

**AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
OWNER AND CONSULTANT**

This Agreement made and entered into this _____ day of _____, _____, by and between the Town of Nolensville, TN, hereafter referred to as the OWNER, and Volkert, Inc., hereinafter referred to as the CONSULTANT; WITNESSETH THAT:

WHEREAS, the OWNER desires to retain the CONSULTANT to perform certain professional planning, programming, and engineering services as outlined in the Scope of Services;

WHEREAS, the CONSULTANT desires to perform said professional services for the OWNER;

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter stipulated to be kept and performed, the parties hereto agree as follows:

**ARTICLE 1
DEFINITIONS**

1.1 PROJECT or PROJECTS. The total construction or scope of which the Work to be performed under the Contract Documents may be the whole, or a part.

1.2 BASIC SERVICES. The professional services to be performed by CONSULTANT under this Agreement, as set out in Article 3 and as described in the "Basic Services" of Attachment A.

1.3 ADDITIONAL SERVICES. Any services beyond Basic Services as described in Article 3 and the "Basic Services" of Attachment A, as mutually agreed to in writing between OWNER and CONSULTANT.

1.4 CONSTRUCTION CONTRACT. The entire and integrated written agreement, or agreements, between OWNER and Contractor concerning the Work.

1.5 CONTRACT DOCUMENTS. Those items so designated in the Construction Contract, including the Drawings, Specifications, Construction Contract, and general and supplementary conditions. Only printed or hard copies of the items listed in the Construction Contract are Contract Documents. Reviewed Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

1.6 DRAWINGS. That part of the Contract Documents prepared or approved by CONSULTANT which graphically shows the scope, extent, and character of the Work to be

performed by Contractor. Shop Drawings are not Drawings as so defined.

1.7 SPECIFICATIONS. That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

1.8 SHOP DRAWINGS. All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor by someone other than CONSULTANT, and submitted by Contractor to illustrate some portion of the Work.

1.9 RECORD DRAWINGS. Also referred to as “As-Builts” and “As-Built Plans,” Record Drawings shall mean drawings depicting the completed Project, prepared by CONSULTANT as an Additional Service and based solely on Contractor's record copy of all Drawings, Specifications, addenda, change orders, work change directives, field orders, and written interpretations and clarifications, as delivered to CONSULTANT and annotated by Contractor to show changes made during construction.

1.10 CONSTRUCTION OBSERVER. The authorized representative of CONSULTANT assigned to assist CONSULTANT at the site during construction. As used herein, the term CONSTRUCTION OBSERVER includes any assistants or field staff of CONSTRUCTION OBSERVER agreed to by OWNER. The duties and responsibilities of the CONSTRUCTION OBSERVER, if any, are as set forth in the “Basic Services” of Attachment A.

1.11 CONTRACTOR. A Contractor is any person or entity which enters into an agreement with OWNER to perform the construction of or any construction on any Project, including, without limitation, the providing of labor, materials, and equipment incorporated or to be incorporated into the Project. The term “Contractor” means the Contractor or its authorized representative, but excludes the CONSULTANT and its subconsultants.

1.12 APPLICABLE LAWS. Applicable Laws, as used herein, shall mean the law of the State of Tennessee as well as applicable regulations, codes and licenses promulgated or issued by any board, commission or agency having authority and jurisdiction over this Agreement.

ARTICLE 2 RELATIONSHIP OF THE PARTIES

CONSULTANT is providing professional engineering services pursuant to this Agreement. Nothing in this Agreement shall be construed to mean that CONSULTANT assumes any responsibility or duties of the Contractor(s) or can be held liable for its failure to perform its

obligations and duties to OWNER. The Contractor(s) will be solely responsible for means, methods, techniques, sequences and procedures used in the construction of the Project and for the safety of its personnel, property and its operations, and for performing in accordance with its contract(s) with OWNER, as well as for any damages for construction defects caused, in whole or in part, by the Contractor's work. CONSULTANT shall be able to rely upon the Contractor for the proper performance of its obligations to OWNER.

OWNER acknowledges and takes into account the fact that CONSULTANT does not have a contract with Contractor(s) and, as such, cannot direct its respective means and methods, its forces, its personnel, its subcontractors, suppliers and/or subconsultants. CONSULTANT cannot require those parties with which it has no contract to refrain from or perform any acts they are not willing to perform. Requiring action or conduct out of Contractor and/or Architect is the responsibility of the OWNER.

ARTICLE 3 SCOPE OF SERVICES

3.1 Generally. CONSULTANT shall perform the Basic Services set forth in Schedule of Services to be addressed in Attachment A, as well as any Additional Services in accordance with the terms and conditions herein.

CONSULTANT's Scope of Services as set out hereunder are finite, and CONSULTANT is not being compensated by OWNER to provide or perform services which are not specifically set out herein. Anything not expressly stated in this provision, or in Attachment A, or in any subsequent written agreements between OWNER and CONSULTANT, are not a part of CONSULTANT's Scope of Services.

3.1.1 Safety. Consistent with and pursuant to Section 3.2.4, *infra*, CONSULTANT shall not be responsible for site safety, or for the safety of Contractor or its employees or subcontractors. CONSULTANT is not being retained to, and shall not be expected or required to, research or review the safety record or history of OSHA violations of any potential bidding contractor, and shall not be expected, required, or retained to undertake vetting, pre-screening, researching, or approving any potential bidding contractor based on its safety record.

3.2 Standards of Performance.

3.2.1 Standard of Care. CONSULTANT shall at all times endeavor to perform Basic Services in conformance with the generally accepted care and skill exercised by

professional engineers practicing under similar circumstances at the same time and in the same locality. CONSULTANT makes no warranties, express or implied, under this Agreement or otherwise, in connection with CONSULTANT's services, and guarantees no particular result. CONSULTANT neither guarantees the performance of any Contractor(s), nor assumes the responsibility of the Contractor(s) to furnish or perform its obligations to OWNER, whether arising from the Construction Contracts, the Contract Documents or otherwise.

3.2.2 CONSULTANTS. CONSULTANT may retain such subconsultants as CONSULTANT deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by OWNER.

3.2.3 Reliance on Others. Subject to the Standard of Care set forth in Paragraph 3.2.1, *supra*, CONSULTANT and its subconsultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, OWNER, Contractor, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

3.2.4 CONSULTANT and Contractor.

3.2.4.1 CONSULTANT shall not at any time supervise, direct, control, or have authority over any contractor work, nor shall CONSULTANT have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by the Contractor, or the safety precautions and programs incident thereto, for security or safety at any Project site, nor for any failure of the Contractor to comply with Applicable Law and Contract Documents as it pertains to the Contractor's furnishing and performing of its work.

3.2.4.2 CONSULTANT neither guarantees the performance of the Contractor nor assumes responsibility for the Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

3.2.4.3 CONSULTANT shall not be responsible for the acts or omissions of the Contractor, or of any subcontractor, supplier, or any of their agents or employees, or of any other persons (except CONSULTANT's own agents, employees, and subconsultant(s) at the Project site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by CONSULTANT.

3.2.4.4 While at the Project site, CONSULTANT's employees and representatives shall comply with the specific applicable requirements of Contractor's and OWNER's safety programs of which CONSULTANT has been informed in writing.

3.3 Additional Services

It is mutually understood and agreed that the OWNER will compensate the CONSULTANT for services resulting from changes in the scope of a project or its design, including but not necessarily limited to, change in size, complexity, project schedules, character of construction, revisions to previously accepted studies, reports, design documents or contract documents and for preparation of documents for separate bids, when such revisions are due to causes beyond the CONSULTANT's control and when requested or authorized by the OWNER.

