



PROFESSIONAL SERVICES AGREEMENT

For

Village of Homer Glen
2020 Drainage Improvements Program
Eagle Ridge Drive

Michael Salamowicz – Development Services Director
Village of Homer Glen
14240 W. 151st Street
Homer Glen, IL 60491
708-301-0632

Logan Gilbertsen, P.E., CFM – Water Resources Engineer
HR Green, Inc.
323 Alana Drive
New Lenox, IL, 60451
HR Green Project Number: 191513

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THIS **AGREEMENT** is between the Village of Homer Glen (hereafter "CLIENT") and HR GREEN, INC. (hereafter "COMPANY").

1.0 PROJECT UNDERSTANDING

The project consists of drainage improvements in the Woodbine Subdivision along Eagle Ridge Drive from Cantigny Lane to Grenelefe Lane. As part of the 2017 Drainage Improvement Program, the CLIENT improved the storm sewer from Cantigny Lane to Senda Park. This newly improved storm sewer drains all of Eagle Ridge Drive and has greatly improved the conditions within the Phase 1 project limits.

COMPANY has previously completed the Woodbine Area Drainage Study, which included this site. Based on the previously completed Study, it appears that this area experiences flooding in storms exceeding a two-year recurrence. The intersection of Eagle Ridge Drive and Grenelefe Lane is a low spot in the subdivision and relies on an existing 18" storm sewer to drain. There is no overland flow route to drain excess stormwater when the storm sewer reached full capacity. Additionally, the intersection only has three inlets draining into the existing storm sewer. These three inlets receive flow from nearly eight (8) acres of the subdivision and restrict the amount of water that can actually get into the storm sewer. The frequent flooding reported by residents supports the finding that the storm sewer capacity and inlet capacity are an issue

In 2019, COMPANY met with the CLIENT and impacted residents and prepared a concept for improving the conditions in this part of the Woodbine Subdivision. The concept identified critical design items that if not addressed would lead difficulties during construction as well as major impacts to the parkway. COMPANY has reviewed the original 1990 construction plans completed by Joseph A Schudt & Associates and has noted the close proximity of the existing storm sewer to the sanitary sewer. In addition to running parallel to the sanitary sewer, it was noted during site visits that the existing storm sewer is located under or very close to the roadway curb and the sewer is currently located under multiple brick mailboxes and is within the critical root zone of nearly every tree along in the west parkway. COMPANY intends to account for these items in the design of the storm sewer improvements as they will greatly impact the cost of the project and the appearance of the neighborhood. COMPANY has previously completed a concept that addresses all of these items and could result in minimal impacts to the parkway, curb, brick mailboxes and mature trees.

The CLIENT intends to complete a design and construct a drainage improvement project to reduce the frequency of flooding at this location. The proposed improvement is assumed to include modifications to the existing storm sewer and potentially the installation of a new storm sewer along Eagle Ridge Drive. The improved storm sewer will drain into the recently improved storm sewer draining north from Eagle Ridge Drive and Cantigny Lane.

1.1 DESIGN CRITERIA/ASSUMPTIONS

This proposal is based upon the following details:

- a. The original subdivision engineering plans will be available for review.



- b. All work will be completed within existing easements and/or Village right-of-way. It is assumed that no easements will need to be established for the completion of these projects.
- c. It is assumed that the existing storm sewer within the project limits is in good condition and will be available for continued use.
- d. It has been assumed that the area within the project location is not a wetland and the area will be disturbed with no environmental or permitting coordination required.
- e. It is likely that the project will disturb more than one acre of land and therefore a Notice of Intent will be required by the IEPA. .

2.0 SCOPE OF SERVICES

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

2.1 ENGINEERING SERVICES

COMPANY will review the topographic data, the original design plans and the design hydraulic analysis to determine corrective actions for reducing flooding along Eagle Ridge Drive from Cantigny Lane to 151st Street within the Woodbine subdivision. COMPANY will utilize the hydrologic and hydraulic modeling program XP SWMM to determine the flows tributary to the project site and to design the modifications to the stormwater conveyance system. COMPANY will rely on previous experience in the subdivision to guide the layout of the proposed drainage improvements.

