

**RESOLUTION 25-81**

**A RESOLUTION TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH HR GREEN FOR ENGINEERING SERVICES FOR BELLAGIO VILLAS DRAINAGE REMEDIATION**

**WHEREAS**, the City of Spring Hill desires to enter into a Professional Services Agreement with HR Green to provide engineering services for Bellagio Villas drainage remediation, services for which cannot be performed in-house; and

**WHEREAS**, HR Green is currently under contract for on-call engineering services; and

**WHEREAS**, HR Green has submitted a Professional Service Agreement in the amount of \$30,000 that would include preliminary review of existing documents, final engineering design services, final engineering plans, final drainage memo and projection of probable costs, as detailed in Exhibit A attached hereto; and

**WHEREAS**, the cost for the engineering services will be paid from the Capital Projects Fund (313-48030-59123) with funding added in FY 25 budget amendment no. 3.

**NOW, THEREFORE BE IT RESOLVED**, the City of Spring Hill Board of Mayor and Aldermen:

1. Approves a Professional Services Agreement with HR Green for engineering services for Bellagio Villas drainage remediation, as detailed in Exhibit A attached hereto.
2. Authorize the Mayor to sign the agreement.

**Passed and Adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 7<sup>th</sup> day of April, 2025.**

  
For Jim Hagaman, Mayor

ATTEST:

  
\_\_\_\_\_  
April Goad, City Recorder

LEGAL FORM APPROVED:

  
\_\_\_\_\_  
Patrick Carter, City Attorney



DEVELOPMENT

## **PROFESSIONAL SERVICES AGREEMENT**

For

**Bellagio Villas – Drainage Remediation  
Final Engineering Services**

Jim Hagaman  
Mayor  
City of Spring Hill  
199 Town Center Parkway  
Spring Hill, TN 37174  
931-486-2252

Ryan Littleton, PE  
Regional Director  
HR Green Development, LLC  
5613 DTC Parkway Suite 950  
Greenwood Village, CO 80111  
Project Number: 2502202

March 24, 2025

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THIS **AGREEMENT** is between CITY OF SPRING HILL (hereafter "CLIENT") and HR GREEN DEVELOPMENT, LLC (hereafter "COMPANY").

## 1.0 Project Understanding

### 1.1 General Understanding

- This proposal includes design services for addressing the drainage issues for the existing Bellagio Villas Development.
- CLIENT has requested an alternative and more focused solution to the Thomas & Hutton Construction Plans for addressing drainage issues identified in "Bellagio Villas Development" letter from the Public Works Director dated January 21, 2025. In the virtual meeting that occurred on March 14, 2025, the CLIENT confirmed which of the items listed in the letter should be the primary focus for the COMPANY to address. Therefore, this project scope will focus on addressing the drainage issues while striving to reduce cost and the impact to the existing homes:
  - Review existing conditions of Bellagio Villas Drive to confirm where drainage issues exist. Provide recommendations for addressing these issues without fully replacing the road.
  - Provide design for Bellagio Villas Drive, including a roadway cross section, to be installed by the City once funds are available. Design to include limit of sidewalk and driveway replacements.
  - Provide design for pipe to be replaced in existing stormwater system that is draining backwards.
  - Provide phasing plan for improvements to reduce access impacts to current residents.
  - (3) Detention basins located onsite were not installed correctly. Basins will need to be regraded, and the existing headwalls and outfall structures will need to be removed and replaced to meet City standards.

### 1.2 Design Criteria/Assumptions

#### 1.2.1 Design Criteria

- Spring Hill Unified Development Code
- City of Spring Hill, Tennessee Standard Specifications for Water Additions
- City of Spring Hill, Tennessee Standard Specifications for Sewer Additions

#### 1.2.2 Assumptions

- This proposal is based on the virtual meeting that occurred with the CLIENT on 03/14/2025, as well as the as-builts and Thomas & Hutton CD's provided by the CLIENT to the COMPANY. Attached as Exhibit A.
- It is assumed that topographic and other land surveys of the site have been completed by others and will be provided to the COMPANY in electronic format.
- Mill and overlay recommendations will be provided for Bellagio Villas Drive if it is determined that the existing cross slopes are not adequate for conveying stormwater..



If possible, the client shall provide a core sample of Bellagio Villas Drive to confirm thickness of existing asphalt, base course, and subbase.

