

AGENDA
City Commission Meeting
222 Meigs Street
5:00 p.m.

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MONDAY, JANUARY 28, 2008

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Prayer
Pledge of Allegiance
Meeting Called to Order
Roll Call - DK, CS, DM, BF, BC, JF, DW
Minutes - January 14th

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Charter Officers - Matthew Kline, City Manager, Don Icsman, Law Director, Ed Widman, Finance Director, and B. Joyce Brown, Clerk of the City Commission

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Audience Participation – Agenda Items Only (3 minute limit)

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Teen LEADS – Introduction of students from Sandusky, Perkins, SMCC and Margaretta

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PROCLAMATION – CATHOLIC SCHOOLS WEEK – January 27, 2008 – February 2, 2008

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PRESENTATION – Linda Woods of North Coast Wind & Power – Residential Wind Turbines

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PUBLIC HEARING – 2008 Budget

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ITEM #1 – Communication – Kim A. Nuesse, Chief of Police

BUDGETARY INFORMATION: Grant funds received would be placed into an account for grant funds in the Police Department Budget to be expended in agreement with the terms in the grant application submitted to the Mylander Foundation.

RESOLUTION NO. _____ Approving and ratifying a Grant Application submitted to the Mylander Foundation for the Sandusky Police Department's Narcotics Investigative Unit and authorizing the expenditure of Grant Funds Awarded. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #2 – Communication – Ed Widman, Finance Director

BUDGETARY INFORMATION: This submerged lands lease is payable by the City of Sandusky as the lease holder. Sandusky Bay Investment (SBI) reimburses the City for the cost of the lease pursuant to their agreement with the City. In the past, the City would request SBI to pay the lease on the City's behalf. Last year ODNR prohibited this process. Since the amount is over \$10,000 it should be approved by the City Commission. This lease is subject to be reviewed every five years and this review would next occur for the 2010-2011 lease payment.

ORDINANCE NO. _____ Make payment to the Ohio Department of Natural Resources (ODNR), Office of Coastal Management for Rental Payment on Submerged Lands Lease File No. SUB-0385-ER in an amount not to exceed \$13,068.00. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #3 – Communication – Kathryn K. McKillips, Director of Engineering Services

BUDGETARY INFORMATION: The cost of the Engineering Services is not to exceed \$178,000.00. The additional service fee will be paid with Water Funds.

ORDINANCE NO. _____ Execute an agreement for Professional Engineering Services with Arcadis U.S., Inc., for the Follet Street and Mills Street Elevated Water Tank Project. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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City Manager's Report
Old Business
New Business
Audience Participation – open discussion on any item (5 minute limit)
Press Question/Answers
Executive Session
Adjournment

Memo

To: Matt Kline, City Manager
From: Kim A. Nuesse, Chief of Police
CC: Don Icsman, Law Director
Ed Widman, Finance Director
Joyce Brown, Commission Clerk
Date: 1/24/2008
Re: Commission Agenda Item

Item for Consideration:

Legislation approving and ratifying the submission of a grant application in the Fall of 2007 to the Mylander Foundation, and approving the subsequent acceptance of grant funds awarded December 2007 to the Sandusky Police Department in the amount of \$2950.00 for the purchase of an ECHO 6 Repeater that will enhance the quality of the wire signal used during the activities of the narcotics investigative unit and authorization to expend these funds awarded.

Background Information:

The Sandusky Police narcotics investigative unit was formed in March 2007 and the narcotics tip line was launched May 1, 2007 with investigative tips received by telephone and by e-mail. Since the inception of the unit, there have been over 357 arrests, 223 warrants and significant seizures of illegal drugs and weapons in 2007. In seven months, the narcotics unit received 95 tips for an average of over 13 tips per month. The narcotics unit is in need of this equipment to safely investigate illegal drug trafficking and to record illegal activity during undercover investigations for case prosecution. The equipment purchased with the grant funds would achieve this, as there is currently no equipment available in the department for this purpose, which impedes these types of investigations.

Budgetary Information:

Grant funds received would be placed into an account for grant funds in the police department budget to be expended in agreement with the terms in the grant application submitted to the Mylander Foundation.

Action Requested:

It is requested that the proper legislation be prepared to allow for the approval and ratification of the submission of the grant application, approving the acceptance of the grant funds awarded for the purchase of an ECHO 6 Repeater for the narcotics investigative unit in the Sandusky Police department and authorizing the expenditure of these funds in agreement with the terms in the Mylander Foundation grant application. It is further requested that this be passed to take immediate effect in

accordance with Section 14 of the City Charter in order to accept the funds awarded at the earliest opportunity as requested by the Mylander Foundation.

I concur with this recommendation:

Matt Kline, City Manager

RESOLUTION NO. _____

A RESOLUTION APPROVING AND RATIFYING A GRANT APPLICATION SUBMITTED TO THE MYLANDER FOUNDATION FOR THE SANDUSKY POLICE DEPARTMENT'S NARCOTICS INVESTIGATIVE UNIT AND AUTHORIZING THE EXPENDITURE OF GRANT FUNDS AWARDED; AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the Sandusky Police Department submitted an application in the Fall of 2007 to The Mylander Foundation for grant funding to purchase a ECHO 6 Repeater that will enhance the quality of the wire signed used during the activities of the Narcotics Investigative Unit; and

WHEREAS, the Sandusky Police Department's Narcotics Investigative Unit was formed in March of 2007 with the Narcotics Tip Line was launched May 1, 2007, and is need of this equipment to safely investigate and record illegal activity during undercover investigations for case prosecution; and

WHEREAS, the Sandusky Police Department received notification of the grant award from The Mylander Foundation Distribution Committee by a letter dated December 12, 2007, along with a draft in the amount of \$2,950.00, to be used for the purposes set forth in the application; and

WHEREAS, this legislation should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to accept the funds awarded at the earliest opportunity as requested in the notification letter dated December 12, 2007; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Resolution** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter; and NOW, THEREFORE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission hereby approves and ratifies the submission of the grant application for the Sandusky Police Department's Narcotics Investigative Unit with The Mylander Foundation.

Section 2. This City Commission authorizes and directs the City Manager to expend grant funds consistent with the application and the notification letter from The Mylander Foundation, dated December 12, 2007.

