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## VILLAGE OF SUGAR GROVE BOARD REPORT

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**TO:** VILLAGE PRESIDENT & BOARD OF TRUSTEES  
**FROM:** BRAD MERKEL, DIRECTOR OF PUBLIC WORKS  
**SUBJECT:** DISCUSSION: PROFESSIONAL SERVICES AGREEMENT WITH HR GREEN FOR PHASE II ENGINEERING SERVICES FOR THE IL RTE. 47 UTILITY RELOCATIONS  
**AGENDA:** MARCH 5, 2024, REGULAR BOARD MEETING  
**DATE:** FEBRUARY 27, 2024

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### ISSUE

Discussion of a Professional Services Agreement (PSA) with HR Green for Phase II Design Engineering Services for the IL Rte. 47 Utility Relocations.

### DISCUSSION

The Village has had several meetings with IDOT regarding the IL Rte. 47 widening project in regard to the water and sewer utility relocations that must take place from Rolling Oaks Drive to Cross Street. This project is currently in the design phase at IDOT with a tentative letting date of the spring of 2025.

On December 19, 2023, the Village sent a letter to IDOT to request that they include the Villages utility relocations as part of the proposed IL Rte. 47 improvements, including the BNSF Permit, Construction and Maintenance Agreement. On February 7, 2024, IDOT issued a letter honoring the villages request with the following conditions.

1. An intergovernmental agreement between IDOT and the Village must be executed.
2. The Village will be required to provide contract plans, pay items, special provisions, cost estimates, IEPA permit, CADD Files and any relevant permits for the proposed utility relocation work.
3. Final utility relocation plans will be required to be delivered to IDOT by September 1, 2024.

Staff has requested a PSA from HR Green to complete the Phase II IL Rte. 47 Utility Relocations. HR Green is also completing the IL Rte. 47 widening project design work for

IDOT so this work can be completed by the September 1, 2024, deadline and be incorporated accordingly.

### **COST**

The PSA for the Phase II IL Rte. 47 Utility Relocations from HR Green is estimated at \$157,500.00. The FYE 2025 Account 51-71-6303 Engineering Services is being proposed to include funds for this project.

### **RECOMMENDATION**

The Village Board discuss a PSA with HR Green for the Phase II IL Rte. 47 Utility Relocations and direct staff on how to proceed.



## **PROFESSIONAL SERVICES AGREEMENT**

**For**

**Sugar Grove - IL Rte. 47 Utility Relocations**  
(Rolling Oaks Rd. to Cross St.)

Village of Sugar Grove  
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HR Green Project No.: 2303941

November 30, 2023  
Revised December 7, 2023  
***Revised February, 2024***

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THIS **AGREEMENT** is between Village of Sugar Grove (hereafter "CLIENT") and HR Green, Inc. (hereafter "COMPANY").

## 1.0 Project Understanding

### 1.1 General Understanding

The CLIENT has requested assistance with the design to relocate approximately 4,300 lineal feet of an existing 10" sanitary sewer force main and approximately 2,700 lineal feet of existing 12" water main that is located within the Illinois Route 47 right-of-way starting at Rolling Oaks Rd. heading north to Cross St. to accommodate the future expansion of Illinois Route 47 improvements in Village of Sugar Grove, Kane County.

According to IDOT's Pre-Final Contract Plans (Contract #62G40 - FAP Route 326) the approximate project limits based on alignment are shown within the following station range:

- Sta 421+40 to Sta 467+68 or +/-4,625 lineal feet of roadway (0.876 miles)

In order to facilitate this utility relocation and replacement, CLIENT has requested that the COMPANY include final design engineering services including the preparation of construction documents, detailed plan specifications, bidding services, and construction observation services for the proposed water main and sanitary sewer infrastructure relocation.

It is the COMPANY's understanding that the CLIENT has or will engage IDOT District 1 to make a formal request for this utility relocation project to be part of (add on) to the ongoing contract documents being prepared by IDOT. However, if not found acceptable, the backup option for the CLIENT would require the relocation project to run concurrently with the IDOT contract as an option that was discussed with the CLIENT. At this time, additional coordination efforts and requests for direction are being pursued by the CLIENT and subject to change based on agreements directly with IDOT District 1 office.

Regarding the timeline for the proposed relocation project, it was discussed with the CLIENT that contract plans were to be completed/ready by September 2024 as an initial target date for the assumed January 2025 letting. Again, this is all subject to change based on coordination efforts between the two governmental agencies.

### 1.2 Design Criteria/Assumptions

The following design guidelines will apply to this project and will define the standards to be used in the design of the sanitary sewer and water main relocation and appurtenances:

- A. IDOT Bureau of Local Roads and Streets (BLRS) Manual;
- B. IDOT Bureau of Design and Environment (BDE) Manual;
- C. IEPA regulations for public water supply and water pollution control; and
- D. CLIENT Specifications and Ordinances (as applicable).

