



ORDINANCE O-27-2020

APPROPRIATION AMENDMENT ORDINANCE

AN ORDINANCE TO AMEND APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF NEW ALBANY, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2020

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; and

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

NOW, THEREFORE, BE IT ORDAINED by the Council of 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, 2020:

Fund	Department	Category	Increase/ (Decrease)
101 - General	Finance	Personal Services	\$ (15,000)
101 - General	Finance	Operating & Contractual Services	15,000
202 - State Highway	N/A	Capital	20,000
203 - Permissive Tax	N/A	Transfers & Other Financing Uses	(280,000)
216 - K9 Patrol	Police	Personal Services	2,000
218 - DUI Grant	Police	Personal Services	5,000
232 - Enclave TIF	General Administration	Operating and Contractual Services	4,000
234 - Richmond Square TIF	General Administration	Operating and Contractual Services	15,000
235 - Tidewater I TIF	General Administration	Operating and Contractual Services	3,000
236 - Ealy Crossing TIF	General Administration	Operating and Contractual Services	17,000
237 - Upper Clarenton TIF	General Administration	Operating and Contractual Services	6,000
239 - Straits Farm TIF	General Administration	Operating and Contractual Services	46,506
240 - Oxford TIF	General Administration	Operating and Contractual Services	(58,975)
250 - Blacklick TIF	General Administration	Operating and Contractual Services	172,654
252 - Village Center TIF	General Administration	Operating and Contractual Services	53,423
258 - Windsor TIF	General Administration	Operating and Contractual Services	35,000
259 - Village Center II TIF	General Administration	Operating and Contractual Services	738,013

Fund	Department	Category	Increase/ (Decrease)
271 - Local Coronavirus Relief	General Administration	Operating and Contractual Services	46,598
401 - Capital Improvements	N/A	Capital	(1,000,000)
404 - Park Improvement	N/A	Capital	(2,500,000)
410 - Infrastructure Replacement	Finance	Operating and Contractual Services	500
422 - Economic Development Capital	N/A	Capital	297,500
		Total Appropriation Amendments	\$ (2,376,781)

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 2020 to ensure compliance with ORC 5705.36(A)(4) for the fiscal year ended December 31, 2020.

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, 2020 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 legislation were adopted in an open meeting of 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 Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 404 effective November 22, 2020.

Section 7. Pursuant to Article VI, Section 6.07(A) 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 _____ day of _____, 2020.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

Legislation dates:

Prepared: 11/22/2020

Introduced: 12/01/2020

Revised: 12/07/2020

Adopted:

Effective:



RESOLUTION R-42-2020

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A ROAD MAINTENANCE AGREEMENT WITH THE LICKING COUNTY BOARD OF COMMISSIONERS FOR THE MAINTENANCE OF COBBS ROAD

WHEREAS, Section 5535.01 of the Ohio Revised Code requires that county roads be maintained by the board of county commissioners; and

WHEREAS, Section 301.15 of the Ohio Revised Code provides that a board of county commissioners may enter into agreements with the legislative authority of any municipal corporation whereby the legislative authority of any municipal corporation undertakes, and is authorized by the board of county commissioners, to exercise any power, perform any function, or render any service, on behalf of the county or the board, that the county or the board may exercise, perform or render; and

WHEREAS, the Licking County Board of Commissioners requires municipalities to enter into a Road Maintenance Agreement when the annexation of land to the municipality causes a roadway or a section thereof to be divided between two political jurisdictions along its center line; and

WHEREAS, the pending annexation of approximately 13+/- acres of land located north of Cobbs Road, causes a section of Cobbs Road to be divided between the City of New Albany and Licking County along the center lines of the roadway.

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 Roadway Maintenance Agreement; (substantially similar in its effect as that which is attached hereto as Exhibit A) with the Licking County Board of Commissioners.

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 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 Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 404 effective November 22, 2020.

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

CERTIFIED AS ADOPTED this _____ day of _____, 2020.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

Legislation dates:

Prepared: 12/01/2020

Introduced: 12/15/2020

Revised:

Adopted:

Effective:

**AGREEMENT FOR MAINTENANCE AND IMPROVEMENTS OF
COBBS ROAD**

THIS ROAD MAINTENANCE AGREEMENT (“Agreement”) is made and entered into on this ____ day of December, 2020, by and between the City of New Albany, Ohio, an Ohio Municipal Corporation (“New Albany” or the “City”) and the Board of Commissioners of Licking County, Ohio, a political subdivision of the State of Ohio (“Licking County” or the “County”). New Albany and Licking County are referred to individually herein as “Party” and collectively as “Parties.”

