AGREEMENT BETWEEN
OWNER AND ENGINEER

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2019, by and between

THE TOWN OF YORKTOWN
Town Council
9800 W. Smith Street
Yorktown, Indiana 47396

hereinafter called the **OWNER** and

BUTLER, FAIRMAN and SEUFERT, INC.
8450 Westfield Boulevard, Suite 300
Indianapolis, Indiana 46240

hereinafter called the **ENGINEER**.

WITNESSETH

WHEREAS the **OWNER** requires professional engineering services in connection with the following described project:

Yorktown WWTP Facility Capital Improvements GSC

WHEREAS, the **OWNER** wishes to engage the **ENGINEER** to provide certain services pertaining thereto; and

WHEREAS, the **ENGINEER** represents that it has sufficient qualified personnel and equipment and is capable of performing the professional engineering services described herein; is a corporation qualified to do business in the State of Indiana; and the services described herein will be performed under the supervision of an engineer licensed to practice in the State of Indiana.

The **OWNER** and the **ENGINEER**, in consideration of the mutual covenants hereinafter set forth, agree as follows:

SECTION I SERVICES BY ENGINEER

The services to be provided by the **ENGINEER** under this Agreement are set out in Appendix "A", attached to this Agreement, and made an integral part hereof.

SECTION II INFORMATION AND SERVICES TO BE FURNISHED BY OWNER

The information and services to be furnished by the **OWNER** are set out in Appendix "B", attached to this Agreement, and made an integral part hereof.

SECTION III NOTICE TO PROCEED AND SCHEDULE

The **ENGINEER** shall begin the work to be performed under this Agreement upon receipt of the written notice to proceed from the **OWNER**, and shall deliver the work to the **OWNER** in accordance with the schedule contained in Appendix "C", attached to this Agreement, and made an integral part hereof. The **ENGINEER** shall not begin work prior to the date of the notice to proceed.

This Agreement shall be applicable to all assignments authorized by the **OWNER** and accepted by the **ENGINEER** subsequent to the date of execution and shall be effective as to all assignments authorized.

SECTION IV COMPENSATION

The **ENGINEER** shall receive payment for the work performed under this Agreement as set forth in Appendix "D", attached to this Agreement, and made an integral part hereof.

SECTION V MISCELLANEOUS PROVISIONS

Miscellaneous Provisions are set out in Appendix "E", attached to this Agreement, and made an integral part hereof.

SECTION VI GENERAL PROVISIONS

1. Work Office

The **ENGINEER** shall perform the work under this Agreement at the following office:

8450 Westfield Blvd, Suite 300, Indianapolis, IN 46240

2. Employment

During the period of this Agreement, the **ENGINEER** shall not engage, on a full or part time or other basis, any personnel who remain in the employ of the **OWNER**.

3. Subletting and Assignment

The **ENGINEER** and its subcontractors, if any, shall not assign, sublet, subcontract, or otherwise dispose of the whole or any part of the work under this Agreement without prior written consent of the **OWNER.** Consent for such assignment shall not relieve the **ENGINEER** of any of its duties or responsibilities hereunder.

4. Use and Ownership

All reports, tables, figures, drawings, specifications, boring logs, field data, field notes, laboratory test data, calculations, estimates and other documents prepared by the **ENGINEER** as instruments of service, shall remain the property of the **ENGINEER**. The **OWNER** shall be entitled to copies or reproducible sets of any of the aforesaid.

The **ENGINEER** will retain all pertinent records relating to the services performed for a period of five (5) years following performance of work, during which period the records will be made available to the **OWNER** at all reasonable times.

The **ENGINEER** agrees that the **OWNER** is not required to use any plan, report, drawing, specifications, advice, map, document or study prepared by the **ENGINEER** and the **ENGINEER** waives all right of redress against the **OWNER** if the **OWNER** does not utilize same. Any modification, amendment, misuse of any of the **ENGINEER's** work by the **OWNER** or actions that disregard the **ENGINEER's** recommendations to the **OWNER** shall release the **ENGINEER** from any and all liability in connection with such work modified, amended or misused thereafter and the **OWNER** shall not use the **ENGINEER's** name thereon without the expressed approval of the **ENGINEER**.