Section 3. If any section, phrase, sentence, or portion of this Resolution is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

PAGE 2 - RESOLUTION NO. _____

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Resolution were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. That for the reasons set forth in the preamble hereto, this Resolution is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed:

MEMO

TO: City Commission
FROM: Ed Widman, Finance Director
DATE: January 14, 2008
RE: Commission Agenda Item

ITEM FOR CONSIDERATION:

City Commission approval of an ordinance authorizing payment to Ohio Department of Natural Resources (ODNR) for submerged lands lease for 2008-09.

BUDGETARY INFORMATION:

This submerged lands lease is payable by the City of Sandusky as the lease holder. Sandusky Bay Investment (SBI) reimburses the city for the cost of the lease pursuant to their agreement with the city. In the past, the city would request SBI to pay the lease on the city's behalf. Last year ODNR prohibited this process. Since the amount is over \$10,000 it should be approved by the City Commission. This lease is subject to be reviewed every five years and this review would next occur for the 2010-11 lease payment.

ACTION REQUESTED:

It is requested the City Commission approve the ordinance in accordance with Section 14 of the City Charter under suspension of the rules in order to make payment by the March 1, 2008, deadline set by the ODNR.

If there are any questions, please contact the Finance Director.

Attachments

CC01092008

cc: City Manager
Law Director

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO MAKE PAYMENT TO THE OHIO DEPARTMENT OF NATURAL RESOURCES (ODNR), OFFICE OF COASTAL MANAGEMENT FOR RENTAL PAYMENT ON SUBMERGED LANDS LEASE FILE NO. SUB-0385-ER; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the City of Sandusky is the Lessee of a Submerged Lands Lease, File No. SUB-0385-ER, for the submerged land which is part of the Battery Park Marina and as the Lessee, is responsible for all terms and conditions contained in the Submerged Lands Lease, including any annual rent; and

WHEREAS, as part of the agreement with Sandusky Bay Investment (SBI), the cost for the for any annual Submerged Lands Lease rental payment is to be reimbursed by Sandusky Bay Investment to the City; and

WHEREAS, in the past the City has requested Sandusky Bay Investment (SBI) pay the annual rent on the City's behalf directly to the State of Ohio but as of 2007 the Ohio Department of Natural Resources (ODNR) prohibited this process and requires the Lessee (City of Sandusky) to make payment; and

WHEREAS, the total cost for Submerged Lands Lease File No. SUB-0385-ER, as reflected on the current unpaid invoice is \$13,068.00 and will initial be paid by the City and then reimbursed by Sandusky Bay Investment in accordance with the Agreement; and

WHEREAS, this legislation should be passed under suspension of the rules as an emergency measure in accordance with Section 14 of the City Charter in order to make payment in a timely manner before the due date of March 1, 2008; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager and/or Finance Director is authorized and directed to make payment to the Ohio Department of Natural Resources (ODNR), Office of Coastal Management, Sandusky, Ohio, for rental payment for Submerged Lands Lease File No. SUB-0385-ER, in an amount **not to exceed** Thirteen Thousand Sixty Eight and 00/100 Dollars (13,068.00), consistent with the invoice submitted to the City.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed:

To: Matthew D. Kline, City Manager
From: Kathryn K. McKillips, Director of Engineering Services
Date: January 17, 2008
Subject: Commission Agenda Item

ITEM FOR CONSIDERATION: Agreement for Professional Engineering Services with ARCADIS U.S., Inc., Toledo, Ohio for the Follett Street and Mills Street Elevated Water Tank Project.

The existing Mills Street Water Tank requires re-painting, repairs to ladders, hatches, railings, fencing, and miscellaneous repairs to bring the tank into OSHA compliance. The new one million gallon water tank will be located on Follett Street between Columbus Avenue and Caldwell Street. This new tank will provide additional water supply for the area including Erie County's main connection to the City's water system.

This ordinance will authorize ARCADIS to perform bidding, construction administration, and resident inspection services for the water tank projects. See the attached scope of work for detailed information. The inspection services do not include inspection of tank painting, welds and lead paint containment. This work will be performed under a separate contract through a specialized firm.

City Commission authorized the City Manager to enter into a Professional Design Services Agreement with ARCADIS for design of the Follett Street and Mills Street Elevated Water Tank Project by Ordinance No. 07-009 on February 12, 2007 due to the fact that ARCADIS was determined to be the most qualified through a quality based selection process. ARCADIS has been very successful in working with the City during the design process.

BUDGETARY INFORMATION: The cost of the Engineering Services is not to exceed \$178,000.00. The additional service fee will be paid with Water Funds.

ACTION REQUESTED: It is recommended that the Agreement for Professional Engineering Services with ARCADIS U.S., Inc., be approved and that the necessary legislation be passed under suspension of the rules in full accordance with Section 14 of the City Charter in order not to delay the project. The City is currently advertising for the project. Bids are expected to be opened on February 5, 2008.

Kathryn K. McKillips, P.E.
Director of Engineering Services

I concur with this recommendation:

Matthew D. Kline
City Manager
KKM/cal

cc: Joyce B. Brown, City Commission Clerk
Ed Widman, Finance Director

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES WITH ARCADIS U.S., INC., FOR THE FOLLETT STREET AND MILLS STREET ELEVATED WATER TANK PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, this City Commission authorized the City Manager to enter into a contract for Professional Design Services with ARCADIS U.S., Inc., for the Follett Street and Mills Street Elevated Water Tank Project by the passage of Ordinance No. 07-009, passed on February 12, 2007; and

WHEREAS, this City Commission declared the necessity to proceed with the Follett Street and Mills Street Elevated Water Tank Project by the passage of Resolution No. 034-07R, passed on November 26, 2007; and

WHEREAS, the Follett Street and Mills Street Elevated Water Tank Project involves a new one million gallon water tank to be located on Follett Street between Columbus Avenue and Caldwell Street that will provide additional water supply for the area including Erie County's main connection to the City's water system; and

WHEREAS, the Follett Street and Mills Street Elevated Water Tank Project also involves repainting and making repairs to the existing Mills Street Water Tank to bring the tank into OSHA compliance; and

WHEREAS, the total estimated cost for the rehabilitation of the Mills Street Tank and the construction of the new Follett Street Tank is \$3,190,000.00, and will be paid with Water Funds; and

WHEREAS, the additional engineering services to be provided by ARCADIS U.S., Inc., for this project are to perform bidding, construction administrative and resident inspection services but will not include inspection of tank painting, welds and lead paint containment which will be performed under a separate contract through a specialized firm.

