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 Revised: 11/02/2018  
 Introduced: 11/06/2018  
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 Revised: 12/14/2018  
 Adopted: 12/18/2018  
 Effective: 12/18/2018

**ORDINANCE O-25-2018**

**ANNUAL APPROPRIATION ORDINANCE**

**AN ORDINANCE TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF NEW ALBANY, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2019 AND CREATE THE ECONOMIC DEVELOPMENT – NAECA SPECIAL REVENUE FUND**

**WHEREAS**, Ohio Revised Code §5705.38(A) requires the taxing authority of each political subdivision to pass an annual appropriation measure on or about the first day of each year; and

**WHEREAS**, Council for the City of New Albany, State of Ohio, wishes to provide for funding for current expenses and other expenditures of the city during fiscal year 2019.

**NOW, THEREFORE, BE IT ORDAINED** by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio that:

**Section 1:** To provide for the current expenses and other expenditures within the 2019 Annual Budget Program of the City of New Albany during the fiscal year ending December 31, 2019, the annual sums as follows are hereby set aside and appropriated:

Fund	Department	Category	Amount
General	Police	Personal Services	4,754,619
General	Police	Operating and Contractual Services	237,940
General	Community Development	Personal Services	1,523,690
General	Community Development	Operating and Contractual Services	1,496,700
General	Public Service	Personal Services	2,900,716
General	Public Service	Operating and Contractual Services	906,500
General	Land & Building Maintenance	Personal Services	62,280
General	Land & Building Maintenance	Operating and Contractual Services	1,288,900
General	Council	Personal Services	208,544
General	Council	Operating and Contractual Services	525,250
General	Administrative Services	Personal Services	1,390,185
General	Administrative Services	Operating and Contractual Services	1,162,685

Fund	Department	Category	Amount
General	Finance	Personal Services	599,717
General	Finance	Operating and Contractual Services	580,150
General	Legal	Operating and Contractual Services	400,000
General	General Administration	Personal Services	187,029
General	General Administration	Operating and Contractual Services	675,500
General	N/A	Capital	77,500
General	N/A	Transfers & Other Financing Uses	1,734,723
		<b>Total General Fund</b>	<b>20,712,629</b>

Fund	Department	Category	Amount
Severance Liability	General Administration	Personal Services	250,000
Street Construction, Maintenance & Repair	Public Service	Operating and Contractual Services	80,000
Street Construction, Maintenance & Repair	N/A	Capital	300,000
State Highway	Public Service	Operating and Contractual Services	20,000
State Highway	N/A	Capital	20,000
Permissive Tax	Public Service	Operating and Contractual Services	65,000
Permissive Tax	N/A	Capital	30,000
Economic Development (NACA)	Community Development	Operating and Contractual Services	2,369,562
Economic Development (NACA)	Public Service	Operating and Contractual Services	130,000
Economic Development (NACA)	N/A	Transfers & Other Financing Uses	525,438
Economic Development (NAECA)	N/A	Transfers & Other Financing Uses	199,694
Hotel Excise Tax	Community Development	Operating and Contractual Services	110,000
Healthy New Albany Facilities	Land & Building Maintenance	Operating and Contractual Services	460,000
Healthy New Albany Facilities	N/A	Transfers & Other Financing Uses	255,193
Mayors Court Computer	Administrative Services	Operating and Contractual Services	6,500
Oak Grove EOZ	Finance	Operating and Contractual Services	3,631,000
Central College EOZ	Finance	Operating and Contractual Services	1,748,000
Oak Grove II EOZ	Finance	Operating and Contractual Services	1,648,000
Blacklick EOZ	Finance	Operating and Contractual Services	3,800,000
Alcohol Education	Police	Operating and Contractual Services	1,000
Drug Use Prevention Program Grant	Police	Personal Services	35,500
Law Enforcement & Education	Police	Operating and Contractual Services	2,250
Safety Town	Police	Operating and Contractual Services	42,000
DUI Grant	Police	Personal Services	2,500
Law Enforcement Assistance	Police	Personal Services	1,200
K-9 Patrol	Police	Operating and Contractual Services	10,000

Fund	Department	Category	Amount
Windsor TIF	General Administration	Operating and Contractual Services	652,000
Windsor TIF	N/A	Transfers & Other Financing Uses	727,362
Wentworth Crossing TIF	General Administration	Operating and Contractual Services	126,000
Wentworth Crossing TIF	N/A	Transfers & Other Financing Uses	90,000
Hawksmoor TIF	General Administration	Operating and Contractual Services	66,000
Hawksmoor TIF	N/A	Transfers & Other Financing Uses	76,201
Enclave TIF	General Administration	Operating and Contractual Services	23,000
Enclave TIF	N/A	Transfers & Other Financing Uses	50,000
Saunton TIF	General Administration	Operating and Contractual Services	47,000
Saunton TIF	N/A	Transfers & Other Financing Uses	75,000
Richmond Square TIF	General Administration	Operating and Contractual Services	47,000
Richmond Square TIF	N/A	Transfers & Other Financing Uses	85,282
Tidewater I TIF	General Administration	Operating and Contractual Services	127,000
Tidewater I TIF	N/A	Transfers & Other Financing Uses	125,000
Ealy Crossing TIF	General Administration	Operating and Contractual Services	100,000
Ealy Crossing TIF	N/A	Transfers & Other Financing Uses	150,000
Upper Clarenton TIF	General Administration	Operating and Contractual Services	179,000
Upper Clarenton TIF	N/A	Transfers & Other Financing Uses	80,000
Balfour Green TIF	General Administration	Operating and Contractual Services	12,000
Balfour Green TIF	N/A	Transfers & Other Financing Uses	12,130
Straits Farm TIF	General Administration	Operating and Contractual Services	315,316
Blacklick TIF	General Administration	Operating and Contractual Services	16,000
Blacklick TIF	N/A	Capital	2,000,000
Blacklick TIF	N/A	Transfers & Other Financing Uses	265,480
Blacklick II TIF	General Administration	Operating and Contractual Services	500
Village Center TIF	General Administration	Operating and Contractual Services	518,000
Village Center TIF	N/A	Transfers & Other Financing Uses	536,025
Reasearch & Technology District TIF	General Administration	Operating and Contractual Services	3,000
Oak Grove II TIF	General Administration	Operating and Contractual Services	9,000
Oak Grove II TIF	N/A	Capital	1,000,000
		<b>Total Special Revenue Funds</b>	<b>23,256,133</b>

Fund	Department	Category	Amount
Debt Service	N/A	Debt Service	4,847,661
		<b>Total Debt Service Funds</b>	<b>4,847,661</b>

Fund	Department	Category	Amount
Capital Improvement	N/A	Capital	9,980,000
Capital Improvement	Finance	Operating and Contractual Services	64,000
Park Improvement	N/A	Capital	1,100,000
Park Improvement	Finance	Operating and Contractual Services	13,000
Water & Sanitary Sewer Improvement	N/A	Capital	12,500,000
Water & Sanitary Sewer Improvement	N/A	Transfers & Other Financing Uses	220,513
Leisure Trail Improvement	N/A	Capital	260,000
Bond Improvement	N/A	Capital	1,000,000
Capital Equipment Replacement	N/A	Capital	556,600
Oak Grove II Infrastructure	N/A	Capital	2,000,000
Oak Grove II Infrastructure	Finance	Operating and Contractual Services	24,000
Economic Development Capital	N/A	Capital	25,000
		<b>Total Capital Projects Funds</b>	<b>27,743,113</b>
		<b>Total All Funds</b>	<b>76,559,536</b>

**Section 2:** To affect the purposes of the foregoing appropriations, the city manager is authorized to enter into agreements on such terms determined in the city manager's discretion, consistent with all other ordinances and resolutions in effect and enacted from time to time.

**Section 3:** The Director of Finance is authorized to allocate the appropriations for a department within activities. Except as provided in Section 4, the Director of Finance is authorized to approve transfers between activities, provided that funds may not be transferred between appropriation line items.

**Section 4:** The Director of Finance is authorized to transfer up to \$10,000 between appropriation line items, provided that such transfers are within the same fund and department, where applicable.

**Section 5:** The Director of Finance is authorized create the Economic Development – NAECA special revenue fund for the purpose of receiving distributions from the New Albany East Community Authority to be used for Economic Development purposes.

**Section 6.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 7:** Pursuant to the Article VI, § 6.07(a) of the charter of the City of New Albany, this ordinance shall take effect upon passage.

CERTIFIED AS ADOPTED this 18 day of Dec, 2018.

Attest:

  
Sloan T. Spalding  
Mayor

  
Jennifer H. Mason  
Clerk of Council

Approved as to form:

  
Mitchell H. Banchefsky  
Law Director

**CERTIFICATION BY CLERK OF COUNCIL  
OF PUBLICATION OF LEGISLATION**

I certify that copies of Ordinance **O-25-2018** were posted in accordance with Section 6.12 of the Charter for 30 days starting on December 19, 2018.

  
Jennifer Mason, Clerk of Council

12/19/18  
Date



Prepared: 11/20/2018  
 Introduced: 12/04/2018  
 Revised: 12/10/2018  
 Adopted: 12/18/2018  
 Effective: 12/18/2018

**ORDINANCE O-26-2018**

**APPROPRIATION AMENDMENT ORDINANCE**

**AN ORDINANCE TO AMEND APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES DURING THE FISCAL YEAR ENDING DECEMBER 31, 2018**

**WHEREAS**, it is necessary to increase and/or transfer expenditure appropriations within multiple funds to ensure expenditures do not exceed appropriations;

**WHEREAS**, it is necessary to reduce certain expenditure appropriations in multiple funds at year end to ensure that funds are not over appropriated;

**WHEREAS**, it is the city's intention to stay in compliance with all Ohio Revised Code budgetary requirements.

**NOW, THEREFORE, BE IT ORDAINED** by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio that:

**Section 1.** Council hereby authorizes the following amendments to appropriations for the year ended December 31, 2018:

Fund	Department	Category	Increase/ (Decrease)
101 - General	Finance	Operating and Contractual Services	\$ 150,000
222 - Economic Development SR	Community Development	Operating and Contractual Services	30,000
231 - Hawksmoor TIF	General Administration	Operating and Contractual Services	4,000
234 - Richmond Square TIF	General Administration	Operating and Contractual Services	2,000
235 - Tidewater TIF	General Administration	Operating and Contractual Services	(33,700)
237 - Upper Clarenton TIF	General Administration	Operating and Contractual Services	100
252 - Village Center TIF	General Administration	Operating and Contractual Services	198,000
301 - Debt Service Fund	N/A	Debt Service	27,000
417 - Oak Grove II Infrastructure Fund	Finance	Operating and Contractual Services	5,000
<b>Total Appropriation Amendments</b>			<b>\$ 382,400</b>

**Section 2.** Council hereby authorizes the finance director to make transfers as needed between appropriation line items of funds in order to bring expenditures in line with appropriation line items and restore appropriations reduced within this ordinance if necessary to bring expenditures in line with appropriation line items.

**Section 3.** Council hereby authorizes the finance director to increase appropriations as needed up to \$50,000 in order to accommodate unforeseen expenditures and ensure amounts are within appropriations.

**Section 4.** Council hereby authorizes the finance director to adjust appropriations within the Economic Opportunity Zone funds and the Hotel Excise Tax fund in accordance with actual receipts received in 2018 to ensure compliance with ORC 5705.36(A)(4) for the fiscal year ended December 31, 2018.

**Section 5.** Council hereby authorizes the finance director to reduce appropriations within any fund to ensure compliance with ORC 5705.36(A)(4) for the fiscal year ended December 31, 2018 so long as compliance with ORC 5705.40 and ORC 5705.41 is maintained.


**Section 6.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this ordinance were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 7.** Pursuant to the Article VI, § 6.07(a) of the Charter of the City of New Albany, this ordinance shall take effect upon passage.

CERTIFIED AS ADOPTED this 18 day of Dec, 2018.

Attest:

  
\_\_\_\_\_  
Sloan T. Spalding  
Mayor

  
\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

Approved as to form:

  
\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

**CERTIFICATION BY CLERK OF COUNCIL  
OF PUBLICATION OF LEGISLATION**

I certify that copies of Ordinance **O-26-2018** were posted in accordance with Section 6.12 of the Charter, for 30 days starting on December 19, 2018.

  
\_\_\_\_\_  
Jennifer Mason, Clerk of Council

12/19/18  
\_\_\_\_\_  
Date



Prepared: 11/21/2018  
Introduced: 12/04/2018  
Revised:  
Adopted: 12/18/2018  
Effective: 01/18/2019

## ORDINANCE O-27-2018

### AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF NEW ALBANY CHAPTER 155 "PERSONNEL POLICIES"

**WHEREAS**, Chapter 155 the Codified Ordinances of the City of New Albany sets forth the city's personnel policies including job titles, compensation, time off, leaves of absence, sick leave reciprocity, discipline, and other personnel-related matters; and

**WHEREAS**, updates are needed to Codified Ordinance Chapter 155 to bring it consistent with current practices, maintain market competitiveness, provide clarity where certain management practices exist, and provide consistency between non-bargaining policies and policies that have evolved due to collective bargaining agreements since 2012; and

**WHEREAS**, it has been found that the Codified Ordinances of the City of New Albany, Chapter 155 Personnel Policies, should be amended accordingly.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1.** Codified Ordinance Chapter 155 "Personnel Policies" be amended as requested by the City of New Albany as set forth on the attached Exhibit A.

**Section 2.** The attached Personnel Policies changes shall be effective January 1, 2019.


**Section 3.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 3.** Pursuant to Article VI, Section 6.07(b) of the Charter of the City of New Albany, this ordinance shall be in effect on and after the earliest period allowed by law.

CERTIFIED AS ADOPTED this 18<sup>th</sup> day of December, 2018.



**Attest:**

  
\_\_\_\_\_  
Sloan T. Spalding  
Mayor

  
\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

  
\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

EXHIBIT A – O-27-2018

**CHAPTER 155**  
**Personnel Policies**

155.01	Definitions.	155.17	Jury Service.
155.02	Administration.	155.18	Precinct Election Official Leave.
155.03	Compensation.	155.19	Insurance Benefits.
155.04	Probationary Period.	155.20	Merit Compensation.
155.05	Promotions, Transfers and Demotions	155.21	Miscellaneous Compensation
155.06	Overtime.	155.22	OPERS and OPFPF.
155.07	Holidays.	155.23	Licensing; Certification.
155.08	Personal Days.	155.24	Personnel Records.
155.09	Vacation.	155.25	Individuals with Disabilities.
155.10	Sick Leave.	155.26	Disciplinary Actions.
155.11	Sick Leave Reciprocity	155.27	Procedure for Appeal of Disciplinary Action
155.12	Injury Leave.	155.28	Investigative Procedures.
155.13	Family Medical Leave.		
155.14	Bereavement Leave.		
155.15	Leaves of Absence.		
155.16	Military Leave.		

CROSS REFERENCES

Powers of Council - see CHTR. 4.02  
Conflict of interest - see CHTR. 12.01  
Personnel Appeals Board - see CHTR. 10.04  
Personnel systems - see CHTR. 8.07

155.01 DEFINITIONS.

- (a) "Applicant" means a person requesting consideration for employment in the unclassified or classified service.
- (b) "Appointing Authority" means the City Manager or body having the power of appointment to, or removal from a position in the classified service and unclassified service.
- (c) "Class or (Classification)" means a group of positions with the same descriptive title having equivalent duties and responsibilities and requiring equivalent qualifications, which can be distinguished from other groups of positions. There may be only one position in a particular class (e.g. Deputy City Manager).
- (d) "Class Series" means two or more classes which are similar as to type of work but which differ as to degree of responsibility, difficulty, complexity, skill and/or technical knowledge and which have been arranged in a ladder of steps in a normal line of promotion.
- (e) "Classified Service" means all employees of the City of New Albany unless the positions which they occupy have been exempted from "classified service" pursuant to Section 8.07, personnel systems, of the City Charter and Section 155.02 of these Codified Ordinances; and who, after completion of the original probationary period, or the probationary period following a promotion, may only be disciplined, dismissed or reduced in

pay or position for just cause in accordance with the procedures contained within these Codified Ordinances.

- (f) "Continuous Service" means the length of service as a full-time employee uninterrupted by resignation, retirement, discharge for cause or any other separation from municipal employment. Military leave, leave resulting from injury in the line of duty, leave for approved disability coverage, authorized leave without pay or administrative leave without pay for periods of six (6) weeks or less is not considered separation from municipal service.
- (g) "Demotion" means a change in employment status from a position of one classification to a position in another classification or a change in employment status from one position to a position with lesser duties, having a lower maximum salary limit than the original classification.
- (h) "Department" means any department, office, commission, board or other body as defined under the Charter or Codified Ordinances.
- (i) "Discipline" means positive corrective action taken by supervisory personnel to change or control the behavior of subordinate employees to conform with prescribed policy.
- (j) "Eligible" means a person who has satisfactorily met all qualifications and requirements for employment in the job class for which the person has made application and whose name should appear on an eligible list.
- (k) "Flex time" means a work schedule that varies from the standard work hours by altering the workday start and/or finish times (including breaks) to complete a 40-hour workweek.
- (k) "Full-time Employee" means an employee that is regularly scheduled to work not less than forty (40) hours within seven (7) consecutive calendar days.
- (l) "Grievance" is any dispute, regarding the meaning, interpretation, application, or alleged violation in the administration of discipline.
- (m) "Immediate Family" means parents, parents-in-law, step-parents, in loco parentis, legal guardian, brother-in-law, sister-in-law, spouse, children, daughters- and sons-in-law, step-children, brothers, sisters, grandchildren, grandparents, and grandparents-in-law unless otherwise specified.
- (n) "Intermittent" means an employee working an irregular schedule less than 1,000 hours per fiscal year.
- (o) "Official" means a person appointed by City Council or the City Manager who directs the functions of government.
- (p) "Part-time Employee" means any employee regularly working less than 40 hours per week and having been hired with the intention of working on an ongoing basis until an appropriate reason for termination of employment arises.
- (q) "Human Resources Personnel Officer" means the position duly designated by the City Manager to coordinate the administration of this chapter.
- (r) "Position" means any office, employment or job calling for the performance of certain duties and the exercise of certain responsibilities by one individual. A position may be vacant or occupied (part-time or full-time) and it may be designated regular, part-time, intermittent, temporary or seasonal.

- (s) "Probationary Period" means a working test period during which an employee is required to demonstrate fitness for the duties to which appointed by actual performance of the duties of the position.
- (t) "Promotion" means the change of an employee from a position in one classification to a position in another classification having a higher maximum salary.
- (u) "Seasonal Employee" means any employee hired for a specified short term or interim period of time to perform work or activity limited to a season or period of year.
- (v) "Temporary Position" means a position of non-permanent character not to exceed 120 days, unless for sickness, illness or disability.
- (w) "Transfer" is a change of classification created by an employment need as determined by the City Manager.
- (x) "Unclassified Service" means all employees of the City who occupy positions which have been exempted from the "classified service" and who serve at the pleasure of the City and employees serving in a fiduciary capacity, do not serve a probationary period, and may be dismissed, disciplined or reduced in pay or position at any time without regard to the procedures contained within these Codified Ordinances without a right of appeal.
- (y) "Workday" means a regularly scheduled working time assigned by a supervisor or manager.
- (z) "Workweek" means a regularly recurring period of seven (7), twenty-four (24) hour days.

#### 155.02 ADMINISTRATION.

(a) The City Manager shall appoint a ~~Human Resources Personnel~~-Officer, to serve part-time or full-time, to administer the personnel system of the ~~Municipality~~City. The ~~Human Resources Personnel~~-Officer shall:

(1) Prepare and recommend to the City Manager for approval rules to establish and maintain the merit system of the ~~Municipality~~City. When approved by the City Manager, the rules shall be proposed to the City Council for adoption by ordinance, with or without amendment.

(2) Classify positions, establish job standards with adequate provisions for reclassification, and establish the probation period. Conduct recruitment, examinations, in-service training programs, and other such duties in relation to personnel as the City Manager may direct.

(3) Maintain a personnel file for each employee and official and keep all personnel information and necessary records.

(b) All positions shall be filled pursuant to a competitive selection process.

(c) City Council shall establish a classified and unclassified service for employees of the City. The classified and unclassified service is hereby established as follows:

(1) All employees of the City are presumed to be classified employees unless the positions which they occupy have been exempted from the classified service pursuant to Section 8.07, Personnel Systems, New Albany Charter. After completion of

the original probationary period, or the probationary period following a promotion, classified employees may only be disciplined for just cause and in accordance with the procedures contained within these Codified Ordinances.

(2) Some employees of the City serve in the unclassified service, or occupy positions which have been exempted from the classified service. Such employees serve at the pleasure of the City, do not serve a probationary period, and may be dismissed, disciplined or reduced in pay or position at any time without regard to the procedures contained within these Codified Ordinances. The following positions/personnel are hereby designated as unclassified:

- A. All seasonal, intermittent, temporary, and part-time personnel.
- B. Other positions/personnel identified as follows:
  - 1. City Manager
  - 2. Deputy City Manager
  - 3. Department Heads
  - 4. Deputy Directors
  - 5. Clerk of Council
  - 6. ~~Public Information~~ Chief Communications & Marketing Officer
  - 7. ~~Engineering Manager~~
  - 8. ~~Fiscal Manager~~
  - 9. ~~Operations Manager~~
  - 10. ~~Development Services Manager~~
  - 11. ~~Dispatch Manager~~
  - 12. Any employee serving in a fiduciary capacity

155.03 COMPENSATION.

(a) A compensation plan consisting of pay grades and step schedules for all authorized positions shall establish minimum and maximum rates of pay defined on an hourly, biweekly and/or annual basis.

(b) The following are the categories of compensation: Administrative, Professional/Mid-management, Clerical, and Technical/Service.

(c) The entry level of pay for all positions shall be the minimum rate established for the classification, except that appointment rates above the minimum may be authorized if the Department Head and the ~~Human Resources Personnel~~ Officer submit adequate reasons in writing and the action is approved by the City Manager. Approval will be based upon the exceptional qualification of the appointee or the inability to employ adequately qualified personnel at the minimum rate.

(d) It shall be the responsibility of the City Manager to implement the performance appraisal process by conducting or having conducted an appraisal of the performance of officials and employees.

(e) The pay schedule of all employees, including City Council members, shall be on a biweekly basis.

(f) Full-time and part-time employees are eligible for merit-based performance adjustments in accordance with the procedures established by the City Manager. Employees shall be evaluated at or upon their anniversary date. The

anniversary date shall be the effective date of appointment to the current classification or date of employment. An employee placed on probationary status as set forth in Codified Ordinance 155.04(e) shall be ineligible to move to the next succeeding step in the classification during that probationary period.

(g) Any employee assigned temporarily to a position of higher classification shall be compensated at the minimum of that class or seven percent (7%) above the employee's present rate, whichever is higher, for all hours worked at the higher classification, provided a minimum of eight (8) hours are worked in the higher class.

(h) When an employee does not possess the necessary minimum training, experience and/or special requirements to independently perform the essential duties and responsibilities of a position, the City Manager shall have the discretion to establish a training wage. Such wage shall be agreed upon, in writing, by the affected employee and the City Manager.

#### 155.04 PROBATIONARY PERIOD.

(a) An employee entering the service of the MunicipalityCity on a full-time or part-time basis shall be considered a probationary employee for a period of one (1) year. Probationers may be removed or demoted any time during the probationary period by a written notice to the employee from the City Manager indicating that his/her services and performance are not satisfactory. Such removals and demotions are not subject to appeal. At the end of the one-year probationary period, the employee shall be evaluated. If the employee is adequately performing the duties and responsibilities required for the position and is complying with City policies, he/she shall be considered a permanent employee in the classification to which he/she is assigned. If the employee has failed to adequately perform the duties and responsibilities required for the position and/or has failed to comply with City policies, the employee shall:

- (1) Be dismissed; or
- (2) Have his/her probationary period extended for an additional six months. A probationary period may only be extended for an additional six months if the Department Head and City Manager agree after a conference with the employee.

(b) A probationary employee shall accrue vacation leave and sick leave. Vacation leave and sick leave may be used during the probationary period in accordance with Codified Ordinance 155.09 and Codified Ordinance 155.10.

(c) Leave without pay during the probationary period shall not be counted as part of the probationary period.

(d) An employee promoted to a higher position or transferred to another classification shall be classified as a probationary employee in that position for a period of six months. If the employee does not perform satisfactorily during the six-month probationary period, he shall be returned to his previous position and his seniority in that position shall be maintained. If the employee's previous position is occupied, the employee may be returned to a similar position the employee is otherwise qualified to occupy.

(e) An employee who is changing his status from part-time or seasonal status to full-time status, even if he is performing the same tasks as performed in the part-time

or seasonal status, shall be considered a probationary employee for a period of six months.

(f) An employee who fails to achieve a satisfactory level of performance as documented through the annual performance evaluation process may be placed on probationary status for a six (6) month period. After the six (6) month period a performance evaluation shall be made. The employee shall either:

- (1) Be dismissed by reason of failing to adequately perform the duties and responsibilities required for the position;
- (2) Have his/her probationary period extended for an additional six (6) months; or
- (3) Be returned to regular status.

#### 155.05 PROMOTIONS, TRANSFERS and DEMOTIONS.

(a) If an employee is transferred, promoted or demoted, the rate of pay for the new position shall be determined as follows:

- (1) If the rate of pay in the former classification is less than the minimum rate established for the classification of the new position, the rate of pay shall be advanced to the minimum for the classification.
- (2) If the rate of pay in the former classification is more than the maximum rate established for the new classification, the pay range shall be reduced to the maximum rate or an intermediate rate within the new range, as recommended by the Department Head and approved by the City Manager.
- (3) If the rate of pay of the former classification falls within the new range of pay, the rate shall remain the same in the case of a transfer; increase in the case of a promotion; or remain the same or be lowered in the case of demotion as determined by the City Manager.

(b) All promotions of employees shall be made according to merit and fitness, to be ascertained, as far as practicable, by competitive examinations, unless the promotion is to a position exempted from competitive examinations under Section 8.07 of the Charter. The City Manager in consultation with the Department Head shall determine the practicality of competitive examinations where the vacancy exists. An examination may include an evaluation of such factors as education, training, capacity, knowledge, manual dexterity, and physical or psychological fitness. An examination shall consist of one or more tests in any combination. Tests may be written, oral, physical, demonstration of skill, or an evaluation of training and experiences and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the position for which appointment is sought. Tests may include structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and any other acceptable testing methods.

#### 155.06 OVERTIME.

(a) The use of overtime may be authorized by the Department Head in order to meet emergency service requirements or to maintain existing services.

(b) The City shall use a forty-hour workweek as the basis for making any Fair Labor Standards Act (FLSA) related overtime determinations.

(c) The calculation of an employee's 'paid status' shall include all hours permitted or suffered to be worked, as well as all hours in other paid status while on any approved leave, including holiday, vacation, personal, injury, paid military leave, sick, call out, training or other paid leave accrued to an employee on an hour-for-hour basis. The use of compensatory time is specifically excluded from the calculation of paid status.

(d) Employees who are not overtime-exempt based on FLSA regulations and who work a forty-hour workweek shall be compensated at a rate of one and one-half times their regular hourly rate for hours in paid status in excess of forty. Pursuant to C.O. 155.06, the use of previously earned compensatory time shall not be considered "hours worked" for the purpose of calculating any overtime hours worked in accordance with FLSA requirements.

(e) An employee may elect to take compensatory time in lieu of the compensation provided herein. An employee's election to take compensatory time is the sole decision of the employee and no one should coerce or pressure the employee to take compensatory time. Such compensatory time shall not exceed a total accumulation over eighty (80) hours. ~~In the event of exigent circumstances in the Public Service Department~~ employees who engage in snow removal activities may, the City Manager may allow a Public Service Department employee to accumulate in excess of eighty (80) hours, provided that any ~~approved~~ hours in excess of the eighty (80) hour limit shall be taken by the last pay period in the month of June. Any remaining compensatory time in excess of eighty (80) hours remaining at the last *pay period in June shall be paid out. In no case shall the total hours accrued be in excess of one hundred twenty (120) hours.* Compensatory time may be taken at a time that is convenient to both the employee and employer. The balance remaining at the conclusion of the first pay period ending in December shall be paid out in full.