When requested by OWNER, or when circumstances otherwise reasonably require, CONSULTANT shall furnish or obtain from others Additional Services of the types listed below.

- (a) Preparation of applications and supporting documents (in addition to those furnished under Basic Services, if any) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
- (b) Services (in addition to those furnished under Basic Services, if any) to assist OWNER in obtaining bids from contractors.
- (c) Services (in addition to those furnished under Basic Services, if any) to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER or others.
- (d) Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by CONSULTANT or its design requirements including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond CONSULTANT's control.
- (e) Services required as a result of OWNER's providing incomplete or incorrect Project information to CONSULTANT.
- (f) Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of financial feasibility and cash flow studies, rate schedules, and appraisals; detailed quantity surveys of materials,

equipment, and labor; and audits or inventories required in connection with construction performed by OWNER.

- (g) Furnishing services of CONSULTANTS for other than Basic Services.
- (h) Services during out-of-town travel required of CONSULTANT other than for visits to the Site or OWNER's office as required in Basic Services.
- (i) Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by OWNER for the Work or a portion thereof.
- (j) Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.
- (k) Providing construction surveys and staking (in addition to those furnished under Basic Services, if any) to enable Contractor to perform its work and any type of property surveys or related engineering services; and providing other special field surveys.
- (l) Providing Basic Services beyond the original date for completion and readiness for final payment of Contractor.
- (m) Preparing Record Drawings (in addition to those furnished under Basic Services, if any) showing appropriate record information based on Project annotated record documents received from Contractor, and furnishing such Record Drawings to OWNER.
- (n) Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, OWNER, utility companies, and other reliable sources.
- (o) Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, OWNER, utility companies, and other sources; revise and supplement Record Drawings as needed.
- (p) Preparing to serve or serving as a CONSULTANT or witness for OWNER in any litigation, arbitration, or other dispute resolution process related to the Project.
- (q) Preparation of operation and maintenance manuals; assistance to OWNER in training OWNER's staff to operate and maintain Project equipment and systems; assistance to OWNER in developing procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related record-keeping.

- (r) Overtime work requiring higher-than-regular rates.
- (s) Providing more extensive services required to enable CONSULTANT to issue notices or certifications requested by OWNER.
- (t) Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
- (u) Other services performed or furnished by CONSULTANT not otherwise provided for in this Agreement.
- (v) Services in connection with work change directives and change orders to reflect changes requested by OWNER.
- (w) Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
- (x) Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work (advance notice not required), (2) the presence at the Site of any items of historical or cultural significance, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.
- (y) Evaluating an unreasonable claim or an excessive number of claims or requests for information submitted by Contractor or others in connection with the Work.

ARTICLE 4 COMPENSATION OF CONSULTANT

4.1 CONSULTANT shall be compensated by OWNER in accordance with Attachment B hereto.

4.1.1 OWNER shall pay all costs associated with Additional Services authorized by the OWNER.

4.1.2 For Projects involving a supplemental agreement, the scope of services, schedule, and amount of compensation to be paid will be included therein

4.1.3 The OWNER will pay the CONSULTANT for services performed by subconsultants at the actual invoice amount times a factor of 1.10 for assisting and coordinating the subconsultants' services.

4.1.4 Reimbursable expenses are defined as follows: Travel and subsistence cost, printing and reproduction, computer services, advertising costs, mail distribution costs, permit fees, application fees or deposits, and all other costs incidental to performing the assignment.

4.1.5 The OWNER as purchaser of the services described herein shall pay any applicable sales tax in the manner and in the amount as required by law

4.2 Invoices. CONSULTANT shall prepare invoices in accordance with its standard invoicing practices. CONSULTANT shall submit its invoices to OWNER on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.3 Payments. Application to Interest and Principal: Payment will be credited first to any interest owed to CONSULTANT and then to principal.

4.3.1 Payment shall be made payable to Volkert, Inc. and submitted to the following address:

Department #2042, Volkert, Inc.
P. O. Box 11407
Birmingham, AL 35246-2042

4.3.2 Failure to Pay. If OWNER fails to make any payment due CONSULTANT for services and expenses within 30 days after receipt of CONSULTANT's invoice, then:

- (a) amounts due CONSULTANT will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
- (b) CONSULTANT may, after giving seven days written notice to OWNER, suspend services under this Agreement until OWNER has paid in full all amounts due for services, expenses, and other related charges. OWNER waives any and all claims against CONSULTANT for any such suspension.
- (c) OWNER shall reimburse CONSULTANT for any expenses, including legal costs, incurred in collection of outstanding amounts due from OWNER.

4.4 Disputed Invoices. If OWNER contests an invoice, OWNER shall promptly advise CONSULTANT of the specific basis for doing so, may withhold only that portion so contested, and must pay the undisputed portion.

ARTICLE 5 RESPONSIBILITIES OF THE OWNER

In addition to other responsibilities of OWNER as set forth in this Agreement, OWNER shall, at its expense:

5.1 Provide CONSULTANT with all criteria and full information regarding OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations.

5.2 Give instructions to CONSULTANT regarding OWNER's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), OWNER's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of OWNER's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Furnish copies (or give specific directions requesting CONSULTANT to use copies already in CONSULTANT's possession) of all design and construction standards, OWNER's standard forms, general conditions, supplementary conditions, text, and related documents and content for CONSULTANT to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and draft construction Contract Documents, when applicable. OWNER shall have responsibility for the final content of (1) such bidding-related documents (or requests for proposals or other construction procurement documents), and (2) those portions of any Construction Contract other than the design (as set forth in the Drawings, Specifications, or otherwise), and other engineering or technical matters; and OWNER shall seek the advice of OWNER's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.

5.3 Furnish to CONSULTANT any other available information pertinent to the Project, including reports and data relative to previous designs or investigation at or adjacent to the Project site(s).

5.4 Furnish or otherwise make available to CONSULTANT such Project-related information and data as are reasonably required to enable CONSULTANT to complete its Basic and Additional Services hereunder. Such information and data would generally include the following:

5.4.1 Property descriptions;

5.4.2 Zoning, deed, and other land use restrictions;

5.4.3 Utility and topographic mapping and surveys;

5.4.4 Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points;

5.4.5 Explorations and tests of subsurface conditions at or contiguous to the Project site, drawings of physical conditions relating to existing surface or subsurface structures at the Project site, or hydrographic surveys, with appropriate professional interpretation thereof.

5.4.6 Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the Project site, and adjacent areas.

5.5 Arrange for safe access to, and make all provisions for, CONSULTANT to enter upon public and private property as may be required for CONSULTANT to perform Services hereunder. CONSULTANT shall take reasonable precautions to minimize damage to the property during the course of its Services. OWNER acknowledges that a certain amount of damage, wear and tear, and depreciation is likely to result from CONSULTANT's operations on the property in furtherance of CONSULTANT's Services under this Agreement. The cost for restoration or remediation of damaged property which may result from CONSULTANT's operations is not included in CONSULTANT's compensation hereunder unless explicitly stated otherwise in this Agreement. If the property is damaged during CONSULTANT's operations and if OWNER desires CONSULTANT to restore or remediate the property to its former condition, CONSULTANT will do so for additional compensation.

