

285 Delaware Avenue, Suite 500
Buffalo, New York 14202
United States
www.ghd.com



Our ref: 11208430

December 14, 2021

Joel Maerten, Supervisor
Town of Pendleton
6570 Campbell Road
Lockport, New York 14094

Town Engineer – Request for Reappointment for 2022

Dear Mr. Maerten:

GHD would like to thank the Town of Pendleton (Town) for giving us the opportunity to serve as your Town Engineer in 2021, and hereby submit our request and proposal for the reappointment as Town Engineer for Fiscal Year 2022.

Our proposed 2022 retainer fee of \$1,200 per month covers the cost for attendance at Town meetings. It also includes associated direct travel expenses and miscellaneous preparation/follow-up work related to the Board meetings.

Please note that GHD will coordinate with Avalon Document Services for substantial sized document reproduction related to Town projects. Direct costs associated with reproduction completed on behalf of Town projects are documents owned by the Town and are not subject to New York State sales tax.

GHD will invoice engineering services associated with identified Town projects and other general services, as requested and authorized by the Town, in accordance with the 2022 Fee Schedule in Attachment 1.

Should you find the above scope of work and fee acceptable, please sign the Q1150 Professional Services Agreement in Attachment 2 and return a copy to us for our files.

On behalf of GHD, I would like to thank you for the opportunity to submit this request for reappointment as your Engineer and look forward to continuing our professional relationship.

Regards,

A handwritten signature in black ink that reads "David Britton". The signature is written in a cursive, flowing style.

David Britton, PE
Senior Project Manager

+1 716 362-8815
david.britton@ghd.com

DMB/las
Copy to: Robert P. Lannon Jr., PE – GHD
Camie L. Jarrell, PE - GHD

Attachments



Attachment 1

GHD Rates Per Employee Class 2022 Town of Pendleton



GHD Rates Per Employee Class - 2022 Town of Pendleton

GHD Description	US Rates
PROFESSIONAL	
Senior Technical Director 1	\$ 252.00
Senior Technical Director 2	\$ 232.00
Senior Technical Director 3 (D. Britton)	\$ 185.00
Technical Director 1	\$ 195.00
Technical Director 2	\$ 174.00
Senior Professional 1 (C. Jarrell/G. Keyser)	\$ 155.00
Senior Professional 2	\$ 144.00
Professional 1	\$ 136.00
Professional 2	\$ 115.00
Professional 3	\$ 102.00
Vacationer / Intern	\$ 93.00
TECHNICAL	
Lead Design Technician 1	\$ 232.00
Lead Design Technician 2	\$ 212.00
Lead Design Technician 3	\$ 196.00
Senior Design Technician 1	\$ 175.00
Senior Design Technician 2	\$ 160.00
Design Technician 1	\$ 144.00
Design Technician 2	\$ 136.00
Drafting/Design 1	\$ 123.00
Drafting/Design 2	\$ 115.00
Drafting/Design 3	\$ 102.00
Drafting/Design 4	\$ 94.00
Intern Drafting/Design	\$ 84.00
ADMINISTRATION	
Business Services Manager 1	\$ 208.00
Business Services Manager 2	\$ 176.00
Senior Admin Officer 1	\$ 134.00
Senior Admin Officer 2	\$ 114.00
Admin Officer 1	\$ 102.00
Admin Officer 2	\$ 92.00
Admin Officer 3	\$ 60.00
PROJECT SUPPORT	
Business Services Manager 1	\$ 252.00
Business Services Manager 2	\$ 232.00
Senior Admin Officer 1	\$ 195.00
Senior Admin Officer 2	\$ 174.00
Admin Officer 1	\$ 160.00
Admin Officer 2	\$ 144.00
Admin Officer 3	\$ 135.00
Admin Officer 4	\$ 115.00
Admin Officer 5	\$ 102.00
Admin Officer 6	\$ 75.00
SITE BASED	
Senior Construction Manager	\$ 232.00
Construction Manager	\$ 196.00
Lead Site Engineer/Supervisor	\$ 174.00
Senior Site Engineer	\$ 160.00
Site Engineer	\$ 144.00
Lead Inspector (PIP / Resident Inspector)	\$ 120.00
Senior Inspector	\$ 102.00
Inspector / Specialist 1	\$ 88.00
Inspector / Specialist 2	\$ 80.00
Clerk / Specialist 3	\$ 76.00
Senior Site Manager 1	\$ 94.00
Senior Site Manager 2	\$ 84.00
Senior Site Manager 3	\$ 76.00
Senior Site Manager 4	\$ 68.00
Operator/Laborer 1	\$ 64.00
Operator/Laborer 2	\$ 60.00
Operator/Laborer 3	\$ 44.00

Attachment 2

Q1150 Professional Services Agreement



Q1150

Professional Services Agreement (North America)

Reference no: 11208430

This Professional Services Agreement (hereinafter "Agreement") is effective this ____ day of _____, 20____, ("Effective Date") between GHD Consulting Services Inc. (hereinafter "GHD") and Town of Pendleton (hereinafter "Client") (which are collectively referred to as the "Parties" or individually as a "Party"). In consideration of the mutual promises set forth herein, the Parties agree as follows:

1. Scope of work

GHD shall perform the work set forth in the "Scope of Work," attached hereto as Exhibit "A" (the "Services"). It is understood that the Services will be based on facts known and laws in place at the time of execution of this Agreement. Each Party will promptly inform the other in writing if facts are discovered that indicate that this Agreement or Scope of Work may need to be modified. If there is a change in law or project assumptions which materially affect either Party's obligations hereunder, upon receiving or providing the notice described above, the Parties shall execute an amendment which will include, at a minimum, a description of the proposed modifications and their effect on the scope, fees, and timelines on the Scope of Work (an "Amendment").

