

IN THE MATTER OF APPROVING A LEASE BETWEEN AUGLAIZE COUNTY BOARD OF COMMISSIONERS AND KGS INVESTMENTS LLC FOR USE OF HANGAR G AT NEIL ARMSTRONG AIRPORT; RATIFYING THE EXECUTION OF SAID LEASE.

The Board of County Commissioners of Auglaize County, Ohio, met in regular session on the 27th of January, 2022.

Commissioner Bergman moved the adoption of the following:

RESOLUTION

WHEREAS, negotiations have been on-going concerning a lease for Hangar G at the Neil Armstrong Airport which is owned by Auglaize County/Auglaize County Board of County Commissioners; and,

WHEREAS, said negotiations have been between the Board of Auglaize County Commissioners and KGS Investments, LLC; and,

WHEREAS, a lease for Hangar G has been drafted and deemed satisfactory by both parties.

THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Auglaize County, Ohio, does hereby approve and authorize the aforementioned lease for Hangar G at the Neil Armstrong Airport; said lease being between Auglaize County Board of Commissioners and KGS Investments LLC; and,

BE IT FURTHER RESOLVED that the Board of Auglaize County Commissioners does hereby ratify the execution of said lease; and,

BE IT FURTHER RESOLVED that a copy of said lease be hereto attached and thus be made a part of this Resolution.

Commissioner Spencer seconded the Resolution, and upon the roll being called, the Vote resulted in the adoption of the Resolution as follows:

Adopted this
27th day of
January, 2022

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

David Tambson, yes
David Bambauer

John N. Bergman, yes
John N. Bergman

Douglas A. Spencer, yes
Douglas A. Spencer

cc: ~~KGS Investments LLC~~
~~Airport Authority~~
~~Airport Manager~~
~~Auglaize County Prosecutor~~

**AUGLAIZE COUNTY NEIL ARMSTRONG AIRPORT
CORPORATE HANGAR LEASE**

This is a lease between the Auglaize County Board of County Commissioners, Auglaize County Ohio (Lessor) and KGS Investments LLC (Lessee), entered into on ~~December~~ ^{January} ~~2021~~ ²⁰²².

RECITALS

- A. Lessor is the owner of the Auglaize County Neil Armstrong Airport (“Airport”), located in the northeast quarter of Section 29, Town 6 South, Range 5 East, Washington Township, Auglaize County, Ohio;
- B. The parties declare that the promotion of the use of the airport and the expansion and upgrade of its facilities are desirable goals;
- C. Lessee is willing to enter into a lease for the Leased Premises (as defined below) located at the airport for use by Lessee’s corporate aircraft as a step toward achieving the forgoing goals.

NOW, THEREFORE, in consideration of the covenants contained herein, Lessor leases Lessee upon the terms and conditions contained herein, the following premises:

- A. The exclusive right to the use of the aircraft storage area of Hangar G, which shall also include the common lounge space (“Lounge”) accessible from the Aircraft Storage Area, at the Auglaize County Neil Armstrong Airport. The two floors of Office Area on the eastern side of Hangar G shall be excluded from this agreement and is to be retained for use by the Auglaize County Airport Authority. Should the Auglaize County Airport Authority wish not to retain the office area for its use, KGS Investments LLC has the first right of refusal to lease the office area.
- B. The right to the use of the ramp adjoining the Hangar G;
- C. The non-exclusive right to use the airport ramps, runways, and taxiways with unobstructed access thereto, for aircraft and vehicular use and for ingress and egress to and from Hangar G, including the right to remove any obstructions to such access subject to the approval of the Lessor;
- D. The non-exclusive right of ingress and egress through the airport’s access points between the Hangar G and State Route 219.

The aircraft storage area and the forgoing rights are referred to herein as the “Leased Premises.”

- 1. Term of Lease. This lease shall commence on January 1, 2022 and shall continue for five (5) years, expiring December 31, 2026.
- 2. Rental. Lessee agrees to pay, and Lessor agrees to accept, as rental for the Leased Premises, the following annual amounts, which amounts will be paid in equal monthly installments payable on the first day of each month during the term:

Hangar G: \$1,272.00 per month

3. Use of the Premises. During the term of the lease, Lessee shall be entitled to use Hangar G for the following purposes: storage, repair, maintenance, operations and washing service to owned, rented and/or leased aircraft and related equipment. In its use of the Leased Premises, Lessee shall comply with all applicable laws and regulations of Auglaize County, the Federal Aviation Administration, and the State of Ohio and with all general regulations not in conflict therewith heretofore or hereafter adopted by Lessor, its successors or assigns, for the airport in the interest of safety and good operating practices.
4. Maintenance and Repair of Hangar G. Except as otherwise provided, during the term of the lease, Lessee shall maintain the Leased Premises in good and serviceable condition and repair at its sole cost and expense, ordinary wear and tear excepted. The Auglaize County Airport Authority will provide maintenance for the structure items of Hangar G i.e. Building walls, Roof, operational state of doors and utility services. If Hangar G should be destroyed by fire or other cause or be so damaged that it cannot be repaired within ninety (90) days, Lessee may by written notice to Lessor within 180 days after such casualty terminate this lease with respect to that Hangar. Lessee shall permit Lessor and its authorized employees or agents to enter the Leased Premises and to inspect the Leased Premises at reasonable times and upon reasonable notice.
5. Upgrades to Leased Premises. The Lessor must approve any changes or improvements to the Lease Premises. Those changes or improvements will be done at the sole expense of the Lessee. The changes must meet any applicable laws and regulations, including any environmental, building, or fire codes, of Auglaize County, the State of Ohio. All improvements will remain part of the leased premises.
6. Utilities. The Lessee agrees to pay utility cost for electric and natural gas for the Aircraft Storage Area of Hangar G. The Lessor agrees to pay utility cost for electric and natural gas for the Office Area of Hangar G.
7. Airport Operation. Lessor shall, at its sole expense, install, erect, and maintain all existing and future landing field facilities including ramps, taxiways, and access points to the Leased Premises and all runways in a good and serviceable condition. Lessor shall keep the ramps, taxiways, and runway clean and swept and shall promptly remove any snow from such ramps, taxiways, runways, and access points into the Airport.
8. Insurance.
 - a. Liability. Lessee shall, at its expense maintain aircraft liability insurance in the following minimum amounts on each aircraft owned or operated by the Lessee at the Airport.
 1. Aircraft bodily injury liability insurance of \$100,000 for all arising out of bodily injury to or death of one person and \$300,000 for all damages arising out of bodily injury or death of two or more persons in any one accident.
 2. Aircraft passenger liability insurance of \$100,000 for each passenger seat.