## **2.0 Scope of Services**

The CLIENT agrees to employ COMPANY to perform the following services:

### **2.1 Design Services:**

#### **Project Management**

The objective of the Project Management process is to complete the proposed project within budget and on schedule. This will involve: (1) close communication with the CLIENT and the Project Manager and (2) communication amongst the project team to make certain that the elements of the project are fully coordinated as desired. Key elements of Project Management are discussed in the various identified tasks below.

#### **Progress Meetings**

Progress meetings will be held during the design phases to include the Project Manager and/or Project Engineer, and CLIENT's staff. These meetings will be organized to keep CLIENT's staff apprised of the status and allow input on critical project decisions. COMPANY has assumed for budgetary purposes will attend up to four (4) meetings with CLIENT: 1) Kick-off Meeting, 2) Interagency Coordination Meeting, 3) 90% Design Review Meeting, and 4) Final Review Meeting which will commence prior to Bid Letting Date.

#### **Supplemental Topographic Survey – Utility Pickup Survey**

COMPANY will perform a partial pickup survey (Topographic Survey) of existing utilities within the project limits defined above for both water and sanitary sewer relocations. Previously identified missing information was discussed on the existing utilities (i.e., force main structures) that will be surveyed from visible above ground evidence, flags or markings. Sanitary sewer and water main structures will be surveyed, including rim elevation, invert elevation, pipe size, direction, and elevation as observed at unlocked manholes. Existing trees will not be surveyed, and tree species will not be identified as part of this survey. The survey will reference existing NGS control stations, Illinois State Plane Coordinate System East Zone NAD83 (2011). Elevations will be based upon local Benchmarks (NAVD88). The existing survey CAD file provided by IDOT's Rte. 47 widening project will be used for internal design purposes on this project. The CAD file will be updated with the additional pickup survey information along with converting the file into AutoCAD Civil3D release 2023 for use by the COMPANY for internal design purposes of this utility relocation project.

#### **Geotechnical Site Investigations and Environmental Assessment**

COMPANY has assumed as part of this agreement that the CLIENT will have access to project information collected as part of IDOT's Rte. 47 widening project already under design development. The COMPANY would request available geotechnical information and reports pertaining to the project limits and incorporate relevant geotechnical services into the design plans. Otherwise, it will be assumed that the CLIENT will retain a separate geotechnical and environmental assessment consultant independently as needed to assist the COMPANY and or Bidding Contractor with required geotechnical information if applicable.

#### Data Collection and Review

This task involves obtaining and/or reviewing the existing information regarding the existing water and sanitary sewer systems (recording drawings, sewer televising or prior lining reports) and roadway information for the project obtained from CLIENT and any privately owned utilities that become known from the Julie Design Stage ticket request.

#### Utility Coordination

This task involves obtaining and/or reviewing existing information regarding the proposed alignment and right-of-way (ROW) for the project obtained from CLIENT, and privately owned utilities.

#### Design Standards

CLIENT specifications and IEPA regulations will define the standards to be used in the design of the replacement sanitary sewer, water main, and appurtenances. Standard details will be incorporated whenever possible. Any necessary refinements to the standards and special details will be discussed with CLIENT's staff during project development.

#### Preparation of Bidding Documents

Drawings shall be prepared using the accepted engineering practice and criteria established by CLIENT for plan preparation. COMPANY will prepare final plans, which will generally include the following items for this project:

#### Estimate of Quantities

This item consists of final bid items to be included in the project as well as final quantity tabulations along with the development of the general notes and estimate reference information.

#### Sanitary Sewer Plan and Details (10"-12" Gravity Sewer and 10" Force Main Realignment)

This item consists of final design and drafting of the existing and replacement sanitary sewer and connection details to existing sewer system planned for the relocation project.

#### Water Main Plan and Details (12" DIP)

This item consists of final design and drafting of the existing and replacement 12" water main and connection details to existing water system planned for the relocation project.

#### Project Plans – Construction Drawings

Prepare construction drawings for 60% and 100% design stages):

The CLIENT will receive a prefinal plan set with the following sheets:

- Cover Sheet
- General Notes, Legends, and Summary of Quantities

- Alignment, Ties, and Benchmarks
- Plan and Profiles (1" = 20' horizontal scale / 1" = 5' vertical scale)
- Erosion and Sediment Control Specifications, Notes, and Details
- CLIENT Standard Details
- Item Specific Details (if applicable)
- IDOT Highway Standards

It is anticipated the construction plan set will contain approximately forty (40) sheets. AutoCAD Civil3D release 2023 will be the digital platform used for project plans.