(f) With the approval of the Department Head, employees may use "flex time" for the benefit of the employee or the City to accommodate scheduling needs.

#### 155.07 HOLIDAYS.

(a) The following days are declared paid holidays from which the full-time employees and officials will be excused from work and shall receive eight (8) hours of compensation at their base rate.

New Year's Day	January 1
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	The day following Thanksgiving
Christmas Eve	second half of the last work day before Christmas



Christmas Day                                 Day observed, four (4) hours  
December 25

(b) For employees whose normal work week is Monday through Friday, when any holiday listed above falls on Saturday, the preceding workday shall be considered the holiday. When the holiday falls on a Sunday, the following workday shall be considered the holiday. For employees (essential safety services) whose normal work week includes the weekend, the holiday shall be observed on the actual holiday.

(c) Each full-time employee shall be paid eight (8) hours pay for a holiday.—In order for an employee to be entitled to a holiday, he/she must have actually worked on the day before and the day after the holiday unless utilizing permissible leave time such as vacation, sick leave, bereavement leave, jury duty, personal day(s) or other paid leave approved by the City Manager.

(d) When any holiday listed above falls while an employee or official is on approved vacation time, such holiday shall not be charged against vacation leave.

(e) In the event the Federal and State governments shall designate a day of the week for any of the holidays specified above, then said day shall be observed in accordance with said designation.

(f) Each full-time employee, except as provided in (g), below, who is required to work on a day designated as a holiday shall, in addition to receiving eight hours pay for the holiday, be compensated in either of the following ways:

- (1) The employee shall be paid at the rate of one and one half times their hourly rate of pay for all hours worked on the holiday.
- (2) The employee shall be credited with one and one half hours of personal leave at their regular, hourly rate of pay, for all hours worked on the holiday. Personal leave may be taken as time off, with the approval of their supervisor, at any time during the calendar year in which it is credited. Any balance of unused time remaining at the end of the calendar year will be paid in cash at the employee's base rate of pay.

(g) — (g) — Effective January 1, 2019, Dispatchers and Sergeants and other 24/7 non-exempt positions within the Police Department will be provided a holiday leave bank, prorated for the holidays remaining in the calendar year. Thereafter, employees will receive a holiday leave bank at the beginning of each calendar year. Employees may use holiday leave hours on the actual holiday or another day of the year with supervisor approval. In the event an employee with holiday leave does not use or submit to use all the leave remaining as of the next to last pay period of the fiscal year, such amount will be paid to the employee at the employee's base rate in the last pay period of the fiscal year.

- (1) Upon initial appointment to a position described under (g), above, a pro-rated bank of hours for remaining holidays will be provided for the employee.
- (2) An employee who terminates with unused holiday leave will be paid out the remaining leave at the employee's base rate of pay. Employees who separate and have used more holiday leave than accrued will have the equivalent number of hours at the employee's base rate withheld from the employee's final paycheck.

Holiday leave hours not accrued are considered forfeited upon separation.

~~(g)(h)~~ Each full-time employee shall be paid eight (8) hours pay for a holiday.

(hh) Employees who begin a shift on the day prior to the designated holiday, but work more than 50% of their hours on the holiday, shall be credited for the holiday on the date that their shift begins.

#### 155.08 PERSONAL DAYSLEAVE.

(a) In addition to the observed holidays set forth in C.O. 155.07(a), all full-time employees shall be authorized to observe ~~two (2) additional paid days off ( sixteen (16) hours);~~ designated as "personal daysleave". Such time shall be scheduled as far in advance as possible and approved by the supervisor, except that no reasonable request shall be denied. Wages shall be computed on the basis of ~~an eight-hour day~~ at the employee's existing rate of compensation at the time the leave is taken. Any unused personal days-leave remaining after the last pay period of the same year or when an employee terminates his/her employment shall be forfeited.

(b) New employees hired before June 30 will be authorized to observe ~~both sixteen (16) hours of~~ personal daysleave. New employees hired between July 1 and November 30 will be authorized to observe ~~one-eight (18) hours of~~ personal dayleave. New employees hired December 1 or after will not be eligible for any personal days-leave that year.

#### 155.09 VACATION.

(a) Full-time, non-exempt employees shall accrue vacation on the following schedule:

- (1) At employment up to the completion of the 4<sup>th</sup> year of employment - 3.077 hours per pay period
- (2) Upon completion of the 4<sup>th</sup> year of employment up to the completion of the 9<sup>th</sup> year of employment - 4.615 hours per pay period
- (3) Upon completion of the 9<sup>th</sup> year of employment up to the completion of the 14<sup>th</sup> year of employment - 6.154 hours per pay period
- (4) Upon completion of the 14<sup>th</sup> year of employment and beyond - 7.70 hours per pay period

(b) The annual vacation schedule for full-time, exempt employees shall be as follows:

(1) At appointment - three weeks. Employees who move from a non-exempt position to an exempt position will be provided three weeks upon appointment to the exempt position and continue to accrue at the rate otherwise qualified for based on length of continuous service with the city.

- (2) Upon completion of the 1<sup>st</sup> year of employment up to the completion of the 4<sup>th</sup> year of employment - 4.615 hours per pay period

- (3) Upon completion of the 4<sup>th</sup> year of employment up to the completion of the 7<sup>th</sup> year of employment – 6.154 hours per pay period
- (4) Upon completion of the 7<sup>th</sup> year of employment and beyond - 7.70 hours per pay period.
- (c) Vacations shall be at full pay at the current salary rate.
- (d) Each full-time employee and official shall be permitted an annual standard maximum carryover of three (3) times the annual vacation accrual rate. Any accrued vacation leave in excess of the appropriate above maximum carryover limits standing to the credit of the employee on December 1 shall become void on December 31 unless used by the employee or carried over to the subsequent calendar year following the submission to and approval of such request by the City Manager on December 1. Approval of such requests will be limited to instances where factors beyond the employee's control or directly related to the operational needs of the ~~Municipality~~City prevented the employee from using the accrued vacation.
- (e) No advance of vacation is permitted. Only requests for vacation less than or equal to the accrued balance will be approved.
- (f) Leave is accrued on the basis of an 80 hour pay period such that any time not in paid status during a pay period will result in a reduced, pro-rated accrual for that pay period.
- (g) In order to recruit and retain qualified persons, employees shall accrue vacation leave as provided in (a) or (b), above, except that accrual rates above the minimum may be authorized if the Department Head and the Human Resources Officer submit adequate reasons in writing and the action is approved by the City Manager. Approval will be based upon the exceptional qualification of the applicant or the inability to employ adequately qualified personnel. In awarding a higher accrual rate, consideration shall be given to the applicant's qualifications, work experience, the level of responsibility required in the position and the availability of qualified applicants or other relevant market factors. Employees granted higher accrual rates shall move to the next accrual rate upon completion of four (4) years of employment with the City.
- ~~(hf)~~ Compensation for vacation leave in lieu of time off shall not be granted.
- ~~(gi)~~ Vacation leave shall be scheduled as far in advance as possible and at the discretion of the supervisor. In the event of conflicting requests, the Department Head shall resolve the conflict based on the operating needs of the department/division.
- ~~(hj)~~ Where an employee becomes deceased while in paid status in municipal employment, any accrued vacation leave to his/her credit shall be paid in a lump sum first to the surviving spouse, then to the deceased's estate.
- ~~(ik)~~ Upon retirement or termination, unused accrued vacation leave will be cashed out in the form of a lump sum monetary payment.

#### 155.10 SICK LEAVE.

- (a) All full-time employees and officials shall be credited sick leave at the rate of 4.615 hours for each pay period. Leave is accrued on the basis of an 80 hour pay period such that any hours not in paid status during a pay period will result in a reduced pro-rated accrual for that pay period.
- ~~(b)~~ Sick leave may be accumulated without limit.

(c) When used, sick leave shall be deducted from the cumulative total on an ~~hour-for-hour~~quarter-hour basis.

(d) Employees may use leave for absence due to personal illness, pregnancy, injury, exposure of contagious disease which could be communicated to other employees, and to illness or injury of the employee's spouse, child, mother, father, or other relative residing in the employee's household. Sick leave may also be used for medical, vision or dental related examination and care.

(e) Employees may be required to furnish proof of illness by furnishing a doctor's statement if the duration of the illness exceeds three (3) working days.

(f) Absence due to sickness in the immediate family not residing in the employee's household, and requiring the continuing presence of the employee to make arrangements for hospitalization or other care shall not exceed three consecutive workdays. The City Manager may approve additional absences for this purpose.

(g) Excessive use, abuse of, or misuse of sick leave may be cause for disciplinary action or dismissal.

(h) Employees for whom a replacement must be found and who are unable to report to work for any reason listed herein must report their anticipated absence to their supervisor at least one hour prior to the start of their shift on the first day of their absence. Other employees must report their anticipated absence before the expiration of the first half-hour of the start of their shift. All employees shall report accordingly on each succeeding day of their absence unless other arrangements are authorized.

(i) Sick leave may be transferable between employees due to exigent circumstances, with the approval of the City Manager.

(j) Use of sick leave is limited to employee absence due to illness or non-work related injury and quarantine of the employee by health authorities. For family medical incidents, an employee may use up to four (4) days for each discrete incident.

(k) Following the fourth (4th) occurrence of sick leave absence of one day or more in a twelve month period of time, the employee may be required to secure and present a certificate from a doctor giving information as to the circumstances involved or nature of the illness to receive pay for each subsequent absence involving sick leave in the remainder of that twelve month period. The documentation shall be sent to the Human Resources Personnel-Officer to be placed in the individual's personnel file.

(l) Sick leave accumulated during former employment with the City or with another public agency may be credited to the employee upon his/her re-employment or hire with the City provided such re-employment/employment takes place within ten (10) years of the former termination date.

a. Up to 1,920 hours of previously accumulated sick leave from another public agency may be transferred to the employee's credit at a rate of two (2) to one (1) for each hour accrued as an employee of the City of New Albany.

b. Rate of accrual shall be in conformance with C.O. 155.10(a).

(m) Upon retirement or separation in good standing, full-time employees may convert unused accrued sick leave to a lump sum monetary payment on the following conditions:

(1) For the first 120 hours (15 days) of sick leave accrued, payment shall be hour for hour. Accumulated sick leave above 120 hours shall be paid at the rate of eight (8) hours pay for every 24 hours accumulated.

(2) Payment will be at the hourly rate in effect at the time of retirement or termination.

(3) Employees terminated for cause or who fail to give two weeks' written notice of intent to terminate are not eligible for the sick leave conversion benefit.

#### 155.11 SICK LEAVE RECIPROCITY

(a) During January, each permanent full-time non-union employee may receive payment in cash for a portion of unused accrued sick leave hours at the end of the preceding fiscal year, provided such employee was entitled to sick leave benefits during all of the twenty-six (26) pay periods of the previous year and did not use more than 40 hours of paid sick leave or injury leave during the calendar year. Additionally, in order to participate, an employee must have at least 480 hours of sick leave after cash benefit hours are taken. Those who are eligible may cash in up to 48 hours of sick leave. Eligible employees must elect, no later than September 1 of each year, to convert up to forty-eight (48) hours of sick leave for payment in the first full pay period in January of the next calendar year (payable at the employees base rate of pay as of December 31 of the year of the election). Conversion of sick leave shall be based on the following table:

<b>Hours of Sick Leave or Injury Leave Taken</b>	<b>Maximum Cash Benefit Sick Leave Hours Allowed</b>
0-8 hours	48 hours
9-16 hours	32 hours
17-24 hours	24 hours
25-32 hours	16 hours
33-40 hours	8 hours
>40 hours	0 hours

(b) The number of reciprocity hours paid each employee will be subtracted from the total accrued unused sick leave. The balance of unused sick leave will be carried forward each year as the current sick leave account.

~~(c) Employee elections to participate in the program will be made during the December preceding the year of participation. If the employee remains eligible at the conclusion of the participation year and still opts to participate in the program based upon the chart above, the sick leave reciprocity payments will be made in January of the year following the year of participation. Payment will be calculated at the employee's hourly rate in effect as of the final pay period of the fiscal year preceding payment. The participating employee can opt to convert sick leave hours at any level up to the maximum amount described.~~

~~(d)(c) Cash benefit hours taken cannot reduce eligible employee's year-end sick balance below 480 hours.~~

#### 155.12 INJURY LEAVE.

When a full-time non-union employee's absence from work is necessitated because of an illness or injury incurred while on the job with the ~~Municipality~~City and the illness or injury is compensable under Ohio Workers' Compensation Law, injury leave may be granted at the discretion of the City Manager for a period of time not to exceed 180 calendar days. Such leave may be granted by the City Manager based upon the recommendation of the employee's Department Head and upon submittal by the employee or a statement from a licensed physician justifying that the employee is unable to return to full work status due to the illness/injury. Such leave shall not be charged against the employee's sick leave balance unless it is determined that the illness or injury is a non-work related illness or injury and is not compensable under Ohio Workers' Compensation Law. In order to be eligible for injury leave, the employee must report the illness/injury to his supervisor within three workdays of the incident-giving rise to the illness/injury. Simultaneously with the request for injury leave, the employee shall make application and actively prosecute a claim for lost wage benefits under Ohio Workers' Compensation Law. If the application is favorably considered, the ~~Municipality~~City's obligation under the continued use of injury leave shall be the monetary difference between the employee's regular rate of pay and the benefits received under Workers' Compensation.

#### 155.13 FAMILY MEDICAL LEAVE

The ~~Municipality~~City offers family medical leave in compliance with all federal provisions of the Family and Medical Leave Act (FMLA).

#### 155.14 BEREAVEMENT LEAVE.

(a) A full-time employee may be granted up to five (5) regularly scheduled workdays without loss of pay in case of a death in the immediate family.

(b) Sick leave, vacation leave, personal day(s) or compensatory time may be used for bereavement leave for additional days for immediate family, with the approval of the City Manager.

(c) Up to three (3) days of leave is permissible for deaths other than the immediate family, but such leave shall be charged to vacation leave, compensatory time or personal day(s).

#### 155.15 LEAVES OF ABSENCE.

(a) In an effort to be flexible and provide latitude to employees in unique or special circumstances, leaves of absence may be granted to employees under special circumstances. Eligibility for a leave of absence will be reviewed on a case-by-case basis and will be limited to full-time, regular employees with at least two (2) consecutive years of service.

(b) Leaves of absence for the following situations or emergencies will be considered:

(1) To allow employees to attend courses at recognized colleges or universities, if the courses are deemed to be of benefit to the MunicipalityCity.

(2) Family leave of absence. Female employees (not disabled by childbirth or pregnancy) and male employees may be granted a leave for the purpose of caring for a newborn child, adopted child, or a seriously ill child or other member of the family.

(3) Personal leave of absence may be granted to an employee to attend to personal matters in cases in which the City Manager determines that an extended period of time off would be in the best interest of the employee and the MunicipalityCity, including but not limited to inpatient substance abuse treatment.

(4) For other purposes deemed beneficial to the MunicipalityCity and the employee.

(c) Leaves of absence are granted without pay except in special and unusual circumstances. Insurance benefits may be continued during leaves of absence, based on a determination by the City Manager.

(d) A request for a leave of absence must be made in writing by the employee. All leaves must be approved by the City Manager and Department Head. Permitted leaves are limited to six weeks at which time any request for additional leave must be made.

(e) An employee returning to work from leave shall be reinstated to the employee's former position or a comparable position.

(f) If an employee fails to return to work at the conclusion of a permitted leave, the employee will be terminated from employment, unless the City Manager, in consultation with the Department Head, grants an extension.

#### 155.16 MILITARY LEAVE.

The MunicipalityCity will adhere to all applicable state and federal provisions for military leave.

#### 155.17 JURY SERVICE.

The City of New Albany encourages employees to fulfill their civic responsibilities by serving jury duty when required.

(a) Full-time employees may request jury duty leave. Jury duty pay will be calculated on the employee's regular pay rate times the number of hours the employee would otherwise have worked on the day of the absence.

(b) The employee, upon notice of jury service, shall present such notice to his immediate supervisor. A copy of such notice shall be filed in the employee's personnel file.

(c) Jury service requiring less than four (4) hours of the employee's regular work day as verified by the time report, shall require the employee to report to his supervisor for completion of his/her regular work day with the MunicipalityCity.

(d) Either the City or the employee may request that an employee be excused from jury duty if, in the City's judgment, the employee's absence would create serious operational difficulties.

#### 155.18 PRECINCT ELECTION OFFICE LEAVE.

The City of New Albany encourages employees to fulfill their civic responsibility by working on Election Day at the polls.

(a) Any employee who is a registered voter and meets the other requirements established by law and the Board of Elections may request Precinct Election Official Leave with pay for the purposes of being a judge of an election engaged by the Board of Elections. Precinct Election Official Leave will be calculated on the employee's regular pay times the number of hours the employee would otherwise have worked on the day of the absence.

(b) If the employee must attend the Precinct Election Official training courses, as mandated by Ohio Law and conducted by the Board of Elections, the employee must request leave with vacation, personal day(s) or compensatory time if the training is during regular work hours. Leave without pay will not be permitted to attend the training session(s).

(c) This leave with pay is not considered "hours worked" for the purpose of computing overtime.

(d) The employee must provide the City with a copy of the employee's poll worker pay stub provided by the Board of Elections.

#### 155.19 INSURANCE BENEFITS.

(a) The ~~Municipality~~City shall make available group medical, prescription drug, dental, and vision benefits to all full-time non-union employees and their dependents as well as to all currently serving, elected members of City Council and Mayor. The benefits shall be based on the benefits of the carrier or carriers.

(b) All full-time non-union employees shall be entitled to group term life and accidental death and dismemberment insurance coverage. The ~~Municipality~~City shall provide coverage in the amount equal to the employee's annual salary, rounded up to the nearest thousand dollars. The maximum coverage shall be one and one half times their annual base wages, up to a maximum of one hundred and fifty thousand dollars (\$150,000).

~~(c) The City may offer an incentive for opting out of City provided insurance benefits on an annual basis.~~

#### 155.20 MERIT COMPENSATION.

Non-Exempt and Exempt Employees. In recognition of exceptional City service, each non-union employee shall be eligible for additional compensation in the form of cash payment and/or additional personal leave as prescribed in the City's merit bonus program. An employee becomes eligible for merit bonus program compensation in the year following their attainment of the maximum rate of compensation on the City's merit based compensation program. ~~The merit bonus program consists of two parts. The first part will be based on the individual's job performance. The second part is based on the~~



~~individual's voluntary participation in an objective setting program and the individual's attainment of agreed upon objectives. Performance standards and the schedule of merit compensation shall be established by the City Manager.~~

#### 155.21 MISCELLANEOUS COMPENSATION PROVISIONS.

(a) ~~Call Out Pay. A full-time non-exempt employee who is called to return to duty after leaving work for at least thirty (30) minutes or another time when the employee is not scheduled to work will be guaranteed a minimum of three (3) hours at time and one-half times the regular rate of pay, so long as the hours do not abut the employee's regularly scheduled hours. Such pay does not apply to pre-scheduled meetings or other events that an employee attends even though the hours do not abut the employee's scheduled hours, e.g., boards and commission meetings. A full-time non-exempt non-union employee who is called out will be guaranteed a minimum of three (3) hours when called to duty, after normal working hours not abutting the employee's regular work hours, at a rate of compensation of time and one-half.~~

(b) A full-time non-exempt non-union employee who is required to attend a court session due to professional obligations while not on regular duty shall be entitled to a minimum of three (3) hours pay at time and one-half for the actual hours spent in court.

(c) Municipal employees who use a personal automobile for municipal use shall be reimbursed for such at the rate set annually by the Internal Revenue Service as tax-deductible mileage rate.

(d) The ~~Municipality~~City shall have the right to require a physical examination of all new employees, and to require periodic physical examinations, including drug testing, of all employees. All required physical examinations shall be at the expense of the ~~Municipality~~City.

(e) The ~~Municipality~~City shall provide uniforms and/or a uniform allowance for the ~~Mechanic, Maintenance Superintendent, maintenance workers, maintenance supervisors, community development inspectors and all non-union police staff~~ prescribed or permitted to wear a uniform. Such benefits shall be processed in compliance with any and all applicable Internal Revenue Service regulations.

(f) Tuition Reimbursement Program.

(1) All full-time employees and officials with twelve or more months of satisfactory service shall be eligible to participate in a tuition reimbursement program.

(2) An employee or official shall provide a written request to the Department Head indicating the course of instruction that is to be followed and how the course of instruction will benefit both the employee and the ~~Municipality~~City. The Department Head shall make a recommendation and shall forward the request to the ~~Human Resources~~ Personnel-Officer. The ~~Personnel~~-Human Resources Officer shall evaluate the course work or degree program for job-relatedness and shall notify the employee in writing regarding approval or disapproval. The approval may be for the entire course of study for an entire degree program, and the employee or official need not reapply for each course within the overall program. If the request is disapproved, a request may be made to the City Manager for reconsideration. The City Manager's decision shall be final.

(3) Courses are to be taken on other than scheduled working hours, unless approval is obtained from the Department Head, ~~Personnel~~ Human Resources Officer and City Manager.

(4) Reimbursement shall be made upon successful completion of the course with a grade of B (3.0) or better. The employee/official shall submit an official transcript or certificate demonstrating successful completion of the course and a receipt from the institution confirming the amount paid for tuition and textbooks.

(5) In the event that the employee/official receiving reimbursement separates from the ~~Municipality~~ City following any reimbursement, he/she shall pay back to the City 100% of the reimbursement amount made during the ~~twenty-four (24)~~ thirty-six (36) previous months preceding the separation back to the Municipality ~~City~~.

(6) Employees shall be eligible for up to a maximum ~~of~~ of three thousand ~~five hundred~~ dollars (~~\$3,5~~ 3,000) per calendar year for tuition and textbooks. The total amount for tuition and textbooks paid to any individual without special consideration from City Council shall be ~~seven-twelve~~ thousand dollars (~~\$7~~ 12,000).

(7) Courses of instruction eligible for reimbursement under this program shall be provided by a recognized institution (e.g., college, university, community college, post-secondary technical school, etc.). No reimbursement shall be provided for correspondence courses.

(g) Police Officers shall be eligible to receive Special Duty Pay directly from the contractor of special duty services in accordance with such rules, regulations and procedures in effect with the New Albany Police Department. The rates for Special Duty shall be established by the City Manager.

(h) A shift differential of one dollar (\$1.00) per hour shall be provided to non-union police sergeants and non-union dispatch personnel (excluding hours in paid status while on approved leaves, restricted duty, and off-duty court time hours) for those who are regularly assigned to work second shift, third shift, or any shift that commences after the starting time of second shift and ends prior to the ending time of third shift. Shift differential will be paid for actual hours worked. Shift differential shall not be paid in addition to regular pay for any hours spent on approved paid leave. Time spent in optional training programs shall not qualify for shift differential pay. If shift differential pay is applicable, and overtime occurs, the shift differential pay shall be added to the base hourly rate prior to computing the overtime rate.

(i) The City Manager shall have the authority to establish monetary and non-monetary compensation programs that recognize the special efforts of employees that benefit the community and/or the organization.

(j) The City Manager shall have the authority to establish an employee recognition program and may, at his/her discretion, provide awards in recognition of service such as plaques, trophies, service pins, etc.; and any other type of non-monetary remuneration. The City Manager may expend City funds for such items including recognition luncheons, dinners, or other such expenditure in keeping with the objective of an employee recognition program. The City Manager may establish a monetary, performance-based merit program in addition to the merit compensation under the provisions of C.O. 155.20.

155.22 OPERS and OPFPF.

(a) The full amount of the statutorily required employee contributions to the Ohio Public Employees Retirement System of Ohio (OPERS) and to the Ohio Police and Fire Pension Fund (OPFPF) shall be withheld from the gross pay of each employee and shall be paid to OPERS and to OPFPF by the MunicipalityCity on the employee's behalf. This withholding shall be in lieu of direct contributions to OPERS and OPFPF by each employee. No person subject to this withholding shall have the option of choosing to receive the statutorily required contribution to OPERS or to OPFPF directly. The MunicipalityCity shall, in reporting and making remittance to OPERS and OPFPF, report that the public employee's contribution for each person subject to this payment has been made as provided by the statute.

(b) The payment by the MunicipalityCity provided by this section shall apply to all persons that are employees of the MunicipalityCity who are or become contributing members of OPERS or OPFPF.

(c) The total salary for each employee shall be the salary otherwise payable under the MunicipalityCity's Policies. Such total salary of each employee shall be payable by the MunicipalityCity in two parts:

- (1) Deferred salary and
- (2) Cash salary.

An employee's deferred salary shall be equal to that percentage of that employee's total salary which is required from time to time by OPERS and OPFPF to be paid as an employee contribution by that employee, and shall be paid by the MunicipalityCity to OPERS and OPFPF on behalf of that employee as a pickup and in lieu of the OPERS and OPFPF employee contribution otherwise payable by that employee.

An employee's cash salary shall be equal to that employee's total salary less the amount of the pickup for that employee, and shall be payable, subject to applicable payroll deductions, to that employee. The MunicipalityCity shall compute and remit its employer contributions to OPERS and OPFPF based upon an employee's total salary. The total combined expenditures of the MunicipalityCity for such employees' total salaries payable under applicable municipal policies and the pickup provisions of this chapter shall not be greater than the amounts it would have paid for those items had this provision not been in effect.

#### 155.23 LICENSING; CERTIFICATION.

(a) Certain job classifications within the MunicipalityCity require the employee to maintain current licenses and/or certifications pursuant to the performance of the job. It is the responsibility of the employee who holds a position that mandates special licensing or certification to keep same in full force and effect while in the employ of the MunicipalityCity. A complete and updated training record shall be forwarded to the PersonnelHuman Resources Officer to be kept in the employee's personnel file.

(b) The MunicipalityCity may pay for training required to maintain certification and/or special licenses of employees. However, failure of the employee to notify the MunicipalityCity of needed training in such a manner so as to avoid loss of certification and/or license shall result in disciplinary action, including, but not limited to, requiring the employee, at his/her own expense and on his/her own time, to take the necessary training or tests to regain his/her license and/or certification.

#### 155.24 PERSONNEL RECORDS.

(a) Personnel File. One, and only one, personnel file shall be maintained for each employee and shall be in the custody of the ~~Personnel~~Human Resources Officer. The personnel file shall contain all the official records of the ~~Municipality~~City regarding an individual employee. An employee may review his personnel file at reasonable times in the presence of the ~~Personnel~~Human Resources Officer upon written request to the ~~Personnel~~Human Resources Officer. Copies of documents shall be made available to the employee at a cost as established in the City's Schedule of Fees and Service Charges. All such copies shall be marked "copy". The confidentiality of matters contained in the personnel files shall be the responsibility of the ~~Personnel~~Human Resources Officer who shall release only such information permitted by law.

(b) Retention of Records. All actions of records, including appointment, evaluations, promotions, transfers, demotions, written reprimands, dismissals, suspensions, will be maintained in each employee's personnel file throughout his/her period of employment with the following exceptions: Records of oral appeals will be removed from the file upon the written request of the employee twelve months after such reprimand was issued, provided no further disciplinary action has occurred within that twelve month period of time. Records of written reprimands will be removed from the file upon the written request of the employee two years after such was given, provided no further disciplinary action has occurred within that two year period of time. Records of suspensions of three days or less will be removed from the file upon the written request of the employee five years after such was given, provided no further disciplinary action has occurred within that five year period of time. In any case in which a written suspension, demotion or dismissal is disaffirmed through the appeal procedure, the personnel record shall clearly indicate such disaffirmance. Copies of commendations, letters of appreciation, and training certificates or records, shall also be maintained in the personnel file.