3. Aircraft property damage liability insurance of \$100,000
 - b. Fire and Casualty. - Lessee's Aircraft and Property. Lessee shall, at its expense procure and maintain insurance against loss by fire or other casualty to Lessee's aircraft owned and operated at the airport and to Lessee's other personal property located upon the Leased Premises in amounts and with companies satisfactory to Lessee.
 - c. Fire and Casualty -Leased Premises. Lessor shall, at its expense procure and maintain insurance against loss by fire or other casualty to the Leased Premises in amounts and with companies satisfactory to Lessor.
 - d. Environmental. Lessor shall, at its expense, procure and maintain a policy or policies of insurance against loss from environmental remediation, removal, response, abatement, containment, closure, restoration, or remodeling work. This insurance shall be in an amount no less than \$1,000,000 per incident.
 - e. Certificate of Insurance. A certificate of insurance with respect to each insurance policy provided in this Section to be maintained by a party hereto shall be furnished to the other party and shall provide that such policy shall be non-cancelable except upon twenty (20) days' prior written notice to the other party.
 - f. Waiver of Subrogation. Neither Lessor nor Lessee shall be liable for loss or damage caused by any risk covered by any insurance policy(*including any deductible or self-insured retention associated with such policy*) maintained by the other party or other Lessees of the Lessor on the airport property with respect to the Leased Premises, the airport, any aircraft or other personal property located thereon, and each party shall, to the extent possible, waive all rights of subrogation against the other with respect to such policy.
9. Assignment and Subletting. Lessee shall not assign this Lease or sublet any portion of the Leased Premises without the prior written consent of Lessor. It is the Lessor's understanding that Lessee intends to sublet a portion of the Leased Premises to DERA Aviation (Mr. Tim Quellhorst). This serves as Lessor's written consent to such arrangement but the parties hereto agree that such arraignment does not relieve Lessee from any obligations hereunder. Further, Lessee shall cause DERA Aviation to maintain similar insurance policies as required by Lessee hereunder.
 10. Default. If Lessee shall default in the performance of any of its obligations hereunder and such default shall continue for 30 days after written notice from Lessor by certified mail, Lessor may, at its election, terminate this lease upon written notice to Lessee. If, by reason of acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemies, orders of any kind from any government body or agency, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, tornados, storms, floods, washouts, droughts, arrest, restraint of government and people, civil disturbances, explosions, breakage, or accident to machinery, transmission lines, partial or entire failure of any

utility or any cause or event not reasonably within the control of Lessee, Lessee is unable in whole or in part to carry out its obligations under this Lease, Lessee shall not be deemed to be in default during the continuance of such inability.

11. Quiet Enjoyment. Lessor covenants and agrees with Lessee that, upon Lessee's paying the rental amount and performing all the terms, covenants and conditions of this Lease on Lessee's part to be performed, Lessee shall, except reasons beyond the control of Lessor, peaceably and quietly have and hold the Leased Premises for the term aforesaid.

12. Environmental.

- a. Lessor's Warranty. Lessor shall comply with all federal, state, and local environmental laws and regulations and any permits or orders issued by a governmental authority.
- b. Lessee's Indemnity. Lessee shall indemnify, defend, and hold harmless Lessor from and against any and all claims, suits, actions, legal or administrative proceedings, demands, judgments, damages, losses, penalties, fines or liabilities (including strict liability), encumbrances, liens, expenses, and costs (including but not limited to reasonable attorney and consultant fees, and reasonable expenses of investigation and defense) (collectively, "Claims") to the extent such Claims arise out of (i) Lessee's negligent use of the Leased, and (ii) Lessee's violation of any federal, state or local environmental law or regulations, or any permits or orders issued thereunder, (iii) injury (including death) of any person, damage to any property on the Leased Premises caused by Lessee's negligence, and (iv) any Remediation of spills or releases from the fuel farm or tanks therein caused by the negligent acts or omissions of Lessee. The obligation of Lessee under this Section 12 shall survive the term of this Lease and any renewal or extension thereof.
- c. Remediation. "Remediation" for purposes of this lease shall mean all cost (including cost by way of reimbursement to any regulatory agency) incurred in connection with or arising out the investigation and remediation of any of the matters covered by the foregoing indemnities, including by way of illustration, investigation cost, penalties, fines, and interest imposed by any regulatory authority, investigation fees and consulting fees, testing, monitoring cost of removal of contaminated materials, transportation of contaminated materials removed, cost of restoring the Leased Property to substantially the condition existing as of the hereof, necessary remodeling and costs of on-site treatment of contaminated soil and groundwater.


13. Termination. Lessee and Lessor shall have the right to terminate this lease for Hangar G at any time provided that the Lessee/Lessor gives the Lessee/Lessor at least sixty (60) days' advance written notice. Except as specifically provided for herein, partial termination of this lease will not result in changes to other terms and conditions of this lease.