5.6 Examine all alternate solutions ("value engineering"), studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by CONSULTANT (including obtaining the advice of an attorney, insurance counselor, and other advisors or CONSULTANTS as OWNER deems appropriate with respect to such examination) and render timely written decisions pertaining thereto.

5.7 Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project as designed or specified by CONSULTANT, and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

5.8 Provide the following services in recognition and acknowledgement that CONSULTANT's Services do not include them:

5.8.1 Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services;

5.8.2 Legal services and advice with regard to issues pertaining to the Project as OWNER requires, as Contractor raises, and/or as CONSULTANT reasonably requests.

5.9 Inform CONSULTANT in writing of any specific safety or security plans or requirements to which CONSULTANT will be required to adhere while on the Project site.

5.10 Designate and identify to CONSULTANT a person to act with authority on OWNER's behalf.

5.11 Communicate to CONSULTANT in writing with regard to any issues that impact project safety or the project schedule or cost.

ARTICLE 6 INSURANCE AND INDEMNIFICATION

6.1 Insurance. CONSULTANT shall procure and maintain the types and amounts of insurance as are set forth below. CONSULTANT shall cause OWNER to be an additional insured on CONSULTANT's policy of commercial general liability and automobile liability insurance.

6.1.1 Commercial General Liability

- | | | |
|-----|--------------------|-------------|
| (a) | Each Occurrence: | \$1,000,000 |
| (b) | General Aggregate: | \$2,000,000 |

6.1.2 Automobile Liability (Combined Single Limit BI/PD)

- | | | |
|-----|----------------|-------------|
| (a) | Each Accident: | \$1,000,000 |
|-----|----------------|-------------|

6.1.3 Worker Compensation: Statutory

6.1.4 Employers' Liability

- | | | |
|-----|-------------------------|-------------|
| (a) | Each Accident: | \$1,000,000 |
| (b) | Disease, Each Employee: | \$1,000,000 |
| (c) | Disease, Policy Limit: | \$1,000,000 |

6.1.5 Professional Liability

- | | | |
|-----|-------------------|-------------|
| (a) | Each Claim: | \$2,000,000 |
| (b) | Annual Aggregate: | \$2,000,000 |

6.1.6 OWNER shall require Contractor to purchase and maintain policies of insurance covering worker compensation, general liability, property damages (other than to the Work itself), motor vehicle damage and injuries, builder's risk, and other insurance necessary to protect OWNER's and CONSULTANT's interests in the Project. OWNER shall require Contractor to be fully licensed and bonded. OWNER shall require Contractor to cause OWNER and CONSULTANT, their officers, directors, employees, agents, representatives, assigns and subconsultants to be named, listed or otherwise made additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.

6.17 OWNER and CONSULTANT hereby mutually waive all rights of subrogation, as well as all claims and other rights they may have against each other for loss of and/or damage to (a) the Work and any Project therein, (b) all materials, machinery, equipment and other items used in the Project and/or to be incorporated into the Project, while the same are in transit, at Project sites, during erection and otherwise, and (c) all property owned by or in the custody of OWNER and its affiliates, however such loss or damage shall occur, except such rights as they may have to the proceeds of such instance held by the OWNER as trustee. If OWNER is not the sole Owner of the Project sites and all property at and adjacent thereto, OWNER shall obtain an undertaking from the other owners thereof sufficient to provide CONSULTANT the same protection from liability for loss or damage as would be afforded to CONSULTANT under this Agreement if OWNER were the sole owner. OWNER shall cause all policies of property insurance relating to the Project to contain a provision or endorsement to the effect that in the event of payment of any loss or damage, the insurers will have no rights of recovery against CONSULTANT or its subconsultants, or any insureds, additional insureds, or loss payees thereunder.

6.2 Indemnification.

6.2.1 Indemnification by CONSULTANT. To the fullest extent permitted by law, **and up to the limits of the Exclusivity of Remedies provision contained herein**, CONSULTANT shall indemnify OWNER and OWNER's officers, directors and employees for costs, losses, judgments, damages and expenses (including reasonable attorneys' fees) to the extent caused by the negligent acts, errors and omissions of CONSULTANT in the performance of its professional Services hereunder. In any matters involving allegations of negligent performance of professional Services by CONSULTANT, CONSULTANT's defense duties under this indemnification provision (which are expressly disclaimed) shall include only reimbursement of reasonable defense costs to the extent incurred as a proximate result of CONSULTANT's actual negligent performance.

6.2.2 Indemnification by OWNER. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless CONSULTANT and its officers, directors, members, partners, agents, employees, and subconsultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable

to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property, including the loss of use resulting therefrom, but only to the extent caused by any negligent act, omission, or willful misconduct of OWNER or OWNER officers, directors, members, partners, agents, employees, CONSULTANTS, or others retained by or under contract to the OWNER with respect to this Agreement or to the Project.

6.2.3 Environmental Indemnification. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless CONSULTANT and its officers, directors, employees, and subconsultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material at, on, or under the Site, provided that (1) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

6.2.4 Percentage Share of Liability.

OWNER and CONSULTANT hereby expressly agree that each party's total liability under this Agreement shall not exceed the party's percentage share of the total liability of a claim or dispute arising under this Agreement **up to the limits of the Exclusivity of Remedies provision contained herein.**

**ARTICLE 7
TERMINATION AND SUSPENSION**

7.1 Suspension.

7.1.1 By OWNER. OWNER may suspend the Project for up to 90 days upon seven days written notice to CONSULTANT.

7.1.2 By CONSULTANT. CONSULTANT may, after giving seven days written notice to OWNER, suspend services under this Agreement if CONSULTANT's performance has been

substantially delayed through no fault of CONSULTANT, or due to OWNER's failure to pay CONSULTANT as set forth in Section 4.3.2 above.

7.2 Termination. The obligation to provide further Services under this Agreement may be terminated:

7.2.1 For cause,

(a) By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

(b) By CONSULTANT:

(1) upon seven days written notice if OWNER demands that CONSULTANT furnish or perform services contrary to CONSULTANT's responsibilities as a licensed professional; or

(2) upon seven days written notice if the CONSULTANT's services for the Project are delayed or suspended for more than 90 days for reasons beyond CONSULTANT's control.

(3) CONSULTANT shall have no liability to OWNER on account of such termination.

(c) Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 7.2.1(a) if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

7.2.2 For convenience,

(a) By OWNER effective upon CONSULTANT's receipt of notice from OWNER.

7.3 Effective Date of Termination. The terminating party under Paragraph 7.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow CONSULTANT to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

7.4. Payments Upon Termination

7.4.1 In the event of any termination under Paragraph 7.2, CONSULTANT will be entitled to invoice OWNER and to receive full payment for all Services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination. Upon making such payment, OWNER shall have the limited right to the use of Documents, at OWNER's sole risk, subject to the provisions of Paragraph 8.2 ("Ownership and Reuse of Documents").

7.4.2 In the event of termination by OWNER for convenience, or by CONSULTANT for cause, CONSULTANT shall be entitled, in addition to invoicing for those items identified in Paragraph 7.4.1, to invoice OWNER and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with CONSULTANT's subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth herein.

ARTICLE 8 MISCELLANEOUS PROVISIONS

8.1 Contract Period: All contracts, agreements, provisions and stipulations of this Agreement shall remain in full force for a period of five years from the date of the Agreement, and for such periods as the contract time may be extended by mutual written agreement between the OWNER and the CONSULTANT.