(c) Inaccurate Documents. If an employee has reason to believe that there are inaccuracies in documents contained in their personnel file, the employee may write a memorandum to the ~~Personnel~~Human Resources Officer explaining the alleged inaccuracy. If the ~~Personnel~~Human Resources Officer concurs with the employee's contentions, the ~~Personnel~~Human Resources Officer shall either correct or remove the faulty document or attach the employee's memorandum to the document and note thereon concurrence with the memorandum. The ~~Personnel~~Human Resources Officer may also attach the memorandum to the document and note disagreement with memorandum's contents. The decision of the ~~Personnel~~Human Resources Officer with regard to inaccurate documents shall be final.

#### 155.25 INDIVIDUALS WITH DISABILITIES

The ~~Municipality~~City will adhere to all applicable state and federal provisions including the American with Disabilities Act.

#### 155.26 DISCIPLINARY ACTIONS.

It shall be the responsibility of each Department Head to maintain control and discipline in his/her Department. This responsibility involves dealing promptly with violations of this chapter, municipal ordinances, the Charter, administrative orders of the City Manager, and federal and state laws by employees in their Department.

(a) Just Cause. No employee shall be reduced in pay or position, suspended (paid or unpaid), removed or reprimanded except for just cause, including incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy, work rule, or codified ordinance of New Albany, any other failure of good behavior, unbecoming conduct, any act of misfeasance, malfeasance or nonfeasance or the conviction of a felony. The denial of a one-time pay supplement or bonus is not a reduction in pay.

(b) Progressive Discipline.

(1) The principles of progressive disciplinary action will be followed with respect to minor offenses. For minor offenses, an oral reprimand, a written reprimand and a suspension shall be given prior to demotion or dismissal. However, more serious discipline may be imposed for more serious offenses consistent with "just cause".

(2) Disciplinary action may consist of any action which is appropriate to the offense, including:

- A. Informal (oral) reprimand;
- B. Formal, written reprimand which becomes part of the employee's personnel file;
- C. Suspension from duty with or without pay;
- D. Demotion in rank or reduction in salary; or
- E. Dismissal.

(3) Disciplinary action taken against an employee, which is other than in the nature of a minor first offense warning, shall be in writing and made a part of the employee's permanent personnel file.

(4) A suspension from duty without pay for a period exceeding three days must be reviewed and approved by the City Manager prior to becoming effective. Informal reprimands, formal reprimands and suspensions from duty without pay for three days or less shall not require prior approval by the City Manager. However, it is suggested that the Department Head notify the City Manager whenever an employee is suspended for three days or less. All demotions in rank, reductions in salary and dismissals must be reviewed and approved by the City Manager prior to becoming effective. Nothing in this section shall be deemed to preclude an employee from being relieved of duty if in the judgment of his supervisor such action is necessary. In all cases of discipline, the grievance procedure set forth in Section 155.27 shall control. Disciplinary actions shall in all cases be dealt with in a confidential manner. Specifically, employees who are or who may be the subject of any disciplinary action and supervisors/superiors who take or are considering taking any disciplinary action shall refrain from discussing or otherwise disclosing such action to any persons except those who by this chapter or other law are entitled to such information. Whenever a written communication is transmitted to a higher supervisory authority in which matters are discussed which, if true, could become the basis of disciplinary action against an employee, whether or not such disciplinary action is subsequently taken, the employee who is the subject of such communication shall be given a copy of it at the time of its

transmittal. This subsection does not apply to communications regarding a criminal investigation into activities of any employee.

(c) Responsibility for Discipline. The duty of maintaining discipline among employees shall rest initially with the immediate supervisor and finally with the City Manager. The City Manager has the power and duty, when he/she deems it necessary for the good of the service, to suspend, remove, or otherwise discipline all municipal employees and appointive administrative officers.

(d) Copy of Discipline Record. Whenever a disciplinary action is taken which results in a disciplinary action of record, the employee shall be given a written copy of such record at the time it is placed in the employee's personnel file. No public statement regarding the final decision shall be made until the written decision has been distributed to the employee.

155.27 PROCEDURE FOR APPEAL OF DISCIPLINARY ACTION.

(a) An employee of the ~~Municipality~~City who feels aggrieved by the action of his/her supervisor in the administration of discipline may appeal such disciplinary action according to the step(s) set forth in Table I herein. For a particular disciplinary action, the employee shall follow the procedural steps in the order established, and the last step listed is the final point of appeal. The City Manager shall discipline employees and the Personnel Appeals Board has the power to hear appeals from administrative determinations made pursuant to this chapter and as may be authorized by this chapter.

(b) In accordance with the provisions of C.O. 155.02, employees serving in the unclassified service, or occupying positions which have been exempted from the classified service, serve at the pleasure of the City and may be dismissed, disciplined or reduced in pay or position at any time without regard to the procedures contained within these Codified Ordinances.

(c) Disciplinary actions and the associated appeal steps are as follows:

**TABLE I  
DISCIPLINE APPEAL PROCEDURE**

<i>Disciplinary Action</i>	<i>Appeal Steps</i>
<del>Informal (oral) reprimand</del>	<del>(1)*</del>
Formal (written) reprimand	(1), (2)
Suspension from duty without pay for 5 or less working days	(1), (2), (3)
Suspension from duty without pay for 6 or more working days	(1), (2), (3), (4)
Demotion in rank or reduction in salary	(1), (2), (3), (4)
Dismissal	(1), (2), (3), (4)

~~\*If the department head issues the initial discipline, the employee has the right to appeal directly to the Personnel Officer. The appeal procedures shall follow those outlined in (b)(1).~~

(b) Appeal Steps.

(1) Department/Division Head review. The aggrieved employee may present a written statement of his/her appeal to the Department/Division Head within fourteen (14) calendar days of the effective date of the disciplinary action being appealed and shall ask for a review and modification or reversal of the action. The Department/Division Head shall issue a written response within fourteen (14) calendar days of receipt of the written appeal.

(2) Personnel-Human Resources Officer hearing. If an appeal is not resolved to the satisfaction of the employee under step (1) and the action being appealed is allowed to proceed to step (2), the employee may request in writing a review by the Personnel-Human Resources Officer. The written appeal must be presented to the Personnel-Human Resources Officer within seven (7) calendar days of receipt of the Department/Division Head response. The Personnel-Human Resources Officer shall hold a hearing within fourteen (14) calendar days of the receipt of such written statement. At such hearing the Department/Division Head shall present the facts and circumstances upon which the disciplinary action was taken. Prior to such hearing the Personnel-Human Resources Officer shall notify the employee, in writing as soon as is practicable, of the time and place of the hearing and the specific matters or charges which will be considered. At the hearing, the employee may be represented by an individual of his/her choosing, and will be permitted to present witnesses. The employee's personnel file shall be made available for him/her to review prior to the hearing upon written request to the Personnel-Human Resources Officer. The Personnel-Human Resources Officer, after the close of the hearing, shall issue a written decision within fourteen (14) calendar days from the close of the hearing that shall be forwarded to the employee. A copy of the written decision shall be provided to the employee and his/her representative at the time it is placed in the employee's personnel file. No public statements shall be made by the employee or employer regarding the final decision, until the written decision has been given to the employee. The written decision of the Personnel-Human Resources Officer shall be a prerequisite to a request for a hearing before the City Manager.

(3) City Manager hearing. If an appeal is not resolved to the satisfaction of the employee by the Personnel-Human Resources Officer under step (2) and the action being appealed is allowed to proceed to step (3), the employee may request in writing within seven (7) calendar days of the issuance of the Personnel-Human Resources Officer's written decision, a hearing before the City Manager. If such request is not made within seven (7) calendar days, the matter shall be closed. At such hearing, which shall occur within fourteen (14) calendar days, the department/division shall present the facts and circumstances upon which the disciplinary action was taken. Prior to the hearing, the City Manager shall notify the employee in writing, as soon as is practicable, of the time and place of the hearing and the specific matters or charges which will be considered. At the hearing, the employee may be represented by an individual of his/her choosing; he/she will be permitted to present witnesses. The employee's personnel file shall be made available to him/her for review prior to the hearing upon written request to the Personnel-Human Resources Officer. The City Manager shall issue a written decision, after the close of the hearing, which shall be forwarded to the employee within twenty-one (21) calendar days. A copy of the written decision shall be provided to the employee and his/her representative at the time it is placed in the employee's personnel file. No public statements shall be made by the employee or employer regarding the final decision, until the written decision has been

given to the employee. The written decision of the City Manager shall be a prerequisite to a request for a hearing before the Personnel Appeals Board.

(4) Personnel Appeals Board Hearing. The Charter provides for a three member Personnel Appeals Board. An aggrieved non-exempt classified employee may request in writing a hearing before the Personnel Appeals Board. The Personnel Appeals Board may also hear appeals of union employees in accordance with the grievance procedure in the applicable collective bargaining agreement. Such request must be submitted within fourteen (14) calendar days of receipt by the employee of the City Manager's decision under step (3). Such request shall be submitted to the Personnel/Human Resources Officer, who will notify the Personnel Appeals Board. The Board shall set a time, date and location to hear such appeal and notify the Personnel/Human Resources Officer as well as the employee, or designated representative, if any/known. The notice of the hearing will be either hand-delivered upon the employee or known representative or mailed to the employee's last known post office address. Alternate methods of notice may also be provided, such as pursuant to electronic means, upon the request of the employee, or the employee's designated representative, if any. Such notice of the hearing will be provided as outlined above at least fourteen (14) calendar days prior to the date of the hearing, unless an extension of time is requested or waived by the employee.

During the hearing, all witnesses must testify under oath or affirmation. Any Board member shall have power to administer oaths and affirmations to witnesses and to take testimony concerning any matter which the Board has the authority to hear.

The Board shall have the power to issue a subpoena and require the attendance of witnesses and the production of documents pertinent to any hearing. Either party may request that a subpoena be issued by the Board. Such requests for a subpoena or a request for production of documents shall be submitted no later than seven (7) days prior to the hearing. It is the responsibility of the requesting party to ensure proper service of the subpoena.

Amendments or modifications to the orders of dismissal, discipline or reduction in pay or position may be made by the appointing authority at any time prior to the start of the hearing, provided the employee and his/her attorney, if any, receive copies of the amended order prior to the time set for the hearing as provided herein.

Hearings before the Board shall be conducted in an orderly manner. The Board is not required to strictly follow the rules of evidence as applied by the courts in civil cases. The parties may be represented by counsel or other representative. The Board may also be represented by independent legal counsel when, in the Board's opinion, such independent legal counsel is needed and the cost of such representation shall be paid by the City.

In a hearing on an appeal before the Board, the following procedure shall be followed:

- a) Hearings may be public as required by Ohio law; however, upon the request of either party, witnesses may be separated during the hearing.



- b) The appointing authority taking the action affecting the employee shall proceed first with the burden of supporting the charges and specifications.
- c) The affected employee shall then produce such evidence as they wish to rebut the charges and specifications brought against the employee.
- d) The appointing authority will have the opportunity to offer rebuttal evidence.
- e) The burden of proof to be utilized by the Board shall be by a preponderance of the evidence.
- f) Each party may call witnesses to testify on their behalf. The Board on its own initiative may call witnesses other than those called by either party if in its judgment the merits of the case so require. In no instance shall more than five (5) witnesses be called by each party without the consent of the Board.
- g) The Board may, in its discretion, hear final arguments or allow post-hearing briefs.
- h) Hearings may be recorded by the Board in a manner it deems appropriate. Copies of any transcript may be provided to any parties upon written request.
- i) The Board will render its decision within a reasonable time from the date of the hearing. Upon the completion of all evidence introduced, the Board may render its final order immediately, or may take the matter under advisement and render its final order within a reasonable time thereafter.
- j) A written copy of the final order shall be transmitted to the appointing authority and the employee or their designated representative, if any.
- k) If the employee fails to appear at the hearing, the Board may hear the evidence offered by the appointing authority and render judgment thereon. If the appointing authority, or its designated representative fails to appear at the time fixed for the hearing, and if no evidence is offered in support of the charges against the employee, the Board may render judgment as by default or may hear evidence offered by the employee and render judgment thereon.

The acceptance by an appointing authority of the resignation of a person discharged, before the final action by the Board, will terminate the appeal process. Notice of the employee's resignation shall be submitted immediately to the Board and shall be entered into the Board's records.

The decision of the Personnel Appeals Board is final.

#### 155.28 INVESTIGATIVE PROCEDURES.

With the approval of the City Manager, investigative procedures shall be undertaken any time an employee is suspected of or charged with an act which could result in criminal and/or administrative charges being filed against such employee. The

investigative procedure for an administrative investigation shall be determined by the City Manager. The investigative procedure for a criminal investigation shall be as set forth hereinafter.

(a) When any anonymous complaint is made against an employee and there is no corroborative evidence of any kind, then the complaint shall be classified as unfounded and the accused employee shall not be required to submit a written report.

(b) An employee shall be informed of the nature of an investigation prior to any questioning.

(c) An employee who is to be questioned as a suspect in an investigation that may lead to criminal charges shall be advised of his constitutional rights in accordance with law and shall then and continually thereafter have a right to counsel or other representative of his choosing.

(d) The use of administrative pressures, threats, coercion or promises shall not be employed for any purpose during the course of an investigation regarding any employee.

(e) An employee who declines or refuses to answer questions or to otherwise participate in an investigation may be charged with insubordination or a like offense except where such refusal is based on an exercise of his constitutional rights as referenced in subsection (c) hereof.

(f) The interrogation of an employee in connection with an investigation shall be conducted at reasonable times and for reasonable periods of time that shall include rest periods and time to attend to physical necessities.

(g) Commencing at the time during an investigation when an employee is advised of his constitutional rights as provided in subsection (c) hereof, an interrogation shall be recorded at the request of either party.

(h) In the course of an investigation, an employee may be given a polygraph examination, in compliance with applicable laws.

(i) During the course of an investigation, interviews of employees not the subject of such investigation may be conducted. Where appropriate, the procedures set forth herein shall be followed with respect to such other employees.

(j) Upon request, an employee shall be afforded reasonable access to written documents and to taped interviews made in accordance with subsection (g) hereof during which time he/she may listen to and make personal notes. If a written transcript of a recorded interview is made, the employee will be provided a copy of such transcript upon written request to the City Manager.

(k) If in lieu of the filing of criminal charges an investigation results in the necessity of disciplinary action in accordance with Section 155.26, disciplinary actions shall be taken. An employee whose conduct is the subject of such disciplinary action shall be afforded access to evidentiary matters expected to be presented in the course of any appeal process hearing associated with the disciplinary action.

(l) If any of these procedures are alleged to have been violated, such allegations shall be subject to the appeal procedure provided in Section 155.27 beginning at the level of the ~~Personnel~~Human Resources Officer.



Prepared: 11/29/2018  
Introduced: 12/18/2018  
Revised:  
Adopted: 12/18/2018  
Effective: 12/18/2018

## RESOLUTION R-52-2018

### A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT WITH QUALITY CONTROL INSPECTION, INC. (QCI) TO PROVIDE CONSTRUCTION INSPECTION SERVICES FOR THE CITY OF NEW ALBANY ON SELECT PROJECTS

**WHEREAS**, the City of New Albany is in need of inspection services on select projects as requested by the city manager.

**NOW, THEREFORE**, be it resolved by the Council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that;


**Section 1.** The city manager is hereby authorized to enter into an agreement with QCI, for the calendar year 2019, in order to provide inspection services to the City of New Albany (Exhibit A).

**Section 2.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this ordinance were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 3.** This resolution shall take effect and be in force at the earliest period allowed by law.

CERTIFIED AS ADOPTED this 18 day of Dec, 2018.

Attest:

  
Sloan T. Spalding  
Mayor

  
Jennifer H. Mason  
Clerk of Council

Approved as to form:

  
Mitchell H. Banchevsky  
Law Director

**Agreement**



Contract No.: 168-19-012  
Expiration: 12-31-19  
Client: City of New Albany  
Service: General Project Representation/  
Contract Administration

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ by and between Quality Control Inspection, Inc. ("QCI") and the City of New Albany ("OWNER").

**WITNESSETH:**

WHEREAS, QCI is in the business of providing consulting services relating to construction inspection (excluding: wastewater treatment plant, water plant, water towers, landfills, hazardous waste or treatment facilities, buildings or projects adjudged by QCI to be of a specialized nature); and

WHEREAS, the OWNER is desirous of engaging QCI to retain consulting services relating to construction inspection and contract administration as more fully set forth below: and

WHEREAS, on \_\_\_\_\_, 201\_\_ the New Albany City Council authorized the hiring of QCI by Resolution # \_\_\_\_\_; and

WHEREAS, QCI and OWNER have agreed to the terms and conditions for the consideration as more fully set forth below.

NOW THEREFORE, in consideration of the mutual promises and obligations observed and performed by the parties hereto, QCI and the OWNER hereby agree as follows:

**ARTICLE I - SCOPE OF SERVICE**

QCI shall provide qualified Resident Project Representative(s) ("RPR") and Contract Administrators ("CA") for the use by the OWNER and at the direction of the OWNER's engineer ("ENGINEER") to inspect and consult on work being performed by Contractors hired, or authorized to perform work, by the OWNER. The OWNER shall have the right to reasonably approve all personnel assigned by QCI.

1. Duties and Responsibilities:

a.) Liaison. Serve as the ENGINEER's liaison with Contractor working principally through Contractor's Superintendent and assist him/her in understanding the intent of the Contract Documents.

b.) Review of work, Rejection of Defective Work, Inspection and Tests.

(i) Conduct on-site observations of the work in progress to determine if the work is proceeding in accordance with the Contract Documents and that completed work will conform to the Contract Documents.

(ii) Report to the ENGINEER whenever QCI believes that any work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or does not meet the requirements of any inspections, tests, or approval required to be made or has been damaged prior to final payment; and advise ENGINEER when QCI believes work should be corrected or rejected

or should be uncovered for observation, or requires special testing, inspection or approval.

- (iii) Verify that tests are conducted as required by the Contract Documents and in presence of the required personnel, and that the Contractor maintains adequate records thereof; observe, record and report to the ENGINEER appropriate details relative to the test procedures.
  - (iv) Accompany visiting inspectors representing public or other agencies having jurisdiction over the project, record the outcome of these inspections and report to ENGINEER.
- c.) Interpretation of Contract Documents. Transmit to the Contractor clarifications and interpretations of the contract documents as approved by the ENGINEER.
- d.) Modification. Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report them with recommendations to ENGINEER.
- e.) Reports:
- (i) Furnish ENGINEER daily reports as required for progress of the work and Contractor's compliance with the approved progress schedule and schedule of Shop Drawings submissions. Included shall be pay items completed, test data, and comments relative to observations of the day's work.
  - (ii) Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of work.
- f.) RPR:
- (i) The RPR is authorized to call to the attention of the Contractor any failure of the work or materials that do not conform to the Specifications and Contract
  - (ii) The RPR is authorized to reject non-specified materials.
- g.) Payment Requisitions. Review applications for payment with Contractor for compliance with the established procedure for their submission and forward those with recommendations to ENGINEER, noting particularly their relation to the schedule of values, work completed and materials and equipment delivered at the site but not incorporated in the work.
- h.) Completion:
- (i) Submit to Contractor a list of observed items requiring completion or correction.
  - (ii) Conduct final inspection in the presence of the ENGINEER and Contractor and prepare a final list of items to be completed or corrected.
  - (iii) Verify that all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance.
- i.) Additional Duties and Responsibilities. In addition to the duties and responsibilities as spelled out in Paragraph 1 (A), at the request of the ENGINEER, the CA shall act as a Liaison Officer between the ENGINEER, and the RPR, and shall, under the ENGINEER's authority and control; use best effort to resolve, rectify, remedy,

correct and/or modify all field problems of any nature whatsoever, included, but not limited to, making recommendations and/or suggestions of solutions to field problems to the ENGINEER.

## **ARTICLE II - LIMITATIONS**

Except upon written instruction of the ENGINEER, the RPR(s) or CA:

1. Shall not authorize any deviation from the Contract Documents or approve any substitute materials or equipment.
2. Shall not issue instructions contrary to the contract plans, specifications or contract documents.
3. Shall not exceed limitations of the ENGINEER's authority as set forth in the Contract Documents.
4. Shall not undertake any of the responsibilities of Contractor, Subcontractor or Contractor's Superintendent, or expedite the work.
5. Shall not advise on or issue directions relative to any aspect of the means, methods, techniques, sequences or procedures of construction unless such is specifically called for in the Contract Documents.
6. Shall not issue directions as to safety precautions and programs in connection with the work.
7. Shall not be liable for defective work, acts of omission, or operating procedures of the Contractor.

## **ARTICLE III - FEES**

### **1. Fee Schedule:**

- a.) The OWNER shall pay to QCI the fees as set forth in Exhibit "A" attached hereto.
- b.) The fees shall be due and payable on a monthly basis upon presentation by QCI of a detailed invoice.
- c.) QCI shall submit a monthly invoice to the OWNER, specifying the project name, total RPR hours worked and CA hours worked.
- d.) Payment shall be made to Quality Control Inspection, Inc., 40 Tarbell Ave., Bedford, Ohio 44146, or QCI assigned financial agent within THIRTY (30) days of the dated invoice.
- e.) In the event the OWNER or QCI desires to terminate this Agreement, it may be terminated upon a THIRTY (30) days written notice by the party so desiring to terminate to the other party. QCI shall be paid for work completed and services performed up to the time of notice and in the event it is permitted to complete commenced projects, QCI shall be compensated at the rate provided for herein.
- f.) This agreement shall become effective upon "Acceptance" and remain in effect through December 31, 2019 and shall not be construed to provide for exclusive use of QCI or to guarantee utilization of the above stated services to any level stated or implied.

#### **ARTICLE IV - INDEMNIFICATION**

1. **Indemnification and Hold Harmless:**
  - a.) QCI shall at all times maintain in force and effect professional liability insurance with a limit of liability of not less than \$1,000,000.00 and in a form generally the same as its current coverage provided by National Union Fire Company of Pittsburgh, PA.
  - b.) As used in this Section, the term "QCI" shall include: employees; agents and sub-consultants of QCI in connection with the performance of services hereunder.

#### **ARTICLE V - NON-SOLICITATION OF QCI EMPLOYEES**

1. **Solicitation of QCI Employees.**
  - a.) **Information About QCI Employees.** OWNER may work closely with employees of QCI performing services under this Agreement. All information about such employees which becomes known to OWNER during the course of this Agreement and which is not otherwise known to the public, including compensation or commission structure, is a Trade Secret of QCI and shall not be used by OWNER in soliciting employees of QCI at any time. OWNER agrees to protect the confidentiality of such information, to the extent that these terms are permitted under public records law.
  - b.) **Solicitation of Employees Prohibited.** During the term QCI is performing services for OWNER and from one (1) year following the cessation of such services, OWNER shall not directly or indirectly ask or encourage any employee(s) or former employee(s) of QCI to leave their employment with QCI, solicit any employee(s) for employment, make any offer(s) of employment to any employee(s) of QCI or employ any employee(s) of QCI.
  - c.) **Injunctive Relief.** OWNER agrees and acknowledges that the violation of any of the provisions contained herein would cause irreparable injury to QCI, that the remedy of law for any violation or threatened violation thereof would be inadequate, and that QCI shall be entitled to temporary or permanent injunctive or other equitable relief without the necessity to prove actual damages. In any proceeding by QCI to enforce any of the provision of this Agreement, the prevailing party shall be entitled to reimbursement of all costs and reasonable attorney's fees incurred in such litigation.
  - d.) **Liquidated Damages.** OWNER agrees and acknowledges that the actual damages, which would result by any breach by it of this Agreement, are uncertain and would be extremely difficult to ascertain. OWNER therefore agrees to pay QCI a sum equal to thirty-five percent (35%) of the annual compensation previously paid by QCI to any employee(s) of QCI that leaves, as a result of OWNER's breach of this Agreement, and any damages over and above this amount to which QCI may be entitled by law.
  - e.) OWNER shall not be liable to QCI on the part or actions of their consultants and/or agents relative to this section.

#### **ARTICLE VI - COPYRIGHTS**

OWNER acknowledges and agrees that QCI has certain licensing rights to Build A Form® Engineer Report System ("System") that will be utilized by QCI under this Agreement. QCI has proprietary rights in said System which shall remain the sole property of QCI and nothing herein shall

be deemed to create any rights in OWNER in violation of the rights or interest of QCI or any third party. OWNER acknowledges that the remedy at law for any breach of this section will be inadequate and, accordingly, in the event of any breach or threatened breach by OWNER of this section, QCI shall be entitled, in addition to any other remedies, to any injunction restraining any such breach, without bond or other security being required.

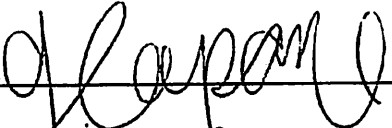
#### **ARTICLE VIII - GENERAL**


1. **Heading.** The headings to the Articles and Sections of the Agreement are inserted for convenience only and will not be deemed a part of this Agreement for purposes of interpreting or applying the provisions of this Agreement.
2. **Governing Law.** This Agreement will be governed in all respects by the laws of the State of Ohio.
3. **Severability.** If any provision or paragraph of this Agreement shall be prohibited by law or held to be invalid, such provision or paragraph shall be separable from this agreement without invalidating the remaining provisions or paragraphs hereof.
4. **Amendments.** During the term of this Agreement, OWNER and QCI may amend this Agreement provided, however, any such amendment must be in writing and signed by both OWNER and QCI.
5. **Force Majeure.** Neither party shall be liable for its failure to perform hereunder due to any contingency beyond its reasonable control, including acts of God or the public enemy, fire, explosion, accident, flood, drought, embargoes, war, riot, sabotage, action of any kind of governmental authority, whether valid or invalid, strikes, lockouts, labor disputes or shortages or any contingency, delay, failure or cause beyond the parties reasonable control, whether or not of the kind specified herein.
6. **Waiver.** The waiver by either party of any breach or violation of any provision of this Agreement shall be effective only if given in writing and signed by the waiving party. Any waiver of one breach or violation shall not operate or be construed as a waiver of any subsequent breach or violation.
7. **Entire Agreement.** This instrument, including the appendices, exhibits, and attachments hereto, constitutes the entire Agreement between the parties covering the subject matter and supersedes all previous agreements and all proposals and negotiations not expressly set forth herein. No modifications or amendments shall be valid unless in writing and signed by both parties. Where conflicts may arise between this Agreement and the proposal of QCI, this Agreement shall prevail.



IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above mentioned.

WITNESSES:


  
Gabrielle Capone  
[print witness name]

  
Phil Cannata  
[print witness name]

\_\_\_\_\_  
\_\_\_\_\_  
[print witness name]

\_\_\_\_\_  
\_\_\_\_\_  
[print witness name]

QUALITY CONTROL INSPECTION, INC.

By:   
Print Name: Rick E. Capone  
Title: President

CITY OF NEW ALBANY

By: \_\_\_\_\_  
Print Name: Joseph Stefenov  
Title: City Manager

## **EXHIBIT "A"**

### **1. Fee**

- a.) **Lead Project Representative** – \$54.56 per hour, per person. Work performed on a Saturday, Sunday, Holiday and/or any hours which exceed a total of 40 hours (40) in a workweek will be regarded as an extra for which compensation will be in the sum of \$81.84 per hour, per person for each extra hour worked.
- b.) **Resident Project Representative** – \$50.19 per hour, per person. Work performed on a Saturday, Sunday, Holiday and/or any hours which exceed a total of 40 hours (40) in a workweek will be regarded as an extra for which compensation will be in the sum of \$75.30 per hour, per person for each extra hour worked.
- c.) **Contract Administration** - \$78.86 per hour, per person.
- d.) **Mileage Reimbursement** – QCI shall be reimbursed the current IRS "Standard Mileage Rate" for mileage reimbursement for any required driving.
- e.) **Build A Form<sup>®</sup> Remote View License** \$500.00/year.
- f.) QCI's rates conform to the following cost principles: Monday through Friday, five (5) eight (8) hour workdays.
- f.) OWNER shall contact QCI one (1) hour prior to the start of any scheduled work to terminate any scheduled daily inspections. QCI shall forgo compensation for properly terminating scheduled daily inspection services. QCI shall be compensated for TWO (2) hours per person, for all scheduled inspection terminated before a two (2) hour working period, compensated for FOUR (4) hours per person for all scheduled inspection which exceeds two (2) hours but has not exceeded a four (4) hour working period, and compensated for EIGHT (8) hours per person for all scheduled inspection exceeding four (4) hours and not exceeding an eight (8) hour working period.