- The entire development is located within Zone AE per FEMA Map No. 47119C0185E, with effective date 04/16/2007. The final recommendations provided by the COMPANY will not mitigate the flood risk identified by FEMA.
- COMPANY will respond to and address a maximum of one (1) set of written review comments from the CLIENT.
- The Construction Document package will include the following:
  - Final Engineering Construction Documents.
  - Final Drainage Memo with supporting calculations.
- Project scope excludes all items listed in Section 4.0 of this agreement.

## 2.0 Scope of Services

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

### 2.1 General Services

- Review documents previously prepared for the site such as Drainage Studies, Utility Studies, Construction Documents, and preliminary plans provided by the CLIENT and reviewing agencies.
- Review as-built information provided by the CLIENT and reviewing agencies.
- Coordinate CADD and file transfer with other project consultants and CLIENT.

### 2.2 Final Engineering Services

#### 2.2.1 Final Engineering Design Services

- Provide recommendations for modifications to Bellagio Villas Drive to address drainage issues without replacing roadway or mill & overlay operations. If core sample of existing roadway is provided then mill & overlay recommendations will be included.
- Provide final roadway geometry and elevations for Bellagio Villas Drive denoting spot elevations on all horizontal geometry points and grade breaks. Drawings will include existing and proposed one-foot contours.
- Provide final geometry and elevations for new curb and gutter to be installed along Bellagio Villas Drive.
- Provide limits of replacement and final geometry for attached walk and ADA ramps that need to be modified for modifications made to Bellagio Villas Drive.
- Provide final manhole rim adjustments of existing sanitary sewer system.
- Provide final horizontal and vertical design of the storm sewer system that requires adjustments. Denote elevations of rims and inverts of structures as well as pipe sizes, material, lengths, and slopes.
- Provide grading design for Ponds No. 1, No. 2, & No. 3, including locations of headwalls and outlets structures. Provide design and details for headwalls & outfall structures.
- Provide grading design for roadside swale and concrete pan, if deemed necessary, adjacent to subject site along the north side of Kedron Road.



- COMPANY will respond to and address a maximum of one (1) set of written review comments from the CLIENT.

#### 2.2.2 Final Engineering Plans

- Include the following sheets (sheet count is approximate), prepared per review agency published criteria (22"x34").
  - Cover Sheet (1 sheet)
  - Demolition Plan (1" = 40', 1 sheet)
  - Phasing Plan (1" = 40', 1 sheet)
  - Site Plan (1" = 40', 1 sheet)
  - Grading & Drainage Plan (1" = 40', 3 sheet)
  - Storm Plan & Profile (1" = 40', 1 sheet)
  - Roadway Plan & Profile (1" = 40', 1 sheet)
  - Site & Drainage Details (2 sheets)
  - Erosion Control Plan (1" = 40', 1 sheet)
  - Erosion Control Details (1 sheet)

#### 2.2.3 Final Drainage Letter

- Utilize documented agency standards.
- Prepare a final report/memo for the site.
- Prepare narrative, calculations, and quantities to support recommendations

#### 2.2.4 Projection of Probable Cost

- Prepare projection of probable cost of improvements for the CLIENT to confirm proposed improvements will meet allocated budget.

#### 2.3 Meetings/Coordination

- It is assumed miscellaneous meetings/coordination may be needed to clarify/inform CLIENT of design approach.

### 3.0 Deliverables and Schedules Included in this Agreement

#### 3.1 Deliverables

- Deliverable Items for Final Engineering Documents
  - Final Construction Engineering Plans
  - Final Drainage Letter
  - Final Opinion of Probable Cost

#### 3.2 Schedule

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



#### 4.0 Items not included in Agreement/Supplemental Services

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

- A. Landscaping & Planning Services:
  - a. Conceptual Plans/Sketch Plans
  - b. Landscape Architectural Plans
  - c. Plan, Perspective, Elevation or Section Illustrative Exhibits
  - d. Signage/ Monumentation Design and CD's
  - e. Structural Design
  - f. Water Feature Design (MEP)
  - g. Electrical + Lighting Design
  - h. Irrigation Plans
  - i. Tree Preservation Plans
  
- B. Surveying Services
  - 1. ALTA Survey
  - 2. Title Commitments
  - 3. Plat of Dedications/Easements
  - 4. Easement Exhibits
  - 5. Topographic Survey
  - 6. Tree Species Survey
  - 7. Construction Layout/Staking
  - 8. As-built Survey and Record Drawing
  