WHEREAS, the cost of the additional engineering services is not to exceed \$178,000.00, and will be paid with Water Funds; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order not to delay the project as the City is currently advertising and bids are expected to be opened on February 5, 2008; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Department of Engineering Services of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into an agreement with ARCADIS FPS, Inc., for Professional Engineering Services for the Follett Street and Mills Street Elevated Water Tank Project substantially in the same form as

attached to this Ordinance, marked Exhibit "1", and specifically incorporated as if fully rewritten herein, at an amount **not to exceed** One Hundred Seventy Eight Thousand and 00/100 Dollars (\$178,000.00).

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

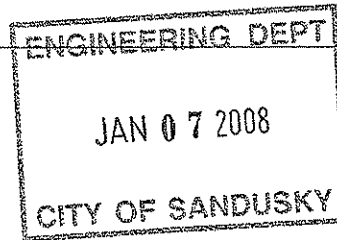
ATTEST: _____
B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed:



Infrastructure, environment, facilities

Ms. Kathryn K. McKillips, P.E.
Director
City of Sandusky
Department of Engineering Services
222 Meigs Street
Sandusky, OH 44870



ARCADIS U.S., Inc.
One Lake Erie Center
600 Jefferson Ave.
Suite 400
Toledo
Ohio 43604
Tel 419.473.1121
Fax 419.473.2108
www.arcadis-us.com

Subject:
Proposal for Engineering Services
Follett and Mills Street Elevated Water Tanks

WATER RESOURCES

Dear Ms. McKillips:

We are pleased to submit this proposal to provide bidding, construction administration, and resident inspection engineering services for a new elevated water tank off Follett Street and the rehabilitation of the Mills Street elevated water tank in the City of Sandusky.

Date:
January 4, 2008

Our proposed scope of services, schedule and fee is enclosed.

Contact:
Tim Harmsen

We appreciate the continued opportunity to assist you with this very important project.

Phone:
419.473.1121, ext. 202

Sincerely,

Email:
tim.harmsen@arcadis-us.com

ARCADIS U.S., Inc.

Our ref:
66SNDSOH.IFOO

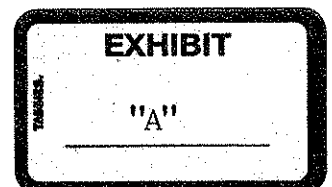
Timothy A. Harmsen, PE
Project Manager

James M. Crandall
Vice President
Water Resources Business Practice Manager

Enclosure

This proposal and its contents shall not be duplicated, used, or disclosed—in whole or in part—for any purpose other than to evaluate the proposal. This proposal is not intended to be binding or form the terms of a contract. The scope and price of this proposal will be superseded by the contract. If this proposal is accepted and a contract is awarded to ARCADIS as a result of—or in connection with—the submission of this proposal, ARCADIS and/or the client shall have the right to make appropriate revisions of its terms, including scope and price, for purposes of the contract. Further, client shall have the right to duplicate, use, or disclose the data contained in this proposal only to the extent provided in the resulting contract.

Imagine the result



Scope of Services-Construction Phase

We propose the following scope of services for the construction of the Follett Street Tank and rehabilitation of the Mills Street Tank.

Bidding

1. Distribute legal advertisement notice to requesting contractors and suppliers, and contractor clearinghouses.
2. Answer contractors' and suppliers' questions regarding the interpretation of the Contract Documents.
3. Issue Addenda as appropriate to clarify, correct or change the Bidding Documents as necessary.
4. Evaluate and determine the acceptability of substitute materials and equipment proposed by the contractor.
5. Attend and prepare minutes for pre-bid meeting.
6. Prepare bid tabulation and distribute to all bidders and City.
7. Consult with the City concerning the acceptability of the low-priced contractor and their respective subcontractors and suppliers.
8. Provide an opinion on Contract Award to the City.

Construction Administration

1. Schedule, attend and prepare minutes for a preconstruction meeting.
2. Establish horizontal and vertical field control reference points to enable the contractor to proceed with the layout of the work.
3. Consult with resident inspectors as appropriate to monitor the contractors' compliance with the Contract Documents.

4. Review the progress of construction during the active construction period. Visits concurrent with progress meetings are anticipated.
5. Attend and participate in up to 16 construction progress meetings with the contractors, subcontractors, and City representatives. It is assumed these meetings would be concurrent with the progress review visits and held on a monthly basis. Per contract, contractor will record and develop meeting minutes for such meetings.
6. Provide clarification of contractor questions and assistance in resolution of conflicts.
7. Recommend and prepare construction bulletins and change orders, as required.
8. Review shop drawings, manufacturers' operation and maintenance manuals, and other data required from the contractor for compliance with the Contract Documents.
9. Review schedules, guarantees, bonds, certificates of inspection, test results and approvals provided by the contractor in accordance with the Contract Documents.
10. Assist in the review of monthly pay estimates and contractor affidavits.
11. Prepare a punch list of items to be completed by the contractor prior to final payment.
12. Provide a certificate of completion to the City upon contractor completion.
13. Program PLC's (Follett and Mills) to communicate data back to HMI software (IFIX). Program operator interface software (IFIX) to reflect additional screens for Follett Street Tank and modification of existing screens for Mills Street Tank.
14. Revise the original AutoCAD contract drawing files based on the contractor-provided redlined record drawings (as-builts). A CD-Rom containing the AutoCAD drawing files and two hard copy sets of drawings will be provided to the City.

Resident Inspection Services

Resident inspection services are proposed to be provided by a team of ARCADIS and the City's consultant specializing in the inspection of water tank construction and rehabilitation.

The ARCADIS field observer will provide periodic observation during construction of the site improvements, utilities, and tank foundation. They will also monitor completion of electrical, instrumentation, security and telemetry systems that are part of this project, as well as any contractor

testing. They will coordinate any construction material testing. A written summary of the contractors' work activities will be provided for each day the field observer is onsite.

Under separate contract with the City, another consultant will inspect the welds, abrasive blasting, and painting systems at various elevations on the tanks. They will provide periodic observation, testing and documentation of these tank components.

The following is our General Services provided by our Resident project Representative.

A. General

The Resident project Representative ("RPR") is the engineer's agent at the site, will act as directed by and under the supervision of the engineer and will confer with the engineer regarding his actions. RPR's dealings in matters pertaining to the on-site work shall, in general, be with the engineer and the contractor, keeping the owner advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of the contractor. RPR shall generally communicate with the owner with the knowledge of and under the direction of the engineer.