WITNESSETH

In consideration of the terms and conditions hereinafter stated, the Parties agree as follows:

SECTION 1: AUTHORITY

Section 5535.01 of the Ohio Revised Code requires that county roads be maintained by the board of county commissioners.

Section 307.15 of the Ohio Revised Code provides that a board of county commissioners may enter into agreements with the legislative authority of any municipal corporation whereby the legislative authority of any municipal corporation undertakes, and is authorized by the board of county commissioners, to exercise any power, perform any function, or render any service, on behalf of the county or the board, that the county or the board may exercise, perform, or render.

SECTION 2: PURPOSE

Cobbs Road is a county road located in Licking County. Pursuant to the upcoming annexation of real property located in Jersey Township, Licking County to the City of New Albany, the Parties desire to address the maintenance of certain portions of Cobbs Road, which upon finalization of the aforementioned annexation will be adjacent to and partially within the City’s corporate boundary. Accordingly, this Agreement shall set forth the responsibility for maintenance and improvement for portions of Cobbs Road by the respective Parties for the mutual benefit of all Parties and for the convenience and welfare of the public.

SECTION 3: RESPONSIBILITY OF NEW ALBANY

NEW ALBANY shall be responsible for maintenance and improvement of the Cobbs Road right-of-way, now and as may be altered in the future. Said maintenance responsibility shall include pavement repair and replacement, snow removal, regulatory signage, guard rail and striping.

The City’s agreed maintenance responsibility for the entire length of Cobbs Road, exceeds its obligation under Section 307.15 of the Ohio Revised Code. The City shall accept said

maintenance responsibility in exchange for the County's continued maintenance of the roadside drainage ditches on both sides of Cobbs Road. The County shall also replace all existing, damaged guard rail prior to the acceptance of the annexation by the City.

The City shall provide the County the opportunity to review construction plans and provide input relative to the design of the improvements within the right of way; however the City shall maintain final authority over the design, construction and inspection of the improvements. Notwithstanding the forgoing provisions of this paragraph, all permitting authority shall remain with the agency that has the underlying jurisdiction over the road right-of-way.

Licking County shall cooperate with the City through the support of grant applications and may, at the request of the City, provide supplemental, in-house engineering services to facilitate improvements to Cobbs Road.

Nothing in this Agreement shall relieve Licking County from its responsibility for maintenance and improvements of all other portions of Cobbs Road right-of-way.

Nothing in this Agreement shall be construed as to alter the reported inventory mileage of Cobbs Road to other agencies.

SECTION 4: ACQUISITION OF ADDITIONAL RIGHT OF WAY

The Parties shall cooperate to acquire necessary rights of way for any project undertaken pursuant to this Agreement. Each Party shall be responsible for acquiring necessary rights of way within the bounds of their respective jurisdictions unless otherwise specified in a separate agreement. As Cobbs Road is designated as a county road, it is understood that the Licking County Commissioners have underlying ownership of the right of way.

SECTION 5: NOTICE OF IMPROVEMENT

If the Licking County Engineer desires to perform maintenance or make an improvement to Cobbs Road that requires the partial closing of the road to traffic, said Engineer shall notify the New Albany Engineer of the planned action at the earliest date practicable. The plans for the maintenance project of the improvement shall provide for the maintenance of traffic as set forth by Section 5543.17 of the Ohio Revised Code.

SECTION 6: TERM

This Agreement shall become effective on the date first written above. The term shall terminate on December 31, 2030, unless the Parties mutually agree to an extension prior to that date.

SECTION 7: TERMINATION OF AGREEMENT

For the benefit of both Parties and the convenience and welfare of the public, this Agreement may only be unilaterally terminated or suspended for good cause shown. Accordingly, either

Party may unilaterally terminate or suspend this Agreement upon filing notice with the other Party at least one year in advance of the effective date of termination or suspension, stating the intention of the Party to terminate or suspend the Agreement and setting forth the basis of such termination or suspension. However, the Parties may mutually agree to terminate or suspend this Agreement at any time for any reason.

Lastly, this Agreement will automatically terminate if and at such time that the entirety of Cobbs Road and its adjacent right-of-way becomes the responsibility of New Albany via annexation.