5. **Compliance with State and Other Laws**

The **ENGINEER** specifically agrees that in performance of the services herein enumerated by **ENGINEER** or by a subcontractor or anyone acting in behalf of either, that each will comply with all State, Federal, and Local Statutes, Ordinances, and Regulations.

6**.** **Professional Responsibility**

The **ENGINEER** will exercise reasonable skill, care, and diligence in the performance of services and will carry out all responsibilities in accordance with customarily accepted professional engineering practices. If the **ENGINEER** fails to meet the foregoing standard, the **ENGINEER** will perform at its own cost, and without reimbursement from the **OWNER**, the services necessary to correct errors and omissions which are caused by the **ENGINEER's** failure to comply with above standard, and which are reported to the **ENGINEER** within one (1) year from the completion of the **ENGINEER's** services for the Project.

In addition, the **ENGINEER** will be responsible to the **OWNER** for damages caused by its negligent conduct during **ENGINEER's** activities at the Project site or in the field to the extent covered by the **ENGINEER's** Comprehensive General Liability and Automobile Liability Insurance.

The **ENGINEER** shall not be responsible for errors, omissions or deficiencies in the designs, drawings, specifications, reports or other services of the **OWNER** or other consultants, including, without limitation, surveyors and geotechnical engineers, who have been retained by **OWNER**. The **ENGINEER** shall have no liability for errors or deficiencies in its designs, drawings, specifications and other services that were caused, or contributed to, by errors or deficiencies (unless such errors, omissions or deficiencies were known or should have been known by the **ENGINEER**) in the designs, drawings, specifications and other services furnished by the **OWNER**, or other consultants retained by the **OWNER**.

7. **Status of Claims**

The **ENGINEER** shall be responsible for keeping the **OWNER** currently advised as to the status of any known claims made for damages against the **ENGINEER** resulting from services performed under this Agreement. The **ENGINEER** shall send notice of claims related to work under this Agreement to the **OWNER**.

8**.** **Insurance**

The **ENGINEER** shall at its own expense maintain in effect during the term of this contract the following insurance with limits as shown or greater:

General Liability (including automobile) - combined single limit of $1,000,000.00;

Worker's Compensation - statutory limit; and

Professional Liability for protection against claims arising out of performance of professional services caused by negligent error, omission, or act in the amount of $1,000,000.00.

The **ENGINEER** shall provide Certificates of Insurance indicating the aforesaid coverage upon request of the **OWNER**.

9. **Status Reports**

The **ENGINEER** shall furnish a monthly Status Report to the **OWNER** by the fifteenth (15th) of each month.

10. **Changes in Work**

In the event that either the **OWNER** or the **ENGINEER** determine that a major change in scope, character or complexity of the work is needed after the work has progressed as directed by the **OWNER**, both parties in the exercise of their reasonable and honest judgment shall negotiate the changes and the **ENGINEER** shall not commence the additional work or the change of the scope of the work until a supplemental agreement is executed and the **ENGINEER** is authorized in writing by the **OWNER** to proceed.

11. **Delays and Extensions**

The **ENGINEER** agrees that no charges or claim for damages shall be made by it for any minor delays from any cause whatsoever during the progress of any portion of the services specified in this Agreement. Any such delays shall be compensated for by an extension of time for such period as may be determined by the **OWNER**, subject to the **ENGINEER's** approval. However, it being understood, that the permitting of the **ENGINEER** to proceed to complete any services, or any part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the **OWNER** of any of its rights herein.

12. **Abandonment**

Services may be terminated by the **OWNER** and the **ENGINEER** by thirty (30) days' notice in the event of substantial failure to perform in accordance with the terms hereof by the other party through no fault of the terminating party. If so abandoned, the **ENGINEER** shall deliver to the **OWNER** copies of all data, reports, drawings, specifications and estimates completed or partially completed along with a summary of the progress of the work completed within twenty (20) days of the abandonment. In the event of the failure by the **ENGINEER** to make such delivery upon demand, then and in that event the **ENGINEER** shall pay to the **OWNER** any damages sustained by reason thereof. The earned value of the work performed shall be based upon an estimate of the portions of the total services as have been rendered by the **ENGINEER** to the date of the abandonment for all services to be paid for on a lump sum basis. The **ENGINEER** shall be compensated for services properly rendered prior to the effective date of abandonment on all services to be paid on a cost basis or a cost plus fixed fee basis. The payment as made to the **ENGINEER** shall be paid as the final payment in full settlement and release for the services hereunder.