B. Duties and Responsibilities

The Resident project Representative shall:

1. **Schedules:** Review the progress schedule, schedule of Shop Drawing and sample submittals, and schedule of values prepared by the contractor and consult with the engineer concerning acceptability.
2. **Conferences and Meetings:** Attend meetings with the contractor, such as preconstruction conferences, progress meetings, job conferences and other project related meetings, and prepare and circulate copies of minutes thereof (if not required of the contractor on multiprime contracts as outlined in the Standard General Conditions).
3. **Liaison**
 - a. Serve as the engineer's liaison with the contractor, working principally through the contractor's superintendent and assist in understanding the intent of the project Contract Documents; and assist the engineer in serving as the owner's liaison with the contractor when the contractor's operations affect the owner's on-site operations.
 - b. Assist in obtaining from the owner additional details or information, when required for proper execution of the work.

4. ***Shop Drawings and Samples***

- a. Receive samples which are furnished at the site by the contractor, and notify the engineer of availability of samples for examination.
- b. Advise the engineer and the contractor of the commencement of any work requiring a Shop Drawing or sample if the submittal has not been processed by the engineer.

5. ***Review of Work, Rejection of Defective Work, Inspection and Tests***

- a. Conduct on-site observations of the work in progress to assist the engineer in determining if the work is in general proceeding in accordance with the Contract Documents.
 - b. Report to the engineer whenever he believes that any work will not produce a completed project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed project as a functioning whole as indicated in the Contract Documents, or has been damaged or does not meet the requirements of any inspection, test or approval required to be made; and advise the engineer of work that he believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
 - c. Verify that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that the contractor maintains adequate records thereof; observe, record and report to the engineer appropriate details relative to the test procedures and startups.
 - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the project, record the results of these inspections and report to the engineer.
6. ***Interpretation of project Contract Documents:*** Report to the engineer when clarifications and interpretations of the Contract Documents are needed and transmit to the contractor clarifications and interpretations as issued by the engineer.
7. ***Modifications:*** Consider and evaluate the contractor's suggestions for modifications in Drawings or Specifications and report them, with recommendations, to the engineer. Transmit to the contractor, in writing, decisions as issued by the engineer.

8. *Records*

- a. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract Documents including all work change directives, addenda, change orders, field orders, additional Drawings issued subsequent to the execution of the Contract, engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing submittals received from and delivered to contractor and other project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording contractor hours on the job site, weather conditions, data relative to questions of work change directives, change orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general and specific observations in more detail as in the case of observing test procedures; and send copies to the engineer.
- c. Record names, addresses and telephone numbers of all contractors, subcontractors and major suppliers of materials and equipment.

9. *Reports*

- a. Furnish the engineer periodic reports as required of progress of the work and of the contractor's compliance with the progress schedule and the schedule of Shop Drawing and sample submittals.
- b. Consult with the engineer in advance of scheduled major tests, inspections or start of important phases of the work.
- c. Draft proposed change orders and work change directives, obtaining backup material from the contractor and recommend to the engineer change orders, work change directives and field orders.
- d. Report immediately to the engineer and the owner upon the occurrence of any accident.

10. ***Payment Requests:*** Review applications for payment with the contractor for compliance with the established procedure for their submission and forward with recommendations to the engineer, noting particularly the relationship of the payment requested to the schedule of values, work completed and materials and equipment delivered at the site, but not incorporated in the work.

11. **Certificates, Maintenance and Operation Manuals:** During the course of the work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by the contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to the engineer for review and forwarding to the owner prior to final payment for the work.

12. **Completion**

- a. Before the engineer issues a Certificate of Substantial Completion, submit to the contractor a list of observed items requiring completion or correction.
- b. Conduct a final inspection in the company of the engineer, the owner and the contractor, and prepare a final list of items to be completed or corrected.
- c. Observe that all items on the final list have been completed or corrected and make recommendations to the engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

C. Limitations of Authority

The Resident project Representative:

1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items), unless authorized by the engineer.
2. Shall not exceed limitations of the engineer's authority as set forth in the Agreement or the Contract Documents.
3. Shall not undertake any of the responsibilities of the contractor, subcontractors, suppliers or contractor's superintendent.
4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the work.
6. Shall not accept Shop Drawing or sample submittals from anyone other than the contractor.
7. Shall not authorize the owner to occupy the project in whole or in part.

8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by the engineer.

Schedule

The anticipated schedule for provision of construction phase services is based on the attached schedule showing anticipated construction activities.

Engineering Fee

We propose to perform the identified construction phase engineering services for an estimated cost-reimbursement multiplier fee plus direct expenses, as follows:

Project Component	Estimated Fee
Bidding and Construction Administration	\$122,000
Resident Inspection by RPR	\$56,000

The Resident Inspection fee is based on providing a total of 640 equivalent hours of full-time inspection services 2 to 3 days per week. Overtime for RPR services is paid at 1.5 times normal salary rates and each overtime hour represents 1.5 equivalent hours.

Fees include all expenses except reproduction costs for contract documents (i.e., construction drawings and project manual) to be provided to contractors.

All fees are based on the attached schedule showing anticipated construction activities.

AGREEMENT
FOR
PROFESSIONAL ENGINEERING SERVICES

This Agreement for Professional Engineering Services (this “Agreement”), made as of _____, 2008, by and between the City of Sandusky (the “City”), whose contact person shall be the Director of Engineering Services designated below or successor (the “City Engineer”), and ARCADIS U.S., Inc., (the “Architect/Engineer”), whose contact person and address are set forth below.

WHEREAS, the City is operating under its Charter, ordinances and regulations and it is the intention of the City, in the exercise of its powers, to obtain professional Engineering services for the following project (the “Project”):

Project Name: **Follett Street Elevated Water Tank Project**

Director of Engineering Services: Kathryn K. McKillips, P.E.
Address: Department of Engineering Services
222 Meigs Street
Sandusky, Ohio 44870

Architect/Engineer: **ARCADIS U.S., Inc.**

Contact: Timothy A. Harmsen, PE
Address: ARCADIS U.S., Inc.
One Lake Erie Center
600 Jefferson Avenue, Suite 400,
P.O. Box 1808
Toledo, OH 43603-1808

WHEREAS, the compensation of the Architect/Engineer set forth herein is determined to be fair and reasonable to the City and the Architect/Engineer; and

WHEREAS, the Architect/Engineer desires, and is licensed and capable, to provide professional engineering services for the Project;

WHEREAS, the Architect/Engineer has previously provided certain professional engineering services for the Project;

NOW, THEREFORE, in consideration of the mutual promises herein contained, the City and the Architect/Engineer agree as follows:

ARTICLE 1. RESPONSIBILITIES OF ARCHITECT/ENGINEER

1.1. Architect/Engineer’s Services

1.1.1. Scope of Services; Applicable Law. The Architect/Engineer shall provide professional engineering services, including, without limitation, services customarily furnished in accordance with

generally accepted architectural or engineering services, for the Project in accordance with the terms of this Agreement. The Architect/Engineer shall provide such services in accordance with the applicable Sections of the Ohio Revised Code and any applicable state rules and regulations, any applicable federal and local statutes, ordinances, rules and regulations and the Contract Documents.

