

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT (the "Agreement") is entered into and made effective as of this 27th day of April, 2008 (the "Effective Date").

1. PARTIES (individually a "Party" and collectively the "Parties")

CLIENT

Name: Oberlin, Ohio (The "Client")
 Address 1: 85 South Main Street
 Address 2: _____
 City: Oberlin State: Ohio Zip: 44074

CLIENT IS A (Check Appropriate Box):

- Individual Corporation Partnership
 Joint Venture Other (specify): Municipality

CLIENT IS ESTABLISHED UNDER THE LAWS OF:
 State or Commonwealth of Ohio

ARCADIS

Name: ARCADIS U.S., Inc ("ARCADIS")
 Address 1: 520 South Main Street
 Address 2: Suite 2400
 City: Akron State: Ohio Zip: 44311-1010

The parties hereto acknowledge and agree that when individual work authorizations are necessary hereunder, all such work authorizations will be issued and executed by the appropriate ARCADIS entity authorized and licensed to perform work in the respective country, state or province where the work is being performed.

2. PARTY REPRESENTATIVES

CLIENT REPRESENTATIVE

Mail Originals:

City of Oberlin, Ohio
85 South Main Street
Oberlin, Ohio 44074
 Attention: Mr. Jeff Baumann
 Telephone: 440-775-7204
 Fax: 440-775-7208

With Copies To:

Attention: _____

Telephone No.: _____

Facsimile No.: _____

ARCADIS REPRESENTATIVE

Mail Originals:

ARCADIS U.S., Inc.
520 South Main Street, Suite 2400
Akron, Ohio 44311-1010
 Attention: David A. Frank, P.E.
 Telephone: 330-434-1995
 Fax: 330-374-1095

With Copies To:

Attention: _____

Telephone No.: _____

Facsimile No.: _____

3. GENERAL TYPES OF SERVICES TO BE PERFORMED

Check each appropriate box:

- Environmental Infrastructure Other : _____

Services performed under this Agreement are detailed in the Scope of Services and may also be detailed in Work Authorizations approved by the Client and ARCADIS in the form attached hereto as Exhibit E.

4. SPECIAL TYPES OF SERVICES TO BE PERFORMED

Check each appropriate box:

- Field Phase I ESA
 Asbestos & Other Hazardous Materials
 Other : Resident Project Representative
 Not Applicable

5. COMPENSATION

- Lump Sum Cost Plus T&M
 Other (Specify): _____

6. AGREEMENT

The following documents, as applicable, are attached and are incorporated into this Agreement:

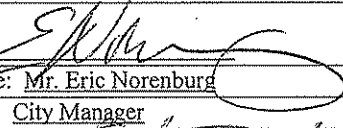


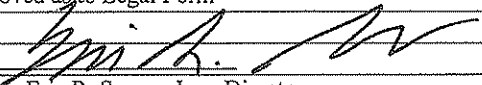
- Exhibit A: Scope of Services
- Exhibit B: Payment Terms
- Exhibit C: General Terms and Conditions for Infrastructure Services
- Exhibit D: Special Terms and Conditions for Professional Services in Field
- Exhibit E: Work Authorization

7. EXECUTION

In witness hereof, and in consideration of the promises and covenants set forth herein, and for other good and valuable consideration, the receipt, adequacy, and legal sufficiency of which are hereby acknowledged, the Parties have caused this Agreement to be executed on the day and year first set forth above.

CLIENT

ARCADIS

By: 	By: 
Name: <u>Mr. Eric Norenburg</u>	Name: <u>James M. Crandall, PE</u>
Title: <u>City Manager</u>	Title: <u>MW Water Resources Operations Manager</u>
By: 	
Name: <u>I. Salvatore Talerico, Finance Director</u>	
Approved as to Legal Form	
By: 	
Name: <u>Eric R. Severs, Law Director</u>	