8.2 Ownership and Reuse of Documents. All Project documents including but not necessarily limited to reports, Drawings, studies, findings, correspondence, specifications, survey notes, estimates, maps, computations, calculations, computer files, computer assisted design and drafting (CADD) files (electronic and hard copy), and other data, as well as any and all other documents and other materials prepared, generated, or furnished by or for CONSULTANT and/or its subconsultant(s) for the Project pursuant to this Agreement (hereinafter referred to in this Paragraph 8.2 as "Documents") are instruments of service with respect to the Project, and CONSULTANT shall retain an ownership and intellectual property interest therein regardless whether the Project is completed. OWNER may make and retain copies thereof for information and reference in connection with the use and/or occupancy of the Project by OWNER and others. However, such Documents are not intended for reuse or future use by OWNER or others for any purpose whatsoever or on any other project. No representation is made that such Documents are or will be suitable for reuse or future use by OWNER or others for any purpose whatsoever or on any other project. Any use of such Documents by OWNER or others on any project other than the Project which is the subject of this Agreement is not advised and shall be done without warranty, representation, or liability to any extent whatsoever on the part of CONSULTANT. OWNER shall defend, indemnify, save and hold harmless CONSULTANT, its officers, directors, employees, agents, successors, and assigns

against any and all liability for any and all claims, demands, fines, fees, damages, actions, causes of action, lawsuits, expenses (including attorneys' fees), mediations, and arbitrations arising out of, resulting from, or relating in any way to the OWNER's use of such Documents.

8.3 Electronic Transmittals.

8.3.1 OWNER and CONSULTANT may transmit, and shall accept, project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure project website, in accordance with a mutually agreeable protocol.

8.3.2 If this Agreement does not establish protocols for electronic or digital transmittals, then OWNER and CONSULTANT shall jointly develop such protocols.

8.3.3 When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

8.4 Municipal Advisor Disclosure and Disclaimer

CONSULTANT is not acting or being retained to act as a "municipal advisor," as that term is defined by Section 15B(e)(4)(A)(i) and (ii) of the Securities and Exchange Act of 1934, as amended, and does not owe a fiduciary duty to OWNER or an "obligated person," as that term is defined by Section 15B(e)(10) of the Securities and Exchange Act of 1934, as amended. CONSULTANT shall not provide advice or recommendations to or on behalf of OWNER or an obligated person regarding municipal financial products or the issuance of municipal securities. CONSULTANT is not recommending an action to OWNER or an obligated person; CONSULTANT is not acting as an advisor to OWNER or an obligated person and does not owe a fiduciary duty pursuant to Section 15B of the Securities and Exchange Act to OWNER or an obligated person with respect to the information and material communicated pursuant to this Agreement or the Project; CONSULTANT is acting for its own interests; and OWNER and any obligated persons should discuss any information and material contained in any communications with any and all internal or external advisors and experts that OWNER or obligated person deems appropriate before acting on any information or material. CONSULTANT will not be providing advice or recommendations that are particularized to the specific needs, objectives, or circumstances of OWNER or an obligated person with respect to municipal financial products or the issuance of municipal securities, including with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues. CONSULTANT will not be asked or expected to provide anything other than general information that does not involve a recommendation regarding municipal financial products or the issuance of municipal securities; nor will CONSULTANT be asked or expected to provide anything other than information of a factual nature without subjective assumptions, opinions, or views, and information that is not particularized to OWNER.

8.6 Delays and Extensions of Time. If CONSULTANT is delayed, impacted, or frustrated from commencing or progressing the Services at any time by any cause beyond the reasonable control of CONSULTANT, the schedule will be automatically extended and Compensation will be equitably adjusted to the extent reasonably necessary to compensate CONSULTANT for any increases in the cost of the Services caused by such delay. Examples of causes beyond the control of CONSULTANT include (without limitation): fire, flood, explosion, war, strike, emergency, pandemic, epidemic, terrorism, embargo, government requirement, civil or military authority, act of God, act or neglect of the OWNER, shipping delays, changes ordered in the construction of the Project, labor disputes, actions or inactions of governmental authorities, encountering hazardous materials, concealed or unknown conditions.

8.7 COVID-19 Exception. CONSULTANT and OWNER agree that they are entering into this Agreement under an unprecedented set of circumstances posed by a global pandemic and outbreak of COVID-19 Coronavirus, as identified by the World Health Organization and American Centers for Disease Control. These circumstances include the public health effects of the virus itself and responses of governments, businesses, and society to the pandemic and outbreak. The extent and impact of COVID-19 is unknown and presents an ongoing and currently indeterminable risk to CONSULTANT's performance under this Agreement. In consideration of the same, CONSULTANT and OWNER agree that to the extent COVID-19 may impact, interfere with, delay, or frustrate CONSULTANT's ability to perform under this Agreement, CONSULTANT's performance is excused under this Agreement and CONSULTANT is entitled to equitable adjustment of the schedule and Compensation, upon reasonable proof by CONSULTANT of the impact, interference, delay, or frustration. This provision supersedes and takes priority over any other provision of this Agreement.

8.8 Exclusivity of Remedies. To the fullest extent permitted by law, the total liability, in the aggregate, of CONSULTANT and CONSULTANT's officers, directors, employees, agents and subconsultants, and of any of them, to OWNER and anyone claiming by, through or under OWNER, for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to CONSULTANT's Services, the Project or this Agreement from any cause or causes whatsoever, including but not limited to the negligence, errors, omissions, strict liability or breach of contract by CONSULTANT or CONSULTANT's officers, directors, employees, agents or subconsultants, or any of them, shall be limited to and shall not exceed the total compensation received by CONSULTANT under this Agreement, but in no event shall exceed the amount of available insurance proceeds.

8.9 Successors and Assigns

8.9.1 OWNER and CONSULTANT each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and CONSULTANT (and to the extent permitted by Paragraph 8.9.2, the assigns of OWNER and CONSULTANT) are hereby bound to the other party to this Agreement and to the partners, successors, executors,

administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

8.9.2 Neither OWNER nor CONSULTANT shall assign, sublet or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent CONSULTANT from employing such independent professional associates and CONSULTANTS as CONSULTANT may deem appropriate to assist in performance of Services hereunder.

8.9.3 Nothing under this Agreement shall be construed to give any right or benefits in this Agreement to anyone other than OWNER and CONSULTANT, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and CONSULTANT and not for the benefit of any other party. OWNER agrees that that the substance of the provisions of this Paragraph 8.9.3 shall appear in the construction Contract Documents.

8.10 Dispute Resolution. If a dispute arises out of or relates to this Agreement or its alleged breach, the OWNER and CONSULTANT shall direct their representatives to endeavor to settle the dispute first through direct discussions. If the dispute cannot be resolved through direct discussions, the OWNER and CONSULTANT shall participate in mediation before recourse to litigation. The OWNER's and CONSULTANT's representatives shall attend all mediation sessions. Engaging in mediation is a condition precedent to litigation. Only after the parties have exhausted direct discussions AND mediation in accordance with the foregoing shall either of them be entitled to initiate litigation. Should either party initiate litigation prior to engaging in direct discussions and good faith mediation, it shall pay all attorneys' fees and expenses and other costs incurred by the other party in responding to said litigation. Any provisions herein to the contrary notwithstanding, OWNER and CONSULTANT hereby agree that any disputes between them will be tried to the Bench and not to a jury, and each of them willfully and voluntarily waives its right to trial by jury for any dispute arising out of this Agreement.