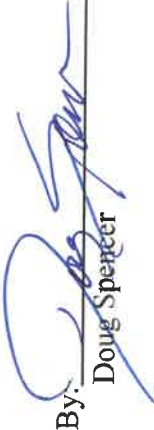
14. Miscellaneous.

- a. Counterparts. This lease shall be executed in duplicate counterparts, and each counterpart shall constitute an original.
- b. Binding Effect. The terms of this lease shall be binding upon and shall inure to the benefit of the Lessor and Lessee, and their respective successors and assigns.
- c. Capacity. The parties covenant each with the other that they have the right to enter into this Lease.
- d. Dispute Resolution. Any controversy or claim arising out of or relating to this Lease, or the breach of this Lease, shall be settled by arbitration in Montgomery County, Ohio by three arbitrators. The arbitration shall be administered by the American Arbitration Association ("AAA") in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction over the controversy or claim. Within 15 days after the commencement of arbitration, each party shall select one person to act as arbitrator, and the two so selected shall select a third arbitrator within 30 days after the commencement of the arbitration. If the arbitrators selected by the parties are unable or fail to agree upon the third arbitrator within the allotted time, the third arbitrator shall be appointed by the AAA in accordance with its rules. All arbitrators shall serve as neutral, independent and impartial arbitrators. Qualified arbitrators include lawyers with at least ten years of active litigation and/or contract experience.
- e. Governing Law. This Lease and the rights of the parties pursuant to this Lease shall be governed by and construed in accordance with the laws of the State of Ohio, exclusive of conflict or choice of law rules.

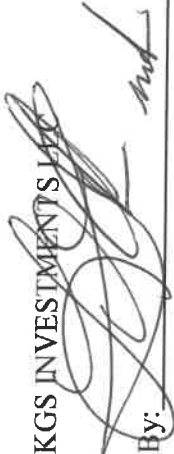
IN WITNESS WHEREOF, the parties have hereunto executed this Lease in duplicate on the date and year first above written.

AUGLAIZE COUNTY BOARD OF COUNTY COMMISSIONERS

By: 
Dave Bambauer

By: 
Doug Spencer

By: 
John Bergman

KGS INVESTMENTS LLC
By: 

IN THE MATTER OF AUTHORIZING THE PRESIDENT OF THE AUGLAIZE COUNTY BOARD OF COMMISSIONERS TO SIGN THE CERTIFICATION OF DETERMINATION OF SUBSEQUENT EXEMPTION FOR A CATEGORICAL EXCLUSION PROJECT FOR RELEASE OF FUNDS IN CONJUNCTION WITH THE OHIO DEPARTMENT OF DEVELOPMENT PY2021 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ALLOCATION PROGRAM.

The Board of County Commissioners of Auglaize County met in regular session on the 27th day of January, 2022.

Commissioner Bergman made the motion to adopt the following:

RESOLUTION

WHEREAS, the Board of Commissioners has received a PY2021 Community Development Block Grant (CDBG) Allocation Program to assist the community of Village of Waynesfield NRG improvement. The funds (\$15,000 CDBG Allocation) will be used in conjunction with NRG funds for Water Facility Improvements. Access Engineering has submitted to the Auglaize County Board of Commissioners an Environmental Review Record (ERR) for the project listed above. The following activities are included in this project: (4-1) Flood & Drainage \$156,300; (4-2) Public Utilities \$5,000; (4-3) Sewer Facility Improvements \$46,000; (4-4) Sidewalk Improvements \$61,800; (4-5) Street Improvements \$295,900; and (4-6) Water Facility Improvements (\$135,000 NRG + \$15,000 Allocation) \$150,000; and,

WHEREAS, the Environmental Review Record (ERR) has been prepared for the project including the above mentioned activities and are on file and available for the public's examination; and,

WHEREAS, based on the aggregated scope of each of the above listed activities, Auglaize County Board of Commissioners classified each as Categorically Excluded, Subject to Sec. 58.5, per 24 CFR 58.35 (a) (1-6). Auglaize County Board of Commissioners has determined that the project are in compliance with the applicable requirements of 24 CFR 58.6, and there are no circumstances which require compliance with any other Federal laws and authorities cited in 24 CFR 58.5.

THEREFORE, BE IT RESOLVED that the Board of Commissioners, Auglaize County, Ohio that the above listed activities do not require an environmental impact statement or environmental assessments. No extraordinary circumstances exist for the activities. Therefore, pursuant to 24 CFR 58.34 (a) (12), the above listed activities meet the criteria for re-classification as exempt activities; and,

BE IT FURTHER RESOLVED that the Board of Commissioners, Auglaize County, Ohio does hereby authorize the Board President to sign the Certification of Determination of Subsequent Exemption for a Categorical Exclusion Project by the State of Ohio related to the Environmental Review of the PY2021 Community Development Block Grant (CDBG) Allocation Program and the Request for Release of Funds.

Commissioner Spencer seconded the motion and upon the roll called, the vote resulted in the adoption of the Resolution as follows:

Adopted this
27th day of
January, 2022

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

David Bambauer, yes
David Bambauer

John N. Bergman, yes
John N. Bergman

Douglas A. Spencer, yes
Douglas A. Spencer

cc: Access Engineering

IN THE MATTER OF AUTHORIZING THE PRESIDENT OF THE BOARD TO EXECUTE THE AGREEMENT WITH POGGEMEYER DESIGN GROUP, INC. FOR THE VILLAGE OF BUCKLAND NEIGHBORHOOD REVITALIZATION GRANT (NRG) PROGRAM ADMINISTRATIVE / ENVIRONMENTAL REVIEW SERVICES AGREEMENT.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 27th day of January, 2022.