## Agreement



Contract No.: 168-19-012  
Expiration: 12-31-19  
Client: City of New Albany  
Service: General Project Representation/  
Contract Administration

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ by and between Quality Control Inspection, Inc. ("QCI") and the City of New Albany ("OWNER").

### WITNESSETH:

WHEREAS, QCI is in the business of providing consulting services relating to construction inspection (excluding: wastewater treatment plant, water plant, water towers, landfills, hazardous waste or treatment facilities, buildings or projects adjudged by QCI to be of a specialized nature); and

WHEREAS, the OWNER is desirous of engaging QCI to retain consulting services relating to construction inspection and contract administration as more fully set forth below: and

WHEREAS, on \_\_\_\_\_, 201\_\_ the New Albany City Council authorized the hiring of QCI by Resolution # \_\_\_\_\_; and

WHEREAS, QCI and OWNER have agreed to the terms and conditions for the consideration as more fully set forth below.

NOW THEREFORE, in consideration of the mutual promises and obligations observed and performed by the parties hereto, QCI and the OWNER hereby agree as follows:

### ARTICLE I - SCOPE OF SERVICE

QCI shall provide qualified Resident Project Representative(s) ("RPR") and Contract Administrators ("CA") for the use by the OWNER and at the direction of the OWNER's engineer ("ENGINEER") to inspect and consult on work being performed by Contractors hired, or authorized to perform work, by the OWNER. The OWNER shall have the right to reasonably approve all personnel assigned by QCI.

#### 1. Duties and Responsibilities:

a.) Liaison. Serve as the ENGINEER's liaison with Contractor working principally through Contractor's Superintendent and assist him/her in understanding the intent of the Contract Documents.

#### b.) Review of work, Rejection of Defective Work, Inspection and Tests.

(i) Conduct on-site observations of the work in progress to determine if the work is proceeding in accordance with the Contract Documents and that completed work will conform to the Contract Documents.

(ii) Report to the ENGINEER whenever QCI believes that any work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or does not meet the requirements of any inspections, tests, or approval required to be made or has been damaged prior to final payment; and advise ENGINEER when QCI believes work should be corrected or rejected

or should be uncovered for observation, or requires special testing, inspection or approval.

- (iii) Verify that tests are conducted as required by the Contract Documents and in presence of the required personnel, and that the Contractor maintains adequate records thereof; observe, record and report to the ENGINEER appropriate details relative to the test procedures.
  - (iv) Accompany visiting inspectors representing public or other agencies having jurisdiction over the project, record the outcome of these inspections and report to ENGINEER.
- c.) Interpretation of Contract Documents. Transmit to the Contractor clarifications and interpretations of the contract documents as approved by the ENGINEER.
- d.) Modification. Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report them with recommendations to ENGINEER.
- e.) Reports:
- (i) Furnish ENGINEER daily reports as required for progress of the work and Contractor's compliance with the approved progress schedule and schedule of Shop Drawings submissions. Included shall be pay items completed, test data, and comments relative to observations of the day's work.
  - (ii) Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of work.
- f.) RPR:
- (i) The RPR is authorized to call to the attention of the Contractor any failure of the work or materials that do not conform to the Specifications and Contract
  - (ii) The RPR is authorized to reject non-specified materials.
- g.) Payment Requisitions. Review applications for payment with Contractor for compliance with the established procedure for their submission and forward those with recommendations to ENGINEER, noting particularly their relation to the schedule of values, work completed and materials and equipment delivered at the site but not incorporated in the work.
- h.) Completion:
- (i) Submit to Contractor a list of observed items requiring completion or correction.
  - (ii) Conduct final inspection in the presence of the ENGINEER and Contractor and prepare a final list of items to be completed or corrected.
  - (iii) Verify that all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance.
- i.) Additional Duties and Responsibilities. In addition to the duties and responsibilities as spelled out in Paragraph 1 (A), at the request of the ENGINEER, the CA shall act as a Liaison Officer between the ENGINEER, and the RPR, and shall, under the ENGINEER's authority and control; use best effort to resolve, rectify, remedy,

correct and/or modify all field problems of any nature whatsoever, included, but not limited to, making recommendations and/or suggestions of solutions to field problems to the ENGINEER.

## **ARTICLE II - LIMITATIONS**

Except upon written instruction of the ENGINEER, the RPR(s) or CA:

1. Shall not authorize any deviation from the Contract Documents or approve any substitute materials or equipment.
2. Shall not issue instructions contrary to the contract plans, specifications or contract documents.
3. Shall not exceed limitations of the ENGINEER's authority as set forth in the Contract Documents.
4. Shall not undertake any of the responsibilities of Contractor, Subcontractor or Contractor's Superintendent, or expedite the work.
5. Shall not advise on or issue directions relative to any aspect of the means, methods, techniques, sequences or procedures of construction unless such is specifically called for in the Contract Documents.
6. Shall not issue directions as to safety precautions and programs in connection with the work.
7. Shall not be liable for defective work, acts of omission, or operating procedures of the Contractor.

## **ARTICLE III - FEES**

### **1. Fee Schedule:**

- a.) The OWNER shall pay to QCI the fees as set forth in Exhibit "A" attached hereto.
- b.) The fees shall be due and payable on a monthly basis upon presentation by QCI of a detailed invoice.
- c.) QCI shall submit a monthly invoice to the OWNER, specifying the project name, total RPR hours worked and CA hours worked.
- d.) Payment shall be made to Quality Control Inspection, Inc., 40 Tarbell Ave., Bedford, Ohio 44146, or QCI assigned financial agent within THIRTY (30) days of the dated invoice.
- e.) In the event the OWNER or QCI desires to terminate this Agreement, it may be terminated upon a THIRTY (30) days written notice by the party so desiring to terminate to the other party. QCI shall be paid for work completed and services performed up to the time of notice and in the event it is permitted to complete commenced projects, QCI shall be compensated at the rate provided for herein.
- f.) This agreement shall become effective upon "Acceptance" and remain in effect through December 31, 2019 and shall not be construed to provide for exclusive use of QCI or to guarantee utilization of the above stated services to any level stated or implied.

#### **ARTICLE IV - INDEMNIFICATION**

1. **Indemnification and Hold Harmless:**
  - a.) QCI shall at all times maintain in force and effect professional liability insurance with a limit of liability of not less than \$1,000,000.00 and in a form generally the same as its current coverage provided by National Union Fire Company of Pittsburgh, PA.
  - b.) As used in this Section, the term "QCI" shall include: employees; agents and sub-consultants of QCI in connection with the performance of services hereunder.

#### **ARTICLE V - NON-SOLICITATION OF QCI EMPLOYEES**

1. **Solicitation of QCI Employees.**
  - a.) **Information About QCI Employees.** OWNER may work closely with employees of QCI performing services under this Agreement. All information about such employees which becomes known to OWNER during the course of this Agreement and which is not otherwise known to the public, including compensation or commission structure, is a Trade Secret of QCI and shall not be used by OWNER in soliciting employees of QCI at any time. OWNER agrees to protect the confidentiality of such information, to the extent that these terms are permitted under public records law.
  - b.) **Solicitation of Employees Prohibited.** During the term QCI is performing services for OWNER and from one (1) year following the cessation of such services, OWNER shall not directly or indirectly ask or encourage any employee(s) or former employee(s) of QCI to leave their employment with QCI, solicit any employee(s) for employment, make any offer(s) of employment to any employee(s) of QCI or employ any employee(s) of QCI.
  - c.) **Injunctive Relief.** OWNER agrees and acknowledges that the violation of any of the provisions contained herein would cause irreparable injury to QCI, that the remedy of law for any violation or threatened violation thereof would be inadequate, and that QCI shall be entitled to temporary or permanent injunctive or other equitable relief without the necessity to prove actual damages. In any proceeding by QCI to enforce any of the provision of this Agreement, the prevailing party shall be entitled to reimbursement of all costs and reasonable attorney's fees incurred in such litigation.
  - d.) **Liquidated Damages.** OWNER agrees and acknowledges that the actual damages, which would result by any breach by it of this Agreement, are uncertain and would be extremely difficult to ascertain. OWNER therefore agrees to pay QCI a sum equal to thirty-five percent (35%) of the annual compensation previously paid by QCI to any employee(s) of QCI that leaves, as a result of OWNER's breach of this Agreement, and any damages over and above this amount to which QCI may be entitled by law.
  - e.) OWNER shall not be liable to QCI on the part or actions of their consultants and/or agents relative to this section.

#### **ARTICLE VI - COPYRIGHTS**

OWNER acknowledges and agrees that QCI has certain licensing rights to Build A Form® Engineer Report System ("System") that will be utilized by QCI under this Agreement. QCI has proprietary rights in said System which shall remain the sole property of QCI and nothing herein shall

be deemed to create any rights in OWNER in violation of the rights or interest of QCI or any third party. OWNER acknowledges that the remedy at law for any breach of this section will be inadequate and, accordingly, in the event of any breach or threatened breach by OWNER of this section, QCI shall be entitled, in addition to any other remedies, to any injunction restraining any such breach, without bond or other security being required.

#### **ARTICLE VIII - GENERAL**

1. **Heading.** The headings to the Articles and Sections of the Agreement are inserted for convenience only and will not be deemed a part of this Agreement for purposes of interpreting or applying the provisions of this Agreement.
2. **Governing Law.** This Agreement will be governed in all respects by the laws of the State of Ohio.
3. **Severability.** If any provision or paragraph of this Agreement shall be prohibited by law or held to be invalid, such provision or paragraph shall be separable from this agreement without invalidating the remaining provisions or paragraphs hereof.
4. **Amendments.** During the term of this Agreement, OWNER and QCI may amend this Agreement provided, however, any such amendment must be in writing and signed by both OWNER and QCI.
5. **Force Majeure.** Neither party shall be liable for its failure to perform hereunder due to any contingency beyond its reasonable control, including acts of God or the public enemy, fire, explosion, accident, flood, drought, embargoes, war, riot, sabotage, action of any kind of governmental authority, whether valid or invalid, strikes, lockouts, labor disputes or shortages or any contingency, delay, failure or cause beyond the parties reasonable control, whether or not of the kind specified herein.
6. **Waiver.** The waiver by either party of any breach or violation of any provision of this Agreement shall be effective only if given in writing and signed by the waiving party. Any waiver of one breach or violation shall not operate or be construed as a waiver of any subsequent breach or violation.
7. **Entire Agreement.** This instrument, including the appendices, exhibits, and attachments hereto, constitutes the entire Agreement between the parties covering the subject matter and supersedes all previous agreements and all proposals and negotiations not expressly set forth herein. No modifications or amendments shall be valid unless in writing and signed by both parties. Where conflicts may arise between this Agreement and the proposal of QCI, this Agreement shall prevail.

## **EXHIBIT "A"**

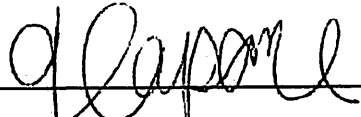
### **1. Fee**


- a.) **Lead Project Representative** – \$54.56 per hour, per person. Work performed on a Saturday, Sunday, Holiday and/or any hours which exceed a total of 40 hours (40) in a workweek will be regarded as an extra for which compensation will be in the sum of \$81.84 per hour, per person for each extra hour worked.
- b.) **Resident Project Representative** – \$50.19 per hour, per person. Work performed on a Saturday, Sunday, Holiday and/or any hours which exceed a total of 40 hours (40) in a workweek will be regarded as an extra for which compensation will be in the sum of \$75.30 per hour, per person for each extra hour worked.
- c.) **Contract Administration** - \$78.86 per hour, per person.
- d.) **Mileage Reimbursement** – QCI shall be reimbursed the current IRS "Standard Mileage Rate" for mileage reimbursement for any required driving.
- e.) **Build A Form® Remote View License** \$500.00/year.
- f.) QCI's rates conform to the following cost principles: Monday through Friday, five (5) eight (8) hour workdays.
- f.) **OWNER** shall contact QCI one (1) hour prior to the start of any scheduled work to terminate any scheduled daily inspections. QCI shall forgo compensation for properly terminating scheduled daily inspection services. QCI shall be compensated for TWO (2) hours per person, for all scheduled inspection terminated before a two (2) hour working period, compensated for FOUR (4) hours per person for all scheduled inspection which exceeds two (2) hours but has not exceeded a four (4) hour working period, and compensated for EIGHT (8) hours per person for all scheduled inspection exceeding four (4) hours and not exceeding an eight (8) hour working period



IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above mentioned.

WITNESSES:

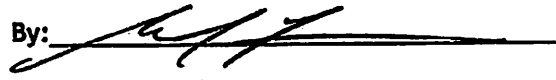
  
\_\_\_\_\_  
Gabrielle Capone  
[print witness name]

  
\_\_\_\_\_  
Gail Cannata  
[print witness name]

\_\_\_\_\_  
\_\_\_\_\_  
[print witness name]

\_\_\_\_\_  
\_\_\_\_\_  
[print witness name]

QUALITY CONTROL INSPECTION, INC.

By:   
\_\_\_\_\_  
Print Name: Rick E. Capone  
Title: President

CITY OF NEW ALBANY

By: \_\_\_\_\_  
Print Name: Joseph Stefenov  
Title: City Manager



Prepared: 12/06/2018  
Introduced: 12/18/2018  
Revised:  
Adopted: 12/18/2018  
Effective: 12/18/2018

## RESOLUTION R-53-2018

### A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A 2019 HEALTH SERVICES CONTRACT BETWEEN THE CITY OF NEW ALBANY, OHIO AND THE DISTRICT ADVISORY COUNCIL OF THE FRANKLIN COUNTY GENERAL HEALTH DISTRICT AND FRANKLIN COUNTY PUBLIC HEALTH

**WHEREAS**, the City of New Albany is required to provide public health services including plumbing inspection services in the City of New Albany, and

**WHEREAS**, the District Advisory Council of the Franklin County General Health District will provide such services.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1:** The city manager is hereby authorized to execute a contract with the District Advisory Council of the Franklin County General Health District and Franklin County Public Health to provide public health services on behalf of the City of New Albany for the period of January 1, 2019, through December 31, 2019.

**Section 2.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this ordinance were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 3.** Pursuant to Article VI of the Charter of the City of New Albany, this resolution shall take effect and be in force at the earliest period provided by law.

CERTIFIED AS ADOPTED this 18 day of Dec, 2018.

Attest:

  
Sloan T. Spalding  
Mayor

  
Jennifer H. Mason  
Clerk of Council

Approved as to form:

  
\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

EXHIBIT A - R-53-2018

**CONTRACT**  
Between  
FRANKLIN COUNTY BOARD OF HEALTH  
And  
CITY OF NEW ALBANY

This contract entered into by and between the City of New Albany (hereafter referred to as "City"), with its principal address being 99 West Main Street, New Albany, OH 43054, and the Board of Health of the Franklin County General Health District (hereafter referred to as "Board" or "Franklin County Public Health") for 2019 Public Health Services under the approval of Resolution No.18-105 dated September 12, 2018.

The Board is a general health district as defined under Ohio Revised Code (ORC) Section 3709.01.

ORC Section 3709.08 authorizes cities in Franklin County to contract with the Board to provide public health services to and within the City.

The District Advisory Council (hereafter referred to as "Council") of the Franklin County General Health District, created by ORC 3709.03, after giving due notice by publication as required by law, held a public meeting on March 22, 2018, at which by a majority vote of members representing the Council voted affirmatively to provide public health services to the cities in Franklin County, and did authorize the Chairman of the Council to enter into a contract with the Mayor of each city to provide public health services therein.

The Board is engaged in the governance of providing public health services as described in this contract and the Scope of Work, attached hereto and incorporated herein as Exhibit A, and has the knowledge, skills and resources to provide such services in accordance with the terms and conditions of Ohio law and this contract.

Pursuant to Revised Code 3709.08(C), the contract was submitted to the State of Ohio's director of health. The Board is organized and equipped to provide the services and shall have the powers and shall perform all the duties required of the board of health or the authority having the duties of a board of health within the City.

The City is willing to contract with the Board for such services in accordance with the terms and condition of Ohio law and this Contract.

**SECTION 1 – SERVICES**

The Board shall, for the consideration hereinafter stated, furnish to the City, and inhabitants thereof, all such public health services as are furnished to all villages and townships and the inhabitants thereof, of Franklin County, Ohio. Said services shall include all services as allowed by law according to the most current version of the Ohio Revised Code and as listed in Exhibit A. Said services shall include the minimum standards and optimal achievable standards for boards of health and local health departments pursuant to Ohio Revised Code Section 3701.342. Said services shall

include enforcement of all rules and regulations as allowed by law according to the most current version of the Ohio Administrative Code and the enforcement of the following Franklin County Public Health Regulations:

- (100) Definitions
- (101) Collection Vehicle Registration, Inspection and Operation for Prevention of Nuisances
- (102) Property Health and Sanitation
- (103) Plumbing for Commercial, Public and Residential Buildings and Places
- (104) Rabies Control
- (105) Approval of Building Plans
- (106) Sewage Treatment Systems
- (199) Administration and Enforcement

And, the current version of the above-described regulations of Franklin County Public Health shall apply to and be enforceable within the jurisdiction of the Franklin County General Health District and the City.

The City Attorney shall be responsible for any litigation involving enforcement of Health Regulations within the corporate limits of said political subdivision.

This contract and any claims arising in any way out of this contract shall be governed by the laws of the State of Ohio. Any litigation arising out of or relating in any way to this contract or the performance hereunder shall be brought only in an Ohio court of competent jurisdiction in Franklin County, Ohio, and the City hereby irrevocably consents to such jurisdiction.

#### **SECTION 2 – TERM**

Said public health services shall be furnished beginning January 1, 2019 and ending December 31, 2019 provided, however, that either party to this agreement shall have the right to cancel the same upon four (4) months written notice and the parties hereto may, by mutual written agreement, modify the terms of this agreement.

#### **SECTION 3 – COMMUNICATION**

The Board will provide ongoing communication with the Mayor/City Manager and his or her designees through notification at least quarterly. This communication will provide information on timely public health topics, upcoming events and featured services. Reports and other information about direct services that are being provided to the City will be provided upon request.

#### **SECTION 4 – PUBLIC HEALTH PAYMENT, FEES & CHARGES**

The City, Ohio shall pay the Board for said public health services furnished to the City and the inhabitants thereof, such sum or sums of money based on a per capita rate as would be charged against municipal corporations composing the Franklin County General Health District at a per capita rate of \$8.61.

Said sums of money shall be paid to the Board in installments of 50% of the total contract amount in January 2019 and 50% of the total contract amount in June 2019 through the

process of withholding the installment amounts from the semi-annual real estate tax settlement distribution to be received by the City and transferred to the Board by the Settlement Officer of the Franklin County Auditor. The sum for 2019 shall not exceed \$92,161.44, notwithstanding any fee established pursuant to the sections set forth below.

In any instance where the Board expends funds to abate a nuisance pursuant to Section 1, above, within the City, the Board may invoice the City for the costs of such nuisance abatement. Further, the City shall pay, in addition to those sums set forth in Section 5, above, to the Board the cost to abate the nuisance.

The Board agrees to certify such nuisance abatement costs to the Franklin County Auditor to be recorded as a lien upon the property and shall reimburse all funds recovered under such a lien to the City.

**SECTION 5 - PLUMBING INSPECTION SERVICES AND FEES**

The Board shall, for the consideration hereinafter stated, furnish to the City, all plumbing and medical gas inspections as are furnished to all inhabitants within the general health district of Franklin County. Inspectors are to be state certified by the Ohio Department of Commerce.

The City, through its Building Department, shall issue permits and collect fees for such plumbing inspections. The fee to be charged shall be the most current fee charged by the Board. The City shall forward sixty (60) percent of all plumbing inspection fees collected by them to the Board upon receiving monthly statements of the amount due from the Board. The City shall pay said amount, within thirty (30) days after receipt of said statement.

**SECTION 6 – APPROVAL**

This contract is approved by a majority of the members of the legislative authority of the City, pursuant to the provisions of Ordinance \_\_\_\_\_ dated \_\_\_\_\_.

The City has determined that Franklin County Public Health is organized and equipped to adequately provide the service that is the subject of this contract.

**IN WITNESS WHEREOF**, the parties to this agreement have hereunto set their hands and seals and have executed this agreement the day and year written below.

DISTRICT ADVISORY COUNCIL OF THE  
FRANKLIN COUNTY GENERAL HEALTH DISTRICT

\_\_\_\_\_  
Chairperson Date

FRANKLIN COUNTY PUBLIC HEALTH

\_\_\_\_\_  
Joe Mazzola, MPA Date  
Health Commissioner

THE CITY OF NEW ALBANY, OHIO

\_\_\_\_\_  
City Manager Joseph Stefanov Date

APPROVED AS TO FORM:

Ron O'Brien  
Prosecuting Attorney  
Franklin County, Ohio

\_\_\_\_\_  
Assistant Prosecuting Attorney Date  
Attorney for the District Advisory  
Council of the Franklin County General Health District

\_\_\_\_\_  
City Attorney Date  
City of New Albany, Ohio

**FINANCIAL CERTIFICATE**

It is hereby certified that the amount required to meet the contract agreement, obligation, payment of expenditure for the above has been lawfully appropriated, authorized or directed for such purpose and is in the treasury or in the process of collection to the credit of the proper fund and is free from any obligation or certificated now outstanding.

\_\_\_\_\_  
FISCAL OFFICER  
City of New Albany, Ohio

\_\_\_\_\_  
DATE



**EXHIBIT A  
SCOPE OF WORK**

Franklin County Public Health ("Board"), hereby agrees to provide health services for the City for the calendar year 2019 as set forth below ("Services").

- The Board shall have full authority to be and act as the public health authority for the City
- The Services described in the schedule listed below in this Exhibit will be provided by the Board to the City.
- The Services will include all necessary medical, nursing, sanitary, laboratory and such other health services as are required by the Statutes of the State of Ohio.

The followings specific services shall be a part of the Services provided under this Contract:

<b>List of Functions, Programs and Services</b>
<b>Administrative Services:</b>
Administration
Budget, Accounts Payable, Accounts Receivable
Communication & Marketing
Grant Writing & Management
Records Management
Reports - Financial & Statistical
<b>Data Services:</b>
Community Health Assessment
Health Data
<b>Environmental Health:</b>
Food Service Operation Licensing, Inspection & Education
Healthy Homes (Lead, Radon) Inspection & Education
Mosquito Control Services & Education
Nuisance & Vector Control Enforcement & Education
Plumbing & Medical Gas Inspections
Public Swimming Pool & Spa Licensing, Inspection & Education
Rabies Surveillance - Animal bite investigation and follow up
Retail Food Establishment Licensing, Inspection & Education
School Facilities Inspection & Education
Sewage Treatment System Permitting, Inspection & Education
Smoke Free Workplace Enforcement & Education
Solid Waste, Construction and Demolition Facility, Transfer Station Inspection & Enforcement
Tattoo & Body Piercing Permitting, Enforcement & Inspection
Temporary Park Camp Licensing, Enforcement & Inspection
Water Quality Permitting, Testing & Education
<b>Emergency Preparedness:</b>
Community Outreach and Education
Injury Prevention/Opiate Crisis Programs & Education

Public Health Emergency Preparedness
Planning and Cities' Readiness Initiative activities
<b>Epidemiology, Surveillance, Investigation Services:</b>
Reportable Infectious Disease investigation and follow-up(excluding HIV/AIDS; STD; TB)
Disease Outbreak Management
<b>Health Promotion:</b>
Community Health Action Teams
Farm to School Program
Nutrition & Physical Activity Education Programs
Safe Routes to Schools
Tobacco Use Prevention, Education & Cessation Program
<b>Health Systems &amp; Planning:</b>
Community Health Improvement Plan
Data & Information Technology
Public Health Accreditation
<b>Immunization Services:</b>
Childhood and Adult Vaccine Administration Services
<b>Occupational Health:</b>
Immunizations and screenings - Fee for Service
<b>Maternal &amp; Child Health:</b>
Bureau for Children with Medical Handicaps (BCMh) Public Health Nursing Services
Safe Sleep & Infant Mortality Prevention Initiatives & Education

The Board maintains a range of grant funded programs for citizens throughout the County who are income qualified.

**THE BOARD RESERVES THE RIGHT TO AMEND THIS EXHIBIT AT ANYTIME PRIOR TO AUTHORIZATION OF THE CITY COUNCIL AND THE BOARD OF HEALTH ANNUALLY.**



Prepared: 12/06/2018  
Introduced: 12/18/2018  
Revised:  
Adopted: 12/18/2018  
Effective: 12/18/2018

## RESOLUTION R-54-2018

### A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT ON BEHALF OF THE CITY OF NEW ALBANY WITH MITCHELL BANCHEFSKY TO PROVIDE LEGAL SERVICES TO THE CITY

**WHEREAS**, the City of New Albany is in need of a Director of Law to be the prosecuting attorney and legal counsel for the city, to represent the city in all proceedings in court or before any administrative board or body, and to perform other duties as required in accordance with New Albany City Charter Section 8.04(b), by city legislation, by council, or by the city manager, and

**WHEREAS**, in the fall of 2014, council authorized the city manager to solicit proposals and resumes from qualified law firms and individual attorneys to serve the city in the capacity of Director of Law, and

**WHEREAS**, Mitchell Banchefsky was determined to be the most qualified to serve as Director of Law for the City of New Albany at that time, and

**WHEREAS**, Mitchell Banchefsky has served the city in the capacity of Director of Law since 1997, and

**WHEREAS**, it is the city's desire to contract with Mitchell Banchefsky through a professional services contract in the capacity of Director of Law to be effective January 1, 2019 through December 31, 2019.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1:** Pursuant to Section 8.04 of the Charter, the City Manager is hereby authorized to enter into a professional services contract with Mitchell Banchefsky to serve as Director of Law and to provide legal services to the City of New Albany. Such contract shall be in effect through December 31, 2019.

**Section 2.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this ordinance were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 3.** Pursuant to Article VI of the Charter of the City of New Albany, this Resolution shall take effect and be in force at the earliest period provided by law.

CERTIFIED AS ADOPTED this 18 day of Dec, 2018.

Attest:

  
\_\_\_\_\_  
Sloan T. Spalding  
Mayor

  
\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

Approved as to form:

  
\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

EXHIBIT A – R-54-2018

**PROFESSIONAL SERVICES AGREEMENT  
BETWEEN THE CITY OF NEW ALBANY  
AND ATTORNEY MITCHELL H. BANCHEFSKY  
2019**

**Preamble**

This Professional Services Agreement, between the CITY OF NEW ALBANY, an Ohio municipal corporation (the City) and Attorney **Mitchell H. Banchefsky** (Law Director, or Solicitor), was originally authorized pursuant to Resolution R-XX-2018 (passed December 18, 2018), and which takes effect January 1, 2019.

In consideration of the mutual promises contained herein, the parties agree as follows:

**1. Purpose of Representation**

Pursuant to the City Charter and the laws of the State of Ohio, the City hereby retains attorney Mitchell H. Banchefsky to serve as Solicitor/Law Director (Solicitor) for the City, and its elected and appointed officials. The Solicitor shall be responsible for performing any and all duties pursuant to the City Charter, City ordinances and laws of the State of Ohio.