**EXHIBIT A
GENERAL SCOPE OF SERVICES**

SERVICES TO BE PERFORMED

- 1.1 ARCADIS agrees to diligently and professionally perform professional consulting services and produce all of the deliverables, described in this Agreement and all exhibits hereto for the proper completion of the General Scope of Services.
- 1.2 Services performed under this Agreement may be more fully described in specific detail in individual Work Authorizations approved by the Client and ARCADIS in the form attached hereto as Exhibit E, which shall constitute a part of this Agreement.
- 1.3 ARCADIS shall have no obligation to commence the Services as stipulated in this Agreement and/or any associated Work Authorization until both this Agreement and the applicable Work Authorization are fully executed and delivered to ARCADIS. Any schedule requirements applicable to ARCADIS Services will be set forth in this Exhibit or Work Authorization. Services shall include all the work necessary to perform the work described in the Work Authorization and this Agreement.
- 1.4 ARCADIS shall faithfully perform the Services required under this Agreement in accordance with standard of care, skill, training, diligence and judgment provided by competent professionals who perform work of a similar nature to the work described in this Agreement and any Work Authorization.
- 1.5 ARCADIS agrees to correct, at its own expense, any services provided under this Agreement that do not conform to the standard of care hereunder for a period of one (1) year following the completion of services. No other guarantee or warranty, express or implied, is intended by this Agreement.

2. GENERAL SCOPE OF SERVICES

ARCADIS will provide the necessary staff to provide comprehensive site observation and engineering oversight support of the project. We will meet the requirements and perform the tasks listed below.

- 2.1. Provide a Project Manager who is a professional engineer with suitable experience in the construction and rehabilitation of environmental facilities. The Project Manager will provide administrative oversight of all provided services.

RESIDENT PROJECT REPRESENTATIVE SERVICES

- 2.2. Provide a qualified field representative (Resident Project Representative – RPR) during construction to provide part-time, daily observation and documentation of contractor activities in relation to the as-bid design documents, for a period of fifteen (15) months. Overtime will be performed on an as-needed basis for critical elements of the project. The budget defined in Exhibit B represents 15 months of part-time representation (29 hours per week, over four days, average), plus 40 manhours of overtime effort (total over 15 months) charged at 1.5 times normal hourly rate. The RPR weekly work schedule will be coordinated with the City based on the Contractor's actual work schedule and ARCADIS compensation guidelines. The City and ARCADIS will work together to plan the RPR schedule as far in advance as possible. The RPR will also perform Tasks 2.3-2.11 as part of his normal duties.

- 2.3. Perform a review of existing documents including:
- Review of Plans and Specifications, including bidding and contract documents, to become familiar with the project.
 - Review of Contractor's Schedule of values.
- 2.4. Attend pre-construction and biweekly project progress (job) meetings.
- 2.5. Coordinate and track Request for Information (RFI) responses between the contractors and the Engineer. Provide peer review observations, as needed, with complex issues.
- 2.6. Prepare and maintain a daily log of all construction activities. This report will be e-mailed daily or weekly to City and Engineer representatives.
- 2.7. Review change orders. Consult with the City and the Design Engineer.
- 2.8. Review and recommend contractor monthly partial pay estimates, retainage and final payments.
- 2.9. Assist in claims management, as may be required.
- 2.10. Develop punch lists near construction completion to address remaining contractor work items.

SPECIAL SERVICES

- 2.11. For certain special or complex construction changes, and at the City's discretion, ARCADIS will provide a peer review and/or participate with the Design Engineer in developing creative, cost-effective solutions. The budget amount defined in Exhibit B represents approximately 120 manhours of senior construction management, structural, mechanical and electrical engineering effort.

ENGINEERING FEES

The following budget amounts are proposed for the defined scope of work and are based on a services start date of May 2008 and running to August 2009. Hourly rates have been adjusted accordingly and the necessary account management costs are included. RPR expenses include mileage, photo printing, shipping, cell phone and meals (when working overtime) costs. Billing backup will be provided with the invoice to document labor effort and expenses.

RPR SERVICES BUDGET

Labor –	\$118,000
Expenses –	\$17,000
Total RPR Services –	\$135,000

SPECIAL SERVICES

Labor –	\$14,750
Expenses –	\$250
Total Special Services Budget –	\$15,000

EXHIBIT B
PAYMENT TERMS

1. PAYMENT OF SERVICES

1.1 Client agrees to pay for the Services performed by ARCADIS in accordance with this Agreement and any approved Work Authorization (example provided as Exhibit E). Payment for Services is set forth and shall be subject to the ARCADIS standard invoicing practices, which is incorporated herein. Payment Terms shall be cost-reimbursement multiplier fee basis, plus reimbursable expenses, up to a not-to exceed fee of \$135,000 for RPR Services; and \$15,000 for Special Services to be provided on an as-needed, as-requested basis; and provide for interest on payments not timely made, and for the suspension of work and attorneys' fees in the event that payments are not made by the Client.