Commissioner Bergman moved the adoption of the following:

RESOLUTION

WHEREAS, both parties acknowledge that an agreement is needed for the preparation of an environmental review record not to exceed \$7,500 for the Buckland Neighborhood Revitalization Grant (NRG) Project and for Technical assistance with administration of said grant not to exceed \$12,500; and,

WHEREAS, Poggemeyer Design Group Inc. has prepared an agreement for \$20,000 for the Buckland Neighborhood Revitalization Grant (NRG) for the Board's review and execution; and,

WHEREAS, the Board of County Commissioners has reviewed said agreement and has found it to be satisfactory.

THEREFORE BE IT RESOLVED that the Board of County Commissioners, Auglaize County, Ohio does hereby approve the agreement for administrative / environmental review services from Poggemeyer Design Group, Inc. for the assistance in the Buckland Neighborhood Revitalization Grant (NRG) for at the terms so specified in said agreement; and,

BE IT FURTHER RESOLVED that said Board authorizes the President of the Board, David Bambauer, to execute said agreement.

Commissioner Spencer seconded the Resolution and upon the roll being called, the vote resulted in the adoption of the Resolution as follows:

Adopted this
27th day of
January, 2022

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

David Bambauer, yes
David Bambauer

John N. Bergman, yes
John N. Bergman

Douglas A. Spencer, yes
Douglas A. Spencer

cc: Poggemeyer Design Group, Inc.

CLIENT PROFESSIONAL SERVICES AGREEMENT
AUGLAIZE COUNTY PY2021 CDBG COMMUNITY DEVELOPMENT PROGRAM
VILLAGE OF BUCKLAND NEIGHBORHOOD REVITALIZATION GRANT (NRG) PROGRAM
ADMINISTRATIVE / ENVIRONMENTAL REVIEW SERVICES CONTRACT
PDG PROPOSAL NO. MW221755.001P (351000-00097) (REVISED)

This Agreement is made on: January 27, 2022

Between Auglaize County Board of Commissioners with offices at 209 South Blackhoof Street, Room 201, Wapakoneta, Ohio 45895 (Client and Owner)

And Poggemeyer Design Group, Inc. (a Kleinfelder Company) with offices at 1168 North Main Street, Bowling Green, Ohio 43402 (PDG)

Recitals

- A. Client wishes to appoint PDG to provide certain services (the **Services**, as defined below) required by Client or Client's agreement with the Owner on the terms and conditions contained in this Agreement.
- B. PDG has agreed to perform the Services on the terms and conditions contained in this Agreement.

Now it is agreed as follows:

1. CONTENTS OF AGREEMENT

- 1.1 The parties agree that the documents listed in 1.1(a) through (c) constitute the "**Contract Documents**" of this Agreement. To establish obligations and resolve ambiguities among the Contract Documents, the following order of precedence will prevail:
 - (a) first, amendments and Change Orders issued in accordance with this Agreement;
 - (b) second, PDG's Proposal, dated November 29, 2021, which Client acknowledges receipt and confirms understanding of, and agreement with the contents thereof, in full (Appendix A); and
 - (c) third, this Agreement.
- 1.2 To the extent of any inconsistency between this Agreement and any Prime Agreement, the provisions of this Agreement will always prevail.
- 1.3 Any pre-printed terms and conditions on forms used by either party in the administration of this Agreement are void and do not supplement or replace the terms and conditions of the Contract Documents of this Agreement.

2. APPOINTMENT AND SCOPE OF SERVICES

- 2.1 PDG shall perform the services set forth in its Proposal attached hereto as Appendix A, and such additional services as PDG and Client jointly agree in writing (collectively, **Services**). The Proposal also shall specify Client's project for which the Services will be performed (**Project**), the location of Client's Project for providing the Services (**Site**), the time period for performance, the agreed fees

and additional provisions, if any, applicable to such Services. The Services, including any additions and modifications, shall be performed in accordance with this Agreement.

3. STANDARD OF CARE

- 3.1 PDG will perform its Services in a manner consistent with that level of care and skill ordinarily exercised by other members of PDG's profession practicing in the same locality, under similar conditions and at the date the Services are provided.
- 3.2 PDG makes no representation, guarantee or warranty, express or implied, regarding the Services, or any communication (oral or written), certification, report, opinion, or Instrument of Service provided pursuant to this Agreement.
- 3.3 PDG will not be responsible for constant or exhaustive inspection of the work, for the means, methods, techniques sequences or procedures of construction, or for the safety procedures employed by any party other than its own employees, subconsultants and subcontractors.
- 3.4 No level of assessment can conclusively determine whether a property or its structures are completely free of geotechnical hazards or hazardous substances (including but not limited to mold). Client represents that it has carefully reviewed the limitations described in the Proposal.
- 3.5 Even with diligent observation, some defects, deficiencies, or omissions may occur. Before exercising any other remedy for any alleged breach by PDG of this Agreement, Client will direct PDG in writing to re-perform any defective Services within twelve (12) months after completion of the Services.
- 3.6 PDG will only sign certifications relating to the Services if PDG agreed in writing prior to the commencement of the Services to provide such certifications. Such certifications are statements of professional opinion only.

4. PDG'S RESPONSIBILITIES

- 4.1 PDG will perform the Services as an independent contractor and not as an agent or employee of Client. Nothing in this Agreement creates any special relationship or fiduciary duty.
- 4.2 PDG will, as reasonably directed by Client or its authorized agent:
 - (a) provide qualified staff to perform the Services;
 - (b) maintain records of Project activities and costs for no more than three years from its completion of the Services;
 - (c) coordinate to the extent reasonably possible with Client's employees, contractors, consultants so as not to impede the progress of the Project; and
 - (d) require its personnel to maintain a safe, clean and orderly work environment.