- C. Engineering Services
  - 1. Due Diligence/Site Investigation Report
  - 2. Processing of variances to the Subdivision and Zoning Ordinances
  - 3. Preparation and posting of the public hearing sign
  - 4. Preparation and distribution of Public Notices
  - 5. Preparation of restrictions & covenants
  - 6. Preparation of maintenance and monitoring plans
  - 7. Structural design of retaining walls
  - 8. Subsurface Utility Engineering
  - 9. Design/coordination of new or to be relocated dry utilities (gas, electric, phone)
  - 10. Presentation materials such as color exhibits, boards, and photos
  - 11. Over-excavation Plans
  - 12. Building architectural plans, details, and elevations
  - 13. Traffic Impact Study
  - 14. Traffic Signal Design
  - 15. Geotechnical Services (soil borings and analysis)
  - 16. Groundwater Study or Report
  - 17. Base Flood Elevation Determination
  - 18. Archaeological Survey
  - 19. Environmental Studies
  - 20. Wetland Delineation Report / Jurisdictional Determination
  - 21. Wildlife Impact Report
  - 22. Wildfire mitigation plan



23. Water main system modeling, Fire flow calculations and field testing
24. Construction Administration, Bid Documents, Bid Letting and Bid Review
25. Construction Field Visit/Observation

D. Permitting Services:

1. DOT/EPA/USACOE Permitting
2. EPA Sanitary Sewer and Water Permits
3. Permit Application Fees
4. Wetland impact Permitting
5. National Pollutant Discharge Elimination System (NPDES) Permit (NOI to be submitted by site contractor)

E. General Items:

1. Design changes due to undocumented criteria.
2. Design Review/Application Fees.
3. Any items not specifically identified within the scope.

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

## 5.0 Services by Others

There are no services provided by others included in this scope.

## 6.0 Client Responsibilities

- Topographic design information (AutoCAD format)
- As-Built Survey Information (AutoCAD format)
- Core sample of Bellagio Villas Drive

## 7.0 Professional Services Fee

### 7.1 Fees

The fee for services will be based on COMPANY standard hourly rates current at the time the AGREEMENT is signed. These standard hourly rates are subject to change upon 30 days' written notice. Non salary expenses directly attributable to the project such as: (1) living and traveling expenses of employees when away from the home office on business connected with the project; (2) identifiable communication expenses; (3) identifiable reproduction costs applicable to the work; and (4) outside services will be charged in accordance with the rates current at the time the service is done.

### 7.2 Invoices

Invoices for COMPANY's services shall be submitted, on a monthly basis. Invoices shall be due and payable upon receipt. If any invoice is not paid within 30 days, COMPANY may, without waiving any claim or right against the CLIENT, and without liability whatsoever to



the CLIENT, suspend or terminate the performance of services. The retainer shall be credited on the final invoice. Accounts unpaid 30 days after the invoice date may be subject to a monthly service charge of 1.5% (or the maximum legal rate) on the unpaid balance. In the event any portion of an account remains unpaid 60 days after the billing, COMPANY may institute collection action and the CLIENT shall pay all costs of collection, including reasonable attorneys' fees.

7.3 Extra Services

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

7.4 Exclusion

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

7.5 Payment

The CLIENT AGREES to pay COMPANY on the following basis:

SCOPE ITEMS:	FEE
Construction Documents	\$27,500.00
Drainage Letter	\$9,325.00
Opinion of Probable Cost	\$850.00
<b>Base Fee subtotal</b>	<b>\$37,675.00</b>
<b>TIME AND MATERIAL FEES</b>	
Meetings/Coordination *	\$1,700.00*
<b>SUBTOTAL (Authorized amount for this contract)</b>	<b>\$39,375.00</b>

\*Per HR Green 2025 Billing Rate Sheet, fee subject to change if beyond 12 months from signed contract.



## 8.0 Terms and Conditions

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

### 8.1 Standard of Care

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

### 8.2 Entire Agreement

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

### 8.3 Time Limit and Commencement of Services

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

### 8.4 Suspension of Services

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

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

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

### 8.5 Books and Accounts

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

### 8.6 Insurance

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

### 8.7 Termination or Abandonment

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



D E V E L O P M E N T

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

8.8 Waiver

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

8.9 Severability

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

8.10 Successors and Assigns

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

8.11 Third-Party Beneficiaries

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

8.12 Governing Law and Jurisdiction

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

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

8.13 Dispute Resolution

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

8.14 Attorney's Fees

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

8.15 Ownership of Instruments of Service

All reports, plans, specifications, field data, field notes, laboratory test data, calculations, estimates and other documents including all documents on electronic media prepared by COMPANY as instruments of service shall remain the property of COMPANY. COMPANY shall retain these records for a period of five (5) years following



completion/submission of the records, during which period they will be made available to the CLIENT at all reasonable times.