1.1.2. Timeliness; Standard of Care. The Project Schedule shall be established by mutual agreement between the City and the Architect/Engineer within thirty (30) days after the execution hereof. The Architect/Engineer shall perform the Architect/Engineer's services in accordance with professional standards of skill, care and diligence in a timely manner in accordance with the Project Schedule so as to cause no delay, interference, disputation or hindrance in the Work, and so that the Project shall be completed as expeditiously and economically as possible within the Construction Budget and in the best interests of the City.

1.1.3. Non-Discrimination. The Architect/Engineer represents that the Architect/Engineer is in compliance with all applicable equal employment opportunity requirements under law, if required by Section 153.59 of the Ohio Revised Code or any other applicable state or federal law.

1.1.4. Consultants. The Architect/Engineer may provide services through one or more consultants employed by the Architect/Engineer (the "Consultants"); provided, however, the Architect/Engineer shall remain responsible to the City for all duties and obligations of the Architect/Engineer under this Agreement. Unless waived or otherwise modified in writing by the City upon written request of the Architect/Engineer, no Consultant shall be retained upon terms inconsistent with this Agreement. The Architect/Engineer shall provide the City Engineer with the names and qualifications of any other proposed Consultant, together with a description of the services to be provided by such Consultant for approval. Once approved by the City Engineer, the identity of any Consultant and the extent of such Consultant's participation in performing the Architect/Engineer's services shall not be altered without the written consent of the City Engineer. Upon the request of the City, the Architect/Engineer shall terminate the employment of any Consultant. The City may communicate with any Consultant either through the Architect/Engineer or directly to the Consultant with notice to the Architect/Engineer.

1.1.5. Ethics Laws. The Architect/Engineer represents that it is familiar with all applicable ethics law requirements, including without limitation Sections 102.04 and 3517.13 of the Ohio Revised Code, and certifies that it is in compliance with such requirements.

1.1.6. Limitation of Authority. The Architect/Engineer shall not have any authority to bind the City for the payment of any costs or expenses without the express written approval of the City. The Architect/Engineer shall have authority to act on behalf of the City only to the extent provided herein. The Architect/Engineer's authority to act on behalf of the City shall be modified only by an amendment in accordance with Subparagraph 9.5.2.

ARTICLE 2. SCOPE OF ARCHITECT/ENGINEER'S BASIC SERVICES

2.1. General

2.1.1. Basic Services to be provided by the Architect/Engineer shall consist of the services set forth in Exhibit A attached hereto and incorporated by reference herein as if fully rewritten.

ARTICLE 3. ADDITIONAL SERVICES

3.1. General

3.1.1. Any services related to the Project not included in Basic Services are Additional Services. Additional Services shall be provided only if requested by the City in writing. Additional Services shall be paid for as provided in this Agreement in addition to the compensation for Basic Services; provided, however, the Architect/Engineer shall not be compensated for any of the following services made necessary by the act or omission of the Architect/Engineer or any Consultant. Unless waived by the City in writing, authorization to provide Additional Services must be obtained prior to providing the Additional Services.

ARTICLE 4. RESPONSIBILITIES OF THE CITY

4.1. Required Actions. The City shall review, approve or take such actions as are required of the City by this Agreement and applicable law in a reasonable and timely manner.

4.2. Instructions to Contractors. All instructions of the City to Contractors shall be through, or in consultation with, the Architect/Engineer.

4.3. City's Requirements. The City shall provide full information regarding its requirements for the Project, any agreements related to the Project, and any engineering and construction standards and work rules which set forth the City's use, design, time and financial objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability, time constraints imposed by fiscal and budgetary considerations, special equipment, systems and site requirements. The Architect/Engineer shall be entitled to rely upon the accuracy and completeness of information provided by the City under this paragraph which the City represents in writing is complete and accurate; provided, however, the City makes no representation for, and the Architect/Engineer may not rely upon, information from third parties.

4.4. Authorized Representative. The City has designated the City Engineer or successor to be the City's Authorized Representative, i.e., a person authorized to act on the City's behalf with respect to the Project to the extent provided in the Contract Documents. If the City Engineer is absent or unavailable, the City's Project Engineer shall serve as the City's Authorized Representative.

4.5. Notice to Architect/Engineer. If the City observes or otherwise becomes aware of any Defective Work or other fault or defect in the Project, prompt notice thereof shall be given to the Architect/Engineer.

4.6. Legal Representation. The City shall not be responsible to provide, or pay for, any legal representation of the Architect/Engineer.

ARTICLE 5. COMPENSATION

5.1. Direct Personnel Expense.

5.1.1. Definition. Direct Personnel Expense shall mean the portion of direct salaries and wages of all personnel of the Architect/Engineer or any Consultants, as applicable, including professional, technical, management, administrative and clerical employees, and principals engaged on the Project related to their time devoted to the Project and the portion of the cost of their mandatory and

customary contributions and benefits related thereto such as employment taxes and other statutory employee benefits, social security contributions, insurance, sick leave, holidays, vacations, pension and profit sharing pursuant to plans qualified under federal law and similar benefits related to their time devoted to the Project. Direct Personnel Expense shall not include any bonus or similar plan or arrangement related to the Architect/Engineer's performance on, or profit from, the Project.

5.1.2. Records. Direct Personnel Expense for the Architect/Engineer's employees for such hours of their time as are devoted to performing services to the Project shall be evidenced by time records certified by the Architect/Engineer.