5. TERM AND TERMINATION

- 5.1 This Agreement will commence on the date of its execution, except as to any Services authorized by Client and performed by PDG beforehand. All Services shall be fully completed no later than October 31, 2023, unless earlier terminated by either party or extended by the parties' mutual written agreement.

- 5.2 Either party may terminate this Agreement at any time by providing ten (10) days' written notice to the other.
- 5.3 Within fifteen (15) days from termination Client will pay PDG on demand for all Services rendered and costs incurred through to the date of any termination and for all reasonable costs and expenses incurred by PDG in effecting the termination, including, without limitation, non-cancellable commitments, fixed cost components and other demobilization costs.

6. COMPENSATION

- 6.1 PDG will perform the Services in exchange for the following compensation:
- Client will pay on a **time and material** basis. PDG will invoice according to its fee schedule attached to the Proposal or attached hereto at Appendix A.
 - Client will pay a **lump sum** of \$_____. PDG will invoice monthly on a percentage completed basis.
 - Client will pay on a **time and material basis not to exceed** the sum of \$20,000 (Twenty Thousand and 00/100 Dollars). PDG will invoice according to its fee schedule attached to the Proposal or attached hereto at Appendix A up to the stated limit. Upon reaching the stated limit, PDG will stop performing unless Client authorizes further work and funding in writing.
- 6.2 Client agrees to provide any special invoicing requirements to PDG in advance of signing this Agreement, to which additional charges may apply.
- 6.3 The proposed fees set forth in this Agreement shall be open for acceptance for ninety (90) days from the above date. If the Agreement is signed after that date, the proposed fees may be adjusted prior to commencement of Services. The hourly rates charged for PDG's Services are adjusted once annually to reflect changes in the various elements that comprise such hourly rates. All adjustments will be in accordance with generally accepted accounting practices as applied on a consistent basis by PDG and consistent with PDG's overall compensation practices and procedures. PDG reserves the right to periodically adjust its fee schedule.
- 6.4 PDG will generally submit its invoices to Client on a monthly basis. Client must pay all invoices within thirty (30) days from the date of invoice, with interest at the rate of one and one-half percent (1 1/2 %) per month payable on all outstanding payments. Interest on all outstanding payments will be charged from the initial date of invoice.
- 6.5 PDG may suspend performance of Services under this Agreement until it has been paid in full for all outstanding payments, including interest charges.
- 6.6 PDG will be entitled to recover from Client on demand all expenses incurred (including all legal costs and expenses) in recovering any outstanding payments from Client.
- 6.7 All travel will be invoiced at cost and reimbursed by Client. All travel required under this Agreement is subject to the terms, conditions and applicable rates set forth in the U.S. Federal Travel Regulations.

7. INSURANCE

- 7.1 PDG will maintain during the term of this Agreement worker's compensation, commercial general liability, automobile liability and professional indemnity insurance coverage. All limits will be 1M minimum limits.
- 7.2 Client will maintain during the term of this Agreement adequate insurance coverage and will require and verify any contractors or parties it hires to have adequate insurance coverage. Client agrees that failure to comply with this clause will invalidate any indemnity provided by PDG under clause 12.1.

8. CHANGES TO SCOPE OF SERVICES

- 8.1 Client or PDG may request to modify the scope of Services, whereon both parties agree to negotiate in good faith and execute a written Change Order. A **Change Order** is an amendment to this Agreement that modifies the Services and specifies the following:
- (a) a change in the terms and conditions of Services;
 - (b) an adjustment in the schedule for performance; and
 - (c) the amount of adjustment in PDG's compensation.
- 8.2 PDG will treat as a Change Order any written or oral Client order (including directions, instructions, interpretations, or determinations) which request changes in the Services. PDG will give Client written notice within a reasonable time of any resulting adjustment in the schedule and compensation. Unless Client objects in writing within 5 business days, the proposed terms of the Change Order with the adjustment in the schedule and price shall become a part of this Agreement.
- 8.3 If Client and PDG cannot agree upon an equitable adjustment in the schedule and compensation, and PDG does not sign the Change Order, the disagreement shall be treated as a Dispute under clause 18.

9. FORCE MAJEURE

- 9.1 PDG will not be liable for delay or failure to perform its Services caused directly or indirectly by circumstances beyond its control, including but not limited to, acts of God, fire, flood, war, sabotage, accident, labor dispute, shortage, government action or inaction, changed conditions, delays resulting from actions or inactions of Client or third parties, Site inaccessibility or inability of others to obtain material, labor, equipment, or transportation.
- 9.2 Should any of the preceding circumstances occur, then the date for completion or any other milestone date shall be adjusted for the delay in accordance with clause 8, provided PDG reports the delay to Client within a reasonable time of discovery.

10. INSTRUMENTS OF SERVICE

- 10.1 All data, reports, drawings, plans, or other documents (or copies) provided to PDG by Client for the purposes of this Agreement will, at Client's written request, be returned upon completion of the Services and payment in full for all Services rendered. Client agrees that PDG may retain one copy of all such documents.