**2. Compensation**

A. Fixed Rate Services – Except as otherwise set forth herein, Solicitor shall perform all legal services, as determined by the City Manager (Manager), on behalf of the City for an annual fee of One Hundred Forty-Four Thousand Two Hundred Eighty-Seven Dollars (\$144,287.00), payable in equal monthly installments of Twelve Thousand Twenty-Three Dollars and Ninety-Two Cents (\$12,023.92). Such legal services shall also include the prosecution of Mayor's Court cases (the Solicitor shall not be responsible for prosecuting City cases transferred from Mayor's Court to the Franklin or Licking County Municipal Court or originating in any other courts, unless otherwise agreed to by the parties).

It is the intention of the parties that this fixed fee shall cover the majority of all services provided to the City under this Agreement, including attendance at City Council meetings, as well as City Board and Commission meetings as requested by the Manager. In providing such services, it is anticipated that the Solicitor shall devote approximately 25 hours per week.

B. Extraordinary Legal Services - With the approval of the Manager, Solicitor may provide additional legal services involving extraordinary legal matters, at a fee determined by the Manager, as agreed to by the parties. It is the intent of the parties that this subsection shall be utilized only for significant, non-routine projects, which could include by way of example: major litigation (not covered by insurance), litigation initiated by the City,

collective bargaining, complex real estate matters (other than routine purchase/sale contract review and closing), and similar non-routine major assignments.

**3. Settlement Authority**

No settlement of any nature shall be made for any City claims or suits without approval of the Manager and Council.

**4. Special Counsel**

The Solicitor, with the approval of the Manager shall have the right to utilize the services of other attorneys as Assistant Solicitor, Prosecutor, and/or Special Counsel.

**5. Expenses**

Court costs and all reasonable expenses incurred by the Solicitor on the City's behalf shall be billed to the City. Such expenses include, without limitation, funds advanced on behalf of the City, electronic/online research, deposition and discovery costs. Solicitor shall be responsible for all other expenses.

**6. Billing**

The Solicitor will provide the Manager with monthly itemized billing statements generally setting forth not only all "Fixed Rate Services," but also services pre-approved "Extraordinary Services" (if any). Billing statements shall be in a form acceptable to the Manager and Finance Director.

**7. Professional Liability Insurance**

The Solicitor, as well as all attorneys providing services on behalf of the City, shall at all times maintain professional liability insurance in an amount satisfactory to the City and shall provide evidence of such coverage upon request of the Manager.

*(Remainder of this page left intentionally blank)*

**8. Term of Agreement**

This Agreement shall remain in effect from January 1, 2019, through December 31, 2019. This Agreement is terminable by either party upon thirty (30) days written notice.

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

CITY OF NEW ALBANY

By: \_\_\_\_\_  
Joseph F. Stefanov,  
City Manager

BY SIGNING THIS AGREEMENT, SOLICITOR ACKNOWLEDGES AND AGREES THAT HE HAS BEEN INFORMED THAT THE CITY OF NEW ALBANY, OHIO HAS CLASSIFIED HIM AS AN INDEPENDENT CONTRACTOR AND THAT HE HAS BEEN ADVISED THAT CONTRIBUTIONS TO OPERS WILL NOT BE MADE ON HIS BEHALF FOR THESE SERVICES.

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

MITCHEL H. BANCHEFSKY

By: \_\_\_\_\_  
Mitchell H. Banchefsky,  
Solicitor/Law Director

**Fiscal Officer's Certificate**

As Finance Director of the City of New Albany, I do hereby certify that funds in the amount necessary to support this Agreement have been lawfully appropriated or authorized or directed for the Agreement between the City of New Albany and Attorney Mitchell H. Banchefsky, for the herein contract and is in the treasury or in the process of collection to the credit of the appropriate fund free from any obligation or certification now outstanding.

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

\_\_\_\_\_  
Bethany Staats, CPA, Finance Director



Prepared: 12/06/2018  
Introduced: 12/18/2018  
Revised:  
Adopted: 12/18/2018  
Effective: 12/18/2018

## RESOLUTION R-55-2018

### A RESOLUTION TO AMEND, RENEW, AND EXECUTE THE EMPLOYMENT AGREEMENT WITH THE CITY MANAGER FOR 2019

**WHEREAS**, after evaluation of the city manager, council has determined that Joseph Stefanov has again met council's goals and objectives established for the manager and, by this resolution, hereby authorizes the renewal of the amended Employment Agreement with Joseph Stefanov for 2019.

**NOW, THEREFORE, BE IT RESOLVED** by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1.** Council hereby finds that the continued employment of Joseph Stefanov as city manager is in the best interest of the city and is necessary to promote the public health safety and welfare.

**Section 2.** Joseph Stefanov's employment shall be continued under the terms and conditions set forth in the amended Employment Agreement herein attached as Exhibit A.

**Section 3.** Council hereby authorizes the execution of the amended Employment Agreement with Joseph Stefanov.

**Section 4.** It is hereby determined that all formal actions of the council concerning and relating to the passage of this resolution were adopted in an open meeting of the council, and that all deliberations of the council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 5.** Pursuant to Article 6.07 of the New Albany Charter, this resolution shall take effect upon adoption.

CERTIFIED AS ADOPTED this 18 day of Dec, 2018.

Attest:

  
Sloan T. Spalding  
Mayor

  
Jennifer H. Mason  
Clerk of Council



Approved as to form:

  
\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

**EMPLOYMENT AGREEMENT**

The City of New Albany, an Ohio Municipal Corporation, (hereinafter called "City"), hereby agrees to employ Joseph F. Stefanov as City Manager (hereinafter called the "Manager") to perform the functions and duties of the City Manager as set forth in the City Charter, the New Albany Codified Ordinances and such other statutory and legally permissible duties and functions as Council shall direct or assign. The Manager agrees to accept such employment under the terms and conditions hereinafter set forth.

**SECTION 1. SALARY AND EVALUATION**

A. Council shall determine the Manager's base rate of compensation annually for calendar year 2019 and in each subsequent contract year, in addition to any cost of living increase given to non-union City employees during such period. The Manager shall also be eligible for a merit-based performance adjustment as Council may determine. Any such merit-based performance adjustment shall be independent of the base rate of compensation and shall be based on the Manager's successfully addressing goals established by Council. Additionally, any such merit-based performance adjustment shall not serve to increase the Manager's base rate of compensation in subsequent contract years. Nothing contained herein shall limit Council's ability to modify the Manager's base rate of compensation. The Manager's compensation shall be payable in installments at the same time as other City employees are paid.

B. Council shall conduct a formal performance evaluation of the Manager, prior to the expiration of each contract term or at a subsequent time as Council may determine. The evaluation

should be discussed with the Manager so as to provide feedback and establish goals and performance objectives for the next contract year. The award of any such merit-based pay performance adjustment will be at the sole and exclusive discretion of Council.

**SECTION 2. TRAVEL ALLOWANCE**

The Manager shall be paid a monthly automobile allowance of six hundred dollars (\$600.00) per month in lieu of reimbursement for travel expenses not associated with professional conferences and training.

**SECTION 3. HOLIDAYS, VACATION, SICK LEAVE AND RETIREMENT**

The Manager shall accrue holidays, vacation, sick leave and retirement benefits pursuant to Chapter 155 of the City's Codified Ordinances.

**SECTION 4. LIFE, HEALTH AND LIABILITY INSURANCE**

The Manager shall receive life and health insurance pursuant to Chapter 155 of the City's Codified Ordinances. Additionally, the City will provide public official's liability insurance for the Manager.

**SECTION 5. PROFESSIONAL DEVELOPMENT**

Subject to budgetary constraints and approval of curriculum, Council hereby agrees to pay the travel and subsistence expenses of the Manager for professional and official travel, meetings, and occasions adequate to continue the professional development of the Manager and to adequately pursue

necessary official and other functions for Council, including but not limited to the Annual Conference of the International City Managers Association, the Ohio Municipal League, and such other national, regional, state and local governmental groups and committees thereof which the Manager serves as a member.

**SECTION 6.**            **DUES AND SUBSCRIPTIONS**

Council agrees to pay the dues and subscriptions of the Manager necessary for continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for continued professional development and for the good of City.

**SECTION 7.**            **HOURS OF WORK**

A.     It is recognized the Manager must devote time outside normal office hours to City business, and to that end the Manager will be allowed to take compensatory time off as deemed appropriate during said normal office hours.

B.     The Manager shall not spend any time teaching, consulting, or other non-City related income producing activity without the express prior approval of Council.

**SECTION 8.**            **TERM OF AGREEMENT**

A.     The term of this Agreement shall be from January 1, 2019 through December 31, 2019. Notwithstanding any other provisions contained herein, this Agreement will be automatically renew for additional one (1) year periods, unless Council provides the Manager with ninety (90) days written notice of non-renewal prior to September 30 of any contract year. Any such automatic renewal shall be

on the same terms as the previous year's Agreement, provided however that Council may make such modifications as are set forth in Section 1 of this Agreement. The Manager agrees to remain in the exclusive employ of the City during the term of this Agreement or any extension thereof. The Manager agrees not to become employed by any other employer during the term of this agreement, unless Council terminates the Manager during the term of this agreement as provided in Section 9; or, the Manager resigns after proper notice as provided in Section 8 (C); or unless this provision is modified by mutual agreement of Council and the Manager.

B. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the absolute right of Council, in its sole and exclusive discretion, to terminate the services of the Manager at any time, subject only to the provisions set forth in Section 9, Paragraphs A and B, of this Agreement.

C. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Manager to resign at any time from this position with the City. The Manager shall give Council ninety (90) days written notice should the Manager voluntarily resign this position prior to the expiration of this Agreement or any extensions thereof.

**SECTION 9. SEVERENCE PAYMENT**

A. In the event the Manager is terminated by Council prior to the expiration of this Agreement or any extensions thereof, and if at such time the Manager remains willing to perform the duties of the Manager, then Council agrees to pay the Manager a lump sum cash severance payment equal to twelve (12) months' aggregate salary; provided, however, that if the Manager is terminated for willful failure or refusal to comply with the policies, rules, regulations, standards or direction established by Council, or if the Manager is convicted of an illegal act involving dishonesty, theft or

misconduct, then Council shall have no obligation to make such severance payment.

B. In the event Council at any time during the employment term reduces salary or other financial benefits of the Manager in a percentage greater than an applicable across-the-board reduction for all non-union City employees, or in the event Council refuses, following written notice, to comply with any other provision benefiting the Manager, or the Manager resigns following a request by Council for such resignation, then, at the sole discretion of the Manager, the Manager may be deemed to be "terminated" on the effective date of Manager's resignation and the Manager shall be entitled to receive the severance benefit set forth herein, based upon the Manager's salary prior to any such salary reduction

C. If the Manager voluntarily resigns, there shall be no severance pay.

**SECTION 10. OTHER TERMS AND CONDITIONS OF EMPLOYMENT**

A. Council shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Manager; provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter, City Codified Ordinances, or any other law.

B. All applicable provisions of the City Charter, City Codified Ordinances, regulations and rules of the City relating to retirement and pension system contributions, holidays, and other fringe benefits and working conditions as they now exist or hereinafter may exist in the City, in addition to said benefits enumerated specifically for the benefit of the Manager, except as herein provided, shall also apply to the Manager.

**SECTION 11. GENERAL PROVISIONS**

A. The text herein shall constitute the entire agreement between the parties, and replaces and supersedes any previous Agreements.

B. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

D. This Agreement shall become effective commencing January 1, 2019. If executed after such date, this agreement shall apply retroactively to January 1, 2019.

This Agreement is executed this \_\_\_\_\_ day of December, 2018 at New Albany, Ohio.

\_\_\_\_\_  
SLOAN T. SPALDING, MAYOR  
CITY OF NEW ALBANY, OHIO

\_\_\_\_\_  
JOSEPH F. STEFANOV, CITY MANAGER

APPROVED AS TO FORM:

\_\_\_\_\_  
MITCHELL H. BANCHEFSKY, LAW DIRECTOR

**Fiscal Officer's Certificate**

As Finance Director of the City of New Albany, I do hereby certify that funds in the amount designated in this Contract have been lawfully appropriated or authorized or directed for the contract between the City of New Albany and Joseph F. Stefanov for this Contract and is in the treasury or in the process of collection to the credit of the appropriate fund free from any obligation or certification now outstanding.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Bethany Staats, CPA, FINANCE DIRECTOR





Prepared: 12/06/2018  
Introduced: 12/18/2018  
Revised:  
Adopted: 12/18/2018  
Effective: 12/18/2018

## RESOLUTION R-56-2018

### A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH SIEKMAN AND SIEKMAN, LLC FOR GOVERNMENT RELATIONS SERVICES

**WHEREAS**, in the spring of 2014 city council authorized the city manager to advertise for and accept proposals for government relations services and to enter into a professional services contract with the preferred, individual and/or firm; and

**WHEREAS**, The Strategy Group was determined to be the most qualified firm to serve as the city's government relations consultant; and

**WHEREAS**, The Strategy Group served in this capacity from July 1, 2014 through December 31, 2016; and

**WHEREAS**, Pamela and Dwayne Siekman were the principle representatives of The Strategy Group for the City of New Albany; and

**WHEREAS**, Pamela and Dwayne Siekman established effective relationships with officials of the State of Ohio on behalf of the City of New Albany and provided vital assistance in the city's efforts to obtain a State of Ohio Capital Fund Grant; and

**WHEREAS**, in October of 2016, Pamela and Dwayne Siekman notified the city that they were modifying their relationship with The Strategy Group and forming the government relations firm, Siekman and Siekman, LLC; and

**WHEREAS**, the city manager has recommended that the city obtain government relations services from Siekman and Siekman, LLC in order to maintain continuity and continue to develop relationships with officials of the State of Ohio.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1:** The city manager is hereby authorized to execute a contract with Siekman and Siekman, LLC to provide government relations services on behalf of the City of New Albany for the period of January 1, 2019, through December 31, 2019.

**Section 2.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this ordinance were adopted in an open meeting of the council, and that all

deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 3.** Pursuant to Article VI of the Charter of the City of New Albany, this resolution shall take effect and be in force at the earliest period provided by law.

CERTIFIED AS ADOPTED this 18 day of Dec, 2018.

**Attest:**

  
\_\_\_\_\_  
Sloan T. Spalding  
Mayor

  
\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

  
\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

## **SERVICE AGREEMENT**

This Master Consulting Agreement, executed as of the 1<sup>st</sup> day of January, 2019, between Siekman and Siekman, LLC (Siekman), an Ohio limited liability company, headquartered at 4597 Neiswander Square, New Albany, Ohio 43054 and the City of New Albany, Ohio located at 99 West Main Street, New Albany, Ohio 43054.

### **I. SERVICES**

Siekman shall provide to the City of New Albany, Ohio services as agreed upon and attached as Statements of Work (SOW) and referencing this Master Consulting Agreement (the "Services"). Multiple SOW's may be associated with this Master Consulting Agreement at any given period of time.

### **II. FINANCIAL ARRANGEMENTS**

#### **1. Fees**

Siekman will bill the City of New Albany, Ohio for Services as indicated in each SOW.

#### **2. Expenses**

(a) Expenses. Siekman will bill the City of New Albany, Ohio monthly for expenses incurred on your behalf, including, but not limited to, items such as lodging and airfare. We will obtain your authorization before making any commitments for any out-of-pocket expenditure in excess of \$100 on your behalf.

#### **3. Invoice Payment Terms**

(a) The City of New Albany, Ohio agrees to pay all undisputed invoices within thirty (30) days. In the unlikely event that our invoices remain unpaid for more than sixty (60) days, we may, at our discretion, suspend work on your account. In addition, in the event any invoices become overdue, all subsequent payments may, at our option, first be applied to those invoices which are overdue for the longest period of time until all payments are up to date.

(b) Siekman will review each bill for accuracy and value before we send it to you. However, it is important that you also immediately review our bills and approve them for payment. If you cannot approve any portions of our bills, you agree to contact us immediately and to discuss the problem. If you do not inform us of your disapproval of our billings or the overall amount of our ongoing charges, we will continue to provide Services in reliance on your implied approval of our billings.

### **III. TERM; TERMINATION**

1. The term of this Agreement shall commence as of January 1, 2019 and shall continue for a period of twelve (12) months. The contract shall expire at the end of the initial twelve-month period unless the City of New Albany, Ohio notifies Siekman within thirty

(30) days of the expiration date of its intent to renew. The renewal period shall be for an additional twelve (12) months.

2. This Agreement may be terminated by either party by giving thirty (30) days prior written notice to the other party. During the notification period, the rights, duties and responsibilities of the City of New Albany, Ohio and Siekman as Client and Agency shall continue in full force and effect, including, but not limited to, us continuing to be ready and willing to render Services on your behalf and the payment of all fees, expenses and other sums as provided herein.

#### **IV. OWNERSHIP OF MATERIALS**

We acknowledge and agree that all final and fully paid for photography, brochures, manuals, film, signage, press kits, and other materials (collectively referred to as "Materials") generated by or for the City of New Albany, Ohio in the performance of this Agreement shall be deemed "work made for hire" and shall, as between the City of New Albany, Ohio and Siekman, be your exclusive property, subject to any third party rights, restrictions or obligations of which we notify you. Likewise, you acknowledge that we retain ownership of all works of authorship created by or for us prior to or separate from the performance of Services under this Agreement, including, but not limited to, our proprietary information/services, software applications, databases, computer programs (including code), media lists, and third party relationships held by us ("Agency Property").

#### **V. INDEMNIFICATION**

The services to be performed under this Agreement will be performed entirely at Siekman's risk, and Consultant assumes all responsibility for the condition of supplies and equipment used in the performance of this Agreement. Siekman agrees to indemnify the City of New Albany for any liability or loss arising out of Siekman's failure to comply with applicable State lobbying statutes or regulations.

1. We will indemnify, defend and hold you harmless against all liabilities, losses, damages or expenses, including reasonable attorneys' fees and costs, which you may incur as the result of any claim, suit or proceeding brought or threatened against you pertaining to libel, slander, defamation, copyright infringement, invasion of privacy and/or plagiarism based upon your authorized use of the Materials we provide under this Agreement, except to the extent that such claims arise from information or materials supplied by or through you.
2. IN NO EVENT SHALL EITHER PARTY BE LAIBLE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR BUSINESS OR LOSS OF DATA, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.
3. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED, REGARDING THE PRODUCTS OR SERVICES TO BE PROVIDED HEREUNDER OR THAT ANY SOFTWARE OR OTHER ELECTRONIC DEVICES PROVIDED OR WEBSITE CREATED OR HOSTED BY AGENCY WILL BE ERROR FREE OR OPERATE WITHOUT INTERRUPTION,

AND THE WARRANTIES OF TITLE, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED.

#### VI. EMPLOYEE PROTECTION

Siekman, like the City of New Albany, Ohio, devotes time and energy to the training and experience of staff. Therefore, each of us agrees not to hire, employ or engage as an independent contractor or consultant, any of the other party's employees, without written consent of the other party, during the term of this Agreement and for a one year period thereafter. In the unlikely event that either party violates this provision, such party will pay the other party a recruiting fee equal to the employee's current annual compensation, which the parties agree is a reasonable estimate of actual damages in lost revenues, recruiting fees and productivity costs associated with a replacement.

#### VII. CONFIDENTIALITY

Each of party agrees to keep confidential and not to disclose or use for its own benefit or for the benefit of any third party (except as may be required for the performance of Services under this Agreement or as may be required by law), any information, documents or materials which are identified by a party, at the time that they are made available, to be proprietary or confidential. The confidentiality obligations in the preceding sentence, however, shall not extend to any information, documents, or materials that (a) become publicly available without breach of this provision, (b) are received from a third party without restriction or (c) are independently developed without reference to information received hereunder from the other party. In addition, either party may make disclosures of confidential information required by valid order of any court or other authorized governmental entity, provided that, to the extent permissible, such party promptly notifies the other party and provides reasonable cooperation, at the other party's expense, with the other party's efforts, if any, to limit disclosure and to obtain confidential treatment or a protective order. In the event that disclosure to a third party is required for the performance of Services under this Agreement, such third party must first be bound by duties of confidentiality at least as stringent as those set forth herein.

#### VIII. AGREEMENT DISCLOSURE

Siekman may publicize our Agreement to work with you in the form of press releases and announcements and will immediately include your name in our client roster for the purpose of further business developments efforts.

#### IX. DISPUTE RESOLUTION

Siekman hopes and expects that our relationship will be mutually beneficial and cooperative. However, in the unlikely event that a dispute arises between us that we are unable to resolve between ourselves, the parties agree to resolve our differences by mediation before a neutral mediator under the auspices of the American Arbitration Association. Each party shall bear half the costs of mediation. In the event the dispute is not resolved in mediation, the parties agree to arbitrate any dispute arising under this Agreement before an arbitrator under the auspices of the American Arbitration Association. The mediation and, if necessary, the arbitration shall take place in Delaware or Franklin

County, Ohio in the office of the American Arbitration Association closest to that county. In the event that arbitration is necessary, the prevailing party shall have its costs associated with the arbitration, including its reasonable attorneys' fees, paid by the other party.

**X. FAILURE OF SUPPLIERS; FORCE MAJEURE**

Neither party shall be deemed in default of this Agreement to the extent that performance of its obligations (other than your payment obligations) or attempts to cure any breach are delayed or prevented by reason of any act of God, fire, natural disaster, accident, riots, acts of government, acts of war or terrorism, shortage of materials or supplies, failure of transportation or communications or of suppliers of goods or services, or any other cause beyond the reasonable control of such party. In addition, although we shall endeavor to guard against any loss to you as the result of the failure of media or suppliers to properly execute their commitments, we will not be responsible for their failure or their other acts or omissions. You acknowledge that we have no control over information and Materials once they have been published, released or posted in the public domain as requested or approved by you, including, without limitation, via seeding Materials on social networking and video sharing websites or via the use of internet-based "widgets." As such, we shall not be responsible for ensuring the accuracy of what any third party publishes or any other resulting third party actions.

**XI. GENERAL TERMS**

1. Nothing contained in this Agreement shall create any partnership or joint venture between the parties and we shall not be deemed to be your employee. We will be acting as your agent when purchasing materials or services on your behalf, and you agree that all orders placed and contracts entered into by us on your behalf with our suppliers and other persons may so state. You acknowledge that we may from time to time use consultants and/or subcontractors in the performance of our Services hereunder.
2. This Agreement may not be assigned by either party without the prior written consent of the other, and any such purported assignment shall be void. This Agreement is made in Ohio and shall be construed and interpreted in accordance with the law of Ohio applicable to contracts made and to be performed entirely therein. This document is a complete and exclusive statement of the terms of this Agreement and may not be changed orally but only in writing signed by both parties.

Please acknowledge your acceptance by signing and returning a copy of this agreement. We look forward to a mutually rewarding relationship.

IN WITNESS THEROF, the Parties to this agreement have executed said Agreement on the date first entered above.

BY SIGNING THIS AGREEMENT, CONSULTANT ACKNOWLEDGES AND AGREES THAT IT HAS BEEN INFORMED THAT THE CITY OF NEW ALBANY, OHIO HAS CLASSIFIED IT AS AN INDEPENDENT CONTRACTOR AND THAT IT HAS BEEN ADVISED THAT CONTRIBUTIONS TO OPERS WILL NOT BE MADE ON ITS BEHALF FOR THESE SERVICES.

Sincerely,  
Siekman and Siekman, LLC

---

Pamela R. Siekman  
*Co-Founder and CEO*

AGREED TO AND ACCEPTED:

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

Printed Name: \_\_\_\_\_

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

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

## **Statement of Work**

Master Consulting Agreement dated January 1, 2019

### 1. **Description of Services**

#### Client-Consultant Communications:

- Members of the Siekman team will be available for a weekly or bi-weekly call with the City of New Albany's City Manager and City staff.
- Upon request, Siekman will be available for in-person meetings to allow for more in-depth strategizing and planning.
- Upon request, Siekman will present policy updates to the City Manager, City staff, and City Council.
- Upon request, Siekman will meet with City Council.
- Upon request, Siekman will submit a written report on specific legislation.
- Upon request, Siekman will develop/create and promote new legislation.

#### Government and Public Affairs:

- Siekman will utilize its relationships with the Administration, state legislature, municipalities and federal officials and agencies to lobby and promote the City of New Albany's interests and priorities.
- In collaboration with the New Albany City Manager, Siekman will deliver a report detailing meetings held, action items, bill updates and other relevant news.
- Monitoring Legislation and Rules, Influencing Policymakers, Developing Amendments and Lobbying to Accomplish Objectives: In line with the City of New Albany's priorities and objectives, Siekman will, based upon timing of the opportunity, work to alter, defeat and/or pass amendments and legislation favorable to the City of New Albany.
- Siekman will schedule, coordinate, provide background information and attend meetings with elected officials, Administration personnel and other federal employees, with and without the New Albany City Manager and City staff.

#### Siekman Resources:

- The City of New Albany will be provided with political networking opportunities, receptions, briefings and meetings with Siekman clients.

### 2. **Fees**

Siekman will bill the City of New Albany for its Services as follows:

- **Monthly Retainer:** A \$5,655 monthly fee, will be billed to the City of New Albany on the first day of each month.

### 3. **Duration**



Twelve (12) month engagement beginning January 1, 2019. Thirty (30) day cancellation notice required by either party.

Please acknowledge your acceptance of the Statement of Work by signing and returning a copy. We look forward to a mutually rewarding relationship.

**AGREED TO AND ACCEPTED:**

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

Name: Pamela Siekman

Title: Co-Founder and CEO

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

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

Name: \_\_\_\_\_

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

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

**APPROVED AS TO FORM:**

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

Name: Mitchell H. Banchefsky

Title: Law Director



Prepared: 12/07/2018  
Introduced: 12/18/2018  
Revised:  
Adopted: 12/18/2018  
Effective: 12/18/2018

## RESOLUTION R-57-2018

### A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH THE ENGINEERING FIRM PRIME CONSTRUCTION MANAGEMENT AND SURVEY TO PROVIDE OFFICE ADMINISTRATIVE AND ON-CALL CONSTRUCTION MANAGEMENT SUPPORT TO CAPITAL IMPROVEMENT PROJECTS

**WHEREAS**, the City of New Albany has a need for additional office staff to support the coordination of private development projects and various engineering related tasks within the city; and

**WHEREAS**, the city desires to coordinate with a construction management firm on an as-needed basis to provide construction related plan and value engineering reviews, establish project schedules and milestones, and provide initial project management services in support of capital improvement projects; and

**WHEREAS**, Prime Construction Management and Survey has provided such services to the city in the past, and agrees to continue to provide such services.

**NOW, THEREFORE, BE IT RESOLVED** by Council of the city of New Albany, Counties of Franklin and Licking, State of Ohio that:

**Section 1.** The city manager is hereby authorized to execute an agreement for services with Prime Construction Management and Survey to provide office administrative and on-call construction management support on behalf of the City of New Albany, for the period of January 1, 2019 through December 31, 2019 (Exhibit A).

**Section 2.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this resolution were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 3.** Pursuant to Article 6.07(a) of the New Albany Charter, this resolution shall take effect upon adoption.

CERTIFIED AS ADOPTED this 18 day of Dec, 2018.

**Attest:**

  
\_\_\_\_\_  
Sloan T. Spalding  
Mayor

  
\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

  
\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director



Columbus Office  
8415 Pulsar Place | Suite 300 | Columbus, Ohio 43240  
P: 614 839 0250 | F: 614 839 0251

December 3, 2018

**Michael E. Barker**  
Engineer  
City of New Albany  
99 West Main Street; P.O. Box 188  
New Albany, Ohio 43054

**Re: Fee Proposal for On Call Construction Engineering and Administrative Support for the City of New Albany.**

Dear Mr. Barker:

Prime CM&S is pleased to submit this fee proposal for construction engineering and administrative support for the subject project in the 2019 construction season.