#### Specifications

CLIENT specifications, as well as any specifications required by IEPA, will be incorporated into the overall contract documents for the proposed water main and sanitary sewer. Check sets of the contract plans with specifications, bid specific forms, to be completed at the 90% and 100% milestones and shall be provided to CLIENT's staff for their review. The review sets will be highlighted by COMPANY in the various design review meetings.

#### Construction Permitting

Construction documents and a Construction Permit Application shall be submitted to the IEPA, Fox Metro, and IDOT (as required) for permit review and approval. COMPANY will answer questions from IEPA, Fox Metro, and IDOT as required during the review and permitting process. COMPANY will have to secure a NOI application per the NPDES requirements and have to prepare a Stormwater Pollution Prevention Plan (SWPPP) as this project is assumed to be over the one (1) acre of disturbance threshold. Separately, a J.U.L.I.E. Design Stage Ticket will be filed for the site area to initiate franchise utility contacts (as necessary and if applicable).

In addition, it is assumed that a BNSF Railroad Plan Review will be required and it is also assumed to be part of IDOT's original permit application and not stand-alone permit obtained by the CLIENT via the Railroad Company.

#### Engineer's Opinion of Probable Construction Cost

An Engineer's Opinion of Probable Cost (EOPCC) will be prepared reflecting the estimated construction cost of the proposed water and sanitary sewer improvements. Unit prices from previous projects, as well as consultation with contractors, will be utilized to prepare assumed cost projections. The EOPC will not include permitting costs or costs associated with acquisition of easements and/or ROW if applicable. The EOPCC will be submitted to CLIENT for review at the 90% and 100% milestones.

COMPANY will prepare IDOT similar bidding forms or CLIENT's own front ends if made available for COMPANY's use in soliciting contractor bids. It is assumed that CLIENT will handle all other bidding tasks, including advertisement, bid opening, and award. COMPANY will assist in the bid tabulation and compile a bid recommendation summary letter as requested by the CLIENT.



### Quality Assurance / Quality Control

Complete internal QC of the preliminary design stage and prefinal design stage documents before they are submitted to the CLIENT. The construction department will make a constructability review at the preliminary and prefinal design stages as well.

## 2.2 Bidding Phase Services:

Prepare and compile the bidding contract documents for the CLIENT including, but not limited to, construction drawings and specifications included as part of this agreement, project manual (bid book), reference to geotechnical information or reports (as provided), and supplemental information (as collected) that would provide assistance the bidding contractor during the bidding process.

Front end documents normally include the following:

- Cover Sheet
- Notice to Bidders
- Proposal
- Schedule of Prices
- Proposal Bid Bond (unless singled sourced project)

Back-end documents normally include the following:

- Supplemental Check Sheet from IDOT (required for IDOT permits)
- BDE Check Sheet from IDOT (required for IDOT permits)
- LRS Special Provisions from IDOT (required for IDOT permits)
- Geotechnical Report – as assumed above under Geotechnical Site Investigations
- LPC-662 or LPC-663 – as assumed above under Geotechnical Site Investigations

COMPANY will respond to questions from the bidders/contractors and prepare one (1) addendum summarizing any clarifications or revisions to the bid documents. COMPANY will review the bid tabulations of all bids submitted electronically by the bidding contractor via the CLIENT's online bidding system and verify contractor references to similar scope of work.

## 3.0 Deliverables and Schedules Included in this Agreement

Preliminary (60%) and Pre-Final/Final (90%-100%) plan sets as detailed above for Final Engineering:

The deliverables in this AGREEMENT include the following:

- a) Sanitary Sewer Improvement plan sheets based on relocation requirements per IDOT agreements
- b) Water Main Improvement plan sheets based on relocation requirements per IDOT
- c) Specifications and Cost Estimate
- d) IEPA Permit Submittal
- e) Village Plan Review Submittal (Interagency Coordination as required)
- f) Fox Metro Review Submittal (FMWRD as required)
- g) IDOT Highway Permit Review (assumed as part of IDOT and not stand-alone)

- h) BNSF Railroad Permit Review (assumed as part of IDOT and not stand-alone)
- i) Bid Letting Documents

#### Utility Relocation for Sanitary Sewer and Water Main Design Schedule

This schedule was prepared to include reasonable allowances for review and approval times required by the CLIENT and public authorities having jurisdiction over the project. This schedule shall be equitably adjusted as the project progresses, allowing for changes in the scope of the project requested by the CLIENT or for delays or other causes beyond the control of COMPANY.