SECTION 8: MISCELLANEOUS TERMS AND CONDITIONS

- 8.1 **Entire Agreement:** This Agreement, and any documents incorporated by reference herein, shall constitute the entire understanding and agreement between the Parties, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the Parties, except as provided in Section 7 of this Agreement.
- 8.2 **Governing Law:** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Licking County, Ohio.
- 8.3 **Headings:** The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 8.4 **Waivers:** No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 8.5 **Severability:** If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.

{SIGNATURES ON THE FOLLOWING PAGE

ATTEST:

IN EXECUTION WHEREOF, the Parties have caused this Agreement to be executed in their names by their respective duly authorized representatives on the date first written above.

CITY OF NEW ALBANY:

SIGNATURE: _____

NAME: Joseph Stefanov

TITLE: New Albany City Manager

DATE: _____

STATE OF OHIO)
COUNTY OF LICKING) ss:

APPROVED AS TO FORM:

Mitchell H. Banchefsky, Law Director

LICKING COUNTY BOARD OF COMMISSIONERS:

County Commissioner

County Commissioner

County Commissioner

STATE OF OHIO)
COUNTY OF LICKING) ss:

APPROVED AS TO FORM:

Licking County Prosecutor's Office



RESOLUTION R-43-2020

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 by 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 as set forth or substantially similar to the attached Exhibit A to provide government relations services on behalf of the City of New Albany for the period of January 1, 2021, through December 31, 2021.

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 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 Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 404 effective November 22, 2020.

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

CERTIFIED AS ADOPTED this _____ day of _____, 2020.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

Legislation dates:

Prepared: 12/02/2020

Introduced: 12/15/2020

Revised:

Adopted:

Effective:

SERVICE AGREEMENT

This Master Consulting Agreement, executed as of the 1st day of January, 2021, 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, 2021 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: Joseph Stefanov

Title: City Manager

Date: _____

Statement of Work

Master Consulting Agreement dated January 1, 2021

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 \$5,810.51 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, 2021. 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: Joseph Stefanov

Title: City Manager

Date: _____

APPROVED AS TO FORM:

By: _____

Name: Mitchell H. Banchevsky

Title: Law Director



RESOLUTION R-44-2020

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, 2021 through December 31, 2021.

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 professional services contract with Mitchell Banchefsky as set forth or substantially similar to the attached Exhibit A to serve as Director of Law and to provide legal services to the City of New Albany for the period of January 1, 2021, through December 31, 2021.

Section 2: It is hereby found and determined that all formal actions of council concerning and relating to the adoption of this resolution were adopted in an open meeting of 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 Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 404 effective November 22, 2020.

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

CERTIFIED AS ADOPTED this _____ day of _____, 2020.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

Legislation dates:

Prepared: 12/02/2020

Introduced: 12/15/2020

Revised:

Adopted:

Effective:

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF NEW ALBANY
AND ATTORNEY MITCHELL H. BANCHEFSKY
2021**

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-____-2020 (passed December ____, 2020), and which takes effect January 1, 2021.

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-Eight Thousand Two Hundred Fifty-Four Dollars and Ninety-Six Cents (\$148,254.96), payable in equal monthly installments of Twelve Thousand Three Hundred Fifty-Four Dollars and Fifty-Eight Cents (\$12,354.58). 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, 2021, through December 31, 2021. 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



RESOLUTION R-45-2020

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, 2021 through December 31, 2021.

Section 2. It is hereby found and determined that all formal actions of council concerning and relating to the adoption of this legislation were adopted in an open meeting of 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 Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 404 effective November 22, 2020.

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

CERTIFIED AS ADOPTED this _____ day of _____, 2020.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

Legislation dates:

Prepared: 12/02/2020

Introduced: 12/15/2020

Revised:

Adopted:

Effective:

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 2017 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: \$105 / Per Hour

Office Administrative Costs:

Clerical (In-House): \$55 / Per Hour

Mileage Reimbursement: 56 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

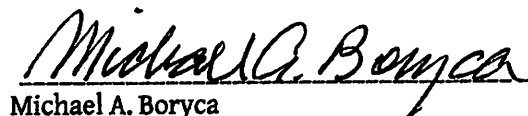
The Consultant shall indemnify and hold harmless the City and its respective officers, agents, and employees against all suits or claims that may be based on any injury to persons or property that may arise out of an error, omission, or negligent or willful act of the Consultant, and the Consultant shall, 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 or AP@newalbanyohio.org

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:	\$70 / Per Hour
Electrical Inspection Services:	\$70 / Per Hour
Reporting, Correspondence & Meeting Time:	\$70 / Per Hour
 Commercial Building Permits:	
Building Inspection Services:	\$70 / Per Hour
Electrical Inspection Services:	\$70 / Per Hour
Reporting, Correspondence & Meeting Time:	\$70 / Per Hour
 Special Building & Electrical Inspection Services:	
Residential & Commercial Inspections	
Other than Regular Business Hours,	
Weekends or Holiday Inspection Services:	\$125 /Per Hour
 Reporting, Correspondence & Meeting Time:	
	\$125 / Per Hour
 Mileage Reimbursement:	
	56 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.