**Project Description**

This proposal is for on call engineering and administrative services in support of the City of New Albany's Engineer.

**Scope of Services**

Our scope of services is intended to staff the above project with a qualified engineer (EI) to support the City's engineer and administrative staff on tasks as directed by the city's engineer. The various tasks assigned will be given directly to the consultant engineer by the city's engineer. The Consultant Engineer will report directly to the City's Engineer when working on tasks as part of this agreement. The consultant engineer's hours will be approved on a weekly basis by the City's Engineer. Professional Engineering services/support can also be provided upon request.

---

**Project Fees**

The estimated cost for this project is \$90,000. This fee is based on a contract duration of 6 months, Jan 1, 2019 thru June 30, 2019 with an estimated usage of 35 hours per week of support at the staff engineer level. The remaining amount of this agreement will be used for on call services as requested by the City’s engineer through December of 2019. No other expenses are anticipated. Fees provided for Project Manager, Administrative Support Staff, and PE in the event additional services are needed. Services will be billed monthly on a time and expense basis as detailed below.

**2019 ENGINEERING SERVICES  
FEE SCHEDULE**

**DESCRIPTION** **RATE**

**I. Technical Personnel**

Project Manager.....	\$150.00/hr.
Staff Engineer (EI) .....	\$70.00/hr.
Professional Engineer.....	\$125.00/hr.
Field Engineer.....	\$100.00/hr.
Administrative Support Staff.....	\$60.00/hr.

**Contract Terms and Conditions**

**OWNERSHIP OF DOCUMENTS**

The Consultant agrees that the City shall become the sole and exclusive owner of all designs, design plans, images, drawings, models, survey notes, reports, specifications, studies, records and other data and documents, in whatever form, prepared under this Contract (“the Design Documents”). The Consultant hereby irrevocably assigns, transfers and conveys to the City all right, title and interest in and to the Design Documents and all intellectual property rights and proprietary rights arising out of the Design Documents, including copyrights, patents, trademarks, and derivative works and interests. The Consultant warrants to the City that the Design Documents will be free from any claims or encumbrance of intellectual property or proprietary rights of the Consultant or any third party, including any employee, agent, consultant, sub-consultant, subcontractor, subsidiary, or affiliate of the Consultant. Upon completion or termination of this Contract, the Consultant will immediately turn over to the City all Design Documents not previously delivered to the City.

To the extent any of the Consultant’s rights in the Design Documents are not subject to assignment or transfer hereunder, including any moral rights and any rights of attribution and of integrity, the Consultant hereby irrevocably and unconditionally waives such rights and enforcement thereof and agrees not to challenge the City’s right in and to the Design Documents. Notwithstanding the

foregoing, if City or its employees, agents, consultants or officers uses the Design Documents on any other project, extensions of the subject project, or in any other way not contemplated by this Contract, it shall do so at its sole risk and without liability or legal exposure to the Consultant or anyone working through the Consultant.

### **CONTRACT TERMINATION**

This Contract can be terminated at any time by either party upon written notice.

### **INSURANCE AND INDEMNITY**

The Consultant shall indemnify, protect, and hold harmless the City from any claim, loss or damage arising from any negligent or wrongful act or omission of the Consultant arising from the Consultant's performance under the terms of this Contract. The Consultant shall carry at least the minimum amounts listed below of Commercial Liability Insurance (Bodily Injury and Property Damage) naming the City as an additional insured. The Consultant must attach a copy of the Certificate(s) of Insurance to this Contract:

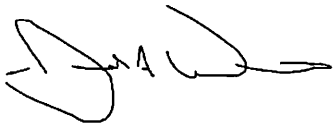
- 1.1 Bodily Injury Liability and Automobile Insurance in an amount not less than One Million Dollars (\$1,000,000.00) for injuries, including those resulting in death, to any one person, and in an amount not less than One Million Dollars (\$1,000,000.00) on account of any one accident or occurrence.
  
- 1.2 Property damage insurance in an amount not less than One Million Dollars (\$1,000,000.00) from damages on account of any one accident; and One Million Dollars (\$1,000,000.00) on all accidents.
  
- 1.3 Valuable Papers Insurance in an amount sufficient to assure the restoration of any drawings, manual pages, field notes, or other similar data relating to the work under this Contract, in the event of their loss or destruction, during the life of this Contract.
  
- 1.4 Professional Liability Insurance in an amount as necessary to provide coverage for any negligent acts, errors, omissions, or negligence by the Consultant and its technical sub-consultants. Sub-consultants of the Consultant who are manifestly not providing professional services need not carry Professional Liability Insurance.

1.5 Such insurance shall remain in full force and effect during the life of the Contract.

1.6 By Signing this agreement, Consultant acknowledges and agrees that it has been informed that the city of New Albany, Ohio has classified it as an independent contractor and that it has been advised that contributions to OPERS will NOT be made on its behalf for these services.

We appreciate the opportunity to submit this proposal and look forward to working with you this construction season. Please contact me by email at [Jwarino@primeeng.com](mailto:Jwarino@primeeng.com) or by phone at 614.839.0250 if you have any questions regarding this proposal.

Respectfully,



Joe Warino, PE  
VP, PRIME Construction Management and Survey



Accepted: City of New Albany

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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



Prepared: 12/07/2018  
Introduced: 12/18/2018  
Revised: 12/17/2018  
Adopted: 12/18/2018  
Effective: 12/18/2018

## RESOLUTION R-58-2018

**A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT ON BEHALF OF THE CITY OF NEW ALBANY, OHIO WITH THE ENGINEERING FIRM OF E. P. FERRIS & ASSOCIATES TO PROVIDE ENGINEERING SERVICES TO THE CITY**

**WHEREAS**, the City of New Albany wishes to provide for engineering services; and

**WHEREAS**, the city has a need for additional support in order to provide a full range of engineering services; and

**WHEREAS**, E.P. Ferris & Associates agrees to continue to provide such services.

**NOW, THEREFORE, BE IT RESOLVED** by Council of the city of New Albany, Counties of Franklin and Licking, State of Ohio that:

**Section 1.** The city manager is hereby authorized to execute an agreement for services with E. P. Ferris & Associates to provide engineering services on behalf of the City of New Albany, for the period of January 1, 2019 through December 31, 2019 (Exhibit A).

**Section 2.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this resolution were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 3.** Pursuant to Article 6.07(a) of the New Albany Charter, this resolution shall take effect upon adoption.

CERTIFIED AS ADOPTED this 18 day of Dec, 2018.

Attest:

  
Sloan T. Spalding  
Mayor

  
Jennifer H. Mason  
Clerk of Council



Approved as to form:

  
\_\_\_\_\_  
Mitchell H. Banchevsky  
Law Director

EXHIBIT A - R-58-2018

**AGREEMENT BETWEEN  
CITY OF NEW ALBANY, OHIO  
AND  
E. P. FERRIS & ASSOCIATES, INC.  
FOR  
ENGINEERING AND SURVEYING SERVICES**

**SECTION I – GENERAL**

This Agreement is made on this 1st day of January 2019 by and between the City of New Albany, Ohio, an Ohio municipal corporation, hereinafter designated as the "City," and E. P. Ferris & Associates, Inc., hereinafter designated as the "Engineer," whose office is located at 880 King Ave., Columbus, Ohio 43212.

WITNESSETH: The City from time to time requires professional services of the Engineer in connection with various matters.

NOW, THEREFORE, in consideration of this promise and the mutual covenants hereinafter set forth, it is agreed as follows:

**SECTION II – SCOPE OF SERVICES**

**A. Development Engineering Services:** The Engineer agrees to provide professional engineering services as requested or required. These services are facilitated by the Community Development Department and may include the following (but are not limited to):

1. Development application, concept plan, subdivision plat reviews and evaluations for conformance with applicable ordinances, guidelines and policies. Report the results of this review to the City for consideration of approval/disapproval of said plats and plans. Such reviews shall be provided to the City within fourteen (14) calendar days unless otherwise agreed to in writing by the City.
2. Attend meetings with City staff and/or Council and other official boards, commissions, or organizations of the City when requested.
3. Attend meetings, make site visits, provide staff assistance, as requested for potential applications or projects.
4. Furnish engineering or technical advice, studies, preliminary plans, or reports on matters as directed by the City.
5. Prepare estimates of cost for improvements.
6. Prepare easement descriptions, special assessments and other such work incidental to plan preparation.

7. Provide resident project representation for construction when requested. Such resident project representatives may spend full or part time on the job (as preferred by the City) as distinguished from professional assistance during construction. The representative shall endeavor to provide further protection to the City against defects in the work but the furnishing of such services shall not make the Engineer responsible for construction means, methods, technique, sequences of procedures, or for safety precautions or programs or for a Contractor's failure to perform the work in accordance with the contract documents.

8. Provide services as listed in Exhibit "A".

**B. Development Engineering Projects:** The Engineer agrees to provide professional engineering services for special projects as requested. These services are facilitated by the Community Development Department and may include the following (but are not limited to):

1. Preparation of engineering plan documents, surveys, traffic studies, construction plans, specifications, and estimates of cost for improvements, special mapping, special projects, and other as agreed to by City and Engineer.
2. Services listed in "Exhibit B".
3. Engineering work performed under Section II B which exceeds \$15,000 shall require a work authorization identifying the project's Scope of Services mutually agreed to by the City and the Engineer in writing.

**C. Public Works Engineering Services:** The Engineer agrees to provide professional engineering services as requested or required. These services are facilitated by the Community Development Department and may include the following (but are not limited to):

1. Review and evaluation of plans for conformance with applicable ordinances, guidelines and policies. Report the results of this review to the City for consideration of approval/disapproval of said plans.
2. Attend meetings with City staff and/or Council and other official boards, commissions, or organizations of the City when requested.
3. Attend meetings, make site visits, provide staff assistance, as requested for potential applications or projects.
4. Furnish engineering or technical advice, studies, preliminary plans, or reports on matters as directed by the City.
5. Provide resident project representation for construction when requested. Such resident project representatives may spend full or part

time on the job (as preferred by the City) as distinguished from professional assistance during construction. The representative shall endeavor to provide further protection to the City against defects in the work but the furnishing of such services shall not make the Engineer responsible for construction means, methods, technique, sequences of procedures, or for safety precautions or programs or for a Contractor's failure to perform the work in accordance with the contract documents.

6. Prepare "revised-as-constructed" drawings of completed work from record drawings maintained by the Contractor.
7. Prepare easement descriptions, special assessments and other such work incidental to plan preparation.
8. Provide services as listed in Exhibit "A".

**D. Public Works Engineering Projects:** As authorized by the City, the Engineer agrees to provide professional engineering services for public projects as requested. These services may include the following (but are not limited to):

1. Preparation of engineering plan documents, surveys, traffic studies, construction plans, specifications, and estimates of cost for improvements, including capital improvement projects, special mapping, special projects, and others as agreed to by City and Engineer.
2. Services listed in "Exhibit B".
3. Engineering work performed under Section II B which exceeds \$15,000 shall require a work authorization identifying the project's Scope of Services mutually agreed to by the City and the Engineer in writing.

**E. Construction Management Services**

As authorized by the City, the Engineer or authorized representative agrees to provide professional construction management services and/or engineering inspection services for public improvement projects or other types of development projects as required. These services may include but are not limited to the following:

1. Provide all applicable services described in "Exhibit C".
2. Review monthly and final estimates of the work performed by the Contractor and process pay requests.
3. Provide general construction administration, resolution of construction problems related to design, and review and interpretation of the design during construction.

4. Review contractor pricing of change orders and provide recommendations to the City of the reasonableness of cost.
5. Conduct construction progress meetings and monitor cost and schedule for the work to be performed and work yet to be completed.
6. Review shop drawing submissions.

**F. Private Development Inspections:** As authorized by the City, the Engineer agrees to provide professional engineering inspection services for development projects as required. These services may include the following (but are not limited to):

1. Conduct pre-construction meetings.
2. Provide stand-by-inspection as construction progresses on a daily basis. Service includes preparation of a daily log of construction activities, including but not limited to material quantities places, site visits, weather, means and methods of construction and color photograph documentation of work progress.
3. Consultations with and recommendations to the City where compliance with approved construction plans and specifications is not maintained.
4. Conduct a final punch list inspection, prepare a written list of items to be completed or inspected and conduct follow-up inspections with the Contractor.
5. Prepare two-year maintenance bonds and five-year settlement bond estimates where required and conduct two-year maintenance bond inspections when authorized.
6. Services listed in "Exhibit C."

### **SECTION III – FEES & PAYMENT**

The City agrees to pay the Engineer as compensation for professional services as follows:

1. The Engineer will provide the services in this Agreement on an hourly billing rate indicated in the attached Engineer's fee schedule (Exhibit "D").
2. For Section II, Items A – Development Engineering Services, and C- Public Works Engineering Services, work shall be billed hourly and the sum of fees not to exceed \$265,000, plus private development inspections fees per Codified Ordinance 909.04.

3. For services listed in Exhibit "B" Special Projects, Scope of services shall be agreed to for projects exceeding \$15,000.
4. Reimbursable expenses shall be billed as part of the not to exceed fee (Section III.2) and include the actual cost of reproductions of reports and drawings, the actual out-of-pocket expenses made in the interest of the services of this Agreement. Reimbursable expenses may also include mileage for services provided under this Agreement. This reimbursement shall be at the IRS-approved rate in effect at the time. No surcharge or markup is to be applied to mileage reimbursement.,
5. When and if the City authorizes the Engineer to employ sub-consultants to perform services in accordance with the terms of this Agreement, that fee paid the Engineer by the City for such services by others shall be actual costs invoiced by others to Engineer times 1.10, except for reimbursable expenses which shall be paid per Section III.5.
6. Invoices for services rendered will be prepared, itemized, and submitted monthly and will be paid within 30 days of receipt.

#### **SECTION IV – ENGINEER TO ACT AS AGENT OF THE CITY**

- A. It is expressly understood and agreed that in the performance of their services under this Agreement, the Engineer shall act as agent of the City.
- B. The City and the Engineer have bound themselves, their members, successors, and assigns to the other part of this Agreement and to the members, successors, and assigns of the other part in respect to all covenants in this Agreement. Neither the City nor the Engineer shall assign, sublet, or transfer their interest in this Agreement without the written consent of the other party thereto.

#### **SECTION V– INSURANCE**

The Engineer shall at all times maintain professional liability insurance in an amount satisfactory to the City and shall provide evidence of such coverage upon request of the City Manager. Upon request, the Engineer shall also provide a copy of a current certificate of compliance with Ohio Workers Compensation law.

#### **SECTION VI – TERMINATION**

Either party may terminate this contract at any time before the expiration thereof by written notice thirty (30) days prior to termination. It is further agreed that the City may cancel or terminate this Agreement effective immediately, by written notice to the Engineer, for cause. In the event such termination occurs prior to completion of the Scope of Service provided herein, the City agrees to pay the Engineer for work actually performed in accordance with the terms of this Agreement through the cancellation date.

**SECTION VII – TERMS OF AGREEMENT**

This Agreement shall take effect and be in force from January 1, 2019 through December 31, 2019 unless otherwise modified by written agreement of the parties.

BY SIGNING THIS AGREEMENT, ENGINEER ACKNOWLEDGES AND AGREES THAT IT HAS BEEN INFORMED THAT THE CITY OF NEW ALBANY, OHIO HAS CLASSIFIED IT AS AN INDEPENDENT CONTRACTOR AND THAT IT HAS BEEN ADVISED THAT CONTRIBUTIONS TO OPERS WILL NOT BE MADE ON ITS BEHALF FOR THESE SERVICES.

Attached: Certification of funds by the Director of Finance.

By:

---

Joseph Stefanov  
City Manager

Approved as to form:

---

Mitchell Banchefsky  
City Law Director

---

Edward P. Ferris, P.E., P.S.  
Chief Executive Officer  
E. P. Ferris & Associates, Inc.

# City of New Albany

## Exhibit A

### Development and Public Works Engineering Services

- Attendance at Council meetings and Council Committee meetings as requested
- Attendance at Planning Commission and other boards or commission meetings including workshops as requested – prepare reports as required
- Attendance at weekly staff meetings as requested
- Assistance in creating new ordinances or revising old ordinances
- Assignment of house numbers
- Preparation of Issue 2 applications
- Provide staff guidance to City Manager and staff by answering questions
- Assist in completing OEPA forms upon request
- Assist in requiring City residences to connect to available sanitary sewers
- Coordinate with Franklin County Board of Health as required
- Provide general guidance on traffic related issues including signal operation and timing, traffic engineering assignments less than \$15,000 fee, excluding signal warrant analysis, speed reduction studies, etc.
- Provide general guidance on traffic related issues
- Assist city staff in responding to city residents inquiries
- Review and provide recommendation on subdivision variances upon request
- Provide input as required for annexations, road and easement vacations
- Provide engineering comments concerning rezoning
- Provide engineering comments for conditional use applications
- Provide house foundation review for houses in flood plain as required by plat
- Provide comments on lot splits as requested
- Participation on Development Standards Review Committee (zoning code requirement)
- Review and provide comments for underground and overhead utilities to occupy city right-of-way (Ameritech, Columbia gas, AEP and Coaxial Cable)
- Provide engineering guidance to potential developers in the city (e.g. location nearest water line, sanitary sewer, flood plain issues, pertinent development ordinance, etc.)
- Update city street, water line and sanitary sewer maps
- Prepare City Engineer Annual Report
- Provide construction site runoff control and post construction stormwater management services
- Locate preservation markers and complete survey work associated with the markers
- Other daily services as requested



# City of New Albany

## Exhibit B

### Development and Public Works Engineering Projects

**E.P. Ferris & Associates will provide the following services as requested:**

- Preparation of detail engineering plans for city improvements
- Preparation of easement descriptions and plats
- Topographic surveys
- Drainage studies
- Bridge inspections and reports
- Capital improvement projects
- Other engineering and surveying projects

# City of New Albany

## Exhibit C

### Private Development Inspection

- Conduct a pre-construction meeting.
- Provide stand-by-inspection as construction progresses on a daily basis. Service to include preparation of a daily log of construction activities including but not limited to material quantities placed, site visits, weather, means and methods of construction and color photograph documentation of work progress.
- Review of materials of constructions and means, methods and equipment proposed to be furnished by the Contractor.
- Review the order of construction and monitor work progress.
- Consultations with and recommendations to the City where compliance with approved construction plans and specifications is not maintained.
- Coordination with third party firms that provide materials testing and analytical laboratory services to verify that Contractors are utilizing quality control methods that meet the project specifications. Review, analyze and manage analytical reports generated by third party firms including but not limited to the following areas: batch plant inspections; soil compaction testing; concrete strength testing; in-place strength evaluations; and laboratory testing of soil, concrete, asphalt and other materials of construction.
- Utilize company owned air meters, slump cones and thermometers to verify that contractors are utilizing quality controls that ensure that construction materials meet City of Columbus specifications and/or requirements included with the approved construction plans.
- Conduct compaction verification testing at a minimum interval of at least one test between each manhole or structure to check that the Contractor is utilizing quality controls that ensure that compacted materials are placed in accordance with the approved construction plans and specifications.
- Monitor proof rolling activities for subgrade placed as part of public roadway construction projects.
- Prepare handwritten information for record drawings of as-built plans and/or utilize GPS field survey or other electronic survey equipment to observe that structures and other facilities were constructed in accordance with approved plans and specifications.
- Utilize fall arrest, harness and tripod systems, mechanical ventilation systems, and portable gas detection instrumentation to enter confined spaces (e.g., sanitary sewers, storm sewers greater than 6' in depth) to inspect material quality and workmanship.
- Conduct a final punch list inspection, prepare a written list of items to be completed or inspected and conduct follow-up inspections with the Contractor.
- Prepare two year maintenance bonds and five year settlement bond estimates where required and conduct two year maintenance bond inspections when authorized.

**City of New Albany**  
Engineering Hourly Rates

Labor Classification	2012	2013	2014	2015	2016	2017	2018	2019
	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate
Principal	\$94.55	\$96.44	\$98.37	\$101.25	\$103.30	\$104.80	\$118.00	\$120.36
Associate/ Senior Engineer	\$94.55	\$96.44	\$98.37	\$101.25	\$103.30	\$104.80	\$118.00	\$120.36
Engineer II	\$82.20	\$83.84	\$85.52	\$88.00	\$89.80	\$91.20	\$98.00	\$99.96
Engineer I	\$69.65	\$71.04	\$72.46	\$74.50	\$76.00	\$77.20	\$77.20	\$78.74
Senior Technician	-	-	-	-	-	-	\$87.00	\$88.74
Technician	\$49.85	\$50.85	\$51.87	\$53.40	\$54.50	\$55.30	\$55.30	\$56.41
Drafter	\$43.25	\$44.12	\$45.00	\$46.00	\$46.90	\$47.60	\$47.60	\$48.55
Clerical	\$34.10	\$34.78	\$35.48	\$36.50	\$37.20	\$37.80	\$37.80	\$38.56
Surveyor	\$69.55	\$70.94	\$72.36	\$74.50	\$76.00	\$77.20	\$77.20	\$78.74
Survey Crew I (Robot + 1 Crew member)				\$100.00	\$102.00	\$103.50	\$103.50	\$105.57
Survey Crew II (Robot + 2 Crew members)				\$125.00	\$127.50	\$130.00	\$130.00	\$132.60
Inspector III	\$71.10	\$71.10	\$72.52	\$74.60	\$76.10	\$76.10	\$76.10	\$77.62
Inspector II	\$51.30	\$51.30	\$52.33	\$53.90	\$55.00	\$55.00	\$55.00	\$56.10
Inspector I	\$40.95	\$40.95	\$41.77	\$43.00	\$43.90	\$43.90	\$43.90	\$44.78
Attendance at Council Meeting	\$94.55	\$96.44	\$98.37	\$101.25	\$103.30	\$104.80	\$104.80	\$106.90

2% Increase

**Note:**

Mileage shall be reimbursed at a rate of \$0.50/mile  
Overtime rates shall be billed at 1.5 times the above stated rates. This only applies to Inspectors.  
Overtime is defined as hours worked over 40 hours per week.





Prepared: 12/07/2018  
Introduced: 12/18/2018  
Revised:  
Adopted: 12/18/2018  
Effective: 12/18/2018

## RESOLUTION R-59-2018

### A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT ON BEHALF OF THE CITY OF NEW ALBANY, OHIO WITH FEINKNOPF MACIOCE SCHAPPA ARCHITECTS TO PROVIDE BACKUP COMMERCIAL PLAN EXAMINATION AND BACK UP CHIEF BUILDING OFFICIAL SERVICES TO THE CITY

**WHEREAS**, the city is required by the State of Ohio to provide backup commercial and residential plan examination and chief building official services; and

**WHEREAS**, the city does not have appropriate personnel on staff to provide commercial plan examination services; and

**WHEREAS**, the city desires to establish backup chief building official services to support and supplement the needs and schedule of the primary chief building official; and

**WHEREAS**, Feinknopf Macioce Schappa is qualified to provide commercial plan review services and backup chief building official services; and

**WHEREAS**, the city may require the services of Feinknopf Macioce Schappa to provide professional review and/or inspection services to maintain uninterrupted service to our customers.

**NOW, THEREFORE, BE IT RESOLVED** by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:


**Section 1.** The city manager is hereby authorized to enter into a services contract for professional services with Feinknopf Macioce Schappa billed on an hourly basis, per our adopted fee schedule for the period January 1, 2019 through December 31, 2019 (Exhibit A).

**Section 2.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 3.** Pursuant to Article 6.07 of the New Albany Charter, this resolution shall take effect upon adoption.

CERTIFIED AS ADOPTED this 13 day of Dec, 2018.

**Attest:**

  
\_\_\_\_\_  
Sloan T. Spalding  
Mayor

  
\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

  
\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

**CONTRACT FOR PROFESSIONAL SERVICES**  
*Commercial Plan Examination Contract*

This Agreement, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the City of New Albany (“the City”) and Feinknopf Macioce Schappa Architects, Inc. (“the Consultant”).

I. SCOPE OF SERVICES

- A. The Consultant shall provide commercial and residential plan review services to the City. The consultant agrees to employ and maintain in its employment for the term of this Contract, qualified personnel currently certified by the State of Ohio as a Plans Examiner.
- B. The Consultant shall review drawings submitted to the Community Development Department for conformance with the Ohio Building Code as adopted by the State of Ohio and the City. Upon completion of the review, the Consultant shall provide the City with a review letter in conformance with OBC 107.4 and 107.5 of the building code as applicable to the submitted drawings, which shall set forth the areas found not to be clearly defined in the submitted drawings or not to be in compliance with the applicable code provisions.
- C. The Consultant will provide preliminary plan review services “commercial walk-throughs” to the City when requested by an applicant and approved by the City.
- D. The Consultant will act as the City’s representative at hearings before the State Board of Building Appeals and/or the Board of Building Standards in conjunction with any plan review performed by the Consultant, when requested to do so and authorized by the City.
- E. The Consultant agrees to review and return the drawings to the City in accordance to the following schedule:

Type of Project	Initial Plan Check	Subsequent Plan Checks
Single Use New Buildings/Existing Buildings/ Shell Buildings/Tenant Improvements	8 - 10 calendar days	5 calendar days
New Buildings with Variable Uses/Multi- Story/ Specialty Occupancy	14 calendar days	5 calendar days

- F. The Consultant shall provide back-up Building Official services to the City. The consultant agrees to employ and maintain in its employment for the term of this Contract, qualified personnel currently certified by the State of Ohio as a Building Official.
- G. The Consultant agrees to be able to perform the duties of back-up Building Official, as required by the City and to maintain current Building and Life Safety Code(s) and their

referenced standards, necessary to perform the said services for the City of New Albany, Community Development Department.

- H. The Consultant further agrees to be available for technical services, discussions and meetings, as may be required by the Development Department. Back-up Building Official duties will be provided to the Community Development Department as needed to uphold the duties and responsibilities of the Building Official as required and outlined in the Ohio Building Code. The back-up Building Official shall conduct herself in a professional, courteous, impartial, responsive and cooperative manner and according to the City process and administration procedures, which are in-place and previously established.

## II. TIME OF PERFORMANCE

This Contract shall begin on January 1, 2019 and continue through December 31, 2019, and may be renewed for subsequent calendar years, subject to the approval of the City of New Albany and subject to the availability of appropriate funds as authorized by the City's annual operating budget.

## III. CITY RESPONSIBILITIES

The City shall be responsible for providing the following under this Contract.

- A. Assist the Consultant by placing at its disposal all available information necessary for the Consultant to faithfully perform their obligation under this contract.
- B. Provide prompt written notice to the Consultant whenever the City observes or is made aware of the Consultant's default or non-conformance with this Agreement and afford the Consultant reasonable opportunity to correct such defect or non-conformance.
- C. Provide conference and meeting facilities for the Consultant to meet with applicants in regard to the work performed by the Consultant pursuant to this Contract.
- D. Use its best efforts to secure release of other data held by others necessary for the Consultant to perform his obligations under this Contract.
- E. Provide courier/delivery services for pick-up and drop-off of plans for review and approval.

## IV. CONSULTANT REPSONSIBILITES

The Consultant shall be responsible for providing the following under this Contract.

- A. Maintain certified personnel in its employment as required by the State of Ohio. Said employees shall maintain their certification in good standing and the Consultant shall promptly notify the City, in writing, if the certified personnel become decertified, leave

the Consultant's employment, or are in any way suspended or prevented from legally performing the duties under this Contract.