COMPANY previously completed concept plan to install a parallel storm sewer under the southbound lane of Eagle Ridge Drive. Prior to completing design work on a parallel storm sewer, COMPANY recommends televising the existing storm sewer to determine if it is in need of repair or if it can remain in place for continued use. Currently, CLIENT has requested that televising not be included in this agreement. If CLIENT wishes to televise the existing storm sewer then COMPANY can complete this task for an additional fee. It is assumed that the existing sewer is in good condition; COMPANY will model the parallel storm sewer concept layout and will provide a summary table of the level of service provided and approximate cost for up to three (3) varying storm sewers diameters. The proposed storm sewers will be proposed to connect to the recently improved storm sewer at Cantigny Lane and Eagle Ridge Lane. The proposed storm sewer invert will approximately follow the existing storm sewer profile to avoid potential impacts to water service lines and sanitary sewer services.

COMPANY will complete inlet spacing calculations to increase the efficiency of draining the roadway into the storm sewer. This task is necessary to the drainage improvements and is the only way to ensure the number of inlets is not limiting the flow rate entering the storm sewer.

COMPANY will meet with the CLIENT to determine the desired level of service and proceed with the storm sewer design at the direction of the CLIENT. The concept will then be developed into construction plans and specifications for competitive bidding.

It is assumed that a Notice of Intend (NOI) for coverage under the Illinois Environmental Protection Agency's ILR-10 permit will need to be filed for this project. COMPANY will prepare



the NOI and submit it on the CLIENT's behalf. COMPANY will prepare contract plans and specifications, please see section 3.0 for detailed deliverable breakdown.

COMPANY will provide bidding assistance to the CLIENT for this project. Bidding assistance will include assisting with advertisement, participating in the project bid opening, preparation of bid tabulations and a letter of recommendation to award the contract to the lowest responsible bidder. Additionally, COMPANY will assist with the execution of the contract between the CLIENT and the contractor.

Upon project award, COMPANY will complete construction site observations. This shall include attendance at a preconstruction meeting, construction observations, erosion control inspections, biweekly progress meetings, weekly reports, partial and final pay estimates, change orders, punch list items and project closeout. Materials testing is not anticipated to be required however, COMPANY will verify that materials including storm sewer, aggregate, and other relevant materials come from state approved sources and are stamped for approval.

2.1 SURVEY SERVICES – TOPOGRAPHIC FIELD SURVEY AND DRAWING

Topographic Survey – COMPANY will complete a topographic survey for the entire ROW of Eagle Ridge Drive from 151th Street extending north for approximately 1,800 feet in length to Cantigny Lane in Stadtler Ridge Estates. Topographic survey will locate visible existing surface improvements and site topography within the area described above. Existing utilities will be surveyed from visible above ground evidence, flags or markings. Storm, sanitary sewer and water main structures will be surveyed, including rim elevation, invert pipe size, direction and elevation as observed at manholes. Trees four (4) inches or larger in diameter, lying outside of a tree line, will be located but species not identified. The adjacent ROW or lot lines will be calculated based upon found monuments and subdivision plats. It is assumed that there will be no snow cover during the time of survey.

Topographic Drawing – Final drafting to be completed with existing visible improvements, lot, and platted easement lines on subject property shown. The drawing will be completed in AutoCAD (version 2019). Because the final drawing will be incorporated into the engineering plans, a Topographic Survey Plat is not included within this proposal.

Easement Exhibits (NOT NECESSARY) – It is anticipated that the existing right of way or easements shown on the recorded subdivision plat are adequate for the proposed improvements. The preparation of easement documents for this area is not included within this proposal.

2.2 PROJECT ADMINISTRATION

Project Administration and Coordination will involve the management oversight of the project which will include the on-going review of the project execution, documentation, schedule and budget, contract file management, and general correspondence between COMPANY, the CLIENT, and prospective contractors.