2. PAYMENT TERMS

2.1 ARCADIS shall invoice Client for Services in accordance with ARCADIS standard invoicing practices. The OWNER agrees to pay the ENGINEER a cost-reimbursement multiplier fee based on Payroll Costs (Payroll Costs mean salaries and wages paid to the ENGINEER'S personnel engaged directly in performing the services plus the current cost of customary and statutory benefits, including, but not limited to social security contributions, unemployment, excise and payroll taxes, workmen's compensation, health and retirement benefits, sick leave, vacation and holiday and other group benefits) involved in performing the services, plus a mark-up for indirect overhead and profit, all totaling a multiplier of 3.0; plus Reimbursable Expenses as defined as actual expenses incurred directly in connection with any phase of the Project including, but not limited to: transportation; meal expense (if greater than eight-hour day); rental of equipment; photo expense; parcel delivery and postage; miscellaneous supplies and similar Project related items. Invoices are due and payable on receipt and should be remitted by check or wire transfer of immediately available funds as follows:

2.1.1 Lockbox: ARCADIS U.S., Inc., Dept 547, Denver, Colorado 80291-0547

2.1.2 Electronically (wire transfer): Wells Fargo Bank, ABA 102000076, Account# 101816475, ARCADIS U.S., Inc.

2.2 If Client fails to make any payment due ARCADIS for services and expenses within thirty (30) days after receipt of invoice, the amounts due ARCADIS will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from accounts not paid within thirty (30) days.

2.3 If Client reasonably objects to any portion of an invoice, the Client shall provide written notification to ARCADIS of Client's objection and the basis for such objection within fifteen (15) days of the date of receipt of the invoice, and the Parties immediately shall make every effort to settle the *disputed* portion of the invoice. The *undisputed* portion shall be paid immediately and Client shall not offset amounts due ARCADIS under a Work Authorization for any credit or disputes arising under a different Work Authorization. Client shall waive any objections to ARCADIS invoice if it fails to timely provide such written notice to ARCADIS. If payment of invoices by Client is not maintained on a current basis, ARCADIS may, after giving seven (7) days' written notice to Client, suspend further performance until such payment is restored to a current basis. All suspensions shall extend the time for performance by a length of time equal to the duration of the suspension, and ARCADIS shall be paid for Services performed and charges incurred prior to the suspension date, plus suspension charges. Suspension charges shall include, without limitation, putting of documents and analyses in order, personnel and equipment rescheduling or reassignment adjustments, additional insurance/bonding coverage, extended overhead and costs, and all other

related costs and charges incurred and attributable to suspension.

- 2.4 In the event of litigation or other proceeding to enforce performance of this Agreement or any payment obligation under this Agreement, the prevailing Party shall be entitled to recover from the other Party attorneys' fees and costs as may be reasonably incurred by reason of the litigation.

EXHIBIT C
GENERAL TERMS AND CONDITIONS
FOR INFRASTRUCTURE SERVICES

1. TERM OF AGREEMENT

- 1.1 Unless terminated, this Agreement shall remain in effect until the scope of services defined in any Work Authorization has been fully performed. Upon completion of the Services and payment, this Agreement may be terminated by either Party.

2. CHANGES IN THE WORK

- 2.1 At any time after execution of this Agreement, Client may request changes in ARCADIS Services consisting of additions, deletions, and revisions within the general scope of services being performed by ARCADIS under this Agreement and/or any applicable Work Authorizations. Whenever a change in the scope and/or time for performance of services occurs, or if Client has notified ARCADIS of a change, ARCADIS shall submit to Client within a reasonable time a written estimate of the changes in cost and/or schedule, with supporting calculations and pricing. Pricing shall be in accordance with the pricing structure of this Agreement.
- 2.2 Notwithstanding the above, Client may direct ARCADIS in writing to perform the change prior to approval of price and schedule adjustments by Client. If so directed, ARCADIS shall not suspend performance of this Agreement during the review and negotiation of such change, as long as the change is a reasonably foreseeable alteration of the Services originally contemplated. In the event Client and ARCADIS are unable to reach agreement regarding changes in price and/or time associated with a change order, the matter shall be submitted to mediation as provided in Paragraph 13 of this Agreement.