13. **Non-Discrimination**

Pursuant to Indiana and Federal Law, the **ENGINEER** and **ENGINEER's** subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Agreement, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment because of race, color, religion, sex, disability, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the Agreement.

14. **Employment Eligibility Verification.**

The **ENGINEER** affirms under the penalties of perjury that it does not knowingly employ an unauthorized alien.

The **ENGINEER** shall enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The **ENGINEER** is not required to participate should the E-Verify program cease to exist. Additionally, the **ENGINEER** is not required to participate if the **ENGINEER** is self-employed and does not employ any employees.

The **ENGINEER** shall not knowingly employ or contract with an unauthorized alien. The **ENGINEER** shall not retain an employee or contract with a person that the **ENGINEER** subsequently learns is an unauthorized alien.

The **ENGINEER** shall require its subconsultant, who perform work under this Contract, to certify to the **ENGINEER** that the subconsultant does not knowingly employ or contract with an unauthorized alien and that the subconsultant has enrolled and is participating in the E-Verify program. The **ENGINEER** agrees to maintain this certification throughout the duration of the term of a contract with a sub-consultant.

The **OWNER** may terminate for default if the **ENGINEER** fails to cure a breach of this provision no later than thirty (30) days after being notified by the **OWNER**.

15. No Investment in Iran.

As required by IC 5-22-16.5, the **ENGINEER** certifies that the **ENGINEER** is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as an imposition of a civil penalty.

16. **Successor and Assigns**

The **OWNER** and the **ENGINEER** each binds themselves and successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the **OWNER** and the **ENGINEER** shall assign, sublet or transfer their interest in the Agreement without the written consent of the other.

17. **Supplements**

This Agreement may only be amended, supplemented or modified by a written document executed in the same manner as this Agreement.

18. **Governing Laws**

This Agreement and all of the terms and provisions shall be interpreted and construed according to the laws of the State of Indiana. Should any clause, paragraph, or other part of this Agreement be held or declared to be void or illegal, for any reason, by any court having competent jurisdiction, all other causes, paragraphs or part of this Agreement, shall nevertheless remain in full force and effect.

This Agreement contains the entire understanding between the parties and no modification or alteration of this Agreement shall be binding unless endorsed in writing by the parties thereto.

This Agreement shall not be binding until executed by all parties.

19. **Independent Engineer**

In all matters relating to this Agreement, the **ENGINEER** shall act as an independent engineer. Neither the **ENGINEER** nor its employees are employees of the **OWNER** under the meaning or application of any Federal or State Laws or Regulations and the **ENGINEER** agrees to assume all liabilities and obligations imposed in the performance of this Agreement. The **ENGINEER** shall not have any authority to assume or create obligations, expressed or implied, on behalf of the **OWNER** and the **ENGINEER** shall have no authority to represent as agent, employee, or in any other capacity than as set forth herein.

20. **Rights and Benefits**

The **ENGINEER's** services will be performed solely for the benefit of the **OWNER** and not for the benefit of any other persons or entities.

21. **Disputes**

All claims or disputes of the **ENGINEER** and the **OWNER** arising out of or relating to the Agreement, or the breach thereof, shall be first submitted to non-binding mediation. If a claim or dispute is not resolved by mediation, the party making the claim or alleging a dispute shall have the right to institute any legal or equitable proceedings in a court located within the county and state where the project is located.

22. **Limitation of Liability**

To the maximum extent permitted by law, the **OWNER** agrees to limit the **ENGINEER's** liability for the **ENGINEER's** damages to the sum of $1,000,000.00 limit of Professional Liability insurance. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.