8.11 Disclaimer of Third-Party Benefits. OWNER and CONSULTANT expressly disclaim third-party beneficiaries hereunder and no one not a Party to the Agreement shall be entitled to seek enforcement against OWNER and/or CONSULTANT of any provision herein, or to otherwise seek damages from either Party for the alleged breach of any provision contained herein or purported duty or standard created or conferred hereunder. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a Party to the Agreement to maintain a claim, cause of action, lien or any other damages or any relief of any kind pursuant to the terms and provisions of this Agreement.

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

8.13 Jurisdiction/Venue. This Agreement shall be governed by the laws of the State of Tennessee and any disputes related to or arising out of this Agreement or its alleged breach shall be brought in the appropriate courts of the State of Tennessee, exclusive of its choice of law provisions.

8.14 Severability. Any provision or part hereof which is held to be void or unenforceable under Applicable Laws shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONSULTANT, which hereby agreed that the Agreement shall be reformed to replace such stricken provision or part hereof with a valid and enforceable provision that comes as close as possible to expressing the intent of the stricken provision.

8.15 Total Agreement. This Agreement, (together with the attachments included above) constitutes the entire agreement between OWNER and CONSULTANT and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties.

8.16 Designated Representative. With the execution of this Agreement, CONSULTANT and OWNER shall designate specific individuals to act as CONSULTANT's and OWNER's representatives with respect to the services to be performed or furnished by CONSULTANT and responsibilities of OWNER under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party whom the individual represents.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER:

CONSULTANT:

VOLKERT, INC.

By: (signature)

By: (signature)

Print name:

Print name:

Title:

Title:

Date Signed:

Date Signed:

Federal

Employer ID #

(Corporation)

Address for Owner's receipt of notices:

Address for Engineer's receipt of notices:

7218 Nolensville Road

750 Old Hickory Blvd, Suite 230-1

Nolensville, TN 37135

Brentwood, TN 37027

Designated Representative (Paragraph 8.16):

Designated Representative (Paragraph 8.16):

Name: Victor Lay

Name: Justin Eckel

Title: Town Manager

Title: Vice President

Phone Number: 615.776.6688

Phone Number: 615.268.9541

E-Mail Address: vlay@nolensvilletn.gov

E-Mail Address: Justin.eckel@volkert.com



**ATTACHMENT A
SCOPE OF SERVICES**

General Information

This project seeks to widen Nolensville Road (US-31A/41A, SR-11) from Sanford Road to Kidd Road excluding the historical district from Rocky Fork Road to Sunset Road which is having sidewalks constructed as part of a separate project. This project will widen Nolensville Road to a three-lane section and construct multimodal accommodations along the route. The project is not currently under an agency agreement between the Town and TDOT, but the Town plans to seek funding for right-of-way and construction through the TDOT Local Programs Office. With that in mind, the project will be studied and engineered in conformance with TDOT Local Programs Guidelines and TDOT Design Standards.

Task 1: Project Management and TDOT Coordination

Volkert will provide overall project management and quality management required to complete the scope of work defined herein. This task includes preparation of all invoices and progress reports. Additionally, this task includes the anticipated coordination efforts with the TDOT Local Programs Office and TDOT Region 3 Design.

Task 2: Survey Services (provided by Wiser Consultants)

Wiser will perform a full engineering design survey along Nolensville Road from 300' south of Sanford Road to 250' north of Rocky Fork Road and from 300' south of Sunset Road to 500' north of Kidd Road with a total length of approximately 2.57 miles. The DTM width will be 300' centered on existing SR-11. This will include 13 side roads that will extend 250' along the side roads from the centerline of SR-11. Depending on the roundabout locations selected by the Town, additional survey may be needed to complete tie-ins of side roads.

Wiser will use a combination of traditional ground survey methods along with mobile and aerial lidar to collect topographic and roadway features. Wiser will provide field survey services to collect aboveground utilities and storm and sanitary inverts. Underground utilities will be limited to 811 markings and records provided to Wiser by individual utility owners. No quality level "A" or quality level "B" S.U.E. will be included. Right-of-way lines will be resolved throughout the survey limits along with the resolution of 105 property tracts (see Exhibits A-1 and A-2 for tract count). Deliverables will be in Microstation and Geopak formats per TDOT CADD standards. Also included will be an additional DTM surface created by downloading point cloud data per the State of Tennessee's LiDAR Projects and merging it with the DTM surface for this project with enough to coverage to calculate drainage areas for the survey limits.

Exceptions

All construction, right-of-way, and easement staking and the creation of easement and right-of-way

acquisition documents are excluded. Septic and drain field locations will also be excluded.

Task 3: Meetings

As discussed with the Town at the scoping meeting, Volkert anticipates the following meetings:

- Kickoff meeting with TDOT Local Programs and TDOT Environmental to discuss the requirements to enter an agreement to get the project funded and obtain TDOT PIN.
- Public meeting at the conclusion of data collection (survey, traffic counts, traffic analysis, etc.) to get public input on the community's vision of the corridor.
- Public meeting after completion of the Technical Report
- As requested by the Town, we will attend the quarterly meetings with stakeholders and business owners when necessary.
- Monthly status meetings or conference calls with Town staff

A NEPA public meeting will also be held. The fee for that meeting is included in Task 5. Volkert will prepare project displays for public meetings which will consist of project roll plots and boards to highlight certain design features.

Task 4: Technical Report

Volkert will complete a Technical Report for review and approval by TDOT. The intent of the technical report is to analyze existing land use, traffic data, safety data, existing structures and bridges conditions, existing utility infrastructure, and environmental constraints to develop proposed conceptual alternatives. Upon completion of the review, a project recommendation and cost estimates will be developed.

Study Area Analysis

At the onset of the study, Volkert will collect data related to the study area for inclusion into the overall analysis of the project. Volkert assumes that all GIS data will be provided by the Town. In the event that a GIS layer isn't available from the Town, Volkert will attempt to find a third party source of data. The data to be used for the study area analysis will include the following:

- Study Area GIS base data for the corridor (aerial photographs, street network, utilities, USGS, etc.)
- Demographic data (local census, US Census Bureau)
- Existing Land Use and Zoning

Existing Conditions

Volkert will analyze readily available data to document the existing condition of the Nolensville Road corridor within the project limits. This documentation will include the following:

- Typical section of Nolensville Road and all impacted approaches within the study area
- Structures and Bridges Conditions
- Existing Utility Infrastructure
- Preliminary Environmental Constraints (identification of known wetlands, streams, UST's, historic resources, etc.)
- Crash Analysis for Nolensville Road corridor

- Traffic Analysis for Nolensville Road corridor
- Geometric Analysis for Nolensville Road corridor

Preliminary Purpose and Need

Volkert will develop a preliminary purpose and need for improving the Nolensville Road corridor. This will be used as the project moved forward into the NEPA phase.

Proposed Conceptual Alternatives

After analyzing the safety, operational, geometric, and environmental conditions within the study area, Volkert will develop a conceptual build alternative for Nolensville Road. The conceptual build alternative will include the conceptual design for the proposed layout desired by the Town. The conceptual design will include approximate proposed ROW, bicycle and pedestrian facilities, proposed number of lanes, proposed roundabout locations, and identification of curb and gutter needs. This information will be provided on a set of conceptual plans that utilize aerial photography as the base layer. Volkert will also provide a description of the traffic and safety benefits, and a planning level opinion of probable cost.

The No-Build alternative will assume that no additional improvements beyond routine maintenance will be made.