3. TERMINATION OF AGREEMENT

- 3.1 **Termination for Convenience** - Either Party may terminate this Agreement and any associated Work Authorizations without cause and/or for convenience after giving

five (5) days' written notice to the other Party. However, ARCADIS shall not have the right to terminate this Agreement, without cause, prior to completion by ARCADIS of all Services required under the Agreement or any outstanding Work Authorizations. In the event Client terminates ARCADIS services without cause and/or for Client's convenience, Client shall be liable to promptly pay ARCADIS for all work performed through the date of termination, all of ARCADIS expenses directly attributable to the termination, including fair and reasonable sums for overhead and profit for work performed, and costs incurred by ARCADIS in terminating any contracts entered into in connection with the performance of its Services.

- 3.2 **Termination for Cause** - Either Party may terminate this Agreement for Cause. Termination for cause shall be by written "Termination Notice" from the terminating Party, delivered to the defaulting Party at least thirty (30) days prior to the proposed "Termination Date." The defaulting Party shall have thirty (30) days from receipt of the Termination Notice within which to cure the alleged default, or the Termination Date shall be reasonably extended if the cure requires a period of time in excess of thirty (30) days so long as the defaulting Party has undertaken such reasonably diligent efforts to cure such default. Any termination for cause shall be without prejudice to any claims that either Party may have against the other Party, its agents or subcontractors.

4. CONFLICT OF INTEREST

- 4.1 ARCADIS shall not perform, or enter into any agreement for, services for any other person, corporation or entity, except with prior written consent of Client, if, in the sole discretion of ARCADIS, the performance of the services could result in a conflict with ARCADIS obligations under this Agreement. ARCADIS represents that it has reasonably evaluated potential conflicts

and has disclosed to Client in writing any prior or existing relationships which present, or could appear to present, a conflict with the Services to be performed.

5 USE OF DOCUMENTS

5.1 All documents provided by ARCADIS pursuant to this Agreement are instruments of service of ARCADIS, and ARCADIS shall retain an ownership and property interest therein (including the right of reuse) until Client has made full payment to ARCADIS for such documents pursuant to this Agreement. All documents generated by ARCADIS pursuant to this Agreement are not intended or represented to be suitable for reuse by Client or others on any other project, or other purposes other than that for which the same were created. Client agrees not to reuse said reports or materials on any other project, or for any other purpose other than that for which they were created, without the prior written consent of ARCADIS. Reuse of said reports or other material by Client for any other purpose or on other projects without written permission or adaptation by ARCADIS for the specific purposed then intended shall be at the Client's and user's sole risk, without liability on ARCADIS' part, and Client agrees to indemnify and hold harmless ARCADIS from all claims, damages and expenses, including attorneys' fees, arising out of such unauthorized reuse by Client.

5.2 The Parties agree that reports prepared by or on behalf of ARCADIS pertaining to site conditions, including but not limited to geotechnical engineering or geologic reports (hereinafter collectively "Site Condition Reports"), are prepared for the exclusive use of the Client and its authorized agents, and that no other party may rely on Site Condition Reports unless ARCADIS agrees in advance to such reliance in writing. Site Condition Reports are not intended for use by others, and the information contained therein is not applicable to other sites, projects or for any purpose except the one originally contemplated in the Services. The Client acknowledges that the Site Condition Reports are based on conditions that exist at the time a study is performed and that the findings and conclusions of the Site Condition Reports may be affected by the

passage of time, by manmade events such as construction on or adjacent to the site, or by natural events such as floods, earthquakes, slope instability or groundwater fluctuations, among others. The Parties agree that interpretations of subsurface conditions by ARCADIS or its subcontractors may be based on limited field observations including, without limitation, from widely spaced sampling locations at the Site. The Client acknowledges that site exploration by ARCADIS or its subcontractors will only identify subsurface conditions at those points where subsurface tests are conducted or samples are taken. The Parties agree that ARCADIS or its subcontractors may review field and laboratory data and then apply professional judgment to render an opinion about subsurface conditions at the Site and that the actual subsurface conditions may differ, sometimes significantly, from those indicated by ARCADIS or its subcontractors. The Client agrees that any report, conclusions or interpretations will not be construed as a warranty of the subsurface conditions by ARCADIS or its subcontractors. The Parties further agree that no warranty or representation, express or implied, is included or intended in any reports, conclusions, or interpretations prepared by or on behalf of ARCADIS pertaining to site conditions.

6 RECORD RETENTION

6.1 Any and all files, data, records, reports and other information or work product generated in connection with or related to ARCADIS Services, shall be retained and stored by ARCADIS in hard copy and/or electronic form for a period of three (3) years from the completion of Services or such other period as specified by the client. If Client decides to retain said records, it must notify ARCADIS no later than thirty (30) days prior to the expiration of the period. Any additional expense of retaining documents or transfer of documents to Client at the end of such three (3) year period will be at Client's expense. Provided however, that this provision shall not apply to drafts of plans, specifications, drawings or reports that shall be destroyed immediately upon being superseded in the project.