ITEM	COMPLETION
Notice to Proceed from CLIENT	T.B.D.
Project Kickoff Meeting	1-2 weeks after NTP
Pickup Survey	3 weeks after NTP
60% Design Submittal (Village)	10-12 weeks from NTP
90% Design Submittal (IDOT & Village)	20 weeks from NTP
Submit Engineers Opinion of Probable Cost (EOPC)	End July/August 2024
90% Complete Design Review Meeting	End July/August 2024
IEPA, Fox Metro, IDOT, Village Plan Submittal & Review	Early September 2024
Submit Final (100%) Plans to CLIENT	Mid-September 2024
IEPA Permit Review – Permit Notification Received	January/February 2025
Tentative Bid Letting – Release	January 2025 - IDOT
Tentative Bid Opening – Open	February 2025
Tentative Award to Contractor	+/- March 2025

Schedule to be determined by CLIENT and COMPANY upon agreement execution and notice to proceed has been provided by the CLIENT.

#### **4.0 Items not included in Agreement/Supplemental Services**

The following items are not included as part of this AGREEMENT:

Any work requested by CLIENT that is not included in one of the items listed in any other phase will be classified as supplemental services.

Example of supplemental services include:

- Plat of Survey/Plat of Easement/Plat of Dedication
- Construction Staking
- Road design and/or associated storm sewer and drainage improvements
- Public Outreach Meetings
- Attendance at Council/Board and public meetings beyond those included in the scope of services
- Subsurface Utility Exploration and CCDD Testing (by others or included by IDOT reference)
- Assume CLIENT is not seeking IEPA State Revolving Loan Funds (SRF) and hence SRF Administration services not included

- Preparation of bidding documents that require integrating technical specifications and engineering drawings prepared by others.
- Supplemental engineering work required to meet the requirements of regulatory or funding agencies that become effective subsequent to the date of this agreement.
- Permit and Plan Review fees payable to regulatory agencies shall be paid for by CLIENT, if applicable.
- Revising Designs, Drawings, Specifications, and Documents: Any services required after the design elements have been previously approved by state or federal regulatory agencies, because of a change in the specified project scope or where such revisions are necessary to comply with changed state and federal regulations that are put in force after Services have been partially completed, will be provided through an amendment to this Agreement.
- Services Furnished during re-advertisement for Bids, if ordered by CLIENT: If a Contract is not awarded pursuant to the original bids, any services of this type will be provided through an amendment to this Agreement.
- Meetings with federal, state, and local agencies beyond those delineated in scope of services.
- Legal services.
- Construction Observation Services
- Construction Staking Services
- Record Drawings

Supplemental services not included in the AGREEMENT can be provided by COMPANY under separate agreement, if desired.

## **5.0 Services by Others**

None at the time of this agreement.

## **6.0 Client Responsibilities**

CLIENT to provide the required record drawings (if available) and GIS information for existing manholes and pipe, and assist with determining locations of existing facilities and utilities. CLIENT to pay all permit fees and other required fees associated with the project, and provide all legal services as required for the project. COMPANY will request any available sewer televising or prior lining reports within the project limits along with any details and material specifications for the sanitary sewer infrastructure that are preferred. Various design stage reviews will be required to move forward on the COMPANY's plans prior to finalizing the design alignment.

Televising investigation of sewer mains may be required to identify sanitary sewer service laterals as necessary for sewer trunkline replacement.



## 7.0 Professional Services Fee

### 7.1 Fees

The fee for services will be based on COMPANY salaried hourly rates current at the time the AGREEMENT is signed. These salaried rates are subject to change annually. Non-salary expenses directly attributable to the project such as: (1) living and traveling expenses of employees when away from the home office on business connected with the project; (2) identifiable communication expenses; (3) identifiable reproduction costs applicable to the work; and (4) outside services will be charged in accordance with the rates current at the time the service is done.

### 7.2 Invoices

Invoices for COMPANY's services shall be submitted, on a monthly basis. Invoices shall be due and payable in accordance with the Illinois Prompt Payment Act. If any invoice is not paid within 60 days, COMPANY may, without waiving any claim or right against the CLIENT, and without liability whatsoever to the CLIENT, suspend or terminate the performance of services.

### 7.3 Extra Services

Any service required but not included as part of this AGREEMENT shall be considered extra services. Extra services will be billed on a Time and Material basis with prior approval of the CLIENT.

### 7.4 Exclusion

This fee does not include attendance at any meetings or public hearings other than those specifically listed in the Scope of Services. These service items are considered extra and are billed separately on an hourly basis.

### 7.5 Payment

The CLIENT AGREES to pay COMPANY on the following basis:

**Time & Material, Not to Exceed in the amount of \$157,000.00.**

**Reimbursable Expenses (Mailings, UPS, Mileage, etc.) to be billed separately as a direct cost – Budgetary Costs set in the amount of \$500.00.**

The Breakdown of costs between the Design, Bidding and Construction Phases are as follows:

<b>Task – Design (II) and Construction Observation (III)</b>	<b>Fee</b>
2.1 Design Services Phase and Permitting	\$154,500.00
2.2 Bidding Services Phase	\$ 2,500.00
ZREIM – Reimbursable Expenses (Design Services, and Direct Costs)	\$ 500.00
<b>Total</b>	<b>\$157,500.00</b>

## 8.0 Terms and Conditions

The following Terms and Conditions are incorporated into this AGREEMENT and made a part of it.