Recommendations

Volkert will develop recommendations for the Nolensville Road corridor that will address the identified purpose and need for the project and will submit the draft technical report to the Town and TDOT for review and approval.

Deliverables

- Complete Draft Technical Report document that includes the following sections:
 - Internal Review Route Slip
 - Concept Report Forms
 - Conceptual Layout Sheets
 - Conceptual Cost Estimates
 - Appendices
- Submittal of draft document to the Town and TDOT for review
- Final Document

Task 5: NEPA Document (Volkert with support of CEC, Inc. and New South Associates)

The studies and analysis outlined herein are intended to provide the information necessary to obtain environmental clearance for the Nolensville Road (US Highway 31A/41A) widening project. It is understood that the proposed improvements will be designed based upon TDOT Standard Drawings and will contain two (2) travel lanes and a center lane. There will be curb and gutter, sidewalk(s), and accommodations for bicycles by either bike lanes or multi-use path(s).

It is assumed that a “D” List Categorical Exclusion will be prepared for the project. However, TDOT and FHWA will make the final determination regarding the required level of National Environmental Policy

Act (NEPA) documentation once the Transportation Technical Report has been completed. For the purposes of this Scope of Service, it is also assumed that one build alternative and the no build alternative will be carried forward through the NEPA process.

Initial Environmental Screening/Records Check

At the onset of the study, Volkert will collect secondary source data that is readily available from the Town of Nolensville (Town) and various federal and state agencies. Information will also be gathered from the community and stakeholders during public involvement. A field reconnaissance visit will be conducted to verify the collected data. The secondary source data shall include, but not be limited to information pertaining to the following:

- Land Use (existing and planned),
- Natural Resources (wetlands, streams, threatened and endangered species),
- Cultural Resources (historic structures, archaeological sites),
- Soils,
- Community Features (churches, cemeteries, schools),
- Socio-Economic (census data, demographics, economics),
- Floodplains and Floodways, and
- Potential hazardous materials sites.

The collected data will be mapped using GIS to identify any potential impacts associated with the proposed road widening.

It is assumed that the following NEPA technical studies and documents will be required for this project. The results of the technical studies will be used for coordination and concurrence with the necessary federal and state resource agencies. The technical studies include:

- Public Information Summary Report for one Public Involvement Meeting,
- Phase I Cultural Resources Report (Prepared by New South and Associates),
- Natural Resources Report (wetlands, streams, threatened and endangered species, wildlife)(Prepared by CEC, Inc),
- Noise Analysis Report,
- Air Analysis Report, and a
- Phase I Hazardous Materials Site Assessment Report,
- Section 4(f) de minimis coordination and evaluation for impacts to a park (Williamson County Recreation Complex/Farmers Market),
- Section 4(f) de minimis coordination and evaluations for impacts to two Historic Resources (Prepared by New South and Associates).

The Section 4(f) analyses are required to evaluate the impacts to historic resources and a park. The park (Williamson County Recreation Complex) is located on a parcel that also contains a historic schoolhouse which is now a museum and farmers market. It is anticipated that the Section 4(f) impacts will be minimal (de minimis). A supplemental agreement would be required if the impacts are not de minimis and full Section 4(f) analysis is required. A review of a database for Land and Water Conservation Fund Act (LWCF) appropriations indicates that no LWCF funds have been used at community resources in the study area; therefore, it is anticipated that no Section 6(f) analyses will be required.

Civil & Environmental Consultants, Inc. (CEC, Inc.) will be providing ecological services including protected species surveys for this project. CEC, Inc. will research the US Fish and Wildlife Services (USFWS) Information for Planning and Consultation (IPaC) database for threatened and endangered species, migratory birds and critical habitat that may occur in the vicinity of the project. The IPaC is a good resource for general information but it should not be used as an official list of species that may occur along the project. CEC, Inc. will obtain an official list from the USFWS at the beginning of the project. Volkert will summarize the findings from the ecological studies and protected species surveys and coordination in the NEPA document.

New South Associates, LLC (NSA) will be providing cultural resources services for this project. Volkert will summarize the findings from the cultural resources surveys and coordination in the NEPA document.

Early Coordination

Volkert will coordinate with the Town of Nolensville and TDOT's Local Programs NEPA staff to prepare Initial Coordination Packages to be distributed to various agencies. The initial coordination package will include a transmittal letter, project location map and project data summary sheet. The responses to early coordination will be incorporated into the impact analysis. The coordination package will be sent to the agencies listed in the TDOT Environmental Procedures Manual. Agencies will have 30 days to respond to the coordination package.

Public Information Meeting

The purpose of this task is to share the proposed improvements with the public and encourage them to provide input on preliminary design prior to the completion of the NEPA document. One (1) public information meeting will be held in the project area once the preliminary design and results of the technical studies are available. Volkert will prepare illustrative boards and handouts and the Town will facilitate the meetings. Volkert will arrange and schedule the meeting location and will provide the court reporter if deemed necessary. Volkert will also participate in a planning session for the public information meeting.

Deliverables

- Public Meeting Notice to be advertised in newspapers with circulation in the area.
- Boards illustrating the proposed improvements.
- Handout describing the proposed improvements and results of technical studies.
- Sign-in sheets and agenda.
- PowerPoint presentation describing the proposed improvements.
- Comment Cards.
- Site Audio/Visual Equipment.
- A Public Information Meeting Summary Report for one (1) Public Involvement Meeting.

Prepare and Submit Categorical Exclusion

A "D" List Categorical Exclusion will be prepared and submitted to TDOT for distribution to the federal and state reviewing agencies. The format of the document will be the standard format in use at the time of submittal. If comments are received by the reviewing agencies, Volkert will respond to the comments

and make revisions as necessary. Upon completion of the comments response, Volkert will resubmit the final document for review and approval.

Deliverables

- Draft “D” List Categorical Exclusion document
- Final “D” List Categorical Exclusion document

Archaeological Survey Assumptions (Performed by New South Associates (NSA))

- Prior to beginning fieldwork, archaeological background research will be completed and a TDOA Permit will be acquired
- NSA or Volkert will distribute Landowner Letters and request a Utilities Locate (811) prior to beginning fieldwork
- The APE for the archaeological survey is 300 feet wide and will require one survey transect on each side of Nolensville Rd.
- Approximately 1.5 miles of the corridor will be shovel tested, for an estimated total of 250 shovel tests at 20-meter intervals
- Areas that are paved or heavily disturbed will not require shovel testing, rather they will be surveyed via pedestrian survey
- Anticipate identification of 3 archaeological sites, requiring an additional 40 shovel tests
- If archaeological resources are encountered, they will be delineated at 10-meter intervals within the APE only
- A crew of two archaeologists can complete the survey in 4.5 days, with 0.5 a day each allotted for travel
- A report of the findings and recommendations for archaeological resources will be submitted at the completion of fieldwork
- Site forms for any known or new archaeological resources will be submitted to TDOA

Historic Architecture Survey Assumptions (Performed by New South Associates (NSA))

- The APE for the architectural history survey includes all parcels intersecting the proposed project and a .25-mile viewshed
- An estimated 30-35 historic resources will require survey, including an 1860 Century Farm Complex and cemetery
- Fieldwork can be completed by two historians in one day
- Assume at least 2 Section 4(f) evaluations (de minimus) will be required for historic resources in the APE
- Prepare compliance-level Architectural Survey/Section 106 Assessment of Effects report that meets TDOT and TN-SHPO guidelines, for submittal to TDOT, TN-SHPO, FHWA, and other agencies
- TN-SHPO forms will be completed for all historic resources (THC Survey123 program)
- Should additional 4(f) evaluations be required, a budget supplement may be required

Ecology Report (Performed by Civil & Environmental Consultants (CEC))

The Ecology Report will document the overall land use practices, geology, natural resources and potential impacts to natural resources within the project corridor. Prior to on-site reconnaissance, CEC will perform a desktop review of the U.S. Fish and Wildlife Service National Wetland Inventory (NWI), the Natural Resources Conservation Service (NRCS) Web Soil Survey, and the Tennessee Department of Environment and Conservation Geographic Information System (TDEC-GIS) websites and databases. The on-site reconnaissance will involve traversing the project corridor to confirm land uses, delineate natural resources, potential impacts to natural resources and potential habitat for state and federally listed species.