7. PROPRIETARY RIGHTS OF ARCADIS

- 7.1 Client acknowledges that ARCADIS has developed systems, processes, apparatus, analytical tools and methods which are proprietary to ARCADIS and which are used in its business. Such systems, processes, apparatus, analytical tools and methods, including software, patents, copyrights and other intellectual property, and all derivations, enhancements or modifications thereof made by ARCADIS, including those as a result of work performed by ARCADIS for Client hereunder ("Intellectual Property"), shall be and remain the property of ARCADIS. This Agreement shall not confer any grant of a license to any such Intellectual Property of ARCADIS, or right of use by the Client independently or other Client contractors.

8. INDEMNIFICATION

- 8.1 ARCADIS shall indemnify, defend and hold harmless Client, its directors, officers, employees, shareholders and affiliates from and against any and all liabilities, losses, damages, costs and expenses (including attorneys' fees and court costs) which Client and its directors, officers, employees and agents hereafter may suffer in connection with any claim, demand, action or right of action (whether at law or in equity) brought or asserted by any third party because of any personal injury (including death) or property damage to the extent caused as a result of negligent acts, errors, omissions, or willful misconduct on the part of ARCADIS. ARCADIS shall not be liable to the extent that any liability, loss, damage, costs, and expense results from an act or omission, negligence or willful misconduct by Client or its directors, officers, employees or agents, or by any other person or entity not acting on ARCADIS' behalf or under ARCADIS' right of direction or control.
- 8.2 The Parties shall at all times remain entirely responsible for the results and consequences of their own negligence and agree to indemnify and hold harmless the other Party from and against any and all claims, losses, damages, costs and expenses, including attorneys' fees, which may arise or result from such Party's negligence.

- 8.3 The Client agrees that it will obtain indemnification of ARCADIS from any contractors hired or retained by Client for claims arising from or related to the contractor's acts or omissions in performing any work that is the subject matter of this Agreement and any Work Authorizations.

9. LIMITATION OF LIABILITY

- 9.1 To the fullest extent permitted by law, the total liability, in the aggregate of ARCADIS and its directors, officers, employees, agents, associates or subcontractors, and any of them, to Client or anyone claiming by, under or through the Client, for any and all injuries, claims, losses, expenses, including attorneys' fees, expert fees, or court costs and damages whatsoever arising out of or in any way related to ARCADIS Services under this Agreement, from any cause or causes whatsoever, including but not limited to, negligent acts or omissions, professional negligence, breach of contract, strict liability, errors or omissions of ARCADIS, or the employees, directors, officers, agents, associates of subcontractors of ARCADIS, or any of them, will be limited to the total amount of fees paid to ARCADIS under this Agreement. In no event, however, shall any such liability exceed the amount of applicable insurance that ARCADIS has agreed to procure and maintain under this Agreement.
- 9.2 The Client and ARCADIS waive incidental, indirect, or consequential damages, loss revenues or profits from claims, disputes or other matters in question arising out of or relating to this Agreement, whether such claims arise from negligence, breach of contract, or strict liability. This mutual waiver is applicable, without limitation, to all consequential damages due to either Party's termination.

10. INSURANCE

- 10.1 ARCADIS shall maintain for the term of this Agreement insurance policies covering:
- Worker's Compensation and Employer's Liability insurance, statutory limits.

- Comprehensive General Liability insurance, a total of \$1,000,000 each occurrence and \$2,000,000 in aggregate.
- Comprehensive Automobile Liability insurance, a total of \$1,000,000 each occurrence and \$2,000,000 in aggregate.
- Professional errors and omissions insurance with a per claim limit of not less than \$3,000,000

11. CONFIDENTIALITY

- 11.1 In order to protect the Client's confidential and propriety commercial and financial information, any documents records, data or communications provided by Client or produced by ARCADIS for Client shall be treated as confidential and proprietary. Such information shall not be disclosed to any third party, unless necessary to perform the Services, hereunder. Information will not be considered confidential if: (i) the information is required to be disclosed as a part of the Services, hereunder; (ii) information is in the public domain through no action of ARCADIS in breach of the Agreement; (iii) information is independently developed by ARCADIS; (iv) the information is acquired by ARCADIS from a third party not delivered to ARCADIS in breach of any known confidentiality agreements; or (v) disclosure is required by law, court order or subpoena. In the event ARCADIS believes that it is required by law to reveal or disclose any information, prior to disclosure or production ARCADIS shall first notify Client in writing.