### 8.1 Standard of Care

Services provided by COMPANY under this AGREEMENT will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing at the same time and in the same or similar locality.

### 8.2 Entire Agreement

This AGREEMENT and its attachments constitute the entire understanding between CLIENT and COMPANY relating to COMPANY's services. Any prior or contemporaneous agreements, promises, negotiations, or representations not expressly set forth herein are of no effect. Subsequent modifications or amendments to this AGREEMENT shall be in writing and signed by the parties to this AGREEMENT. If the CLIENT, its officers, agents, or employees request COMPANY to perform extra services pursuant to this AGREEMENT, CLIENT will pay for the additional services even though an additional written agreement is not issued or signed.

### 8.3 Time Limit and Commencement of Services

This AGREEMENT must be executed within ninety (90) days to be accepted under the terms set forth herein. The services will be commenced immediately upon receipt of this signed AGREEMENT.

### 8.4 Suspension of Services

If the Project or the COMPANY'S services are suspended by the CLIENT for more than thirty (30) calendar days, consecutive or in the aggregate, over the term of this AGREEMENT, the COMPANY shall be compensated for all services performed and reimbursable expenses incurred prior to the receipt of notice of suspension. In addition, upon resumption of services, the CLIENT shall compensate the COMPANY for expenses incurred as a result of the suspension and resumption of its services, and the COMPANY'S schedule and fees for the remainder of the Project shall be equitably adjusted.

If the COMPANY'S services are suspended for more than ninety (90) days, consecutive or in the aggregate, the COMPANY may terminate this AGREEMENT upon giving not less than five (5) calendar days' written notice to the CLIENT.

If the CLIENT is in breach of this AGREEMENT, the COMPANY may suspend performance of services upon five (5) calendar days' notice to the CLIENT. The COMPANY shall have no liability to the CLIENT, and the CLIENT agrees to make no claim for any delay or damage as a result of such suspension caused by any breach of this AGREEMENT by the CLIENT. Upon receipt of payment in full of all outstanding sums due from the CLIENT, or curing of such other breach which caused the COMPANY to suspend services, the COMPANY shall resume services and there shall be an equitable adjustment to the remaining project schedule and fees as a result of the suspension.

### 8.5 Books and Accounts

COMPANY will maintain books and accounts of payroll costs, travel, subsistence, field, and incidental expenses for a period of five (5) years. Said books and accounts will be available at all reasonable times for examination by CLIENT at the corporate office of COMPANY during that time.

### 8.6 Insurance

COMPANY will maintain insurance for claims under the Worker's Compensation Laws, and from General Liability and Automobile claims for bodily injury, death, or property damage, and Professional Liability insurance caused by the negligent performance by COMPANY's employees of the functions and services required under this AGREEMENT.

### 8.7 Termination or Abandonment

Either party has the option to terminate this AGREEMENT. In the event of failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, then the obligation to provide further services under this AGREEMENT may be terminated upon seven (7) days' written notice. If any portion of the services is terminated or abandoned by CLIENT, the provisions of this Schedule of Fees and Conditions in regard to compensation and payment shall apply insofar as possible to that portion of the

services not terminated or abandoned. If said termination occurs prior to completion of any phase of the project, the fee for services performed during such phase shall be based on COMPANY's reasonable estimate of the portion of such phase completed prior to said termination, plus a reasonable amount to reimburse COMPANY for termination costs.

8.8 Waiver

COMPANY's waiver of any term, condition, or covenant or breach of any term, condition, or covenant, shall not constitute a waiver of any other term, condition, or covenant, or the breach thereof.

8.9 Severability

If any provision of this AGREEMENT is declared invalid, illegal, or incapable of being enforced by any Court of competent jurisdiction, all of the remaining provisions of this AGREEMENT shall nevertheless continue in full force and effect, and no provision shall be deemed dependent upon any other provision unless so expressed herein.

8.10 Successors and Assigns

All of the terms, conditions, and provisions hereof shall inure to the benefit of and are binding upon the parties hereto, and their respective successors and assigns, provided, however, that no assignment of this AGREEMENT shall be made without written consent of the parties to this AGREEMENT.

8.11 Third-Party Beneficiaries

Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or the COMPANY. The COMPANY's services under this AGREEMENT are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against the COMPANY because of this AGREEMENT or the performance or nonperformance of services hereunder. The CLIENT and COMPANY agree to require a similar provision in all contracts with contractors, subcontractors, sub-consultants, vendors and other entities involved in this project to carry out the intent of this provision.