IN WITNESS WHEREOF, the **OWNER** and the **ENGINEER** have signed this Agreement in duplicate. One counterpart each has been delivered to the **OWNER** and the **ENGINEER**.

This Agreement will be effective on _____, 2019.

ENGINEER:
BUTLER, FAIRMAN and SEUFERT, INC.

_____
John W. Brand, President

OWNER:
TOWN OF YORKTOWN
TOWN COUNCIL

_____
Daniel Flanagan, President

_____
Lon Fox, Vice President

_____
Michael Burke

_____
Bryan Smith

_____
Rick Glaub

_____
Rich Lee

_____
Robert Ratchford

APPENDIX "A"

SERVICES BY ENGINEER

A. PROJECT DESCRIPTION

The following are major projects that are required by IDEM mandate or are in critical need of repair/upgrade:

The Town of Yorktown's IDEM NPDES permit requires that the effluent Phosphorus limitation not exceed 1 mg/l by April 2020. To meet this requirement Chemical Treatment is being proposed. A solution of metal salt, likely aluminum sulfate, is added to the treatment process. This Chemical Treatment requires pumping equipment, bulk chemical storage & containment, and feed piping. In addition the Existing Chlorine and Sulfide Dioxide Disinfection buildings are in need of replacement. It is proposed to construct a single new building to house both Disinfection and Phosphorus removal chemicals and feed equipment near where the existing disinfection buildings are located.

In order to meet the required completion date required by IDEM, work associated with Phosphorous removal will be expedited through a Guaranteed Savings Contract as Phase 1. The following work will be completed as Phase 2.

The mandated Phosphorus removal will increase the amount of solids produced by up to 20 to 30 percent. The existing belt press requires constant maintenance and is near the end of its useful life. A new Belt Press or Centrifuge will be needed in order to process the increased amount of solids. Plumbing modifications are also needed to the Sludge Disposal Building to allow for the use of a sludge dewatering bag.

The existing grit removal and comminutor is designed for a capacity of 2 MGD, while the rest of the plant has a capacity for 4 MGD. The equipment is not functioning as intended. A substantial amount of solids and grit are getting through headworks even during dry weather flow. Grit removal equipment does not operate during cold weather. Possible project would be to construct a new headworks with fine screens and more efficient grit removal equipment.

The mechanisms, weirs, and baffles in the final clarifiers are in serious need of rehabilitation and or replacement. This equipment is at or near the end of its useful life. There are four secondary clarifiers. Each clarifier will be taken off line and the equipment removed for repair, replacement as necessary, coating and then re-installed.

The existing Plant Influent Lift Station has three raw wastewater pumps that convey all of the flow from the collection system to the Headworks. The bases for the pumps have excessive corrosion and require replacement.

Several stagnant areas within the aeration tanks are apparent. The Air Diffusers in the tanks are in need of maintenance and or replacement. Currently the blower operates at a constant speed with no way to reduce the amount of air delivered. During lower flow operation there is the desire to reduce air delivery. This may be accomplished by installing a VFD or by replacing the blower all together with a more efficient variable speed blower.

Concrete runners are needed in the sludge drying beds to facilitate proper maintenance.

B. SCOPE OF WORK

Project Management

The **ENGINEER** shall assist the **OWNER** in administering the project including: technical issues, procurement issues, and financial/legal coordination.

PER Development & Funding Assistance

The PER will include the following components:

- Preface
  The Preface will include a brief overview of the need, scope, and environmental benefits for the projects.

- Chapter 1 Project Location
  This chapter will include legal descriptions for the various projects along with USGS Quadrangle maps and will incorporate discussion on right-of-way/easements needed for facility construction.

- Chapter 2 Current Situation
  Chapter 2 will describe the existing conditions of the Waste Water Treatment Plant (WWTP) and collection system. Documentation of applicable bans, orders, decrees, etc. will be collected and made part of the PER. .

- Chapter 3 Future Situation
  Chapter 3 will include current and future population projection based on census data, building permits, and current developmental trending. Also included will be the 20 year design flow and waste load allocations based on the City's current NPDES permit.