#### 8.16 Reuse of Documents

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

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

#### 8.17 Failure to Abide by Design Documents or To Obtain Guidance

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

#### 8.18 Opinion of Probable Construction Cost

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

#### 8.19 Design Information in Electronic Form

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

The CLIENT recognizes that designs, plans, and data stored on electronic media including, but not limited to computer disk, magnetic tape, or files transferred via email, may be subject to undetectable alteration and/or uncontrollable deterioration. The CLIENT, therefore, agrees that COMPANY shall not be liable for the completeness or accuracy of any materials provided on electronic media after a 30-day inspection period, during



which time COMPANY shall correct any errors detected by the CLIENT to complete the design in accordance with the intent of the contract and specifications. After 40 days, at the request of the CLIENT, COMPANY shall submit a final set of sealed drawings, and any additional services to be performed by COMPANY relative to the submitted electronic materials shall be subject to separate agreement. The CLIENT is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by the COMPANY and electronic files, the signed or sealed hard-copy construction documents shall govern.

#### 8.20 Information Provided by Others

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

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

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

#### 8.21 Force Majeure

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

#### 8.22 Job Site Visits and Safety

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

#### 8.23 Hazardous Materials

CLIENT hereby understands and agrees that COMPANY has not created nor contributed to the creation or existence of any or all types of hazardous or toxic wastes, materials, chemical compounds, or substances, or any other type of environmental hazard or pollution, whether latent or patent, at CLIENT's premises, or in connection with or related to this project with respect to which COMPANY has been retained to provide



professional services. The compensation to be paid COMPANY for said professional services is in no way commensurate with, and has not been calculated with reference to, the potential risk of injury or loss which may be caused by the exposure of persons or property to such substances or conditions. Therefore, to the fullest extent permitted by law, CLIENT agrees to defend, indemnify, and hold COMPANY, its officers, directors, employees, and consultants, harmless from and against any and all claims, damages, and expenses, whether direct, indirect, or consequential, including, but not limited to, attorney fees and Court costs, arising out of, or resulting from the discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acid, alkalis, toxic chemicals, liquids gases, or any other materials, irritants, contaminants, or pollutants in or into the atmosphere, or on, onto, upon, in, or into the surface or subsurface of soil, water, or watercourses, objects, or any tangible or intangible matter, whether sudden or not.

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

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

#### 8.24 Certificate of Merit

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

#### 8.25 Limitation of Liability

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

#### 8.26 Drywells, Underdrains and Other Infiltration Devices

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

- Failure to obtain the required release rate;



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

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

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

#### 8.29 Design Without Construction Observation

It is agreed that the professional services of COMPANY do not extend to or include the review or site observation of the contractor's work or performance and the CLIENT assumes all responsibility for interpretation of the contract documents and for construction observation. It is further agreed that the CLIENT will defend, indemnify and hold harmless COMPANY from any claim or suit whatsoever, including but not limited to all payments, expenses or costs involved, arising from the contractor's performance or the failure of the contractor's work to conform to the design intent and the contract documents. COMPANY agrees to be responsible for its employees' negligent acts, errors or omissions.

#### 8.27 Municipal Advisor

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

This AGREEMENT is approved and accepted by the CLIENT and COMPANY upon both parties signing and dating the AGREEMENT. Services will not begin until COMPANY receives a signed agreement. COMPANY's services shall be limited to those expressly set forth in this AGREEMENT and COMPANY shall have no other obligations or responsibilities for the Project



DEVELOPMENT

except as agreed to in writing. The effective date of the AGREEMENT shall be the last date entered below.

Sincerely,

HR GREEN DEVELOPMENT, LLC

Ryan Littleton, PE  
Regional Director

Approved by:

Printed/Typed Name: Ryan Littleton

Title: Regional Director Date: 3/24/2025

Jim Hagaman  
Mayor  
City of Spring Hill

Accepted by:

Printed/Typed Name: Jim Hagaman

Title: Mayor Date: April 7, 2025