding any person covered by this code shall send the complaint to the City Attorney's Office where a log will be kept of such complaints. A copy of any complaint regarding any person covered by this code shall be sent to the person complained of within three days of the receipt of the complaint. The person complained of shall have five days to respond in writing to the complaint and his or her response shall be part of the complaint record. If such complaint alleges ethical violations, then the City Attorney shall recommend to the person making the complaint that he or she forward a copy of the complaint to the Louisiana Board of Ethics for further action.

Any person who wishes to make a complaint to the Louisiana Board of Ethics may do so by sending the complaint to: Louisiana Ethics Administration Program, P.O. Box 4368, Baton Rouge, LA, 70821 or call the Board office at (225) 219-5600.

ATTACHMENT "A"  
CODE OF CONDUCT AFFIDAVIT

STATE OF LOUISIANA

PARISH OF ST. TAMMANY

AFFIDAVIT

BEFORE ME, the undersigned Notary Public personally came and appeared: Sean Burkes;  
if a corporation, LLC, or partnership, then the affidavit may be signed by corporate officer, member or partner stating that  
the subject organization is aware of the Code of Governmental Ethics.

Who, after first being duly sworn did depose and say he/she is the president, corporate officer, or designee of  
J.V. Burkes' Assoc and that he/she is familiar with the Code of Governmental Ethics contained in  
Louisiana Revised Statutes at Title 42, Chapter 15 and is familiar with and has a copy of the Code of Conduct for the City  
of Mandeville, and

That, J.V. Burkes' Assoc. will conform to the provisions in the Code of Environmental Ethics and the  
Code of Conduct as a condition of any contract between the company and the City of Mandeville, Louisiana, and

That, the provisions of the Code of Governmental Ethics and the Code of Conduct shall apply to any subcontract that the  
contractor has with any other entity in the performance of its contract with the City of Mandeville, Louisiana and there  
shall be a statement in every subcontract to that effect.

WITNESSES:

CONTRACTOR:

By: Sean Burkes

[Signature]

Sworn to and subscribed before me this 17 day of March, 2015

Maudie J. Griffis  
Maudie F. Griffis  
# 38379

**AFFIDAVIT**

STATE OF LOUISIANA

PARISH OF ST. TAMMANY

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in this State and Parish, personally came and appeared:

SEAN M. BURKES

the party submitting a non-bid contract and who has submitted this affidavit with said contract, after being duly sworn did attest and testify as to the truth of all of the factual allegations contained in the petition, specifically as follows:

**Choose A or B. If Option A is indicated please include the requested attachment.**

Disclosure No. 1

A.  Within the 48 month period preceding the date of the contract with the City of Mandeville, I **Have** made campaign contributions which total \$200.00 or more to a Mandeville City Council member or Mayor of the City of Mandeville. I have attached a list of each contribution, its amount, the date of the contribution, and the recipient or recipients of the contribution.

B. \_\_\_\_\_ Within the 48 month period preceding the date of the contract with the City of Mandeville, I **Have Not** made campaign contributions which total \$200.00 or more to a Mandeville City Council member or Mayor of the City of Mandeville.

Disclosure No. 2

A. \_\_\_\_\_ I **Do** owe a debt or debts to an elected or appointed official or officials of the City of Mandeville. I have attached a list of all debts and the elected or appointed official or officials of the City of Mandeville to whom those debts are owed.

B.  I **Do Not** owe any debts to any elected or appointed official of the City of Mandeville.

Disclosure No. 3

A. \_\_\_\_\_ I **Have** made a contribution to or in support of elected officials of the City of Mandeville in the name of another person or firm directly or indirectly. I have attached a list of all contributions to or support of elected officials of the City of Mandeville, the amount of the contribution or support, the recipient or recipients of the contribution, and the name of the person or firm through whom the contribution was made.

B.  I **Have Not** made any contribution to or in support of elected officials of the City of Mandeville in the name of another person or firm directly or indirectly.