- Chapter 4 Evaluation of Alternatives
  Alternatives for the project will be identified. Descriptions of the alternatives which may include no action, rehabilitation, replacement, new construction, etc. will be developed and will be evaluated based upon monetary feasibility, technical merit, reliability, and impacts to the environment.

- Chapter 5 Evaluation of Environmental Impacts

The Evaluation of Environmental Impacts chapter will include discussion regarding direct primary and indirect secondary impacts of the feasible alternatives. Text and graphics will be included and will identify impacts to disturbed land, historic resources, wetlands, surface waters, groundwater, 100-year floodplains, plants and animals, prime farmland and influence of local geology, air quality, open space and recreational opportunities, Lake Michigan Costal Management Zone Impacts, National Landmarks, etc.

- Chapter 6 Selected Plan
  Chapter 6 will include a detailed description of the selected plan. Graphics showing preliminary layout, cost estimates, and proposed schedule for project implementation will be included.

As part of the submittal and approval process the PER will be expanded to include an Asset Management Plan, all required applications, resolutions, letters of intent from land owners or significant flow contributors, cost/financing forms, public hearing information, Natural Resources Conservation Service Farmland Conversion Impact Rating, etc.

If applicable for the funding source; green infrastructure, energy efficiency measures, and environmentally innovative components of the proposed projects will be identified and incorporated into the PER in order to qualify for lower interest rates.

Survey and Field Data Collection

- Complete level circuit and Topographic Field Survey
  - Topographic information will be collected to facilitate an accurate design and as a minimum the survey will include location of grade breaks, visible evidence of all wells, utilities, septics and structures within the proposed project limits
  - Underground utilities and features will be located based upon above ground markings provided by others. No independent investigation of subsurface features or environmental conditions will be performed
  - The Field survey data shall be in conformance with the requirements of Title 865 IAC 1-12 and will be integrated with the United States Public Land System
  - Research current land owner deeds, plats, surveys, and previous project plans to determine approximate property lines along the proposed route/s
  - Apparent property line locations within the project limits will be determined utilizing records available from the County Recorder's Office.

Utility Coordination

The **ENGINEER** shall perform utility coordination which shall include the following:

1. Perform IUPPS 811 Design Ticket and area research to determine utilities in the area of the project
2. Send out Initial Notice Letters for preliminary contact to all utilities, both public and private, to establish: a point of contact, the location of the utilities facilities within the field survey limits, and documentation of reimbursable property interests if any.

3. Submit Verification of Existing Facility Letters to the utilities. Attend a preliminary field check meeting if held, and discuss both locations of existing facilities shown on the plans and potential conflicts between the utilities and the proposed project.
4. Send out Conflict Analysis Letters to all utilities with revised plans and utility information from discussions at the Preliminary Field Check to verify eliminated or additional conflicts with the proposed improvements for the project.
5. Submit Final Plans to Utilities at the same time plans are submitted to the **OWNER** and send out Requests for Work Plans Letters and Work Plan Documents to each utility.
6. Review Utility Relocation Work Plans and Relocation Drawings for possible conflicts with the proposed improvements for the project, and for conflicts between additional utilities and their proposed relocations.
7. Coordinate a final utility coordination meeting if necessary to discuss utility relocations with all relevant utilities.
8. The **ENGINEER** will issue all approved work plan and notice to proceed letters to the utilities unless otherwise directed by the **OWNER.**
9. After relocation plan(s) are approved, the **ENGINEER** will determine with the OWNER their requested level of involvement during the utility relocation process and coordinate to get utility permits issued if required.
10. The **ENGINEER** shall make or cause to be made a complete subsurface utility investigation including potholing and location services to identify the projects known conflict points and missing utility location information needed to complete the project.

Scoping Documents

Design and prepare preliminary drawings, preliminary design calculations, and preliminary equipment/material review, for the proposed improvements for the benefit of the **OWNER**. Review with **OWNER** and have **OWNER** approve the preliminary drawings for submittal to regulatory agencies. In addition, meet with regulatory agencies to discuss the merits of the preliminary drawings. The drawings will be of a sufficient quality through which a method of procurement can be established.