10.2 Client agrees:

- (a) all reports, drawings, plans, documents, software, source code, object code, boring logs, field data, field notes, calculations, estimates, laboratory test data and other similar data, documents and work products (or copies thereof) in any form prepared by PDG pursuant to this Agreement are instruments of service (**Instruments of Service**), not products;
 - (b) PDG will retain exclusive ownership, copyright and title to all Instruments of Service, and Client has no rights to incomplete or partial data;
 - (c) all opinions, certifications, communications (oral or written) or Instruments of Service furnished to Client are intended for the benefit of Client for the specific purposes stated herein and therein, are not intended to inform, guide, or otherwise influence any entities or persons other than Client in relation to the Project, and are not intended or represented to be suited for reuse by Client or others, and;
 - (d) reuse without the specific prior written consent of PDG will be at the user's sole risk and without PDG liability, and Client agrees (i) to remove PDG's and PDG's consultants' names and seals therefrom, and (ii) to defend, indemnify and hold harmless PDG and PDG's contractors, consultants, affiliates, directors and employees from and against all losses, damages and liabilities (including all legal expenses) in connection with the unauthorized use.
- 10.3 Any requests by third parties for reliance upon any communication (oral or written), certification, report, opinion, or Instrument of Service provided by PDG pursuant to this Agreement will be subject to approval at PDG's sole discretion and to additional fees, terms and conditions.

11. CLIENT'S RESPONSIBILITIES

- 11.1 Client agrees to provide and discuss with PDG on an ongoing basis all available material, data, and information pertaining to the Services, including, without limitation, (i) the composition, quantity, toxicity, or potentially hazardous properties of any material known or believed to be present at any Site, (ii) any hazards that may be present, (iii) the nature and location of underground or otherwise not readily apparent utilities, (iv) summaries and assessments of the Site's past and present compliance status, (v) the status of any judicial or administrative action concerning the Site or Project, and (vi) Client records (in electronic format where possible) for such data as benchmarks, plans, maps, and property ownership; and
- 11.2 Client will ensure the cooperation of Client's employees, contractors and consultants with PDG.
- 11.3 Client acknowledges and agrees that PDG is entitled to rely upon the accuracy and completeness of any information given by Client, its employees, contractors and consultants.
- 11.4 Client will provide reasonable assistance to obtain data and records concerning the Site or Project in the possession, custody or control of third parties.

12. ALLOCATION OF RISK AND INDEMNITIES

- 12.1 Subject to the limitation of liability provisions of this Agreement, PDG indemnifies Client against all liabilities, losses or damages caused by the negligence or other fault of PDG and its employees, agents, representatives, subcontractors, and any other party for whom PDG is legally responsible (**PDG Parties**), but only to the extent such liabilities, losses or damages are caused by the negligence or other fault of the PDG Parties when compared to the negligence or other fault of all other persons and entities. If California law applies to this Agreement, the parties also expressly agree that this

indemnity provision does not include, and in no event shall PDG be required to assume, any obligation or duty to defend any claims, cause of action, demands, or lawsuits in connection with or arising out of this Project or the Services rendered by PDG. This clause 12.1 is not intended to and will not in any way be limited by any insurance coverage available to Client under any PDG insurance policy.

13.2 Subject to any applicable statutory limitations, the indemnity obligations in this clause 12 shall survive the expiration or termination of this Agreement.

13. LIMITATION OF LIABILITY

13.1 The maximum aggregate liability of PDG arising out of or related to this Agreement, as amended, whether based in contract or tort or otherwise in law or equity, will be limited to the greater of the compensation actually paid to PDG for the Services or \$50,000, and Client hereby releases PDG from any liability above such amount. This limitation of liability includes any losses payable to Client under clause 12.1 and will apply to any and all claims.

13.2 This limitation of liability has been agreed after Client and PDG discussed the risks and rewards associated with the Project and the Services as well as the provision of the Services within both the obligations of this Agreement and the associated compensation. Upon written request by Client, the parties may negotiate in good faith and agree, by way of a written Change Order in accordance with clause 8 herein, to increase the amount of this liability limitation or eliminate it in exchange for payment of increased compensation to PDG.

13.3 As used in this clause 13, "PDG" includes PDG, its affiliates, subconsultants and subcontractors, and their respective partners, officers, directors, shareholders and employees. The limitation of liability established in this clause 13 shall survive the expiration or termination of this Agreement.

14. WAIVER OF CONSEQUENTIAL DAMAGES

14.1 Neither party will be liable to the other party for any special, incidental, indirect, exemplary, punitive, penal or consequential damages however arising incurred by either PDG or Client or for which either may be liable to a third party.

15. NO CONTROL OF MEANS AND METHODS OF OTHERS

15.1 Client agrees:

- (a) PDG will have no control over or charge of or responsibility for the construction means, methods, techniques, sequences, or procedures, or for the safety precautions and programs of Client's employees, or contractors or consultants engaged by Client in connection with the Project;
- (b) PDG's performance of the Services does not include any job site safety obligations which may be required by or in connection with the Project or the Services or any applicable code or regulation, other than strictly in respect of its own employees; and
- (c) PDG will not have control over or charge of the acts or omissions of any contractor or contractors' agents, employees or subcontractors.

16. SITE ACCESS

- 16.1 Client agrees to:
- (a) provide unimpeded and timely access to the Site, including any third party sites, if required;
 - (b) provide an adequate area for PDG's Site office facilities, equipment storage, and parking;
 - (c) furnish all construction utilities and utility releases necessary for the performance of the Services; and
 - (d) obtain all permits, licenses or authorizations necessary for the performance of the Services.

17. WARRANTY OF TITLE, WASTE OWNERSHIP

- 17.1 PDG will not take title to or be liable for any hazardous materials found at any Project Site. Any risk of loss with respect to all materials remains with Client or the Site owner, who will be considered the generator of such materials, execute all manifests as the generator of such materials, and be liable for the arrangement, transportation, treatment, and/or disposal of all material. All samples remain the property of Client. Client agrees to promptly, at its cost, remove and lawfully dispose of samples, cuttings, and hazardous materials.