Project coordination work will include:



1. Attendance at one (1) kickoff meeting
2. Attendance at one(1) coordination meeting to review the engineering and contract documents prior to the bid opening.
3. Attendance at one (1) open house for residents to attend to ask questions about the proposed improvements.
4. The scheduling and attendance of the bid opening to read the bids in accordance with State and Village ordinance.
5. Project documentation is also critical to project success. COMPANY will prepare/distribute meeting minutes of the aforementioned meetings attended which will detail the discussions of attendees along with the action required of the attendees.

Due to social distancing requirements associated with the COVID-19 pandemic, meetings may be required to be completed virtually. COMPANY will provide conference call information and will provide screen-sharing abilities if necessary.

3.0 DELIVERABLES AND SCHEDULES INCLUDED IN THIS AGREEMENT

3.1 CONTRACT DOCUMENTS

Plans will be developed to predetermined milestones for submittal to the CLIENT for review and approval. For a project of this type two submittals pre-final and final, will be made. The pre-final plans will be submitted to the CLIENT for review and comment. The comments will then be incorporated into the plans and a disposition of comments submitted. An Engineer's Opinion of Probable Cost (EOPC) will be developed at the pre-final plan stage and updated for the final plan set. The EOPC will be completed in 2020 dollars.

COMPANY will develop and assemble the contract specifications and documents for this project in accordance with CLIENT policies, procedures, and standards. The contract proposal documents will include the following:

- Contract Plans
 - Cover Sheet;
 - Project Location Map;
 - Summary of Quantities;
 - Plan and Profile Sheets
 - Erosion Control Plan;
 - Restoration Plan; and
 - Construction Details;
- Contract Documents
 - Notice to Bidders;
 - Index for Supplemental Specifications and Recurring Special Provisions;
 - Check Sheet for Recurring Special Provisions;
 - Check Sheet for Recurring Local Roads and Streets Special Provisions;
 - Project Special Provisions;
 - IDOT District 1 Special Provisions;
 - IDOT Bureau of Local Roads and Streets Special Provisions;
 - IDOT Bureau of Design and Environment Check Sheet and Special Provisions;
 - Will County Prevailing Wage Rates, latest edition;
 - IDOT Highway Standards;



- Proposal;
- Schedule of Prices;
- Signatures sheet;
- Apprenticeship or Training Program Certification;
- Affidavit of Availability;
- Local Agency Bid Bond, and;
- Estimate of Construction Cost

3.2 BIDDING SERVICES

COMPANY will assist the CLIENT to coordinate advertisement of the project in accordance with State statutes and Village ordinances. The project will be publically advertised for a minimum of two weeks in the IDOT Local Roads Bulletin as well as the local newspaper. CLIENT is responsible for fees associated with publishing the advertisement in the local newspaper. COMPANY will distribute bid documents to qualified contractors. All associated printing and distribution costs are included in the cost of the contract.

Following the public bid opening, COMPANY will review all bids received to determine compliance with the bidding requirements. Bid tabulations will be developed to ensure bid prices are accurate and for illustration for subsequent contract award. Upon review of the bids COMPANY will assemble the contract documents for execution. In addition to the bidding documents listed above, the contract documents will include the following sheets:

- Contract
- Contract Bond
- Sample forms of Certificates of Insurance to be issued if contract is awarded

Upon execution by the Contractor, COMPANY will submit a recommendation letter to the CLIENT for contract award.

3.3 CONSTRUCTION ADMINISTRATION

COMPANY will complete construction observation and inspections during construction. This shall include attendance at a preconstruction meeting, construction observations, erosion control inspections, biweekly progress meetings, weekly reports, partial and final pay estimates, change orders and project control. Materials testing is not anticipated to be required however, COMPANY will verify that materials including storm sewer, aggregate, and other relevant materials come from state approved sources and are stamped for approval. The project will require special detail be paid to erosion control. COMPANY will complete weekly erosion control inspections and document site conditions regularly.