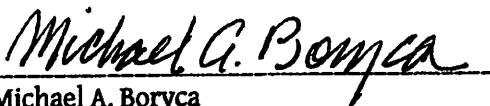
IV. INDEMNIFICATION

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 Banchevsky
City Law Director

Mail all invoices to:

City of New Albany
Attn: Accounts Payable
P.O. Box 188
New Albany, Ohio 43054 or AP@newalbanyohio.org

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, 2021 and continue through December 31, 2021, 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	\$95.00 per hour
Preliminary review	\$95.00 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 or AP@newalbanyohio.org



RESOLUTION R-46-2020

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT ON BEHALF OF THE CITY OF NEW ALBANY, OHIO WITH EIGHT-ONE CONSULTING LLC 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, Eight-One Consulting LLC is qualified to provide commercial plan review services and backup chief building official services; and

WHEREAS, the city may require the services of Eight-One Consulting LLC 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 Eight-One Consulting LLC billed on an hourly basis, per our adopted fee schedule for the period January 1, 2021 through December 31, 2021 (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 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 Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 404 effective November 22, 2020.

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

CERTIFIED AS ADOPTED this _____ day of _____, 2020.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchevsky
Law Director

Legislation dates:

Prepared: 12/02/2020

Introduced: 12/15/2020

Revised:

Adopted:

Effective:

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 Eight-One Consulting, LLC (“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, 2021 and continue through December 31, 2021, 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	\$95.00 per hour
Preliminary review	\$95.00 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.

Eight-One Consulting, LLC

Sherri Scholl
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
 AP@newalbanyohio.org



RESOLUTION R-47-2020

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 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, 2021 through December 31, 2021 (Exhibit A).

Section 2. It is hereby found and determined that all formal actions of council concerning and relating to the adoption of this legislation were adopted in an open meeting of 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 Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 404 effective November 22, 2020.

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

CERTIFIED AS ADOPTED this _____ day of _____, 2020.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchevsky
Law Director

Legislation dates:

Prepared: 12/02/2020

Introduced: 12/15/2020

Revised:

Adopted:

Effective:

PROPOSED

**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 2021 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, 2021 through December 31, 2021 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.

By:

Joseph Stefanov
City Manager

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

Approved as to form:

Mitchell Banchefsky
City Law Director

CERTIFICATION OF FUNDS

I hereby certify that the funds required to meet the City's obligation, payment, or expenditure under this Agreement have been lawfully appropriated or authorized for such purpose and are free from any obligation now outstanding.

Director of Finance

Date

City of New Albany
Engineering Hourly Rates

11/27/2020

Labor Classification	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
	Hourly Rate	Hourly Rate	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	\$122.17	\$124.00
Associate/ Senior Engineer	\$94.55	\$96.44	\$98.37	\$101.25	\$103.30	\$104.80	\$118.00	\$120.36	\$122.17	\$124.00
Engineer II	\$82.20	\$83.84	\$85.52	\$88.00	\$89.80	\$91.20	\$98.00	\$99.96	\$101.46	\$102.88
Engineer I	\$69.65	\$71.04	\$72.46	\$74.50	\$76.00	\$77.20	\$77.20	\$78.74	\$79.93	\$81.13
Senior Technician	-	-	-	-	-	-	\$87.00	\$88.74	\$90.07	\$91.42
Technician	\$49.85	\$50.85	\$51.87	\$53.40	\$54.50	\$55.30	\$55.30	\$56.41	\$57.25	\$58.11
Drafter	\$43.25	\$44.12	\$45.00	\$46.00	\$46.90	\$47.60	\$47.60	\$48.55	\$49.28	\$50.02
Clerical	\$34.10	\$34.78	\$35.48	\$36.50	\$37.20	\$37.80	\$37.80	\$38.56	\$39.13	\$39.72
Surveyor	\$69.55	\$70.94	\$72.36	\$74.50	\$76.00	\$77.20	\$77.20	\$78.74	\$79.93	\$81.13
Survey Crew I (Robot + 1 Crew member)				\$100.00	\$102.00	\$103.50	\$103.50	\$105.57	\$107.15	\$108.76
Survey Crew II (Robot + 2 Crew members)				\$125.00	\$127.50	\$130.00	\$130.00	\$132.60	\$134.59	\$136.61
Inspector III	\$71.10	\$71.10	\$72.52	\$74.60	\$76.10	\$76.10	\$76.10	\$77.62	\$78.79	\$79.97
Inspector II	\$51.30	\$51.30	\$52.33	\$53.90	\$55.00	\$55.00	\$55.00	\$56.10	\$59.75	\$60.66
Inspector I	\$40.95	\$40.95	\$41.77	\$43.00	\$43.90	\$43.90	\$43.90	\$44.78	\$45.45	\$46.13
Attendance at Council Meeting	\$94.55	\$96.44	\$98.37	\$101.25	\$103.30	\$104.80	\$104.80	\$106.90	\$108.80	\$110.43