18. DISPUTE RESOLUTION

- 18.1 If a dispute arises out of or relates this Agreement (**Dispute**), the parties agree to submit the Dispute to mediation pursuant to the Construction Industry Mediation Rules of the American Arbitration Association (**AAA**). The mediator will be an independent person agreed between the parties from a panel suggested by the Institute or, failing agreement, a mediator appointed by AAA. A party shall not call for mediation of any Dispute after such period of time as would bar the initiation of legal proceedings to litigate such Dispute under the laws of the state in which the Project is located.
- 18.2 Client and PDG agree that in the event of a Dispute, they will not seek recourse against individual officers, employees, directors, or shareholders of the other party.
- 18.3 A party shall not start court proceedings in relation to a Dispute until it has exhausted the procedures in this clause, unless the party seeks injunctive or other interlocutory relief.
- 18.4 If the Dispute cannot be resolved through mediation, either party may file suit in an appropriate court in the state where the Services are performed.
- 18.5 This clause survives termination or expiry of this Agreement.

19. MISCELLANEOUS

- 19.1 This Agreement is governed and construed in accordance with the laws of the state where the Services are performed. The parties hereby submit to the jurisdiction of the courts of the state where the Services are performed and waive any right to object to any proceedings being brought in those courts.
- 19.2 Waiver of any term, condition or breach of this Agreement will not operate as a subsequent waiver of the same term, condition or breach. A waiver is not valid or binding unless made in writing.

- 19.3 If any provision of this Agreement is found by a duly constituted authority to be invalid, void, or unenforceable, all remaining provisions shall continue in force.
- 19.4 This Agreement does not create, nor will it be construed to create, any benefit or right in any third party or any special relationship or fiduciary duty to third parties.
- 19.5 Client and PDG shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.
- 19.6 This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter. It supersedes all earlier conduct, prior agreements and understandings between the parties in connection with its subject matter.
- 19.7 Each party must do anything necessary to give full effect to this Agreement.
- 19.8 All notices, requests or instructions hereunder must be in writing and either hand delivered to the recipient, delivered by registered mail or express mail to the addresses given in this Agreement.
- 19.9 This Agreement cannot be assigned by either party without the prior written approval of the other party. PDG may subcontract performance of portions of the Services to a qualified subcontractor.
- 19.10 Any amendment or revision to this Agreement must be in writing and signed by both parties. Any oral modification or revision of this Agreement shall not operate to modify this Agreement.
- 19.11 This Agreement may be executed in counterparts, including photo or electronic copies, which taken together shall constitute one original document.

IN WITNESS WHEREOF, Client and PDG have caused this Agreement to be executed on the date first written above.

CLIENT: AUGLAIZE COUNTY BOARD OF COMMISSIONERS

By: David Bambauer
 Printed Name: David Bambauer
 Title: President
 By: _____
 Printed Name: David Bambauer
 Title: _____

ENGINEER: POGGEMEYER DESIGN GROUP, INC.
 (A Kleinfelder Company)

By: Lauren O. Falcone
 Printed Name: Lauren O. Falcone
 Title: Department Manager
 By: [Signature]
 Printed Name: Michael Atherine, P.E.
 Title: Area Manager

**ATTACHMENTS: Exhibit A, PDG Proposal of Services
 Exhibit B, Fee Schedule**

**Exhibit C, PDG Hourly Rate Schedule
Exhibit D, Certificate of Owner's Attorney and Availability of Funds**

Client Professional Services Agreement (USA)

EXHIBITS

Client Professional Services Agreement (USA)

**EXHIBIT A
PROPOSAL OF SERVICES**

Basic services provided under this contract per scope delineated in RFQ/RFP will consist of:

- Environmental Review Record. Allocation Grant Projects - not to exceed **\$7,500**.
- Technical Assistance/Administration - not to exceed **\$12,500**.

**EXHIBIT B
FEE SCHEDULE**

I. Fee: A time and material basis not to exceed in the amount of \$20,000.00 based on the following estimated distribution of compensation:

1	Environmental Review Record. Buckland Neighborhood Revitalization Grant (NRG) Projects - not to exceed	\$7,500
2	Technical Assistance/Administration - not to exceed	\$12,500
	TOTAL	\$20,000

- These hourly rates shall be adjusted annually each year through the course of the contract.

EXHIBIT C
2020-2021 HOURLY RATES – PROFESSIONAL SERVICES

Area Director	\$167.50
Area Manager.....	\$157.50
Dept. Director	\$149.50
Dept. Manager.....	\$145.50
Project Manager Leader	\$145.50
Sr. Project Manager.....	\$139.50
Project Manager.....	\$137.50
Project Engineer/Architect	\$127.50
Design Engineer/Architect	\$117.50
Architect/Engineer	\$97.50
Sr. Designer	\$127.50
Design Technician.....	\$117.50
Sr. CAD Technician.....	\$97.50
CAD Technician.....	\$75.00
Project Developer.....	\$117.50
Project Administrator	\$127.50
Project Coordinator.....	\$137.50
Environmental Planning Administrator.....	\$107.50
Project Integrator	\$125.00
Project Administration Assistant	\$102.50
Housing Administrator	\$115.00
Housing Specialist.....	\$107.50
Housing Specialist Assistant.....	\$79.50
Housing Inspector.....	\$79.50
Community Development Specialist	\$77.00
IT Manager	\$117.50
Administrative Support.....	\$59.50
Administrative Assistant.....	\$67.50
Graphic Design.....	\$107.50
GIS Technician.....	\$105.00
Professional Surveyor.....	\$145.50
Crew Leader.....	\$127.50
Survey-Robotics	\$144.50
Instrument Person	\$117.50
Survey Assistant.....	\$55.00
Resident Observer.....	\$87.50
Sr. Project Observer.....	\$79.50
Project Observer.....	\$69.50
General Assistant.....	\$49.50
Sr. Intern.....	\$54.50
College Intern	\$47.50

Mileage @ \$0.56 per mile

NOTE:

- Reimbursable expenses including Irons, stakes, lath, phone, printing, photos and miscellaneous. Subcontracts are at actual cost. No minimum charges applicable.
- These hourly rates shall be adjusted annually each year through the course of the contract.
- Includes CADD equipment.