If a Guaranteed Savings method of procurement is selected, the **ENGINEER** will work with the most qualified potential provider of a Guaranteed Savings Contract to obtain a Guaranteed Maximum Price for the construction of the work.

Permitting

Provide technical criteria, written descriptions, and design data for **OWNER's** use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design of the project and assist **OWNER** in consultations with appropriate authorities. The permits or approvals identified for this project are listed below and further define the scope of work:

IDEM Construction Permit

Final Design

Design and prepare final drawings, final design calculations, and final equipment/material selection, for the proposed improvements for the benefit of the **OWNER**. Review and incorporate utility coordination and permitting feedback. Perform QA/QC on final design. Review with **OWNER** and have **OWNER** approve the final drawings.

Construction Observation

ENGINEER will assist the **OWNER** following the Bid Recommendation, issue the Notice of Award, review Contracts, Performance Bonds, Payment Bonds, and Certificate of Insurance, issue the Notice to Proceed, attend the preconstruction conference, review shop drawings, and make recommendations as to changes in the work in progress.

Construction Inspection

The **ENGINEER** shall provide a full-time resident representative for the Project duration. The estimated Project duration is one (1) year (12) months. In the event the Project duration varies from the estimated Project duration, the Engineer and the **OWNER** may negotiate a mutually agreed upon fee adjustment.

ENGINEER shall furnish a Resident Project Representative ("RPR"), assistants, and other field staff to assist **ENGINEER** in observing progress and quality of the work. The RPR, assistants, and other field staff may provide full time representation to a lesser degree.

Through such additional observations of Contractor's work in progress and field checks of materials and equipment by the RPR and assistants, **ENGINEER** shall endeavor to provide further protection for **OWNER** against defects and deficiencies in the work. However, **ENGINEER** shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over the Contractor's Work nor shall **ENGINEER** have authority over or responsibility for the means, methods, techniques, sequences, or procedures selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, for any failure of Contractor to comply with laws and regulations applicable to Contractor's performing and furnishing the work, or responsibility of construction for Contractor's failure to furnish and perform the work in accordance with the Contract Documents.

The duties and responsibilities of the RPR are limited to those of **ENGINEER** in the Agreement with the **OWNER** and in the Contract Documents, and are further limited and described as follows:

RPR is **ENGINEER's** agent at the Site, will act as directed by and under the supervision of **ENGINEER,** and will confer with **ENGINEER** regarding RPR's actions. RPR's dealings in matters pertaining to the Contractor's work in progress shall in general be with **ENGINEER** and Contractor, keeping **OWNER** advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with **OWNER** with the knowledge of and under the direction of **ENGINEER.**

The Resident Project Representative shall:

Review the progress schedule, schedule of Shop Drawing and sample submittals, and schedule of values prepared by Contractor and consult with **ENGINEER** concerning acceptability.

Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

Serve as **ENGINEER's** liaison with Contractor, working principally through Contractor's superintendent and assist in understanding the intent of the contract Documents.

Assist **ENGINEER** in serving as **OWNER's** liaison with Contractor when Contractor's operations affect **OWNER's** on-site operations.

Assist in obtaining from **OWNER** additional details or information, when required for proper execution of the work.

Report to **ENGINEER** when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by **ENGINEER**.

Record date of receipt of samples and approved Shop Drawings. Receive samples when furnished at the site by Contractor and notify **ENGINEER** of availability of samples for examination.

Advise **ENGINEER** and contractor of the commencement of any portion of the work requiring a Shop Drawing or sample submittal for which RPR believes that the submittal has not been approved by **ENGINEER**.

Consider and evaluate Contractor's suggestions for modifications in drawings or specifications and report with RPR's recommendations to **ENGINEER**. Transmit to Contractor in writing decisions as issued by **ENGINEER**.

Conduct on-site observations of Contractor's work in progress to assist **ENGINEER** in determining if the work is in general proceeding in accordance with the Contract Documents.