3.5 PROJECT SCHEDULE/KEY MILESTONES

- | | |
|------------------------------|----------------|
| • Notice to Proceed | April 1, 2020 |
| • Project Kick Off Meeting | April 6, 2020 |
| • Begin Topographic Survey | April 13, 2020 |
| • Storm Sewer Concept Sizing | May 4, 2020 |
| • Hydraulic Design Finalized | May 15, 2020 |



- Pre-Final Plans June 12, 2020
- Final Plans July 17, 2020
- Residential Open House July 22, 2020
- Advertise for Bidding July 31, 2020

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

4.0 ITEMS NOT INCLUDED IN AGREEMENT/SUPPLEMENTAL SERVICES

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

1. Flow monitoring
2. Sewer cleaning
3. Sewer televising
4. Cultural/Environmental Surveys
5. Permitting and/or regulatory agency fees
6. Preliminary Engineering and/or design services
7. Funding/Grant Applications
8. Easement Documents / Easement Exhibits
9. Geo-technical investigation
10. Materials testing
11. Field tile survey

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

5.0 SERVICES BY OTHERS

Not Applicable.

6.0 CLIENT RESPONSIBILITIES

The following items are required from the CLIENT:

- Access to available utility atlas, subdivision plans and available GIS data
- Past reports and data, if applicable
- Access to Conference Room for meetings.

7.0 PROFESSIONAL SERVICES FEE

7.1 Fees

The fee for services will be based on COMPANY cost plus fixed fee rates current at the time the Agreement is signed.



7.2 Invoices

Invoices for COMPANY’s services shall be submitted, on a monthly basis. Invoices shall be due and payable within 30 days upon receipt

7.3 Extra Services

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

7.4 Exclusion

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

7.5 Payment

The CLIENT AGREES to pay COMPANY on the following basis:

Work	Hours	Rate	Cost
Project Management & Meetings	10	\$170.00	\$ 1,700.00
Topographic Survey	50	\$147.00	\$ 7,350.00
H&H Modeling & Design	36	\$121.00	\$ 4,356.00
Contract Documents, Specs & EOPCC	84	\$122.00	\$10,248.00
Bid Administration	10	\$152.00	\$ 1,520.00
Direct Costs (mileage, printing)	-	-	\$ 166.00
Total Not To Exceed			\$25,340.00

Cost plus fixed fee basis with a **Not to Exceed fee of \$25,340.00.**

The CLIENT AGREES to pay COMPANY for Construction Management Services for the Village of Homer Glen’s 2020 Drainage Improvement Projects – Eagle Ridge Drive, percentage (%) based upon the completed construction cost of each project.

The Construction management fee for this project will be Seven Percent (7%) of the completed construction cost.



8.0 Terms and Conditions

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

8.1 Standard of Care

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

8.2 Entire Agreement

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

8.3 Time Limit and Commencement of Services

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

8.4 Suspension of Services

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

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

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

8.5 Books and Accounts

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

8.6 Insurance

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

8.7 Termination or Abandonment

Either party has the option to terminate this Agreement. In the event of failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, then the obligation to provide further services under this Agreement may be terminated upon seven (7) days' written notice. If any portion of the services is terminated or abandoned by CLIENT, the provisions of this Schedule of Fees and Conditions in regard to compensation and payment shall apply insofar as possible to that portion of the services not terminated.



or abandoned. If said termination occurs prior to completion of any phase of the project, the fee for services performed during such phase shall be based on COMPANY's reasonable estimate of the portion of such phase completed prior to said termination, plus a reasonable amount to reimburse COMPANY for termination costs.

8.8 Waiver

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

8.9 Severability

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

8.10 Successors and Assigns

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

8.11 Third-Party Beneficiaries

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

8.12 Governing Law and Jurisdiction

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

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

8.13 Dispute Resolution

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

8.14 Attorney's Fees

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

8.15 Ownership of Instruments of Service

All reports, plans, specifications, field data, field notes, laboratory test data, calculations, estimates and other documents including all documents on electronic media prepared by COMPANY as instruments of service shall remain the property of COMPANY. COMPANY shall retain these records for a period of five (5) years following completion/submission of the records, during which period they will be made available to the CLIENT at all reasonable times.