12. NOTICES

- 12.1 Any such notices shall be either: (i) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the U.S. Mail; (ii) sent by overnight delivery using a nationally recognized overnight courier, in which case it shall be deemed delivered one business day after deposit with such courier; or (iii) sent by personal delivery. The above addresses may be changed by written notice to the other Party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or

receive copies of any notice shall not be deemed a failure to give notice.

13. MEDIATION

- 13.1 If any dispute arises out of or relates to this Agreement, or the breach thereof, and the dispute cannot be settled through direct discussions by the representatives of the Parties, the Parties agree then to submit the matter to mediation under the Construction Industry Mediation Rules of the American Arbitration Association before having recourse to a judicial forum. No written or oral representation made during the course of any settlement negotiations or mediation shall be deemed a party admission.

14. CONSTRUCTION COST ESTIMATES

- 14.1 The Client shall advise ARCADIS in writing before design commencement of any budgetary limitations for the overall cost of construction. ARCADIS will endeavor to work within such limitations and will, if requested and included within the scope of services, submit to Client an opinion of probable construction cost. Opinions of probable construction cost will represent ARCADIS' reasonable judgment as a design professional familiar with the construction industry, but does not represent that bids or negotiated prices will not vary from budgets or opinions of probable cost. Client acknowledges that neither ARCADIS nor Client has control over the cost of labor, materials or methods by which contractors determine prices for construction.

15. PLAN INFORMATION

- 15.1 If the scope of services provide for the preparation of plans or drawings by ARCADIS, ARCADIS makes no representations that all existing utilities are shown or that any utilities shown thereon are accurately depicted.

16. GENERAL PROVISIONS

- 16.1 **Entire Agreement** - This Agreement constitutes the entire agreement between the Parties with respect to the Services, and supersedes all prior negotiations, representations or agreements relating thereto, written or oral, except to the extent

they are expressly incorporated herein. Unless otherwise provided for herein, no amendments, changes, alterations or modifications of this Agreement shall be effective unless in writing, executed by Client and ARCADIS. There are no third party rights or benefits under this Agreement.

- 16.2 **No Third Party Beneficiaries** - The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to the Client and ARCADIS, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of the Client and ARCADIS that sub consultants and any other person other than the Client or ARCADIS receiving any benefits from this Agreement shall be deemed to be incidental beneficiaries only.
- 16.3 **Force Majeure** - Except for the payments of money for Services already completed, each Party shall not be liable to the other for failure to perform its obligations hereunder if and to the extent that such failure to perform is caused by or results from causes beyond its control, including without limitation, strikes, lockouts, or other industrial disturbances, civil disturbances, fires, acts of God, acts of a public enemy, acts or omissions of subcontractors, compliance with any regulations, epidemics or pandemics.
- 16.4 **Severability and Waiver** - If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible, the remainder of this Agreement shall be deemed valid and operative, and effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either Party to enforce against the other Party any term or provision of this Agreement shall be deemed not to be a waiver of such Party's right to enforce against the other party the same or any other such term or provision.
- 16.5 **Governing Law** - The laws of the State in which the Project is located shall govern this

Agreement and the legal relations of the Parties.

- 16.6 **Compliance with Law** - ARCADIS and Client will use reasonable care to comply with applicable laws in effect at the time the Services are performed hereunder, which to the best of their knowledge, information and belief; apply to their respective obligations under this Agreement. Client shall cooperate with ARCADIS in obtaining any permits or licenses required for the performance of the Services.
- 16.7 **Delegation and Assignment** - Party may at any time delegate, orally or in writing, this Agreement, or any portion thereof, with the prior written consent of the other Party. No such delegation shall operate to relieve the Party of its responsibilities hereunder.
- 16.8 **Headings** - Headings of particular paragraphs are inserted only for convenience and are in no way to be construed as a part of this Agreement or as a limitation of the scope of the paragraphs to which they refer.

17 ACCESS TO PREMISES

During the term of this Agreement, Client shall grant to or cause to be made available to ARCADIS reasonable and necessary nonexclusive access to any location as necessary for purpose of allowing ARCADIS to perform the Services and fulfill its obligations under this Agreement. Client shall immediately notify ARCADIS if Client is unable to obtain necessary access within a timely manner. Should ARCADIS be obstructed or delayed in the commencement, performance or completion of the Work, without fault on its part, by reason of not having full access to the location, and then ARCADIS will be entitled to an adjustment in compensation and/or an extension in the completion time requirements.