More specifically, the natural resources survey will delineate the boundaries of potential jurisdictional Waters of the U.S. (i.e., streams and wetlands) within the project area described above. In performing the jurisdictional determinations, the 1987 *Corps of Engineers Wetlands Delineation Manual* and the 2012 *Regional Supplement: Eastern Mountains and Piedmont Region, Version 2.0*, will be closely followed to establish a description of the soils, plants, and hydrologic conditions of the site. A Tennessee Qualified Hydrologic Professional will perform the following tasks:

- Using the 1987 *Corps of Engineers Wetland Delineation Manual* and the 2012 *Regional Supplement: Eastern Mountains and Piedmont Region, Version 2.0*, delineate potential wetlands located in the proposed site.
- Complete the Corps of Engineers Wetland Data Forms for each wetland/upland sampling site.
- Using a Trimble® GeoXT GPS Unit, map the wetland boundaries (if present) to determine area, and log lat/long of each soil pit along with hue, value and chroma of the soil using a standard Munsell® Color Chart.
- Complete wet weather conveyance determinations as a Qualified Hydrologic Professional on all linear features.
- Prepare an Ecology Report in accordance with TDOT's standards that includes TDOT's water resources form, the routine wetland determination data forms, hydrologic determination forms, photos and delineation map.

Endangered Species Coordination (Performed by Civil & Environmental Consultants (CEC))

CEC will perform initial consultation with the Tennessee Department of Environment and Conservation, Division of Natural Areas (TDEC-DNA), to identify the likelihood of presence of threatened or endangered species along the proposed corridor. CEC will also request a species report from the U.S. Fish and Wildlife Service Information for Planning and Consultation (IPaC) website. CEC will document the presence or absence of potential habitat for the listed species during the on-site reconnaissance. This process of informal consultation will produce responses from the agencies and their requirements for mitigating impacts to listed species under their jurisdiction that may occur within or near the project corridor. It is not possible at this time to know what the response of the agencies will be. It is possible, although unlikely, that the agencies will accept the acknowledgement of a species' presence in proximity to the site with a commitment to re-assess during the later more impactful phases of the project (i.e., permitting phase, construction phase) thus ending the consultation process for the NEPA phase.

The U.S. Fish and Wildlife Service (USFWS) may request a biological assessment (BA) of species known to occur within or near the project area. The results of the BA may initiate the process of formal consultation. The lengthy formal consultation will culminate with a Biological Opinion issued by the

USFWS, which will specify terms and conditions to be met in order to comply with Section 7 of the Endangered Species Act. These terms and conditions may include, but are not limited to, presence/probable absence surveys, and pre-construction sweeps and relocations. There are currently three species of concern impacting projects in Williamson County: the Nashville crayfish (*Orconectes shoupi*), Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*).

Nashville Crayfish Survey/Sweep (Performed by Civil & Environmental Consultants (CEC))

The federally endangered Nashville crayfish (*Orconectes shoupi*) occurs only in the Mill Creek Drainage in middle Tennessee and has been well documented in the streams within the proposed area of investigation. The USFWS may request a presence/absence survey during the NEPA phase of the project or may defer to preconstruction sweeps during construction.

Sampling methods are the same for each contingency. The survey/sweep area will be isolated using block nets. All crayfish will be removed from the isolated stream reach using a combination of seines and dip nets. The crayfish will then be identified, measured, and the sex and reproductive form of each will be noted. These data will then be submitted to the USFWS.

Mist Net Survey (Performed by Civil & Environmental Consultants (CEC))

If required, CEC will survey 4 mist net sites along the proposed project length. A formal study plan will be prepared and submitted to the USFWS to finalize the mist net survey effort, locations, and protocols as required by our USFWS Endangered Species Permit. Approval of the study plan by the USFWS will then be coordinated.

CEC will follow guidelines and the technical criteria outlined in the USFWS agency document titled 2022 Range-Wide Indiana Bat & Northern Long-Eared Bat Survey Guidelines, dated March 2022. The USFWS's Indiana bat survey period is from May 15 to August 15. The guidelines require a minimum of four (4) net-nights to be surveyed via mist nets per km (0.6 miles) of suitable summer habitat. Suitable summer habitat for the Indiana & northern long-eared bats consists of a wide variety of forested/wooded habitats where they roost, forage, and travel and may also include some adjacent and interspersed non-forested habitats such as emergent wetlands and adjacent edges of agricultural fields, old fields and pastures. This includes forests and woodlots containing potential roosts (i.e., live trees and/or snags ≥ 3 inches diameter at breast height (DBH) that have exfoliating bark, cracks, crevices, and/or cavities), as well as linear features such as fencerows, riparian forests, and other wooded corridors. These wooded areas may be dense or loose aggregates of trees with variable amounts of canopy closure.

While there is not a minimum net spacing required, effort will be made to ensure the best possible habitat within the project area is surveyed. The survey sites will be sampled for two nights beginning at sunset and lasting for a minimum of five (5) hours per night. Mist net surveys will not be completed if severe weather is encountered during the actual survey time. Severe weather includes, but is not limited to: precipitation, strong winds, and/or temperatures dropping below 50 degrees Fahrenheit. If any of these weather conditions occur during the initial survey effort, surveys will be terminated, and the sites will be resurveyed under suitable conditions. The location of the mist net sites will be recorded with a GPS unit.

CEC assumes that the USFWS will concur with four (4) net sites with sixteen (16) total net-nights of sampling; however, future consultation with the USFWS or significant changes in the project may deem

additional survey efforts necessary. The proposed mist net survey services are based on our preliminary review of the existing proposed project impacts to forested habitat and the technical criteria outlined in the USFWS document titled 2022 Range-Wide Indiana Bat & Northern Long-Eared Bat Survey Guidelines, March 2022. If the USFWS requires additional survey efforts, an amended fee estimate will be submitted for the completion of necessary surveys.

CEC is aware of the spread of White-nose Syndrome (WNS). We will decontaminate and/or dispose of field gear according to most recent USFWS protocol released in April 2016. Costs associated with precisely conducting decontamination according to the protocol are included in CEC's opinion of probable costs.

Radio Tracking (Performed by Civil & Environmental Consultants (CEC))

If female Indiana and/or northern long-eared bats are captured in the project area, CEC will attach transmitters and conduct a telemetry survey and emergence counts per the 2022 Range-Wide Indiana Bat & Northern Long-Eared Bat Survey Guidance. Radio tracking will be conducted for a minimum of seven days, until the transmitted bat is located, or no signal is detected. Roost locations will be recorded with GPS and emergence counts will be conducted for a minimum of two nights. Costs associated with radio tracking (see below) assumes the capture of an Indiana and/or northern long-eared bat on the last night of the survey.