8.12 Governing Law and Jurisdiction

The CLIENT and the COMPANY agree that this AGREEMENT and any legal actions concerning its validity, interpretation and performance shall be governed by the laws of the State of Illinois without regard to any conflict of law provisions, which may apply the laws of other jurisdictions.

It is further agreed that any legal action between the CLIENT and the COMPANY arising out of this AGREEMENT or the performance of the services shall be brought in a court of competent jurisdiction in the State of Illinois.

8.13 Dispute Resolution

Mediation. In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the CLIENT and COMPANY agree that all disputes between them arising out of or relating to this AGREEMENT shall be submitted to non-binding mediation unless the parties mutually agree otherwise. The CLIENT and COMPANY further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors, sub-consultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

8.14 Attorney's Fees

If litigation arises for purposes of collecting fees or expenses due under this AGREEMENT, the Court in such litigation shall award reasonable costs and expenses, including attorney fees, to the party justly entitled thereto. In awarding attorney fees, the Court shall not be bound by any Court fee schedule, but shall, in the interest of justice, award the full amount of costs, expenses, and attorney fees paid or incurred in good faith.

8.15 Ownership of Instruments of Service

All reports, plans, specifications, field data, field notes, laboratory test data, calculations, estimates and other documents including all documents on electronic media prepared by COMPANY as instruments of service shall remain the property of COMPANY. COMPANY shall retain these records for a period of five (5) years



following completion/submission of the records, during which period they will be made available to the CLIENT at all reasonable times.

#### 8.16 Reuse of Documents

All project documents including, but not limited to, plans and specifications furnished by COMPANY under this project are intended for use on this project only. Any reuse, without specific written verification or adoption by COMPANY, shall be at the CLIENT's sole risk, and CLIENT shall defend, indemnify and hold harmless COMPANY from all claims, damages and expenses including attorneys' fees arising out of or resulting therefrom.

Under no circumstances shall delivery of electronic files for use by the CLIENT be deemed a sale by the COMPANY, and the COMPANY makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the COMPANY be liable for indirect or consequential damages as a result of the CLIENT's use or reuse of the electronic files.

#### 8.17 Failure to Abide by Design Documents or To Obtain Guidance

The CLIENT agrees that it would be unfair to hold COMPANY liable for problems that might occur should COMPANY'S plans, specifications or design intents not be followed, or for problems resulting from others' failure to obtain and/or follow COMPANY'S guidance with respect to any errors, omissions, inconsistencies, ambiguities or conflicts which are detected or alleged to exist in or as a consequence of implementing COMPANY'S plans, specifications or other instruments of service. Accordingly, the CLIENT waives any claim against COMPANY, and agrees to defend, indemnify and hold COMPANY harmless from any claim for injury or losses that results from failure to follow COMPANY'S plans, specifications or design intent, or for failure to obtain and/or follow COMPANY'S guidance with respect to any alleged errors, omissions, inconsistencies, ambiguities or conflicts contained within or arising as a result of implementing COMPANY'S plans, specifications or other instruments of service. The CLIENT also agrees to compensate COMPANY for any time spent and expenses incurred remedying CLIENT's failures according to COMPANY'S prevailing fee schedule and expense reimbursement policy.

#### 8.18 Opinion of Probable Construction Cost

As part of the Deliverables, COMPANY may submit to the CLIENT an opinion of probable cost required to construct work recommended, designed, or specified by COMPANY, if required by CLIENT. COMPANY is not a construction cost estimator or construction contractor, nor should COMPANY'S rendering an opinion of probable construction costs be considered equivalent to the nature and extent of service a construction cost estimator or construction contractor would provide. This requires COMPANY to make a number of assumptions as to actual conditions that will be encountered on site; the specific decisions of other design professionals engaged; the means and methods of construction the contractor will employ; the cost and extent of labor, equipment and materials the contractor will employ; contractor's techniques in determining prices and market conditions at the time, and other factors over which COMPANY has no control. Given the assumptions which must be made, COMPANY cannot guarantee the accuracy of its opinions of cost, and in recognition of that fact, the CLIENT waives any claim against COMPANY relative to the accuracy of COMPANY'S opinion of probable construction cost.

#### 8.19 Design Information in Electronic Form

Because electronic file information can be easily altered, corrupted, or modified by other parties, either intentionally or inadvertently, without notice or indication, COMPANY reserves the right to remove itself from its ownership and/or involvement in the material from each electronic medium not held in its possession. CLIENT shall retain copies of the work performed by COMPANY in electronic form only for information and use by CLIENT for the specific purpose for which COMPANY was engaged. Said material shall not be used by CLIENT or transferred to any other party, for use in other projects, additions to this project, or any other purpose for which the material was not strictly intended by COMPANY without COMPANY'S express written permission. Any unauthorized use or reuse or modifications of this material shall be at CLIENT'S sole risk. Furthermore, the CLIENT agrees to defend, indemnify, and hold COMPANY harmless from all claims, injuries, damages, losses, expenses, and attorneys' fees arising out of the modification or reuse of these materials.