1.5% 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 and technicians.
Overtime is defined as hours worked over 40 hours per week.





RESOLUTION R-48-2020

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, 2021 through December 31, 2021 (Exhibit A).

Section 2. It is hereby found and determined that all formal actions of council concerning and relating to the adoption of this legislation were adopted in an open meeting of 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 Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 404 effective November 22, 2020.

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

CERTIFIED AS ADOPTED this _____ day of _____, 2020.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

Legislation dates:

Prepared: 12/02/2020

Introduced: 12/15/2020

Revised:

Adopted:

Effective:

PROPOSED SCOPE OF SERVICES

MKSK

December 03, 2020

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

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 2021. 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, Karla Salmans, Planning & Landscape Architecture 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 – Jennifer Chrysler, Director of Community Development, Adrienne Joly, Director of Administrative Services, Stephen Mayer, Planning Manager, and Chris Christians, Planner.
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.
- Special assignments for area studies including, but not limited to, staff/advisory meetings and public involvement processes.

PROPOSED SCOPE OF SERVICES

MKSK

Meetings

- Bi-monthly planning staff general review meetings.
- 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. Current 2021 potential projects include, but are not limited to:

- Village Center Comprehensive Wayfinding & Signage Guidelines
- Signage Implementation (Parks, Leisure Trails, Landmarks, Parking, etc.)
- Analysis & Updates to the Urban Center Code

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 \$95,000
 - Special Planning & Design Projects – up to \$85,000MKSK will not exceed either individual category fee total or the entirety (\$180,000) 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 (\$180,000) 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, 2021 and ending December 31, 2021 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

MKSK

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". The signature is fluid and cursive, with the first name "Chris" and last name "Hermann" clearly legible.

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, film 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	\$ 0.10
B/W Copy 11" x 17" – Bond	\$ 0.20
B/W Copy 18" x 24" – Bond	\$ 0.90
B/W Copy 24" x 36" – Bond	\$ 1.80
B/W Copy 30" x 42" – Bond	\$ 2.63
B/W Copy 36" x 48" – Bond	\$ 3.60
Color Copy 8.5" x 11"	\$ 1.00
Color Copy 11" x 17"	\$ 2.00
Color Plot 18" x 24"	\$ 12.00
Color Plot 24" x 36"	\$ 24.00
Color Plot 30" x 42"	\$ 35.00
Color Plot 36" x 48"	\$ 48.00

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.

Principal	\$ 210
Senior Associate	\$ 165
Associate	\$ 150
Landscape Architect III	\$ 125
Landscape Architect II	\$ 115
Landscape Architect I	\$ 105
Urban Planner III	\$ 125
Urban Planner II	\$ 115
Urban Planner I	\$ 105
Graphic Designer III	\$ 125
Graphic Designer II	\$ 105
Graphic Designer I	\$ 95
Intern	\$ 70
Administration	\$ 70

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 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 greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

TERMS AND CONDITIONS OF PROPOSAL

MKSK

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.

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.

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.



RESOLUTION R-49-2020

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, 2021 through December 31, 2021 (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 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 Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 404 effective November 22, 2020.