5.1.3. Limit. The Architect/Engineer shall use all reasonable means to minimize Direct Personnel Expense.

5.2. Reimbursable Expenses

5.2.1. Definition. Reimbursable Expenses means actual expenditures incurred by the Architect/Engineer or its Consultants in the interest of the Project approved by the City for travel (if approved in advance) in accordance with City policies, transportation between the office of the Architect/Engineer and the Project, long-distance telephone, facsimile communications, reproduction, mailing, computer time, supplies and materials and Consultants. No other expenditures shall be Reimbursable Expenses unless so provided in an amendment in accordance with Subparagraph 9.5.2.

5.2.2. Limits. The Architect/Engineer shall use all reasonable means to minimize Reimbursable Expenses.

5.3. Basis of Compensation

5.3.1. Basic Fee. For Basic Services provided by the Architect/Engineer and all Consultants, the City shall pay the Architect/Engineer a Basic Fee in accordance with Paragraph 5.4 hereof in the amount not to exceed **One Hundred Seventy-Eight Thousand Dollars (\$178,000.00)**. A change in the Basic Fee may be made only by an amendment in accordance with Subparagraph 9.5.2.

5.3.2. Additional Fees. For Additional Services provided by the Architect/Engineer and any Consultants in accordance with Article III, the City shall pay the Architect/Engineer Additional Fees in an amount negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer, but in all events, such Additional Fees shall not exceed two and one-half (2.5) times the Direct Personnel Expense incurred by the Architect/Engineer and any applicable Consultant in providing those Additional Services. Additional Fees may be approved only by an amendment in accordance with Subparagraph 9.5.2.

5.3.3. Extent of Basic Fee. The Architect/Engineer's Basic Fee includes all compensation for Basic Services, including without limitation, for salaries or other compensation of the Architect/Engineer's employees at the principal office, branch offices and the field office, general operating expenses of the Architect/Engineer's principal office, branch offices and the field office, any part of the Architect/Engineer's capital expenses, including interest on the Architect/Engineer's capital employed for the Project, overhead or expenses of any kind, except Reimbursable Expenses, any costs incurred due to the negligence of the Architect/Engineer, the Architect/Engineer's general

advertising, federal, state or local income, sales or other taxes, state franchise taxes and qualification fees, and membership in trade, business or professional organizations.

5.3.4. Total Compensation. The total compensation of the Architect/Engineer and all Consultants shall consist of the Basic Fee, any Additional Fees and Reimbursable Expenses.

5.4. Method and Terms of Payment.

5.4.1. Basic Fee. Payment of the Basic Fee shall be made monthly upon invoice of actual services performed. The Basic Fee shall be subject to all setoffs in favor of the City for claims against the Architect/Engineer.

5.4.2. Additional Fees, Reimbursable Expenses. Payments of Additional Fees for Additional Services in accordance with Article III and Subparagraph 5.3.2 and for Reimbursable Expenses as set forth in Paragraph 5.2 shall be made monthly based upon services performed or expenses incurred, as applicable, and as shown by a properly completed and supported invoice of the Architect/Engineer. Invoices shall be sufficiently detailed and supported to permit review by the City for approval or disapproval of any amounts set forth in the invoice.

5.4.3. Payments by Architect/Engineer. Within ten (10) business days of receipt of payment made pursuant to this Agreement, the Architect/Engineer shall pay all portions thereof due to Consultants and to persons who provided items the expenses of which are Reimbursable Expenses.

5.4.4. Compensation for Extension of Project Time. If the Architect/Engineer notifies the City not less than thirty (30) days prior to the time for completion of the Project set by the Project Schedule established pursuant to Subparagraph 1.1.2, that such time for completion is reasonably expected to be exceeded by more than ten percent (10%) through no fault of the Architect/Engineer, the compensation, if any, for Basic Services to be rendered during such extended period shall be negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer. If, as a result of such negotiation, the City agrees that the Architect/Engineer shall be paid additional compensation, an amendment to that effect shall be executed in accordance with Subparagraph 9.5.2 before the Architect/Engineer renders any services made necessary by such extension of the time of completion, unless otherwise agreed in writing by the City.

ARTICLE 6. INSURANCE AND INDEMNIFICATION

6.1. Insurance

6.1.1. Casualty Insurance. Except when a modification is requested in writing by the Architect/Engineer and approved in writing by the City, the Architect/Engineer shall carry and maintain at the Architect/Engineer's cost, with companies authorized to do business in Ohio, all necessary liability insurance (which shall include as a minimum the requirements set forth below) during the term of this Agreement:

- a. Workers' Compensation and employer's liability insurance to the full extent as required by applicable law;

- b. Commercial general liability coverage for bodily injury and property damage, including limited contractual liability coverage, in not less than the following amounts:
 - i. General Aggregate Limit: \$2,000,000
 - ii. Each Occurrence Limit: \$1,000,000 each occurrence;
- c. Commercial automobile liability coverage, including non-owned and hired, in an amount not less than \$1,000,000.

6.1.2. Professional Liability Insurance. Subject to the City’s waiver or modification of Professional Liability Insurance upon written request of the Architect/Engineer, the Architect/Engineer shall maintain insurance to protect against claims arising from the performance of the Architect/Engineer’s services caused by any negligent acts, errors or omissions for which the Architect/Engineer is legally liable (“Professional Liability Insurance”). Except when a waiver is approved by the City upon written request of the Architect/Engineer, such Professional Liability Insurance shall be in an amount not less than \$1,000,000 per claim and in the annual aggregate. The Architect/Engineer shall endeavor to keep such insurance in effect for so long as the Architect/Engineer may be held liable for its performance of services for the Project. If the Professional Liability Insurance is written on a claims-made basis, such insurance shall have a retroactive date no later than the date on which the Architect/Engineer commenced to perform services relating to the Project. The insurance company issuing the Professional Liability Insurance policy must be authorized to do business in Ohio and have a rating of at least A status as noted in the most recent edition of the Best’s Insurance Reports.

6.1.3. Certificates. The Architect/Engineer shall provide the City with certificates of insurance evidencing the required coverages and amounts, including without limitation any certificates of renewal of insurance. The certificates of insurance shall contain a provision that the policy or policies will not be canceled without thirty (30) days’ prior written notice to the City.