The CLIENT recognizes that designs, plans, and data stored on electronic media including, but not limited to computer disk, magnetic tape, or files transferred via email, may be subject to undetectable alteration and/or uncontrollable deterioration. The CLIENT, therefore, agrees that COMPANY shall not be liable for the completeness or accuracy of any materials provided on electronic media after a 30-day inspection period, during which time COMPANY shall correct any errors detected by the CLIENT to complete the design in

accordance with the intent of the contract and specifications. After 40 days, at the request of the CLIENT, COMPANY shall submit a final set of sealed drawings, and any additional services to be performed by COMPANY relative to the submitted electronic materials shall be subject to separate agreement. The CLIENT is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by the COMPANY and electronic files, the signed or sealed hard-copy construction documents shall govern.

#### 8.20 Information Provided by Others

The CLIENT shall furnish, at the CLIENT's expense, all information, requirements, reports, data, surveys and instructions required by this AGREEMENT. The COMPANY may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof. The COMPANY shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the CLIENT and/or the CLIENT's consultants and contractors.

COMPANY is not responsible for accuracy of any plans, surveys or information of any type including electronic media prepared by any other consultants, etc. provided to COMPANY for use in preparation of plans. The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the COMPANY from any damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, arising out of or connected in any way with the services performed by other consultants engaged by the CLIENT.

COMPANY is not responsible for accuracy of topographic surveys provided by others. A field check of a topographic survey provided by others will not be done under this AGREEMENT unless indicated in the Scope of Services.

#### 8.21 Force Majeure

The CLIENT agrees that the COMPANY is not responsible for damages arising directly or indirectly from any delays for causes beyond the COMPANY's control. CLIENT agrees to defend, indemnify, and hold COMPANY, its consultants, agents, and employees harmless from any and all liability, other than that caused by the negligent acts, errors, or omissions of COMPANY, arising out of or resulting from the same. For purposes of this AGREEMENT, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters or acts of God; fires, riots, war or other emergencies; disease epidemic or pandemic; failure of any government agency to act in a timely manner; failure of performance by the CLIENT or the CLIENT'S contractors or consultants; or discovery of any hazardous substances or differing site conditions. Severe weather disruptions include but are not limited to extensive rain, high winds, snow greater than two (2) inches and ice. In addition, if the delays resulting from any such causes increase the cost or time required by the COMPANY to perform its services in an orderly and efficient manner, the COMPANY shall be entitled to a reasonable adjustment in schedule and compensation.

#### 8.22 Job Site Visits and Safety

Neither the professional activities of COMPANY, nor the presence of COMPANY'S employees and sub-consultants at a construction site, shall relieve the general contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. COMPANY and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The CLIENT agrees that the general contractor is solely responsible for job site safety, and warrants that this intent shall be made evident in the CLIENT's AGREEMENT with the general contractor. The CLIENT also agrees that the CLIENT, COMPANY and COMPANY'S consultants shall be indemnified and shall be made additional insureds on the general contractor's and all subcontractor's general liability policies on a primary and non-contributory basis.

#### 8.23 Hazardous Materials

CLIENT hereby understands and agrees that COMPANY has not created nor contributed to the creation or existence of any or all types of hazardous or toxic wastes, materials, chemical compounds, or substances, or any other type of environmental hazard or pollution, whether latent or patent, at CLIENT's premises, or in connection with or related to this project with respect to which COMPANY has been retained to provide professional services. The compensation to be paid COMPANY for said professional services is in no way



commensurate with, and has not been calculated with reference to, the potential risk of injury or loss which may be caused by the exposure of persons or property to such substances or conditions. Therefore, to the fullest extent permitted by law, CLIENT agrees to defend, indemnify, and hold COMPANY, its officers, directors, employees, and consultants, harmless from and against any and all claims, damages, and expenses, whether direct, indirect, or consequential, including, but not limited to, attorney fees and Court costs, arising out of, or resulting from the discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acid, alkalis, toxic chemicals, liquids gases, or any other materials, irritants, contaminants, or pollutants in or into the atmosphere, or on, onto, upon, in, or into the surface or subsurface of soil, water, or watercourses, objects, or any tangible or intangible matter, whether sudden or not.

It is acknowledged by both parties that COMPANY'S Scope of Services does not include any services related to asbestos or hazardous or toxic materials. In the event COMPANY or any other party encounters asbestos or hazardous or toxic materials at the job site, or should it become known in any way that such materials may be present at the job site or any adjacent areas that may affect the performance of COMPANY'S services, COMPANY may, at its option and without liability for consequential or any other damages, suspend performance of services on the project until the CLIENT retains appropriate specialist consultant(s) or contractor(s) to identify, abate and/or remove the asbestos or hazardous or toxic materials, and warrants that the job site is in full compliance with applicable laws and regulations.