Report to **ENGINEER** whenever RPR believes that any part of contractor's work in progress will not produce a completed project that conforms generally to the Contract documents or will prejudice the integrity of the design concept of the completed project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise **ENGINEER** of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

Consult with **ENGINEER** in advance of scheduled major inspections, tests, and systems startups of important phases of the work.

Verify that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate **OWNER's** personnel, and that Contractor maintains adequate records thereof.

Observe, record, and report to **ENGINEER** appropriate details relative to the test procedures and systems startups.

Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to **ENGINEER.**

Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Change Orders, Field Orders, work change directives, Addenda, additional drawings issued subsequent to the execution of the Contract, **ENGINEER's** clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and sample submittals received from and delivered to Contractor, and other project related documents.

Prepare a daily report or keep a diary or log book, recording Contractor's hours on the site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to **ENGINEER.**

Record names, addresses and telephone numbers of all Contractors, subcontractors, and major suppliers of materials and equipment. Maintain records for use in preparing the Project documentation.

Upon completion of the work, furnish original set of all RPR project documentation to **ENGINEER.**

Furnish to **ENGINEER** periodic reports as required of progress of the work and of Contractor's compliance with the progress schedule and schedule of shop drawing and sample submittals.

Draft and recommend to **ENGINEER** proposed change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.

Furnish to **ENGINEER** and **OWNER** copies of all inspection, test, and system startup reports.

Report immediately to **ENGINEER** the occurrence of any site accidents, and hazardous environmental conditions, emergencies, or acts of God endangering the work, and property damaged by fire or other causes.

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

During the course of the work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the contract Documents, and have these documents delivered to **ENGINEER** for review and forwarding to **OWNER** prior to payment for that part of the work.

Before **ENGINEER** issues a Certificate of Substantial Completion, submit to contractor a list of observed items requiring completion or correction.

Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public agencies having jurisdiction over the work.

Participate in a final inspection in the company of **ENGINEER, OWNER,** and Contractor and prepare a final list of items to be completed or corrected.

Observe whether all items on final list have been completed or corrected and make recommendations to **ENGINEER** concerning acceptance and issuance of the Notice of Acceptability of the work.

Resident Project Representative shall not:

Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
Exceed limitations of **ENGINEER's** authority as set forth in the Agreement or the Contract Documents.

Undertake any of the responsibilities of Contractor, subcontractors, suppliers, or Contractor's superintendent.

Advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advice or directions are specifically required by the Contract Documents.

Advise on, issue directions regarding, or assume control over safety precautions and programs in connection with the activities or operations of **OWNER** or Contractor.

Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by **ENGINEER.**

Accept Shop Drawing or sample submittals from anyone other than Contractor.

Authorize **OWNER** to occupy the Project in whole or in part.

APPENDIX "B"

INFORMATION AND SERVICES TO BE FURNISHED BY OWNER

The **OWNER** shall, within a reasonable time, so as not to delay the services of the **ENGINEER**:

1. Provide full information as to **ENGINEER's** requirements for the Project.

2. Assist the **ENGINEER** by placing at **ENGINEER's** disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

3. Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by **ENGINEER**, obtain advice of an attorney, insurance counselor, and other consultants as **OWNER** deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of **ENGINEER**.

4. Give prompt written notice to the **ENGINEER** whenever the **OWNER** observes or otherwise becomes aware of any defect in the Project.

5. Furnish all existing approvals or permits from all governmental authorities having jurisdiction over the Project. The **ENGINEER** will assist the **OWNER** in identifying and procuring any additional permits associated with this Project.

6. Arrange for access to and make all provisions for the **ENGINEER** to enter upon public and private property as required for the **ENGINEER** to perform services under this Agreement.

7. Obtain necessary easements and right-of-way for construction of the Project, including easement and right-of-way descriptions, property surveys and boundary surveys.

8. Furnish to the **ENGINEER**, as requested by the **ENGINEER** or as required by the Contract Documents, data prepared by or services of others, including exploration and tests of subsurface conditions at or contiguous to the site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site.

APPENDIX "C"

SCHEDULE

Phase I Construction anticipated start Fall 2019

Phase II Construction anticipated start spring 2020

Phase I Survey and Field Data Collection to be completed within 90 days from Notice to Proceed.