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

CERTIFIED AS ADOPTED this _____ day of _____, 2020.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchevsky
Law Director

Legislation dates:

Prepared: 12/02/2020

Introduced: 12/15/2020

Revised:

Adopted:

Effective:

PROPOSED

PentellaUnlimited

614 562 2401
845 North High Street, Suite 310
Columbus, Ohio 43215
pentellaunlimited.com

CONTRACT FOR PROFESSIONAL SERVICES
Marketing Communications Services

This Agreement, entered into this _____ day of _____, 20____, by and between the City of New Albany ("the City") and Pentella Unlimited, Inc. ("the Consultant").

I. SCOPE OF SERVICES

- A. The Consultant shall provide marketing communications services to the City.
- B. The Consultant shall provide advice and recommendations related to all forms of communications, including but not limited to brand asset development, competitor analysis, media relations, all channel communications strategies and tactics related to the attraction of new business and the retention of existing businesses in New Albany.
- C. The Consultant will provide marketing communications consulting on an as-needed basis to the client to recommend solutions and address public relations issues and provide necessary design files to Client.
- D. The Consultant will provide monthly marketing services that include:
- Next, business park e-newsletter for employer/employee
 - Business Development E-Blasts to site selectors, commercial real estate developers and prospects
 - General website updates
 - Guest columns in *This Week* or *Healthy New Albany* magazine
- E. The Consultant will provide general marketing communications services in 2021 on a schedule approved by the City to include copy and design (not print production) for:
- Economic Development Year in Review fact sheet
 - New Economic Development website
 - Photography
 - Health care video
 - Consultant toolkit for site selectors, commercial real estate developers and prospects
 - Business retention toolkit for existing businesses in the park
 - Business economic development direct mail
 - Residential community development direct mail

II. PERFORMANCE SCHEDULE

This Contract shall begin on January 1, 2021 and continue through December 31, 2021, 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. Use its best efforts to secure release of other data held by others necessary for the Consultant to perform his obligations under this Contract.

IV. CONSULTANT RESPONSIBILITIES

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

- A. Consultant shall, after termination or resignation of services under this Contract, provide the City with all desired files and documents created during the course of this Contract.
- B. 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.
- C. 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.

PentellaUnlimited

614 562 2401
845 North High Street, Suite 310
Columbus, Ohio 43215
pentellaunlimited.com

V. COMPENSATION

The Consultant shall be compensated \$110,000 annually by payment for services based upon the hourly costs and reimbursable expenses as noted in the fee schedule below.

Copywriting	\$200.00 per hour
Creative Direction/Design	\$200.00 per hour
Editing	\$100.00 per hour
Production	\$100.00 per hour
Mileage	IRS standard rate
Printing	Per estimate approved by City

VI. METHOD OF SCHEDULE OF PAYMENT

The Consultant shall submit invoices monthly to the City for services rendered through the previous month. The City agrees to pay within thirty (30) days of the receipt of a valid invoice. Invoices shall indicate the purchase order number. Reimbursable expenses, if any, will be identified on each invoice.

VII. TERMINATION

This Contract may be terminated by either party upon sixty (60) days written notice. Should the Consultant be terminated, they shall be paid all compensation due, up to the date of termination.

VIII. 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. Such changes will be estimated and approved by the Client before work is commenced.

IX. 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.

PentellaUnlimited

614 562 2401
845 North High Street, Suite 310
Columbus, Ohio 43215
pentellaunlimited.com

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.

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.

Pentella Unlimited

Cheryl Pentella
Partner

CITY OF NEW ALBANY

Approved as to form

Joseph Stefanov
City Manager

Mitchell Banchefsky
City Law Director



RESOLUTION R-50-2020

**A RESOLUTION TO AMEND, RENEW AND EXECUTE THE
EMPLOYMENT AGREEMENT WITH THE CITY MANGER FOR 2021**

WHEREAS, after evaluation of the city manager, council has determined that Joseph Stefanov has again met council's goals and objectives for the manager and, by this resolution, hereby authorizes the renewal of the amended Employment Agreement with Joseph Stefanov for 2021.

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: 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 found and determined that all formal actions of council concerning and relating to the adoption of this resolution were adopted in an open meeting of 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 Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 404 effective November 22, 2020.

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

CERTIFIED AS ADOPTED this _____ day of _____, 2020.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchevsky
Law Director

Legislation dates:

Prepared: 12/02/2020

Introduced: 12/15/2020

Revised:

Adopted:

Effective:

PROPOSED

EXHIBIT A – R-50-2020

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 2021 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, 2021 through December 31, 2021.

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, 2021. If executed after such date, this agreement shall apply retroactively to January 1, 2020.

This Agreement is executed this _____ day of December, 2020 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