CEC will begin assembling a report of findings when fieldwork has been completed. This report will be scientific in format and will include an introduction and description of the proposed project, a detailed account of the methods used during the survey, and a detailed summary of all survey results. Results will include all data from the mist netting survey and radio-tracking/emergence survey (if applicable). This report will also include CEC's conclusion for approval by the USFWS. Figures showing the proposed project area and survey area(s) will be included. Finally, any relevant supporting materials will be included with the report as appendices. These materials will include copies of all data sheets and photographic log of field effort.

This report will be submitted to the USFWS for their concurrence. The USFWS typically has 30 days upon submittal to concur with the survey results and conclusions.

Task 6: Project Website

Volkert will work with the Town's website administrator and GIS manager to create and maintain a project website either hosted by the Town or a separate URL hosted by Volkert. The website will be similar in format to the West Alabama Corridor project website that Volkert provided as an example and was concurred with by Town staff.

Assumptions

- Volkert GIS team will organize and QA/QC all data before loading into the SQL Server database management system.
- Volkert GIS team will build and deploy a SQL Server based Geodatabase and load all data and associated attachments.
- The Volkert GIS team will prepare and publish data to webgis environment for building project StoryMap and link all project associated attachments.

- The Volkert GIS team will build a ESRI StoryMap from published data and incorporate required graphics, logos and associated project language.
- Throughout the project cycle lifespan, the Volkert GIS team will make required updates to the StoryMap as needed and perform weekly routine maintenance on SQL Server project database.
- Upon completion of project the Volkert GIS team will provide the Town an ArcGIS Geodatabase of data utilized for the project StoryMap.

Task 7: Hydraulic Studies

Volkert will prepare Hydraulic and Hydrological (H&H) studies in conformance with the TDOT Design Procedures for Hydraulic Structures (2012). There are two locations within the project limits which require a H&H study:

- SR-11 over Tributary to Mill Creek just north of Summerlyn Drive
- SR-11 over Tributary to Mill Creek just south of Kidd Road

The design to replace the structure near Kidd Road is currently underway by TDOT. It is assumed that TDOT will provide their approved H&H study and grade approval letter for use by Volkert in preparing the design at that location.

Floodplain Analysis

An analysis of the first downstream crossing at the proposed replacement structure will be conducted and coordinated with the bridge designers to evaluate the existing and proposed conditions associated with the improvements. Up to two alternatives will be modeled to develop a recommendation for the proposed hydraulic configurations associated with the proposed bridge structure.

Floodplain Modeling

Volkert will gather available GIS, Quadrangle and other mapping including survey information. Also included in the analysis are the cross sections, 300' upstream and downstream of each proposed crossing location to perform a hydrologic and hydraulic analysis of the existing stream and to develop the baseline condition for evaluation of the proposed improvements. A HEC-RAS model will be developed based on the gathered information as well as information provided for the final design of the proposed roadway improvements including proposed fill locations, proposed low chords, deck elevations, box culvert sizes and configurations, skew angles, wing wall configurations, channel materials and proposed roadway flows. Per TDOT standards the bridge and the culverts shall be sized to provide a 1' freeboard over the 100-year storm and there is no increase in the 100-year flood water surface elevation.

Scour Analysis

For the bridge scour analysis, Volkert will follow the criteria and guidelines for a detailed Scour Evaluation as outlined in HEC-18 "Evaluating Scour at Bridges" (Fourth Edition). The evaluation will include a site review, determination of scour analysis variables, analyze long term bed elevation changes (to the extent possible), compute contraction scour magnitude, and design scour countermeasures for the recommended structures. The criteria and guidelines for scour countermeasures are outlines in HEC-

23 “Bridge Scour and Stream Instability Countermeasures Experience, Selection, and Design Guidelines” (Third Edition).

Deliverables

On completion of the project Volkert will deliver the following:

- Hydrologic Analysis using USGS regression and TR-55 analysis of the drainage basin.
- HEC-RAS Model of Existing conditions for both locations.
- Model with up to two alternatives for new bridge crossing.
- Final Report of findings and recommendations.
- Scour Analysis and recommendations at the new bridge crossing.

Exclusions

The following items are excluded from the proposal:

- FEMA coordination of development of CLOMR or LOMR submission.
- Stream restoration.
- Environmental support for the project.
- Evaluate upstream of structures beyond 300 feet

Task 8: Preliminary Roadway Plans

Preliminary Design

Preliminary Plans will be developed to the extent required by the TDOT Design Guidelines and the TDOT Preliminary Plans Checklist. A horizontal alignment and profile grade acceptable to the Town and TDOT will be developed. Typical sections will be determined for Nolensville Road and all side roads. Properties will be identified with owner and tract number. Roadway cross sections will be cut at an interval of fifty feet along the centerline and preliminary slopes set. Side road and driveway profiles will also be designed. Preliminary layouts for up to two roundabouts will be created. The preliminary plans will include the following sheets: title, typical sections, property map and acquisition table, present layout, proposed layout, profile, right-of-way detail (if needed), side road profile, driveway profile, drainage map, roundabout layouts, culvert sections, and roadway cross sections. It is assumed that the plans will be completed using Microstation and the current TDOT workspace for Geopak.

This task also includes completion of the Initial Studies request, attendance of design staff at the Preliminary Field Review with TDOT, and Preliminary Plans revisions resulting from the Preliminary Field Review. Once comments are addressed, final Preliminary Plans will be issued to TDOT and the Town.

Utility Coordination

It is our understanding this project will ultimately be a TDOT Local Programs “hybrid” project in which TDOT will let the project for construction. Volkert will provide early utility coordination for the project which will include:

- Compilation of Utility contact information
- Issuance of preliminary plans to each Utility and review and comments

Additional Services

Scope and fees for additional services not specifically listed herein will be negotiated at the time of need. These services include, but are not limited to Geotechnical Services, Right-of-Way Plans, Construction Plans, Landscaping Plans, Right-of-way acquisition services, Construction Engineering and Inspection, Stream Restoration Design, Permitting, and Bidding Assistance.



**ATTACHMENT B
COMPENSATION OF CONSULTANT**

CONSULTANT will be compensated on a billing rate basis in accordance with the following schedule of professional services fees and billing rate schedule. Work will commence upon notice to proceed and contract execution.

Task No.	Description	Fee
1	Project Management & TDOT LP Coordination	\$55,400
2	Surveying Services	\$212,000
3	Meetings	\$26,600
4	Technical Report	\$78,000
5	NEPA Document	\$218,900
6	Project Website	\$20,000
7	Hydraulic Studies	\$26,600
8	Preliminary Plans	\$307,000
Total:		\$944,700

Rate Schedule	
Classification	Hourly Rate
Project Manager	\$230
Engineer V	\$210
Engineer IV	\$190
Engineer III	\$170
Engineer II	\$150
Engineer I	\$130
Designer/Technician/Engineer Intern III	\$115
Designer/Technician/Engineer Intern II	\$100
Designer/Technician/Engineer Intern I	\$85
Environmental Specialist III	\$195
Environmental Specialist II	\$160
Environmental Specialist I	\$115
Planner III	\$140
Planner II	\$120
Planner I	\$100
Administrative	\$90

Direct expenses will be billed at the cost incurred or current GSA rates. Hourly rates listed will increase by 2.5% on July 1st of each year.