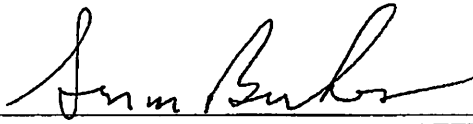
Disclosure No. 4

A.  This affidavit Is being submitted on behalf of a corporation, LLC, or other legal entity. I have attached a list of contributions made by officers, directors, and owners, including employees, owning 25% or more of the company or legal entity.

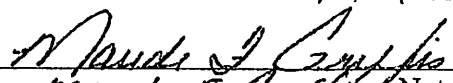
B.  This affidavit Is Not being submitted on behalf of a corporation, LLC, or other legal entity.

The above is in compliance and pursuant to City of Mandeville Ordinance No. 14-07.

I agree to and acknowledge that an updated affidavit must be submitted if there are any changes to the above sworn statements between the time the affidavit is executed and the time the contract is awarded.

  
SEAN BURKE, AFFIANT

SWORN TO AND SUBSCRIBED before  
me this 17 day of March 2015

  
MAUDIE F. GRIFFITH, Notary  
Bar Roll # 32379  
My Commission Expires with life

**Contributions to Council Members or Mayor of the City of Mandeville**

Date of Contribution	Amount	Recipient(s)
5.8.13	500 <sup>00</sup>	Donald Villere Campaign



**Debts Owed to Appointed or Elected Officials of the City of Mandeville**

Amount of Debt	Elected or Appointed Official Owed Debt







# CERTIFICATE OF LIABILITY INSURANCE

BURKE-1

OP ID: MM

DATE (MM/DD/YYYY)

03/16/2015

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 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).

<b>PRODUCER</b> Brown & Brown of Louisiana, LLC Brown & Brown of Baton Rouge 6300 Corporate Blvd, Ste 250 BATON ROUGE, LA 70809 Brown & Brown South Carolina		<b>CONTACT NAME:</b> TIm DeMars, CIC	
		<b>PHONE</b> (A/C, No, Ext): 225-763-5600	<b>FAX</b> (A/C, No): 225-763-5650
		<b>E-MAIL ADDRESS:</b>	
		<b>INSURER(S) AFFORDING COVERAGE</b>	
		<b>INSURER A:</b> *Amer Cas Co of Reading PA	<b>NAIC #</b> 20427
		<b>INSURER B:</b> *General Ins Co of America	24732
		<b>INSURER C:</b> *Continental Casualty Company	20443
		<b>INSURER D:</b> *LA WORKERS COMP CORP	22350
		<b>INSURER E:</b> *Atlantic Specialty Insurance	27154
		<b>INSURER F:</b> *Continental Casualty Company	20443

<b>INSURED</b>	J.V. Burkes & Associates, Inc. 1806 Shortcut Highway Slidell, LA 70458
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INSR LTR	TYPE OF INSURANCE	ADL 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			2097199803	08/16/2014	08/16/2015	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 - COMP/OP AGG \$ 2,000,000 OTHER: \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			24CC2265128	08/15/2014	08/15/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ OTHER: \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE			5095747517	08/16/2014	08/16/2015	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 DED <input checked="" type="checkbox"/> RETENTION \$ 10000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	126060-D JOHN BURKES EXCL	08/15/2014	08/15/2015	PER STATUTE <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
E	Protection & Indem			LIGP14-1393	08/15/2014	08/15/2015	Limit 1,000,000
F	Professional Liab			AEH25408859	02/04/2015	02/04/2016	Limit 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

If required by written contract, Certificate holder is Additional Insured on General Liab/Auto/Umbrella and granted Waiver of Subrogation on General Liab/Auto/Umbrella/Workers Compensation policies.

<b>CERTIFICATE HOLDER</b>	<b>CANCELLATION</b>
CITY310 City of Mandeville and City Engineer 3101 East Causeway Approach Mandeville, LA 70448	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 