- B. Consultant shall, after termination or resignation of services under this Contract, return to the City all files and documents made available to the Consultant in the performance of services under this Contract, including, but not limited to, permits, licenses, applications, codes, drawings, site plans, photographs, and similar materials. The Consultant shall be permitted to keep and maintain copies of all addenda and/or correction letters or correspondence issued in conjunction with the services provided under this Contract.
- C. The Consultant shall observe strict confidentiality in relations with all other parties regarding all of the City's proprietary information and regarding any other information obtained in connection with representation of the City. The Consultant shall not release, distribute, publish, or otherwise make available to third parties any confidential information without express written consent of the City.
- D. The consultant shall notify the City, in writing, when a conflict of interest has or may arise which would preclude the Consultant from performing the services required under this Contract. In all other aspects of the services provided, the Consultant shall act without malicious intent, discrimination, harassment, reckless disregard, or negligence in performing its duties and in relations with the public on the City's behalf.

V. COMPENSATION

The Consultant shall be compensated by payment for services based upon the hourly costs and reimbursable expenses as noted in the fee schedule below.

Building Official services	\$100.00 per hour
Commercial plan review	\$83.00 per hour
Preliminary review	\$83.00 per hour
Reimbursable expenses	At cost

Mileage shall be reimbursed at the Internal Revenue Service's standard rate that is in place at the time of Consultant's travel. The Consultant shall provide a written statement indicating the total time spent for each review upon return of the plans and Consultant's written plan review letter.

VI. METHOD OF DELIVERY/TRANSFER OF DOCUMENTS

The City shall arrange for the pick-up and drop-off of all plans.

VII. METHOD OF SCHEDULE OF PAYMENT

The Consultant shall submit invoices monthly to the City for services rendered through the previous month and invoices shall be submitted timely and not be slacking for more than sixty (60) days. The City agrees to pay within thirty (30) days of the receipt of a valid invoice. A



valid invoice shall consist of a fully itemized account of the services performed. Invoices shall indicate the permit number and/or project name and the time spent on each. Reimbursable expenses, if any, will be identified on each invoice.

#### VIII. TERMINATION

The City may terminate this Contract at any time by written notice to the Consultant and payment for work actually performed pursuant to this Agreement through the cancellation date.

The Consultant may terminate this Agreement at any time with a written sixty (60) day notice to the City. Should the City fail to enter into an agreement with a qualified firm/individual to perform similar services, the Consultant agrees to extend its contractual obligations under this Contract for one (1) additional thirty (30) day period.

#### IX. CHANGES IN SCOPE OF SERVICES

The City may, from time to time, require changes in the scope of services to be performed by the Consultant hereunder. Such changes, which are mutually agreed upon by the City and the Consultant, shall be incorporated by written amendment to this Agreement. No payment shall be made by the City to the Consultant for any services for which an amendment has not been executed and incorporated into this Contract.

#### X. MISCELLANEOUS PROVISIONS

This Agreement shall be governed by the laws of the State of Ohio.

The Consultant shall not assign their responsibilities under this Agreement to third parties without the written consent of the City.

This Agreement represents the entire and integrated agreement between the City and the Consultant and supersedes all prior negotiations, representations, or agreements, either written or verbal.

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 City or the Consultant.

In any event any one or more of the provisions contained in this Agreement shall, for any reason, be determined to be illegal, invalid, or unenforceable in any respect, such illegality, invalidity, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such illegal, invalid, or unenforceable provision had never been contained herein.

#### XI. ERRORS AND OMISSIONS

The Consultant shall maintain errors and omissions insurance in the amount of one million dollars (\$1,000,000) to protect itself from any claim arising out of the performance of

professional services and caused by errors, omissions, or negligent acts for which the Consultant may be legally liable.

In addition to errors and omissions, the Consultant shall maintain insurance for the protection from claims under workers' compensation acts, claims for damages because of bodily injury, including personal injury, sickness, disease, or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property, including loss of use resulting there from, and any other insurance prescribed by laws, rules, regulations, ordinances, codes, or orders.

The Consultant shall maintain public liability and automobile insurance in an amount not less than one million dollars (\$1,000,000) for injuries, including those resulting in death, to any one person, and in an amount not less than one million dollars (\$1,000,000) on account of any one accident or occurrence; non-owned and hired auto coverage with a combined single limit of \$1,000,000 per occurrence; uninsured motorist coverage in the amount of \$1,000,000 per occurrence; property damage coverage in an amount not less than \$500,000 from damages on account of any one accident or occurrence.

Said insurance shall be maintained in full force and effect during the life of the Contract. Certificates showing that the consultant is carrying the above described insurance in at least the above specified minimum amounts shall be furnished to the City before the City is obligated to make any payments to the consultant for the work performed under the provisions of this Agreement.

## XII. INDEMNIFICATION

The Consultant shall indemnify and hold harmless the City and its respective officers, agents, and employees against all suits or claims that may be based on any injury to persons or property that may arise out of an error, omission, or negligent or willful act of the Consultant, and the Consultant shall, at his own expense defend the City in all litigation, pay all attorney's fees, damages, court costs and other expenses arising out of the litigation of claim or incurred in connection therewith; and shall at his own expense, satisfy and cause to be discharged such judgments as may be obtained against the City or any of its officers, agents, and employees.

For any and all claims for which the Consultant has agreed to indemnify the City, the obligation to indemnify shall not be limited in any way by any limitation on the amount of type of damages, compensation, or benefits payable by or for the Consultant under Worker's Compensation Acts, Disability Benefit Acts, or other Employment Benefit Acts.

In witness thereof and in accordance with the authority granted, the parties hereto have executed the Agreement in duplicate originals on the day and year here above written.

BY SIGNING THIS AGREEMENT, CONSULTANT ACKNOWLEDGES AND AGREES THAT IT HAS BEEN INFORMED THAT THE CITY OF NEW ALBANY, OHIO HAS CLASSIFIED IT AS AN INDEPENDENT CONTRACTOR AND THAT IT HAS BEEN ADVISED THAT CONTRIBUTIONS TO OPERS WILL NOT BE MADE ON ITS BEHALF FOR THESE SERVICES.

**FEINKNOPF MACIOCE SCHAPPA ARCHITECTS, INC.**

\_\_\_\_\_  
David Youse  
President

**CITY OF NEW ALBANY**

**Approved as to form**

\_\_\_\_\_  
Joseph Stefanov  
City Manager

\_\_\_\_\_  
Mitchell Banchefsky  
City Law Director

Attached: Certification of funds by the Director of Finance.

Mail all invoices to:           City of New Albany  
                                          Attn: Accounts Payable  
                                          P.O. Box 188  
                                          New Albany, Ohio 43054



Prepared: 12/07/2018  
Introduced: 12/18/2018  
Revised:  
Adopted: 12/18/2018  
Effective: 12/18/2018

## RESOLUTION R-60-2018

### A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT ON BEHALF OF THE CITY OF NEW ALBANY, OHIO WITH THE FIRM OF MKSK, LLC TO PROVIDE PLANNING AND DESIGN SERVICES TO THE CITY

**WHEREAS**, the City of New Albany wishes to provide for planning, design and landscape architecture services for special projects; and

**WHEREAS**, in addition to its involvement in special projects, MKSK creates maps and graphics, attends meetings with the mayor, council, and other community officials, provides design input for major developments, and reviews development site and landscape plans.

**NOW, THEREFORE, BE IT RESOLVED** by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

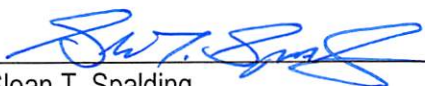
**Section 1.** That the City Manager is hereby authorized to execute an agreement for services with MKSK billed on an hourly basis, per our adopted fee schedule for the period January 1, 2019 through December 31, 2019 (Exhibit A).

**Section 2.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 3.** Pursuant to Article 6.07 of the New Albany Charter, this resolution shall take effect upon adoption.

CERTIFIED AS ADOPTED this 18 day of Dec, 2018.

Attest:

  
Sloan T. Spalding  
Mayor

  
Jennifer H. Mason  
Clerk of Council

Approved as to form:

  
\_\_\_\_\_  
Mitchell H. Banchevsky  
Law Director

## PROPOSED SCOPE OF SERVICES



November 27, 2018

Joe Stefanov  
City Manager  
99 West High Street  
New Albany, Ohio 43054

RE: 2019 service agreement between the City of New Albany and MKSK

Dear Joe,

Thank you again for the opportunity to work with you, your staff, and City Council. We deeply appreciate MKSK's ongoing relationship with the City as well as the priority that the City puts on planning and high quality design. We are looking forward to continuing this relationship in 2019. This proposal for planning, landscape architecture, and urban design advisory services between MKSK and the City is as follows:

### ARTICLE I – ASSUMPTIONS

1. The Client will be the City of New Albany. The Consultant is to be MKSK; Chris Hermann, Principal-in-Charge, Aron Fraizer, Planning Project Manager, and Karla Salmans, Landscape Design Project Manager, and planning and design staff.
2. Services shall be performed as requested by the Client in accordance with Article II (Scope of Service). The primary Client contacts are the City Manager and his designees, Steve Mayer Development Services Manager, Adrienne Joly, Director of Administrative Services, and Jennifer Chrysler, Director of Community Development.
3. The following Scope of Service is based upon MKSK's understanding of services to be completed. Any additional services that may be requested can be identified and additional fees can be authorized accordingly and will be based on MKSK's standard hourly rate (attached).

### ARTICLE II – SCOPE OF SERVICE

#### **1.0 Planning & Design Services:**

The Consultant will provide professional planning, design, development, landscape architecture, mapping, and graphic consultation services for the Client. These services to be performed as requested and directed by the Client may include (but are not limited to):

#### *Planning & Landscape Reviews*

- Review of submitted development and landscape plans.
- Preparation of staff reports and/or ancillary documents for the use of the boards and commissions in reviewing applications.
- Development review and reports as requested for staff, Council, committees, or groups.
- Special assignments, particularly in the areas of planning, landscape architecture, and urban design advisory services.

## PROPOSED SCOPE OF SERVICES



- Special assignments for area studies including, but not limited to, staff/advisory meetings and public involvement processes.

### *Meetings*

- Bi-monthly planning staff general review meeting.
- Meetings with the administration and/or designees.
- Meetings with applicants and the administration to review development applications.
- Attendance at project, Council, and/or Board and Commission meetings as requested.

### *Mapping & Graphics*

- Mapping services for the City
- Printing or production of maps and/or graphics
- Upkeep and maintenance of existing mapping database

### **2.0 Special Planning & Design Projects:**

On a specific project-by-project basis, the Consultant will provide professional planning, design, development, landscape architecture, and mapping and graphic consultation services to the City. These projects will be identified by the Client as the need arises and a scope agreed to by both Client and Consultant.

## ARTICLE III – FEE PROPOSAL

### **Professional Fees:**

1. MKSK will provide the above services for New Albany on an hourly billing rate indicated in the attached MKSK Terms and Conditions, as delineated below:
2. Project Categories:
  - Planning & Design Services - up to \$85,000
  - Special Planning & Design Projects - up to \$175,000  
(\$150,000 Strategic Plan update allocation, \$25,000 other special project allocation.)MKSK will not exceed either individual category fee total or the entirety (\$185,000) unless otherwise authorized in writing by the Client.
3. A work authorization will be provided by MKSK and agreed to by the Client for each individual project under Planning & Design Services (i) if the anticipated cost of review exceeds \$15,000.
4. A scope will be provided by MKSK and agreed to by the Client for each individual project in Special Planning and Design Projects.
5. MKSK will invoice only for the time spent on the above services and assignments authorized by the Client.

### **Direct Expenses/Reimbursable Expenses:**

1. Direct expenses will be billed as part of the fee for professional and special services (\$260,000) and include actual out-of-pocket expenditures made in the interest of the above services. These might include:
  - Requested plotted and printed documents (excluding those for office/in-house use). Such printing services will be invoiced at the rates indicated on the MKSK Terms and Conditions (attached).
  - Reimbursable expenses such as out-of-office reprographic services (excluding those for office/in-

## PROPOSED SCOPE OF SERVICES

**MKSK**

house use), photographs, digital media, postage and handling of documents, courier services, etc

These reimbursable expenses will be invoiced at 1.2 times the cost per terms and conditions.

2. Consultant shall be reimbursed for all miles driven at the IRS-approved rate in effect at the time. No surcharge or markup is to be applied to such reimbursement. MKSK agrees to provide the City with supporting details, to include: trip date, driver name, destination, purpose of trip, and mileage.

### **Additional Services:**

Additional services beyond this contract or the scopes of service agreed upon under Article II.1 or .2 (Planning & Design Services and Special Planning & Design Projects) may be considered for additional service. Fees and scopes of service will be determined and approved by the Client at the time of request. Additional services, if requested, will be agreed upon under a separate agreement.

### **Invoices:**

Invoices from MKSK to the Client shall include detailed descriptions of work performed during the invoiced time period. This description shall include professional classification, billing rate, hours worked, percentage complete (of total Planning Design Services or of each Special Project), and list of tasks related to the work effort.

### **Payment:**

Payment due the Consultant and unpaid thirty (30) days from the date the invoice is received by the Client shall bear interest from the date payment is due at the rate of one percent (1%) per month (annual percentage rate of 12.0%) and shall be due the Consultant. The Consultant may discontinue work on the Services if the account is unpaid 30 days from the date the invoice is received by the Client.

If the Scope of Service or the Consultant's services are substantially revised, the estimate of total compensation shall be equitably adjusted per a written agreement. Any fee revisions or substantial scope revisions must be agreed to in writing prior to work commencing.

## ARTICLE IV – TERM OF AGREEMENT

This contract shall be for a term of one year, beginning January 1, 2019 and ending December 31, 2019 unless amended or terminated by either party, with or without cause, at any time upon the giving of at least 90 days prior written notice of its election to terminate to the other party. In the event termination occurs, the Consultant agrees to complete the current assignment(s) and the City agrees to pay the Consultant for service performed in accordance with the terms of this Agreement through the cancellation date.



PROPOSED SCOPE OF SERVICES



Thank you for the opportunity to continue our long-standing relationship with the City of New Albany.

Sincerely,

A handwritten signature in black ink that reads "Chris Hermann".

---

Chris Hermann, AICP  
Principal

Accepted by:

---

Joe Stefanov

Attachment: MKSK Terms and Conditions

# TERMS AND CONDITIONS OF PROPOSAL

# MKSK

**DIRECT PROJECT EXPENSES** Direct project expenses will be billed in addition to the fee for basic services and include actual out-of-pocket expenditures made in the interest of the Project. All direct project expenses will be invoiced at 1.2 times the actual amount. Direct project expenses include, but are not limited to mileage, firm and processing, courier and overnight delivery services, travel, hotel, car rental, etc. and may be adjusted annually. All International air travel, if required, will be by business class.

Requested documents to be printed in-house will be invoiced at the following rates: (excluding those for office use)

B/W Copy 8.5" x 11" – Bond	\$ 0.15
B/W Copy 11" x 17" – Bond	\$ 0.30
B/W Copy 18" x 24" – Bond	\$ 1.00
B/W Copy 24" x 36" – Bond	\$ 2.00
B/W Copy 30" x 42" – Bond	\$ 3.00
B/W Copy 36" x 48" – Bond	\$ 4.00
Color Copy 8.5" x 11"	\$ 1.00
Color Copy 11" x 17"	\$ 2.00
Color Plot 18" x 24"	\$ 15.00
Color Plot 24" x 36"	\$ 25.00
Color Plot 30" x 42"	\$ 35.00
Color Plot 36" x 48"	\$ 45.00
Color Pres. Plot 18" x 24"	\$ 25.00
Color Pres. Plot 24" x 36"	\$ 45.00
Color Pres. Plot 30" x 42"	\$ 70.00
Color Pres. Plot 36" x 48"	\$ 85.00

**ADDITIONAL SERVICES / STANDARD HOURLY RATES** If the Scope of Work or if the Consultant's service is substantially revised, the amount of total compensation shall be equitably be adjusted. Fees for requested additional services shall be computed at our standard hourly rates below or outlined under a separate proposal. Rates may be adjusted annually.

Senior Principal	\$ 190
Principal	\$ 190
Senior Transportation Associate	\$ 190
Senior Associate	\$ 155
Associate	\$ 140
Landscape Architect I	\$ 119
Landscape Architect II	\$ 108
Landscape Architect III	\$ 102
Landscape Architect IV	\$ 65
Urban Planner I	\$ 119
Urban Planner II	\$ 102
Urban Planner III	\$ 92
Urban Planner IV	\$ 65
Graphic Designer I	\$ 115
Graphic Designer II	\$ 100
Graphic Designer III	\$ 92
Graphic Designer IV	\$ 65
Administration	\$ 65

**RETAINER** The Client shall make an initial payment as defined in the attached proposal as a retainer upon execution of this agreement. This retainer shall be held by the consultant and applied against the final invoice.

**PAYMENT DUE** Invoices shall be submitted monthly, are due upon presentation and shall be considered past due if not paid within thirty (30) calendar days of the due date. The Consultant has been commissioned by the Client to provide professional services, which are independent of whether the Project for which they are provided is executed or not.

**SATISFACTION WITH SERVICES** Payment of any invoice by the Client to the Consultant shall be taken to mean that the Client is satisfied with the Consultant's services to the date of payment and is not aware of any deficiencies in those services.

**DISPUTED INVOICE** If the Client objects to any portion of an invoice, the Client shall so notify the Consultant in writing within ten (10) calendar days of receipt of the invoice. The Client shall identify in writing the specific cause of the disagreement and the amount in dispute and shall pay that portion of the invoice not in dispute in accordance with the other payment terms of this Agreement. Any dispute over invoiced amounts due which cannot be resolved within ten (10) calendar days after presentation of invoice by direct negotiation between the parties shall be resolved within thirty (30) calendar days in accordance with the Dispute Resolution provision of this Agreement. Interest as stated above shall be paid by the Client on all disputed invoice amounts that are subsequently resolved in the Consultant's favor and shall be calculated on the unpaid balance from the due date of the invoice.

**INTEREST** If payment in full is not received by the consultant within forty-five (45) calendar days of the due date, invoices shall bear interest at one-and-one-half (1.5) percent of the past due amount per month, which shall be calculated from the invoice due date. Payment thereafter shall first be applied to accrued interest and then to unpaid principal.

**SUSPENSION OF SERVICES** If the Client fails to make payments when due or otherwise is in breach of this agreement, the Consultant may suspend performance of services upon seven (7) days' notice to the Client. The Consultant shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this agreement by the Client. Upon payment in full by the Client or cures of the breach to the satisfaction of the Consultant, the Consultant shall resume services under this agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for the Consultant to resume performance.

**TERMINATION OF SERVICES** If the Client fails to make payment to the Consultant in accordance with the payment terms herein, this shall constitute a material breach of this agreement and shall be cause for termination of this agreement by the Consultant.

**TERMINATION OF AGREEMENT** This agreement may be terminated by either party upon ninety (90) days written notice with or without cause. In the event of termination not initiated by the Consultant, the Consultant shall be compensated for all services performed to the date of termination, together with direct project expenses then due.

**MEDIATION** In an effort to resolve any conflicts that arise during the design or construction or the project or following the completion of the project, the Client and the Design Professional 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

# TERMS AND CONDITIONS OF PROPOSAL

# MKSK

otherwise. The Client and the Consultant 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.

**APPLICABLE LAW** Unless otherwise specified, this agreement shall be governed by the laws of the State of Ohio.

**ENTIRE AGREEMENT** This agreement represents the entire and integrated Agreement between the Client and the Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. This agreement may be amended only by written instrument signed by both the Client and Consultant.

**LIMITATION OF LIABILITY** To the fullest extent permitted by law, and not withstanding any other provision of this Agreement, the total liability, in the aggregate, of the Consultant and the Consultant's officer's, directors, partners, employees and any of them, to the Client and anyone claiming by and through the Client, for any and all claims, losses, costs or damages, including attorney's fees and costs and expert witness fees and costs of any nature whatsoever or claims expenses resulting from or in any way related to the Project or the Agreement from any cause or causes shall not exceed the total compensation received by the Consultant under this Agreement, or the total amount of fifty thousand dollars (\$50,000), whichever is less. 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.

**UNAUTHORIZED CHANGES** The Consultant, upon delivery of documents is completely absolved and indemnified from any liability that may result from the interpretation or revision of documents for which the Consultant was not responsible.

**STANDARD OF CARE** In providing services under this Agreement, the Consultant will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

**OWNERSHIP OF INSTRUMENTS OF SERVICE** All reports, drawings, specifications, electronic files, field data, notes and other documents and instruments prepared by the Consultant as instruments of services shall remain the property of the Consultant. The Consultant shall retain all common law, statutory and other reserved rights, including the copyright thereto.

**OPINIONS OF PROBABLE CONSTRUCTION COST** In providing opinions of probable construction cost, the Client understands that the Consultant has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the Consultant's opinions of probable construction costs are made on the basis of the Consultant's professional judgment and experience. The Consultant makes no warranty, express or implied, that the bids or negotiated cost of the Work will not vary from the Consultant's opinion of probable construction cost.

**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 Consultant 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.

**DELIVERY OF ELECTRONIC FILES** In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by the Consultant, the Client agrees that all such electronic files are instruments of service of the Consultant, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights.

The Client agrees not to reuse these electronic files, in whole or in part, for any purpose other than for the Project for which they were prepared. The Client agrees not to transfer these electronic files to others without the prior written consent of the Consultant. The Client further agrees to waive all claims against the Consultant resulting in any way from any unauthorized changes to or reuse of the electronic files for any other project by anyone other than the Consultant.

Electronic files furnished by either party shall be subject to an acceptance period of ten (10) days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files. 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 Consultant and electronic files, the signed or sealed hard-copy construction documents shall govern.

In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and sub-consultants (collectively, Consultant) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than the Consultant or from any reuse of the electronic files without the prior written consent of the Consultant. Under no circumstances shall delivery of electronic files for use by the Client be deemed a sale by the Consultant, and the Consultant makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the Consultant be liable for indirect or consequential damages as a result of the Client's use or reuse of the electronic files.

**SEVERABILITY** Any term or provision of this Agreement found to be invalid under any applicable statute or rule of law shall be deemed omitted and the remainder of this Agreement shall remain in full force and effect.

**SURVIVAL** Notwithstanding completion or termination of this Agreement for any reason, all rights, duties and obligations of the parties to this Agreement shall survive such completion or termination and remain in full force and effect until fulfilled.

**ASSIGNMENT** Neither party to this Agreement shall transfer, sublet or assign any rights under or interest in this Agreement (including but not limited to monies that are due or monies that may be due) without the prior written consent of the other party. Subcontracting to sub-consultants normally contemplated by the Consultant shall not be considered an assignment for purposes of this Agreement.

**PROPRIETARY INFORMATION** The Client agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by the Consultant pertaining to this Project or this Agreement shall be considered confidential and proprietary, and shall not be released or otherwise made available to any third party without the express written consent of the Consultant.

# TERMS AND CONDITIONS OF PROPOSAL

# MKSK

**ADA COMPLIANCE** The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility that does not meet the accessibility and usability requirements of the ADA unless it can be demonstrated that it is structurally impractical to meet such requirements. The Client understands that the requirements of the ADA will be subject to various and possibly contradictory interpretations. The Consultant, therefore, will use its reasonable professional efforts and judgment to interpret applicable ADA requirements and other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the Project. The Consultant, however, cannot and does not warrant or guarantee that the Client's Project will comply with all interpretations of ADA requirements and/or requirements of other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the Project.

**CORPORATE PROTECTION** It is intended by the parties to this Agreement that the Consultant's services in connection with the Project shall not subject the Consultant's individual employees, officers or directors to any personal legal exposure for the risks associated with this Project. Therefore, and notwithstanding anything to the contrary contained herein, the Client agrees that as the Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against the Consultant, an Ohio corporation, and not against any of the Consultant's individual employees, officers or directors.

**DEFECTS IN SERVICE** The Client shall promptly report to the Consultant any defects or suspected defects in the Consultant's services of which the Client becomes aware, so that the Consultant may take measures to minimize the consequences of such a defect. The Client further agrees to impose a similar notification requirement on all contractors in its Client/Contractor contract and shall require all subcontracts at any level to contain a like requirement. Failure by the Client and the Client's contractors or subcontractors to notify the Consultant shall relieve the Consultant of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given when such defects were first discovered.

**CONSEQUENTIAL DAMAGES** Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor the Consultant, their respective officers, directors, partners, employees, contractors or sub-consultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the Client and the Consultant shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

**CHANGED CONDITIONS** If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to the Consultant are revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, the Consultant may call for re-negotiation of appropriate portions of this Agreement. The Consultant shall notify the Client of the changed conditions necessitating re-negotiation, and the Consultant and the Client shall promptly and in good faith enter into re-negotiation of this Agreement to address the changed conditions. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement, in accordance with the Termination provision hereof.

**DEFINITION OF 'HAZARDOUS MATERIALS'** As used in this Agreement, the term hazardous materials shall mean any substances, including but not limited to asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the Project site.

**HAZARDOUS MATERIALS – SUSPENSION OF SERVICES** Both parties acknowledge that the Consultant's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event the Consultant or any other party encounters any hazardous or toxic materials, or should it become known to the Consultant that such materials may be present on or about the job site or any adjacent areas that may affect the performance of the Consultant's services, the Consultant may, at its option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the Client retains appropriate consultants or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the job site is in full compliance with all applicable laws and regulations.

**HAZARDOUS MATERIALS INDEMNITY** The Client agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, partners, employees and consultants (collectively, Consultant) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of the Consultant.

**OPERS Acknowledgment**  
BY SIGNING THIS AGREEMENT, CONSULTANT ACKNOWLEDGES AND AGREES THAT IT HAS BEEN INFORMED THAT THE CITY OF NEW ALBANY, OHIO HAS CLASSIFIED IT AS AN INDEPENDENT CONTRACTOR AND THAT IT HAS BEEN ADVISED THAT CONTRIBUTIONS TO OPERS WILL NOT BE MADE ON ITS BEHALF FOR THESE SERVICES.



Prepared: 12/07/2018  
Introduced: 12/18/2018  
Revised:  
Adopted: 12/18/2018  
Effective: 12/18/2018

## RESOLUTION R-61-2018

**A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT ON BEHALF OF THE CITY OF NEW ALBANY, OHIO WITH ARCHITECTURE!OHIO, INC. TO PROVIDE COMMERCIAL PLAN EXAMINATION, BUILDING INSPECTION, AND CHIEF BUILDING OFFICIAL SERVICES TO THE CITY**

**WHEREAS**, the city is required by the State of Ohio to provide Chief Building Official services; and

**WHEREAS**, the city does not have appropriate personnel on staff to provide commercial plan examination services; and

**WHEREAS**, the city desires to contract for electrical inspection services, backup building inspection services and chief building official services; and

**WHEREAS**, Architecture!Ohio, Inc. is qualified to provide plan review and inspection services; and

**WHEREAS**, the city will require the services of Architecture!Ohio, Inc. to provide professional review and/or inspection services to maintain uninterrupted service to our customers.

**NOW, THEREFORE, BE IT RESOLVED** by Council for the city of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1.** The city manager is hereby authorized to enter into a services contract for professional services (Exhibits A, B, & C) with Architecture!Ohio, Inc. billed on an hourly basis, per our adopted fee schedule for the period January 1, 2019 through December 31, 2019.

**Section 2.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this resolution were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 3.** Pursuant to Article 6.07(a) of the New Albany Charter, this resolution shall take effect upon adoption.

CERTIFIED AS ADOPTED this 18 day of Dec, 2018.

**Attest:**



---

Sloan T. Spalding  
Mayor



---

Jennifer H. Mason  
Clerk of Council

**Approved as to form:**



---

Mitchell H. Banchefsky  
Law Director

**CONTRACT FOR PROFESSIONAL SERVICES**  
*Chief Building Official Contract*

This Agreement, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of New Albany (“the City”) and Architecture! Ohio, Inc. (“the Consultant”).