IN THE MATTER OF APPOINTING JULIE MIARS GOLDEN TO FILL THE UNEXPIRED TERM TO THE AUGLAIZE COUNTY LAW LIBRARY RESOURCES BOARD.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 27th day of January, 2022.

Commissioner Bergman moved the adoption of the following:

RESOLUTION

WHEREAS due to the vacancy in the unexpired term January 1, 2019 – December 31, 2023 of Jay Koenig, who was serving on the Auglaize County Law Library Resources Board; and,

WHEREAS, the Board of County Commissioners contacted Ms. Golden, asking her if she would serve the unexpired five year term; Ms. Golden consented to be appointed to the Law Library Resources Board.

THEREFORE BE IT RESOLVED, that the Board of County Commissioners, Auglaize County, Ohio does hereby appoint Julie Miars Golden to the Auglaize County Law Library Resources Board for the unexpired term starting January 1, 2019 and terminating on December 31, 2023.

Commissioner Spice seconded the Resolution and upon the roll being called, the vote resulted in the adoption of the Resolution as follows:

Adopted this
27th day of
January, 2022

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

David Bambaue, yes
David Bambaue

John N. Bergman, yes
John N. Bergman

Douglas A. Speneer, yes
Douglas A. Speneer

cc: Law Library
Julie Miars Golden

IN THE MATTER OF AUTHORIZING THE COUNTY AUDITOR TO DRAW WARRANTS FOR THEN AND NOW CERTIFICATE PAYMENTS.

The Board of County Commissioners of Auglaize County, Ohio met in regular session on the 27th day of January, 2022.

Commissioner Bergman moved the adoption of the following:

RESOLUTION

WHEREAS, the practice of using “Then and Now Certificates” has been instituted by the County Auditor.

THEREFORE, BE IT RESOLVED that the Board of County Commissioners, Auglaize County, Ohio, the taxing authority for Auglaize County, having thirty (30) days to approve payment by resolution from receipt of “Then and Now Certificates”, does hereby approve the following:

Check No.	Amount	Vendor
457956	329.60	US POSTAL SERVICES
457957	159.75	WAPAK DAILY NEWS
457958	59000.00	AUGLAIZE CO. AIRPORT AUTHORITY
457959	34930.00	PERRY PROTECH
457960	216.38	MW ELECTRIC
457961	320.73	MW ELECTRIC
457963	181.39	MW ELECTRIC
457964	120.19	MW ELECTRIC
457971	378.52	KOHL'S
457975	697.42	NB BS TROOP #95
457976	427.48	MINSTER GIRL SCOUTS RECYCLING
457981	375.00	MILE CREEK
457982	624.15	ALLOWAY
457983	8400.00	RIGHT STUFF
457984/457986	12072.41	AUGLAIZE COUNTY DJFS
457985	2425.73	AUGLAZIE COUNTY DJFS
457988	185.00	OHIO INTERCOURT CONFERENCE
457989	175.00	CLEMAN'S NELSON & ASSOCIATES
457993	2352.47	VENTURE LINX
457996	107.19	PARKWAY HS FFA
458000	172.00	PIQUA PIZZA
458001	127.40	COOPER FARMS
458002	1396.39	MCKESSON
458003	42978.00	CROWDER-DETENTION EQUIPMENT
458005/458008	2749.01	MILLER'S TEXTILE
458006/458009	2533.02	MILLER'S TEXTILE
458014	417.22	GRAINGER
458015	692.56	LEXIS NEXIS
458016	129.52	VERIZON CONNECT
458018	7575.00	JAMES W LAMP DBA LAMP
458020	930.00	PAIGE FIEBELKORN
458022	12488.00	VANCE'S OUTDOOR
458027	900.28	POGEMEYER DESIGN GROUP
458029	204.90	BUCKLAND RECYCLING
458031	19142.50	WCJDC
458032	1592.22	CDW-GOVERNMENT
458037	189.00	TREASURER STATE OF OHIO
458039	1369.96	US BANK
458039	228.63	US BANK
458040	325.00	JAMES HOLTZAPPLE
458042	190.25	BORNHORST PRINTING
458044	3900.00	NW OHIO JUV. DET. TRNG. & REHAB CENTER
458046	532.59	VERIZON
458047	402.20	VERIZON
458051	200.00	JASON THIS
458053	3700.00	BUTLER FAIRMAN & SEUFERT
458053	1200.00	BUTLER FAIRMAN & SEUFERT
458054	398.65	INSPIRED TECHNOLOGIES LLC
458055	898.75	SEDWICK CLAIMS MANAGEMENT SERVICES INC.
458056	500.00	VIRGINIA WARD
458057	964.00	CLETUS ZUMBROEGEL
458060	122.00	HANNAH THORNTON
458061	2650.00	JACQUELINE SCHOENLEIN
458064/458065	12000.00	AUGLAIZE COUNTY COMMISSIONERS

458066
458067

CITY OF WAPAKONETA
CITY OF ST. MARYS

1501.38
648.18

Commissioner Spencer seconded the Resolution and upon the roll being called, the vote resulted in the adoption of the Resolution as follows:

Adopted this
27th day
January, 2022

BOARD OF COUNTY COMMISSIONERS
AUGLAIZE COUNTY, OHIO

David Bambauer, yes
David Bambauer

John N. Bergman, yes
John N. Bergman

Douglas A. Spencer, yes
Douglas A. Spencer

✓cc: County Auditor