EXHIBIT D
SPECIAL TERMS AND CONDITIONS
FOR PROFESSIONAL SERVICES PERFORMED IN FIELD

1. SITE CONDITIONS

- 1.1 ARCADIS shall not be liable for: (i) damage or injury to any subterranean structures (including, but not limited to, utilities, mains, pipes, tanks, and telephone cables) or any existing subterranean conditions; or the consequences of such damage or injury, if (with respect to this clause (i)) such structures or conditions were unknown and were not identified or shown, or were incorrectly shown, in information or on plans furnished to or obtained by ARCADIS in connection with the Services; (ii) concealed conditions encountered in the performance of the Services; (iii) concealed or unknown conditions in an existing structure at variance with the conditions indicated by the Scope of Services or Work Authorization; or (iv) unknown physical conditions below the surface of the ground that differ materially from those ordinarily encountered and are generally recognized as inherent in work of the character provided under this Agreement.
- 1.2 Client shall provide to ARCADIS all plans, maps, drawing and other documents identifying the location of any subterranean structures on the Site. Prior to location of any drilling or excavation below the ground surface, ARCADIS shall obtain the concurrence of the Client as to the location for such drilling or excavation.
- 1.3 Should: (i) concealed conditions be encountered in the performance of the Services; (ii) concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Scope of Services or Work Authorization; or (iii) unknown physical conditions below the ground differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided under this Agreement; then the amount of this Agreement and/or time for performance shall be equitably adjusted by change order upon claim by

either Party made within twenty (20) days after the first observance of the conditions.

2. ACCESS TO SITE

- 2.1 During the term of this Agreement, Client shall grant to or cause to be made available to ARCADIS reasonable and necessary nonexclusive access to the Site and other Sites, as necessary, for purpose of allowing ARCADIS to perform the Services and fulfill its obligations under this Agreement. ARCADIS shall comply with generally accepted safety procedures and all other safety procedures that have been communicated to ARCADIS or its Personnel by Client. If the Site is sold or otherwise conveyed to a third party, Client shall immediately notify ARCADIS if Client is unable to obtain necessary access within a timely manner. Should ARCADIS be obstructed or delayed in the commencement, performance or completion of the Work, without fault on its part, by reason of not having full access to the Site, and then ARCADIS will be entitled to an adjustment in compensation and/or an extension in the completion time requirements.

EXHIBIT E
WORK AUTHORIZATION
NO. _____

This Work Authorization is entered into by and between _____, a _____ corporation ("ARCADIS") and _____ ("Client"). This Work Authorization incorporates by reference the Professional Service Agreement entered into by the Parties dated _____ (the "Services Agreement"). The Services Agreement is hereby amended and supplemented as follows:

1. GENERAL DESCRIPTION OF BASIC SERVICES

- 1.1 Client hereby authorizes ARCADIS to perform the following general scope of Basic Services:

- 1.2 Client authorizes ARCADIS to provide the Basic Services described in this Work Authorization in connection with the following Project or Site(s):

- 1.3 The above-described Basic Services shall be provided by ARCADIS in phases, as set forth below. (N/A indicates phase is not applicable to services to be provided under this Work Authorization).

2. STUDY AND REPORT PHASE

- 2.1 During the Study and Report Phase, ARCADIS shall:

- 2.2 The number of copies of the Report will be submitted to Client are _____. The Report shall be submitted to Client within _____ calendar days of the effective date of this Work Authorization.

3. PRELIMINARY DESIGN PHASE

- 3.1 During the Preliminary Design Phase ARCADIS shall:

4. FINAL DESIGN PHASE

- 4.1 During the Final Design Phase, ARCADIS shall:

4.2 The _____ sets of Contract Documents will be submitted to Client.

4.3 The Contract Documents will be submitted to Client within ___ calendar days following written authorization from Client to proceed with the Final Design Phase Services.