**I. SCOPE OF SERVICES**

- A. The Consultant shall maintain in its employ a Chief Building Official, certified by the State of Ohio Board of Building Standards. Mr. Boryca is a certified Residential Building Official as well as a certified commercial Building Official. Ohio BBS Certification #140.
- B. The Consultant agrees to be available to perform the duties of Chief Building Official, as required by the City and to maintain current Building and Life Safety Code(s) and their referenced Standards, necessary to perform said services for the City of New Albany, Community Development Department.
- C. The Consultant further agrees to be available to represent the Community Development Department of the City of New Albany, as the Chief Building Official, as required in connection with any hearings and/or adjudication appeals, and generally to be available for technical services, discussions and meetings, as may be required by the Development Department.
- D. Building Official duties will be provided to the Community Development Department as needed to uphold the duties and responsibilities of the Building Official, as required and outlined in the Ohio Building Code. architecture! will provide the Building Official services for both residential and commercial buildings, in accordance with the requirements of Section 104.2.1 of the 2011 Ohio Building Code. Mr. Boryca shall be responsible for the enforcement of the rules of the board and of Chapters 3781 and 3791 of the Revised Code for the City of New Albany. As the Building Official, Mr. Boryca shall conduct himself in a professional, courteous, impartial, responsive and cooperative manner. Mr. Boryca’s duties as Building Official would be conducted in accordance with the City processes and administration procedures, which are in-place as previously established.

**II. BASIS OF COMPENSATION**

- A. Building Official services are proposed in the following sums for the performance of the Building Official duties and will be billed at a minimum compensation of one-hour for the duties required. Multiple hours or additional time, will be billed subsequently or additionally for only the time spent on each successive building official service or duty performed, in quarter-hour increments, plus any mileage and/or drive time, door-to-door for meetings, etc.

Chief Building Official:  
Residential & Commercial Capacities: \$90 / Per Hour  
Office Administrative Costs:  
Clerical (In-House): \$55 / Per Hour  
Mileage Reimbursement: 54 cents per mile

(Rates permitted by the IRS, as adjusted annually)

- B. The Consultant shall submit monthly statements of their time expended, to the City of New Albany Community Development Department.
- C. The City of New Albany shall pay the Consultant within fifteen (15) days of the receipt of the statement.
- D. The hourly compensation may be changed by the mutual agreement of the Consultant and the City of New Albany, endorsed in writing on this agreement.

**E. REIMBURSABLE EXPENSES**

Reimbursable Expenses shall be as follows:

Direct Expenses (Invoiced At Cost plus 10%)

Postage and Delivery Expenses: Actual Cost (If Required)

Reproduction Services: Actual Cost (If Required)

**III. LENGTH OF CONTRACT**

- A. This Contract shall be in effect for the term of one (1) year and may be renewed on a one-year basis by mutual agreement of the parties to the contract.

**IV. TERMINATION OF THE CONTRACT**

- A. This Contract may be terminated by either party upon thirty (30) days written notice.
- B. Should the Consultant be terminated, they shall be paid all compensation due, up to the date of termination.

**V. ERRORS AND OMISSIONS**

The Consultant shall maintain errors and omissions insurance in the amount of one million dollars (\$1,000,000) to protect itself from any claim arising out of the performance of professional services and caused by errors, omissions, or negligent acts for which the Consultant may be legally liable.

In addition to errors and omissions, the Consultant shall maintain insurance for the protection from claims under workers' compensation acts, claims for damages because of bodily injury, including personal injury, sickness, disease, or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property, including loss of use resulting there from, and any other insurance prescribed by laws, rules, regulations, ordinances, codes, or orders.

The Consultant shall maintain public liability and automobile insurance in an amount not less than one million dollars (\$1,000,000) for injuries, including those resulting in death, to any one person, and in an amount not less than one million dollars (\$1,000,000) on account of any one accident or occurrence; non-owned and hired auto coverage with a combined single limit of \$1,000,000 per occurrence; uninsured motorist coverage in the amount of \$1,000,000 per occurrence; property damage coverage in an amount not less than \$500,000 from damages on account of any one accident or occurrence.



Said insurance shall be maintained in full force and effect during the life of the Contract. Certificates showing that the consultant is carrying the above described insurance in at least the above specified minimum amounts shall be furnished to the City before the City is obligated to make any payments to the consultant for the work performed under the provisions of this Agreement.

**VI. INDEMNIFICATION**

The Consultant shall indemnify and hold harmless the City and its respective officers, agents, and employees against all suits or claims that may be based on any injury to persons or property that may arise out of an error, omission, or negligent or willful act of the Consultant, and the Consultant shall, at his own expense defend the City in all litigation, pay all attorney's fees, damages, court costs and other expenses arising out of the litigation of claim or incurred in connection therewith; and shall at his own expense, satisfy and cause to be discharged such judgments as may be obtained against the City or any of its officers, agents, and employees. For any and all claims for which the Consultant has agreed to indemnify the City, the obligation to indemnify shall not be limited in any way by any limitation on the amount of type of damages, compensation, or benefits payable by or for the Consultant under Worker's Compensation Acts, Disability Benefit Acts, or other Employment Benefit Acts.

In witness thereof and in accordance with the authority granted, the parties hereto have executed the Agreement in duplicate originals on the day and year here above written.

**BY SIGNING THIS AGREEMENT, CONSULTANT ACKNOWLEDGES AND AGREES THAT IT HAS BEEN INFORMED THAT THE CITY OF NEW ALBANY, OHIO HAS CLASSIFIED IT AS AN INDEPENDENT CONTRACTOR AND THAT IT HAS BEEN ADVISED THAT CONTRIBUTIONS TO OPERS WILL NOT BE MADE ON ITS BEHALF FOR THESE SERVICES.**

**Architecture! Ohio, Inc.**

\_\_\_\_\_  
Michael A. Boryca  
President

**CITY OF NEW ALBANY**

**Approved as to form**

\_\_\_\_\_  
Joseph Stefanov  
City Manager

\_\_\_\_\_  
Mitchell Banchefsky  
City Law Director

Mail all invoices to: City of New Albany  
Attn: Accounts Payable  
P.O. Box 188  
New Albany, Ohio 43054

**CONTRACT FOR PROFESSIONAL SERVICES**  
*Commercial Plan Examination Contract*

This Agreement, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of New Albany (“the City”) and Architecture! Ohio, Inc. (“the Consultant”).

I. SCOPE OF SERVICES

- A. The Consultant shall provide commercial and residential plan review services to the City. The consultant agrees to employ and maintain in its employment for the term of this Contract, qualified personnel currently certified by the State of Ohio as a Plans Examiner.
- B. The Consultant shall review drawings submitted to the Community Development Department for conformance with the Ohio Building Code as adopted by the State of Ohio and the City. Upon completion of the review, the Consultant shall provide the City with a review letter in conformance with OBC 107.4 and 107.5 of the building code as applicable to the submitted drawings, which shall set forth the areas found not to be clearly defined in the submitted drawings or not to be in compliance with the applicable code provisions.
- C. The Consultant will provide preliminary plan review services “commercial walk-throughs” to the City when requested by an applicant and approved by the City.
- D. The Consultant will act as the City’s representative at hearings before the State Board of Building Appeals and/or the Board of Building Standards in conjunction with any plan review performed by the Consultant, when requested to do so and authorized by the City.
- E. The Consultant agrees to review and return the drawings to the City in accordance to the following schedule:

Type of Project	Initial Plan Check	Subsequent Plan Checks
Single Use New Buildings/Existing Buildings/ Shell Buildings/Tenant Improvements	8 - 10 calendar days	5 calendar days
New Buildings with Variable Uses/Multi- Story/ Specialty Occupancy	14 calendar days	5 calendar days

- F. The Consultant will provide back-up electrical inspection services with qualified professionals as requested by the City.

II. TIME OF PERFORMANCE

This Contract shall begin on January 1, 2019 and continue through December 31, 2019, and may be renewed for subsequent calendar years, subject to the approval of the City of New Albany and subject to the availability of appropriate funds as authorized by the City’s annual operating budget.

### III. CITY RESPONSIBILITIES

The City shall be responsible for providing the following under this Contract.

- A. Assist the Consultant by placing at its disposal all available information necessary for the Consultant to faithfully perform their obligation under this contract.
- B. Provide prompt written notice to the Consultant whenever the City observes or is made aware of the Consultant's default or non-conformance with this Agreement and afford the Consultant reasonable opportunity to correct such defect or non-conformance.
- C. Provide conference and meeting facilities for the Consultant to meet with applicants in regard to the work performed by the Consultant pursuant to this Contract.
- D. Use its best efforts to secure release of other data held by others necessary for the Consultant to perform his obligations under this Contract.
- E. Provide courier/delivery services for pick-up and drop-off of plans for review and approval.

### IV. CONSULTANT REPSONSIBILITES

The Consultant shall be responsible for providing the following under this Contract.

- A. Maintain certified personnel in its employment as required by the State of Ohio. Said employees shall maintain their certification in good standing and the Consultant shall promptly notify the City, in writing, if the certified personnel become decertified, leave the Consultant's employment, or are in any way suspended or prevented from legally performing the duties under this Contract.
- B. Consultant shall, after termination or resignation of services under this Contract, return to the City all files and documents made available to the Consultant in the performance of services under this Contract, including, but not limited to, permits, licenses, applications, codes, drawings, site plans, photographs, and similar materials. The Consultant shall be permitted to keep and maintain copies of all addenda and/or correction letters or correspondence issued in conjunction with the services provided under this Contract.
- C. The Consultant shall observe strict confidentiality in relations with all other parties regarding all of the City's proprietary information and regarding any other information obtained in connection with representation of the City. The Consultant shall not release, distribute, publish, or otherwise make available to third parties any confidential information without express written consent of the City.
- D. The consultant shall notify the City, in writing, when a conflict of interest has or may arise which would preclude the Consultant from performing the services required under this Contract. In all other aspects of the services provided, the Consultant shall

act without malicious intent, discrimination, harassment, reckless disregard, or negligence in performing its duties and in relations with the public on the City's behalf.

V. COMPENSATION

The Consultant shall be compensated by payment for services based upon the hourly costs and reimbursable expenses as noted in the fee schedule below.

Commercial plan review	\$83.00 per hour
Preliminary review	\$83.00 per hour
Reimbursable expenses	At cost

Mileage shall be reimbursed at the Internal Revenue Service's standard rate that is in place at the time of Consultant's travel. The Consultant shall provide a written statement indicating the total time spent for each review upon return of the plans and Consultant's written plan review letter.

VI. METHOD OF DELIVERY/TRANSFER OF DOCUMENTS

The City shall arrange for the pick-up and drop-off of all plans.

VII. METHOD OF SCHEDULE OF PAYMENT

The Consultant shall submit invoices monthly to the City for services rendered through the previous month and invoices shall be submitted timely and not be slacking for more than sixty (60) days. The City agrees to pay within thirty (30) days of the receipt of a valid invoice. A valid invoice shall consist of a fully itemized account of the services performed. Invoices shall indicate the permit number and/or project name and the time spent on each. Reimbursable expenses, if any, will be identified on each invoice.

VIII. TERMINATION

The City may terminate this Contract at any time by written notice to the Consultant and payment for work actually performed pursuant to this Agreement through the cancellation date.

The Consultant may terminate this Agreement at any time with a written sixty (60) day notice to the City. Should the City fail to enter into an agreement with a qualified firm/individual to perform similar services, the Consultant agrees to extend its contractual obligations under this Contract for one (1) additional thirty (30) day period.

IX. CHANGES IN SCOPE OF SERVICES

The City may, from time to time, require changes in the scope of services to be performed by the Consultant hereunder. Such changes, which are mutually agreed upon by the City and the Consultant, shall be incorporated by written amendment to this Agreement. No payment shall be made by the City to the Consultant for any services for which an amendment has not been executed and incorporated into this Contract.

**X. MISCELLANEOUS PROVISIONS**

This Agreement shall be governed by the laws of the State of Ohio.

The Consultant shall not assign their responsibilities under this Agreement to third parties without the written consent of the City.

This Agreement represents the entire and integrated agreement between the City and the Consultant and supersedes all prior negotiations, representations, or agreements, either written or verbal.

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 City or the Consultant.

In any event any one or more of the provisions contained in this Agreement shall, for any reason, be determined to be illegal, invalid, or unenforceable in any respect, such illegality, invalidity, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such illegal, invalid, or unenforceable provision had never been contained herein.

**XI. ERRORS AND OMISSIONS**

The Consultant shall maintain errors and omissions insurance in the amount of one million dollars (\$1,000,000) to protect itself from any claim arising out of the performance of professional services and caused by errors, omissions, or negligent acts for which the Consultant may be legally liable.

In addition to errors and omissions, the Consultant shall maintain insurance for the protection from claims under workers' compensation acts, claims for damages because of bodily injury, including personal injury, sickness, disease, or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property, including loss of use resulting there from, and any other insurance prescribed by laws, rules, regulations, ordinances, codes, or orders.

The Consultant shall maintain public liability and automobile insurance in an amount not less than one million dollars (\$1,000,000) for injuries, including those resulting in death, to any one person, and in an amount not less than one million dollars (\$1,000,000) on account of any one accident or occurrence; non-owned and hired auto coverage with a combined single limit of \$1,000,000 per occurrence; uninsured motorist coverage in the amount of \$1,000,000 per occurrence; property damage coverage in an amount not less than \$500,000 from damages on account of any one accident or occurrence.

Said insurance shall be maintained in full force and effect during the life of the Contract. Certificates showing that the consultant is carrying the above described insurance in at least the above specified minimum amounts shall be furnished to the City before the City is obligated to make any payments to the consultant for the work performed under the provisions of this Agreement.

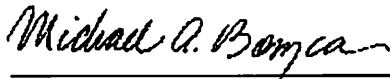
**XII. INDEMNIFICATION**

The Consultant shall indemnify and hold harmless the City and its respective officers, agents, and employees against all suits or claims that may be based on any injury to persons or property that may arise out of an error, omission, or negligent or willful act of the Consultant, and the Consultant shall, at his own expense defend the City in all litigation, pay all attorney's fees, damages, court costs and other expenses arising out of the litigation of claim or incurred in connection therewith; and shall at his own expense, satisfy and cause to be discharged such judgments as may be obtained against the City or any of its officers, agents, and employees. For any and all claims for which the Consultant has agreed to indemnify the City, the obligation to indemnify shall not be limited in any way by any limitation on the amount of type of damages, compensation, or benefits payable by or for the Consultant under Worker's Compensation Acts, Disability Benefit Acts, or other Employment Benefit Acts.

In witness thereof and in accordance with the authority granted, the parties hereto have executed the Agreement in duplicate originals on the day and year here above written.

**BY SIGNING THIS AGREEMENT, CONSULTANT ACKNOWLEDGES AND AGREES THAT IT HAS BEEN INFORMED THAT THE CITY OF NEW ALBANY, OHIO HAS CLASSIFIED IT AS AN INDEPENDENT CONTRACTOR AND THAT IT HAS BEEN ADVISED THAT CONTRIBUTIONS TO OPERS WILL NOT BE MADE ON ITS BEHALF FOR THESE SERVICES.**

**Architecture! Ohio, Inc.**



\_\_\_\_\_  
Michael A. Boryca  
President

**CITY OF NEW ALBANY**

**Approved as to form**

\_\_\_\_\_  
Joseph Stefanov  
City Manager

\_\_\_\_\_  
Mitchell Banchefsky  
City Law Director

Attached: Certification of funds by the Director of Finance.

Mail all invoices to:                   City of New Albany  
                                                  Attn: Accounts Payable  
                                                  P.O. Box 188  
                                                  New Albany, Ohio 43054

## Exhibit C - R-61-2018

### CONTRACT FOR PROFESSIONAL SERVICES

#### *Inspection Services Contract*

This Agreement, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of New Albany (“the City”) and Architecture! Ohio, Inc. (“the Consultant”).

#### I. SCOPE OF SERVICES

- A. Building Inspection: As required and requested by the Community Development Department, **architecture!** will provide building inspection services for both residential and commercial buildings, with respect to general building: Structural, Mechanical, Fire Suppression Systems and Life Safety Inspections in accordance with the requirements of Section 1 04.2.1.3 of the Ohio Building Code to determine building, mechanical and fire protection systems compliance with approved construction documents in accordance with Section 1 08. Standard Forms provided by the City would be utilized and appropriately completed for each type of inspection required from footing/foundation inspections through to life safety and final occupancy. Inspections would be conducted in accordance with the City processes and in the order scheduled, by the time requested by the Owner/Contractor requiring said inspection services. Building inspections will be billed at a minimum compensation of one-hour for the first, single inspection required. Multiple or additional inspections (in excess of one per day), will be billed subsequently for only the time spent on each successive inspection, plus mileage and drive time, door-to-door.
- B. Electrical Inspection: To be provided on a Daily Basis to the Community Development Department, **architecture!** will provide Electrical inspection services for both residential and commercial buildings, in accordance with the requirements of Section 1 04.2.3.3 of the Ohio Building Code to determine electrical systems compliance with approved construction documents in accordance with Section 1 08. Standard Forms provided by the City would be utilized and appropriately completed for each type of inspection required from new building services, electrical rough-in and final inspections through to life safety and final occupancy. Inspections would be conducted in accordance with the City processes and in the order scheduled, by the time requested by the Owner/Contractor requiring said inspection services. Building inspections will be billed at a minimum compensation of one-hour for the first, single inspection required. Multiple or additional inspections (in excess of one per day), will be billed subsequently for only the time spent on each successive inspection, plus mileage and drive time, door-to-door.

#### II. BASIS OF COMPENSATION

- A. Building & Electrical Inspection Services are proposed in the following sums for the performance of the listed duties, with a one hour minimum charge for single inspections (only one in a single day) and will be billed with drive time door-to-door, plus mileage.

Residential 1, 2, 3 Family Dwelling Permits:	
Building Inspection Services:	\$65 / Per Hour
Electrical Inspection Services:	\$65 / Per Hour
Reporting, Correspondence & Meeting Time:	\$65 / Per Hour
Commercial Building Permits:	
Building Inspection Services:	\$65 / Per Hour
Electrical Inspection Services:	\$65 / Per Hour
Reporting, Correspondence & Meeting Time:	\$65 / Per Hour
Special Building & Electrical Inspection Services:	
Residential & Commercial Inspections Other than Regular Business Hours, Weekends or Holiday Inspection Services:	\$100 /Per Hour
Reporting, Correspondence & Meeting Time:	\$100 / Per Hour
Mileage Reimbursement:	54 cents / Per Mile
(Rates permitted by the IRS, as adjusted annually)	

### III. ERRORS AND OMISSIONS

The Consultant shall maintain errors and omissions insurance in the amount of one million dollars (\$1,000,000) to protect itself from any claim arising out of the performance of professional services and caused by errors, omissions, or negligent acts for which the Consultant may be legally liable.

In addition to errors and omissions, the Consultant shall maintain insurance for the protection from claims under workers' compensation acts, claims for damages because of bodily injury, including personal injury, sickness, disease, or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property, including loss of use resulting there from, and any other insurance prescribed by laws, rules, regulations, ordinances, codes, or orders.

The Consultant shall maintain public liability and automobile insurance in an amount not less than one million dollars (\$1,000,000) for injuries, including those resulting in death, to any one person, and in an amount not less than one million dollars (\$1,000,000) on account of any one accident or occurrence; non-owned and hired auto coverage with a combined single limit of \$1,000,000 per occurrence; uninsured motorist coverage in the amount of \$1,000,000 per occurrence; property damage coverage in an amount not less than \$500,000 from damages on account of any one accident or occurrence.



Said insurance shall be maintained in full force and effect during the life of the Contract. Certificates showing that the consultant is carrying the above described insurance in at least the above specified minimum amounts shall be furnished to the City before the City is obligated to make any payments to the consultant for the work performed under the provisions of this Agreement.

**IV. INDEMNIFICATION**

The Consultant shall indemnify and hold harmless the City and its respective officers, agents, and employees against all suits or claims that may be based on any injury to persons or property that may arise out of an error, omission, or negligent or willful act of the Consultant, and the Consultant shall, at his own expense defend the City in all litigation, pay all attorney's fees, damages, court costs and other expenses arising out of the litigation of claim or incurred in connection therewith; and shall at his own expense, satisfy and cause to be discharged such judgments as may be obtained against the City or any of its officers, agents, and employees. For any and all claims for which the Consultant has agreed to indemnify the City, the obligation to indemnify shall not be limited in any way by any limitation on the amount of type of damages, compensation, or benefits payable by or for the Consultant under Worker's Compensation Acts, Disability Benefit Acts, or other Employment Benefit Acts.

In witness thereof and in accordance with the authority granted, the parties hereto have executed the Agreement in duplicate originals on the day and year here above written.

**BY SIGNING THIS AGREEMENT, CONSULTANT ACKNOWLEDGES AND AGREES THAT IT HAS BEEN INFORMED THAT THE CITY OF NEW ALBANY, OHIO HAS CLASSIFIED IT AS AN INDEPENDENT CONTRACTOR AND THAT IT HAS BEEN ADVISED THAT CONTRIBUTIONS TO OPERS WILL NOT BE MADE ON ITS BEHALF FOR THESE SERVICES.**

**Architecture! Ohio, Inc.**

\_\_\_\_\_  
Michael A. Boryca  
President

**CITY OF NEW ALBANY**

**Approved as to form**

\_\_\_\_\_  
Joseph Stefanov  
City Manager

\_\_\_\_\_  
Mitchell Banchefsky  
City Law Director

**Mail all invoices to:**

**City of New Albany  
Attn: Accounts Payable  
P.O. Box 188  
New Albany, Ohio 43054**



Prepared: 12/07/2018  
Introduced: 12/18/2018  
Revised:  
Adopted: 12/18/2018  
Effective: 12/18/2018

## RESOLUTION R-62-2018

### A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT ON BEHALF OF THE CITY OF NEW ALBANY, OHIO WITH PENTELLA UNLIMITED, TO PROVIDE ECONOMIC DEVELOPMENT MARKETING SERVICES TO THE CITY

**WHEREAS**, the City of New Albany wishes to provide for presentation materials, public relations, digital marketing and special projects directly related to economic development.

**WHEREAS**, in addition to its involvement in special projects, Pentella Unlimited provides design input and market research for business attraction and retention strategies.

**NOW, THEREFORE, BE IT RESOLVED** by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

**Section 1.** The city manager is hereby authorized to execute an agreement for services with Pentella Unlimited billed for the period January 1, 2019 through December 31, 2019 (Exhibit A).

**Section 2.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 3.** Pursuant to Article 6.07(a) of the New Albany Charter, this resolution shall take effect upon adoption.

CERTIFIED AS ADOPTED this 14<sup>th</sup> day of Dec, 2018.

Attest:

  
Sloan T. Spalding  
Mayor

  
Jennifer H. Mason  
Clerk of Council

Approved as to form:

  
\_\_\_\_\_  
Mitchell H. Banchevsky  
Law Director

**PentellaUnlimited**

614 562 2401  
845 North High Street, Suite 310  
Columbus, Ohio 43215  
pentellaunlimited.com

**CITY OF NEW ALBANY | 2019 Scope of Services | December 5, 2018**

## **DESCRIPTION OF SERVICES**

Pentella Unlimited and Moorehead Design are pleased to serve as the City of New Albany Department of Community Development (CD) branding and marketing communications partners. As the City's partner, Pentella and Moorehead will provide comprehensive branding, strategy and marketing communications services as well as the development and execution of specific strategies, messaging, creative and communications services outlined below.

### **GENERAL CONSULTING**

#### **Strategic Communications**

Pentella Unlimited and Moorehead Design will provide ongoing input and strategic insights to support the needs of the Community Development Department on an as-needed basis.

#### **Marketing Meetings**

Pentella and Moorehead will attend project and Council meetings as needed. Additionally, we will conduct monthly meetings with Jennifer Chrysler to discuss services provided, upcoming projects and timelines as well as content for the bi-monthly e-newsletter *Next* and the quarterly economic development update.

### **BRAND ASSET DEVELOPMENT**

#### **Videos**

Pentella and Moorehead will continue to build upon the base of video communications utilized during presentations and on the Economic Development website as well as promoted through our e-blasts. We will script, shoot and produce three (3) videos on the Personal Care and Beauty Innovation Campus, Information Technology cluster and High-Tech Manufacturing and Logistics cluster to complement fact sheets.

#### **Photography**

We will retain the services of a photographer and provide art direction for two (2) days photo shoots to update our image catalogue and to capture the rapidly changing nature of the community and provide the assets we need to support our print and electronic communications.

**DIGITAL COMMUNICATIONS****Quarterly E-Blast Series**

Research, write and design up to four Constant Contact e-mail updates that promote the City's value proposition and reflect key decision-making drivers for site selectors, developers and C-suite executives as well as community and business leaders. E-blasts will link to various features and information on the economic development website.

**Next Newsletter**

Research, write and design series of up to six (6) Next e-newsletters on a bi-monthly basis throughout the year to keep business owners, management, community stakeholders and employees up to date on news, developments, resources and amenities New Albany offers.

**General Website Updates**

Provide content updates to the New Albany Economic Development website on an as needed basis. These may include fact sheets, new and expanded content related to industry sectors, infrastructure, resources, case studies, etc. Updates on square footage, number of employees or new companies in the park.

**PRINT COMMUNICATIONS****Community Development Resident Mailer**

Pentella and Moorehead will develop a print mailer to inform and educate residents and stakeholders the city's community development efforts and the need to continue to attract additional businesses. The mailer will focus on the return-on-investment in economic development.

**COMMUNICATIONS CAMPAIGNS****20<sup>th</sup> Anniversary Marketing**

Pentella and Moorehead will develop new communications to help the city capitalize upon and commemorate the 20<sup>th</sup> anniversary of the New Albany International Business Park. These projects include a custom Coffee Table Book about the New Albany International Business Park as a "thank you" gift for business park C-Suite executives. Additionally, we will develop an employee appreciation invitation and a hand out for employees that can be given out at to engage employees and promote the anniversary.

# PentellaUnlimited

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Columbus, Ohio 43215  
pentellaunlimited.com

## **PUBLIC RELATIONS**

### **Guest Columns**

Pentella and Moorehead will conduct research and interviews as needed to develop up to four guest columns for publication in This Week and Healthy New Albany.

## **PROFESSIONAL FEES NOT TO EXCEED**

**\$102,800**

### **TERMS AND CONDITIONS**

Fees will be billed at the end of each month at a rate of \$125 per hour for services provided that month. Total 2019 fees will not exceed \$102,800. Any additional expenses incurred during the month will be included in the monthly bill. All fees and expenses billed to client are payable within 30 days of the date of the invoice.

### **REIMBURSABLE EXPENSES**

Reimbursable expenses will be invoiced at the end of the month in which they were incurred. This includes .54/mile mileage reimbursement. Client will approve the purchase of artwork or photography that was not in the general scope of services prior to purchase and billed at cost at the end of the month.

### **TERMINATION OF THE CONTRACT**

- A. This Contract may be terminated by either party upon sixty (60) days written notice.
- B. Should the Consultant be terminated, they shall be paid all compensation due, up to the date of termination.

### **AUTHORIZATION**

Pentella Unlimited and Moorehead Design are pleased to have the opportunity to continue our work with City of New Albany. Please acknowledge acceptance of the terms of this agreement by signing below and returning one (1) copy to Pentella Unlimited. If a purchase order is required by City of New Albany to initiate this work, please provide a copy with this signed agreement.

BY SIGNING THIS AGREEMENT, CONSULTANT ACKNOWLEDGES AND AGREES THAT IT HAS BEEN INFORMED THAT THE CITY OF NEW ALBANY, OHIO HAS CLASSIFIED IT AS AN INDEPENDENT CONTRACTOR AND THAT IT HAS BEEN ADVISED THAT CONTRIBUTIONS TO OPERS WILL NOT BE MADE ON ITS BEHALF FOR THESE SERVICES.

**PentellaUnlimited**

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

Name Printed: \_\_\_\_\_

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

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

**Approved as to form**

\_\_\_\_\_  
Mitchell Banchefsky  
City Law Director