6.2. Indemnification.

6.2.1. Indemnification by Architect/Engineer Generally. To the fullest extent permitted by law, the Architect/Engineer shall and does agree to indemnify and hold harmless the City and its members, officers, officials, employees and representatives from and against insurable damages, losses, and expenses (including reasonable attorney’s fees and other reasonable costs of defense), of any nature, kind or description, which (a) arise out of, are caused by or result from performance of the Architect/Engineer’s services hereunder and (b) are attributable to bodily injury, personal injury, sickness, disease or death of any person, or to damage to or destruction of property, including the loss of use resulting therefrom, but (c) only to the extent they are caused by any negligent acts, errors or omissions of the Architect/Engineer, anyone directly or indirectly employed by the Architect/Engineer or anyone for whose acts the Architect/Engineer is legally liable. This Subparagraph is intended to be, and shall be construed as consistent with, and not in conflict with, Section 2305.31 of the Ohio Revised Code, to the fullest extent permitted.

6.2.2. Intellectual Property Indemnification. To the fullest extent permitted by law, the Architect/Engineer shall and does agree to indemnify and hold harmless the City and its members, officials, officers, employees and representatives from and against insurable damages, losses and expenses (including reasonable attorney’s fees and other reasonable costs of defense), of any nature, kind or description, which result from infringement of any copyright, patent or other intangible

property right to the extent caused by the negligent act, errors, or omissions of the Architect/Engineer, anyone directly or indirectly employed by the Architect/Engineer or anyone for whose acts the Architect/Engineer is legally liable. The Architect/Engineer shall not be required to indemnify and hold harmless such persons for such matters when the claimed infringement occurs in materials provided by the City.

ARTICLE 7. DISPUTE RESOLUTION PROVISIONS

7.1. Mediation. Instead of, or in addition to, the procedures set forth below, the City and the Architect/Engineer may, by written agreement, submit any claims, requests, disputes or matters in question between or among them to mediation upon such terms as shall be mutually reasonably agreeable.

7.2. Notice and Filing of Requests. Any request by the Architect/Engineer for additional fees or expenses shall be made in writing to the Authorized Representative and filed prior to the final payment of the Basic Fee. Failure of the Architect/Engineer to timely make such a request shall constitute a waiver by the Architect/Engineer of any request for such fees and expenses.

7.3. Request Information. In every written request filed pursuant to Paragraph 7.2, the Architect/Engineer shall provide the nature and amount of the request; identification of persons, entities and events responsible for the request; activities on the Project Schedule affected by the request or new activities created by any delay and the relationship with existing activities; anticipated duration of any delay; and recommended action to avoid or minimize any future delay.

7.4. Meeting with Authorized Representative. If the Architect/Engineer files a written request with the Authorized Representative pursuant to Paragraph 7.2, the Authorized Representative shall, within thirty (30) days of receipt of the request, schedule a meeting in an effort to resolve the request and render a decision on the request promptly thereafter or render a decision on the request without a meeting, unless a mutual agreement is made to extend such time limit. The meeting scheduled by the Authorized Representative shall be attended by Persons expressly and fully authorized to resolve the request on behalf of the Architect/Engineer. The Authorized Representative shall render a decision on the request within thirty (30) days of the meeting unless a mutual agreement is made to extend the time for decision.

7.5. Appeal to Commission. If the efforts of the Authorized Representative do not lead to resolution of the request within sixty (60) days of receipt of the request provided pursuant to Paragraph 7.2 the Architect/Engineer may appeal to the City's Commission by written notice to the Authorized Representative who shall provide the Architect/Engineer an opportunity to present the claim at the Commission's next meeting, the Architect/Engineer shall be provided the opportunity to present the claim at the next succeeding meeting of the Commission. The Commission shall render a decision on the request within thirty (30) days of the meeting unless a mutual agreement is made to extend the time for decision. The decision of the Commission shall be final and conclusive, subject to litigation in a court of competent jurisdiction.

7.6. Delegation. No provision of this Paragraph shall prevent the Authorized Representative or the Commission from delegating the duties or authorities of the Authorized Representative or the City to any other Person selected at the discretion of the Authorized Representative.

7.7. Performance. The Architect/Engineer shall proceed with the Architect/Engineer's performance of this Agreement during any dispute resolution process, unless otherwise agreed by the Architect/Engineer and the City in writing. The City shall continue to make payment, in accordance with this Agreement, of any amounts not in dispute pending final resolution of any dispute in accordance with this Paragraph.

ARTICLE 8. TERMINATION AND REMEDIES

8.1. Termination of Agreement

8.1.1. Means of Termination. This Agreement may be terminated by either party upon seven (7) days written notice should the other party fail to perform in accordance with the terms of this Agreement; provided, however, the Architect/Engineer shall not terminate this Agreement for non-payment if the City initiates the payment process by preparing, executing and submitting a voucher for all reasonably undisputed amounts due to the Architect/Engineer within ten (10) days of receipt of the Architect/Engineer's written notice to terminate. This Agreement may be terminated by the City in whole or in part, without cause upon fifteen (15) days written notice to the Architect/Engineer. This Agreement may be terminated in whole or in part, at any time upon the mutual consent of the City and the Architect/Engineer.

8.1.2. Architect/Engineer's Remedies Upon Termination by City Without Cause or Upon Termination by Architect/Engineer. In the event of a termination which is not due to the failure of the Architect/Engineer to perform in accordance with the terms of this Agreement, the Architect/Engineer shall be compensated for all Basic Services of a completed Part performed prior to the termination date in accordance with the percentages set forth in Subparagraph 5.4.1, together with Reimbursable Expenses incurred prior to the termination date. In such event, for services rendered prior to the termination date in an uncompleted Part and for Additional Services, the Architect/Engineer shall receive compensation based on the percentages of completion of that Part or those Additional Services, as applicable, and as reasonably determined by the City, together with Reimbursable Expenses incurred prior to the termination date.

8.1.3. Architect/Engineer's Remedies Upon Termination by City for Cause. In the event of a termination which is due to the failure of the Architect/Engineer to perform in accordance with the terms of this Agreement, the Architect/Engineer shall be compensated only for Basic Services performed and paid for prior to the termination date in accordance with the percentages set forth in Subparagraph 5.4.1, together with Additional Services completely performed prior to the termination date. In such event, the Architect/Engineer shall be reimbursed only for Reimbursable Expenses incurred prior to the date of the notice of termination, unless the City consents in writing to the payment of Reimbursable Expenses incurred after that date.

8.1.4. Architect/Engineer's Remedies Upon Termination by Mutual Consent. In the event of a termination upon the mutual consent of the City and the Architect/Engineer, any compensation for Basic Services or for Additional Services or payment of Reimbursable Expenses shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to such termination.