8.16 Reuse of Documents

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

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

8.17 Failure to Abide by Design Documents or To Obtain Guidance

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

8.18 Opinion of Probable Construction Cost

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

8.19 Design Information in Electronic Form

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

The CLIENT recognizes that designs, plans, and data stored on electronic media including, but not limited to computer disk, magnetic tape, or files transferred via email, may be subject to undetectable alteration and/or uncontrollable deterioration. The CLIENT, therefore, agrees that COMPANY shall not be liable for the completeness or accuracy of any materials provided on electronic media after a 30 day inspection period, during which time COMPANY shall correct any errors detected by the CLIENT to complete the design in accordance with the intent of the contract and specifications. After 40 days, at the request of the CLIENT, COMPANY shall



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

8.20 Information Provided by Others

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

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

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

8.21 Force Majeure

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

8.22 Job Site Visits and Safety

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

8.23 Hazardous Materials

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



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

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

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

8.24 Certificate of Merit

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

8.25 Limitation of Liability

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

8.26 Drywells, Underdrains and Other Infiltration Devices

Services provided by COMPANY under this Agreement do NOT include the geotechnical design of drywells, underdrains, injection wells or any other item that may be devised for the purpose of removing water from the CLIENT'S property by infiltration into the ground. Due to the high variability of soil types and conditions such devices will not be reliable in all cases. While for this reason COMPANY does not recommend the use of these devices, in some cases their use may be necessary to obtain an adequate amount of area for development on the CLIENT'S property. Since the use of these devices is intended to enhance the value of the CLIENT'S property and, in some cases, allow development that would otherwise not be possible, the CLIENT will assume all risks inherent in the design and construction of these devices, unless the contractor or a Geotechnical Engineer assumes these risks. Typical risks include but are not limited to:

- Failure to obtain the required release rate;



- Variability of the soils encountered during construction from those encountered in soil borings. (Soils can vary widely over a small change in location, horizontal or vertical, particularly with regards to permeability);
- Failure of the device due to siltation, poor construction or changes in the water table;
- Need to obtain additional soils information (i.e. borings etc.) to evaluate the function of installed devices;
- Reconstruction of failed or inadequate devices;
- Enlargement of detention/ retention facilities to make up for release rates that are lower than those used in the stormwater design, including engineering design and additional land required for such enlargement; and
- Regular maintenance to remove accumulated silt over the device's life span.

If the use of these devices is required COMPANY will advise the CLIENT that a Geotechnical Engineer must be retained to consult on the project. The CLIENT must enter into a separate agreement directly with this consultant. They will not be sub-contracted through COMPANY nor are their fees included as part of this Agreement. COMPANY will work together with this consultant to obtain a final design. Our collaboration may include the use of a common standard detail or the creation of a new standard detail. COMPANY may make suggestions to the Geotechnical Engineer on ways to tailor these devices to meet the needs of the overall site design. The Geotechnical Engineer will evaluate these suggested details and modifications based on his experience and measured soils information to estimate the release rate for each detail considered. COMPANY may use a release rate of these devices as provided by the Geotechnical Engineer for the design of the stormwater system. This rate may be faxed to us, as a draft copy of the Geotechnical Engineers report or as a final copy of that report. In no case will COMPANY accept responsibility for the determination of the expected release rate of these devices.

If certification of the contractor's construction of these devices is required by the municipality or desired by the CLIENT a Geotechnical Engineer must also be obtained for these services. This is highly recommended in order to observe the actual soils where the devices are being constructed and to verify that the construction methods used do not violate any assumptions made by the Geotechnical Engineer during the design and evaluation of the standard detail. If a Geotechnical Engineer is not retained by the CLIENT to provide construction review, the CLIENT shall assume all risks that the devices may fail requiring additional geotechnical investigation or reconstruction and shall defend, indemnify and hold harmless COMPANY from all claims, damages and expenses including attorney's fees arising out of or resulting therefrom. Any construction observation services provided by COMPANY shall not include these devices.

8.30 Construction Observation

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

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

8.37 Municipal Advisor

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



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

Sincerely,

HR GREEN, INC.

Logan Gilbertsen, P.E., CFM
Author Name

Approved by: *Akram Chaudhry*
Printed/Typed Name: Akram Chaudhry, P.E.

Title: Vice President - Transportation Date: March 27, 2020

VILLAGE OF HOMER GLEN
Accepted by: *[Signature]*
Printed/Typed Name: George Yukich
Title: Mayor Date: 4/4/20