Nothing contained within this AGREEMENT shall be construed or interpreted as requiring COMPANY to assume the status of a generator, storer, transporter, treater, or disposal facility as those terms appear within the Resource Conservation and Recovery Act, 42 U.S.C.A., §6901 et seq., as amended, or within any State statute governing the generation, treatment, storage, and disposal of waste.

#### 8.24 Certificate of Merit

The CLIENT shall make no claim for professional negligence, either directly or in a third party claim, against COMPANY unless the CLIENT has first provided COMPANY with a written certification executed by an independent design professional currently practicing in the same discipline as COMPANY and licensed in the State in which the claim arises. This certification shall: a) contain the name and license number of the certifier; b) specify each and every act or omission that the certifier contends is a violation of the standard of care expected of a design professional performing professional services under similar circumstances; and c) state in complete detail the basis for the certifier's opinion that each such act or omission constitutes such a violation. This certificate shall be provided to COMPANY not less than thirty (30) calendar days prior to the presentation of any claim or the institution of any judicial proceeding.

#### 8.25 Limitation of Liability

In recognition of the relative risks and benefits of the Project to both the CLIENT and the COMPANY, the risks have been allocated such that the CLIENT agrees, to the fullest extent permitted by law, to limit the liability of the COMPANY and COMPANY'S officers, directors, partners, employees, shareholders, owners and sub-consultants for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert witness fees and costs, so that the total aggregate liability of the COMPANY and COMPANY'S officers, directors, partners, employees, shareholders, owners and sub-consultants shall not exceed \$50,000.00, or the COMPANY'S total fee for services rendered on this Project, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

#### 8.26 Construction Observation

COMPANY shall visit the project at appropriate intervals (as described in the scope of services) during construction to become generally familiar with the progress and quality of the contractors' work and to determine if the work is proceeding in general accordance with the Contract Documents. The CLIENT has not retained COMPANY to make detailed inspections or to provide exhaustive or continuous project review and observation services. COMPANY does not guarantee the performance of, and shall have no responsibility for, the acts or omissions of any contractor, subcontractor, supplier or any other entity furnishing materials or performing any work on the project.

If the CLIENT desires more extensive project observation or full-time project representation, the CLIENT shall request in writing such services be provided by COMPANY as Additional Services in accordance with the



8.27 Municipal Advisor

The COMPANY is not a Municipal Advisor registered with the Security and Exchange Commission (SEC) as defined in the Dodd-Frank Wall Street Reform and Consumer Protection Act. When the CLIENT is a municipal entity as defined by said Act, and the CLIENT requires project financing information for the services performed under this AGREEMENT, the CLIENT will provide the COMPANY with a letter detailing who their independent registered municipal advisor is and that the CLIENT will rely on the advice of such advisor. A sample letter can be provided to the CLIENT upon request.

This AGREEMENT is approved and accepted by the CLIENT and COMPANY upon both parties signing and dating the AGREEMENT. Services will not begin until COMPANY receives a signed agreement. COMPANY's services shall be limited to those expressly set forth in this AGREEMENT and COMPANY shall have no other obligations or responsibilities for the Project except as agreed to in writing. The effective date of the AGREEMENT shall be the last date entered below.

Sincerely,

**HR GREEN, INC.**

David Schultz, PE, LEED AP  
Senior Project Manager / Associate

Approved by:

Printed/Typed Name: Andrew Mrowicki, PE

President – Construction /

Title: Transportation

Date:

Revised 02/27/24

**VILLAGE OF SUGAR GROVE**

Accepted by:

Printed/Typed Name:

Title:

Date:



**HR GREEN**  
Billing Rate Schedule  
Effective January 1, 2024

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<b>Professional Services</b>	<b>Billing Rate Range</b>
Principal	\$250- \$370
Senior Professional	\$250- \$370
Professional	\$170- \$250
Junior Professional	\$100- \$175
Senior Technician	\$130- \$180
Technician	\$75- \$145
Senior Field Personnel	\$140- \$225
Field Personnel	\$100- \$170
Junior Field Personnel	\$75- \$125
Administrative Coordinator	\$75-\$130
Administrative	\$75- \$130
Corporate Admin	\$100- \$160
Operators/Interns	\$75- \$150

**Reimbursable Expenses**

1. All materials and supplies used in the performance of work on this project will be billed at cost plus 10%.
2. Auto mileage will be charged per the standard mileage reimbursement rate established by the Internal Revenue Service. Survey and construction vehicle mileage will be charged on the basis of \$0.90 per mile or \$85.00 per day.
3. Charges for sub-consultants will be billed at their invoice cost plus 15%.
4. All other direct expenses will be invoiced at cost plus 10%.