8.1.5. Post-Termination Matters. If the City and the Architect/Engineer agree that any services are to be performed for the Project by the Architect/Engineer after any termination date, the amount of any compensation and the method and terms of payment of such compensation or any Reimbursable

Expenses related to such services shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to the commencement of such services. Such amendment and any relevant provisions of this Agreement shall survive termination of this Agreement.

8.2. Remedies

8.2.1. Cumulative Remedies. No remedy conferred upon the City by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Each and every remedy of the City shall be cumulative and shall be in addition to any other remedy given to the City hereunder or now or hereafter existing. Except as otherwise provided in this Agreement, no remedy conferred upon the Architect/Engineer by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Except as otherwise provided in this Agreement, each and every remedy of the Architect/Engineer shall be cumulative and shall be in addition to any other remedy given to the Architect/Engineer hereunder or now or hereafter existing.

8.2.2. Remedies Not Waived. No delay, omission or forbearance to exercise any right, power or remedy accruing to the City or the Architect/Engineer hereunder shall impair any such right, power or remedy or shall be construed to be a waiver of any breach hereof or default hereunder. Every such right, power or remedy may be exercised from time to time and as often as deemed expedient.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1. Ownership and Use of Documents

9.1.1. Property of City. Drawings and other documents prepared by, or with the cooperation of, the Architect/Engineer or any Consultant pursuant to this Agreement, including all copyrights, are the property of the City whether or not the Project for which they are prepared is commenced or completed. The Architect/Engineer or Consultant, as applicable, may retain copies, including reproducible copies of such drawings and other documents for information and reference. Such drawings or other documents may be used by the City or others employed by the City for reference in any completion, construction, correction, remodeling, renovation, reconstruction, alteration, modification of or addition to the Project, without compensation to the Architect/Engineer or Consultant. Such drawings or other documents shall not be used by the City, or be given or sold by the City to be used by others, on other projects except by agreement in writing and with agreed upon appropriate compensation to the Architect/Engineer or Consultant, as applicable. If an event occurs for which the Architect/Engineer or Consultant may be liable, the City shall notify the Architect/Engineer or Consultant of such event as soon as practical after such event and shall provide access to the Project to the Architect/Engineer or Consultant and their representatives. This Subparagraph shall survive termination of this Agreement.

9.1.2. Architect/Engineer's Intellectual Property. All inventions, patents, design patents and computer programs acquired or developed by the Architect/Engineer in connection with or relation to the Project shall remain the property of the Architect/Engineer and shall be protected by the City from use by others except by agreement in writing with appropriate and agreed upon compensation to the Architect/Engineer.

9.2. Public Relations. Prior to completion of the Project, any public relations or publicity about the Project shall be solely within the control and with the consent of the City. The

Architect/Engineer shall not use the City's name or seal, nor any adaptation thereof, for any advertising or trade purposes, including without limitation press releases, without the express written consent of the City.

9.3. Records. The records of all of the Architect/Engineer's Direct Personnel Costs, Reimbursable Expenses and payments to Consultants pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the City at all times and shall be maintained for seven (7) years after final acceptance of the Project by the City. All other records kept by the Architect/Engineer related to the Project shall be available to the City at all times and shall be maintained for six (6) years after final acceptance of the Project by the City. Records related to any claim or dispute shall be retained for any longer period necessary to finally resolve the claim or dispute.

9.4. Successors and Assigns. The City and the Architect/Engineer, each bind themselves, their successors, assigns and legal representatives, to the other party to this Agreement and to the successors, assigns and legal representatives of the other party with respect to all terms of this Agreement. The Architect/Engineer shall not assign, or transfer any right, title or interest in this Agreement without the prior written consent of the City.

9.5. Extent of Agreement

9.5.1. Entire Agreement. This Agreement represents the entire and integrated agreement between the City and the Architect/Engineer and supersede all prior negotiations, representations or agreements, either written or oral.

9.5.2. Amendments. This Agreement may be amended only by an amendment prepared by the City and signed by both the Architect/Engineer and the City.

9.5.3. Multiple Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

9.5.4. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections hereof.

9.5.5. Conditions to Validity. None of the rights, duties and obligations contained in this Agreement shall be binding on any party until all legal requirements have been complied with.

9.6. Governing Law

9.6.1. Law of Ohio. This Agreement shall be governed by the law of the State of Ohio to the exclusion of the law of any other jurisdiction and the Erie County, Ohio Court of Common Pleas shall have jurisdiction over any action hereunder or related to the Project to the exclusion of any other forum.

9.6.2. Capitalized Terms. Capitalized terms in this Agreement shall have the same meaning as those in the Standard Conditions, unless otherwise defined herein or unless another meaning is indicated by the context.

9.7. Notices

9.7.1. Addresses. All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be given if delivered in person to the individual or to a member of the company or organization for whom the notice is intended, or if delivered at or mailed by registered or certified mail, postage prepaid, to the appropriate address listed on the first page hereof.

9.7.2. Facsimiles. For convenience of communication only, notices, certificates, requests or other communications hereunder of fewer than ten (10) pages, except requests for payment, may be sent by facsimile transmission to the City at (419) 627-5933 and to the Architect/Engineer at (419)473-2108. Notices, certificates, requests or other communications sent by facsimile transmission shall not be deemed to be given unless a counterpart is received or mailed in accordance with Subparagraph 9.7.1. Requests for payment may be sent to the City by facsimile transmission only upon specific direction from the City.

9.7.3. Emergencies. In the event of an emergency involving the Project, including, without limitation, a fatality, serious injury, fire, collapse, flood, utility or power loss to occupied facilities, explosion, or environmental damage, the Architect/Engineer shall immediately notify the City by telephone.

9.7.4. Change of Address. The City or the Architect/Engineer may, by notice given hereunder, designate any further or different addresses telephone numbers or facsimile numbers to which subsequent notices, certificates, requests or communications shall be sent.

9.8. Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

9.9. Independent Contractor. The Architect/Engineer and any Consultant is an independent contractor with respect to any services performed hereunder. Neither the Architect/Engineer, nor any Consultant, shall be deemed to be servants, employees or agents of the City.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

ARCADIS U.S., Inc.
("Architect/Engineer")

By: _____

CITY OF SANDUSKY

By: _____
Matthew D. Kline
City Manager

CERTIFICATE OF FUNDS

In the matter of: Agreement with ARCADIS U.S., Inc.

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Agreement have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to the appropriate fund, free from any previous encumbrances.

Dated: _____, 2007

CITY OF SANDUSKY

By: _____
Edward A. Widman
Finance Director

Account Number

Amount