Phase II Survey and Field Data Collection to be completed within 180 days from Notice to Proceed.

Scoping Documents to be completed within 60 days from Survey Completion for each Phase.

Final Plans to be completed with 90 days from Scoping Documents of each Phase.

APPENDIX "D"

COMPENSATION

A. Amount of Payment

1. The **ENGINEER** shall receive as payment for the work performed under Item No. 2 and No. 3 below, the total fee not to exceed $981,600.00, unless a modification of the Agreement is approved in writing by the **OWNER.**

2. The **ENGINEER** will be paid for the following work on a lump sum basis in accordance with the following schedule:

Fee Schedule Summary:

a.	Project Management	$ 16,200.00
b.	PER Development & Funding Assistance	$ 45,500.00
c.	Survey and Field Data Collection	$ 4,400.00
d.	Utility coordination	$ 5,100.00
e.	Scoping Documents	$ 144,000.00
f.	Permitting	$ 10,400.00
g.	Final Design	$ 316,000.00
h.	Construction Observation	$ 35,000.00

3. The **ENGINEER** will be paid for the following work under additional services or on a lump sum basis in accordance with the following schedule:

Fee Schedule Summary:

a.	Construction Inspection (Hourly Not to Exceed)	$ 405,000.00

B. Additional Services

Additional Services would be services required in connection with Public meetings, right-of-way acquisition, or any legal action or litigation requiring the testimony and/or services of the **ENGINEER**, or if the **OWNER** or any other local, state, or federal agency shall direct or cause the **ENGINEER** to relocate or redesign the project, or any part thereof. The **OWNER** agrees to compensate the **ENGINEER** for Additional Services on the basis of actual hours of work performed on the project at the hourly billing rates noted in APPENDIX "D-1". The Hourly Billing Rates include overhead and fixed fee.

In addition to the hourly fees for additional services indicated above, the **ENGINEER** shall be compensated for direct project-related expenses such as job-related travel, permit applications, etc.

Any change in standards, design criteria, or other requirements by governmental units having jurisdiction over the contracted project which requires changes by the **ENGINEER** in the plans shall be considered as Additional Services.

In the event that the **OWNER** retains someone other than the **ENGINEER** to provide construction inspection, then the **OWNER** agrees to compensate the **ENGINEER** for Additional Services rendered in connection with the interpretation of plans, project stake-out or such other services that may be required during the construction phase of the work to be performed.

The **ENGINEER** shall be reimbursed for direct project-related expenses. Subconsultant reimbursable expenses will be invoiced at cost with no mark-up.

C. Method of Payment

Payment shall be made by the **OWNER** to the **ENGINEER** each month as the work progresses.

APPENDIX "D-1"

SCHEDULE OF COMPENSATION

BUTLER, FAIRMAN and SEUFERT, INC.

2019 HOURLY RATE SCHEDULE

Classification		Hourly Rates
E-V	Engineer V (Principal)	$ 220.00
E-IV	Engineer IV	$ 192.00
E-III	Engineer III	$ 166.00
E-II	Engineer II	$ 125.00
E-I	Engineer I	$ 95.00
FP-IV	Field Personnel IV – (Project Coordinator)	$ 175.00
FP-III	Field Personnel III	$ 143.00
FP-II	Field Personnel II	$ 109.00
FP-I	Field Personnel I	$ 87.00
EA-III	Engineer's Assistant III	$ 167.00
EA-II	Engineer's Assistant II	$ 132.00
EA-I	Engineer's Assistant I	$ 96.00
SP-1	Support Personnel I	$ 66.00
C-II	Clerical II	$ 110.00
C-I	Clerical I	$ 72.00
P-III	Planner/Environmental Specialist III	$ 177.00
P-II	Planner/Environmental Specialist II	$ 114.00
P-I	Planner/Environmental Specialist I	$ 84.00

The billing rates are effective January 2019 and may be adjusted annually (beginning January 2020) to reflect changes in the compensation payable to the **ENGINEER**.

APPENDIX "E"

MISCELLANEOUS PROVISIONS

(Not Applicable)