5. BIDDING OR NEGOTIATING PHASE

5.1 During the Bidding or Negotiating Phase ARCADIS shall:

6. CONSTRUCTION PHASE

6.1 During the Construction Phase ARCADIS shall:

6.2 The Construction Phase will commence within _____ calendar days following the completion of the Final Design Phase.

7. OPERATIONAL PHASE

7.1 During the Operational Phase, ARCADIS shall:

8. ADDITIONAL SERVICES

8.1 The Basic Services described in Paragraphs 1 through 7 above do not include the following Additional Services which, upon written request from Client, will be performed by ARCADIS in accordance with the terms of this Work Authorization:

8.2 The Basic Services described in Paragraph 1 through 7 above do not include the following services that are to be performed by Client or, upon written request from Client by ARCADIS, as an Additional Service by ARCADIS:

9.1 Lump Sum Method:

9.1.1 Client shall pay ARCADIS a lump sum fee of _____ for Basic Services provided under this Work Authorization, which shall be paid by Client as follows:

9.1.2 In addition to the lump sum fee, costs incurred by ARCADIS pursuant to this Work Authorization shall be reimbursed by Client as follows:

9.1.3 Client shall pay ARCADIS for Additional Services as follows:

9.1.4 Other provisions concerning payment are as follows:

9.1.5 ARCADIS' current fee schedule is attached.

9.2 Direct Labor Cost Times a Factor Method:

Client shall pay ARCADIS for Basic Services as follows:

An amount equal to ARCADIS' direct labor cost time a factor of _____ for all services performed by ARCADIS' principals and employees pursuant to this Work Authorization.

An amount equal to costs charged by any engineers or other design professionals engaged by ARCADIS to perform services pursuant to this Work Authorization, times a factor of _____.

9.2.1 Other costs incurred by ARCADIS pursuant to this Work Authorization shall be reimbursed as follows:

9.2.2 Client shall pay ARCADIS for Additional Services as follows:

9.2.3 ARCADIS' estimate of the amount that will become payable for Basic Services under this Work Authorization is _____. This amount is only an estimate for planning purposes, is not binding on the Parties, and is not the maximum amount payable to ARCADIS.

Other provisions concerning payment are as follows:

9.2.4 ARCADIS' current fee schedule is attached.

9.3 Percentage of Construction Cost Method:

9.3.1 Client shall pay ARCADIS for Basic Services an amount equal to _____% of Construction Cost for Services of ARCADIS under this Work Authorization.

9.3.2 Construction Cost shall be determined as follows:

9.3.3 Upon the conclusions of each of the following phases, Client shall pay such additional amount, if any, as may be necessary to bring ARCADIS' total compensation paid during such phase on account of the percentage of Construction cost to the following percentages:

Phase	Percentage
Study and Report	%
Preliminary Design	%
Final Design	%
Bidding and Negotiating	%
Construction	%
Operational	%
TOTAL	%

9.3.4 Other costs incurred by ARCADIS pursuant to this Work Authorization shall be reimbursed as follows:

9.3.5 Client shall pay ARCADIS for Additional Services as follows:

9.3.6 Other provisions concerning payment are as follows:

9.3.7 ARCADIS' current fee schedule is attached.

9.4 Time and Material Method:

9.4.1 Client shall pay ARCADIS for Services as follows:

9.4.1.1 ARCADIS' labor hours at the hourly rates specified herein. The hourly rate includes wages, overhead, general and administrative expenses, and profit; and

9.4.1.2 Cost of materials and services incurred by ARCADIS, times a factor of _____.

9.4.1.3 Invoices of subcontractors retained by ARCADIS, plus a mark-up of _____ percent.

9.4.2 Other provisions concerning payment are as follows:

9.4.2.1 _____

9.4.3 ARCADIS' current fee schedule is attached.

9.4.3.1 The parties agree that the attached fee schedule shall be adjusted on each anniversary of this agreement to reflect the standards rates then in effect for ARCADIS.

9.4.4 If the Agreement or Work Authorization contains a "not to exceed" or such other budgetary amount and terms, ARCADIS shall be paid for the time and materials, as provided in this paragraph 3.4, up to the not to exceed amount, plus any increase approved or directed by the Client.

9.4.4.1 Payment for services performed in furtherance of the Basic Services shall be performed shall not exceed \$ _____, unless otherwise increased as directed by the Client. ARCADIS shall provide notice to the Client in the event that the forgoing amount will be exceeded to complete or continue the services.

10. SCHEDULE FOR SERVICES

10.1 ARCADIS shall perform the Basic Services described above in accordance with the following schedule:

CLIENT	ARCADIS
By:	By:
Title:	Title:
Date:	Date:

**ATTACHMENT 1.1
BASIC SERVICES**

**ATTACHMENT 1.2
SITE DESCRIPTION**