2. Changes in the services

- (a) Except for additional services required due to the fault of GHD, any change to the scope, schedule, extent, or character of the Services shall be set forth in an Amendment which includes an adjustment in the price or time for such Services and is signed by GHD and Client.
- (b) If the Parties are unable to agree on the price adjustment in an Amendment and GHD elects to perform the additional services without an Amendment, then GHD shall be compensated as set forth in Section 3(c) below.
- (c) Unless otherwise provided herein, GHD shall not be required to perform additional services unless the additional services, any additional compensation, and/or the time to perform such additional services are set forth in an Amendment.
- (d) GHD shall have no liability for any delay, and the contract time shall be extended by the equivalent delay, associated with Client's delay in executing an Amendment.

3. Payment for services

- (a) For Services rendered on a time plus expense basis:
 - (i) the fees will be in accordance with the fee schedule set forth in the Scope of Work. GHD's rates as set forth in the fee schedule are subject to revision on an annual basis. Personnel rates are all-inclusive, including overhead and profit, and apply to all hours expended with no premium charged for overtime hours.

- (ii) GHD shall be reimbursed for all expenses incurred in connection with its Services hereunder, plus reasonable markup as specified in the fee schedule and/or Scope of Work, as well as goods supplied by GHD's subcontractors, vendors, or suppliers, reasonable travel and living expenses of GHD staff; long distance telephone charges; information technology; telecopy charges; printing and reproduction costs; photographic expenses; advertising for bids; special delivery and express charges; costs of providing and maintaining site offices, supplies, and equipment; and all necessary and incidental costs associated with subcontracts where appropriate.
 - (iii) For Services performed by GHD's subcontractors, Client shall pay GHD for the cost of such Services plus markup, as set forth in the Scope of Work.
- (b) For Services rendered on a lump sum, unit price, or fixed fee basis: Client shall pay GHD for Services within the Scope of Work which are rendered on a percentage complete, or task complete basis in accordance with the fee schedule set forth in the Scope of Work. The fees are all-inclusive, including overhead and profit, and apply to all labor with no premium charged for overtime hours and no additional charges for expenses incurred, unless otherwise specified in this Agreement.
 - (c) GHD shall be entitled to an equitable adjustment to its compensation for any additional services GHD provides, and Client shall pay for any liability, cost or expense GHD incurs, if: (i) the approved scope, schedule, extent, or character of the Services is changed materially by Client; (ii) any information provided by or on behalf of Client to GHD is not complete and/or accurate; (iii) as a result of the Services, GHD or any GHD employees are required to give evidence before, or provide any information to, a court or other competent authority; (iv) Client fails to pay any amount due under this Agreement; (v) any event beyond the reasonable control of GHD affects GHD's ability to perform the Services within the cost and schedule set forth in the Scope of Work; or (vi) Client terminates this Agreement before the term of the Services concludes, as set forth herein.
 - (d) Unless otherwise agreed, GHD will invoice Client monthly for Services completed in accordance with the payment basis set forth in the Scope of Work. Payment of GHD invoices shall be due upon receipt by Client. Invoices not paid within 30 calendar days shall be subject to an assessed interest charge of eighteen percent (18%) per annum or the highest amount allowed by law, whichever is less. If Client disputes an invoice, Client shall notify GHD in writing within 30 calendar days of the invoice date identifying the cause of the dispute and paying that portion of the invoice not in dispute. Failure of Client to notify GHD of any disputed amounts within 30 calendar days of the invoice date shall deem the invoice accepted by Client. Any amounts in dispute shall be subject to the dispute resolution provisions of Section 14 below. Interest shall not accrue on any disputed amount.
 - (e) GHD reserves the right without penalty to suspend Services in the event Client fails to pay all amounts which are not subject to a bona fide dispute within 45 calendar days from the invoice date. All suspensions shall extend the completion date of any affected project commensurately unless otherwise agreed to by the Parties.

4. Insurance

GHD agrees to carry throughout the term of this Agreement insurance policies of the following types and with the following limits, unless otherwise set forth in the Scope of Work:

- (i) workers compensation – as statutorily required;
- (ii) employer's liability – \$1,000,000 per accident/disease/employee (US) or \$1,000,000 per occurrence and \$2,000,000 in aggregate (CAN);
- (iii) automobile liability – \$1,000,000 combined single limit;
- (iv) commercial general liability – \$1,000,000 per occurrence and \$2,000,000 in aggregate; and
- (v) professional liability – \$1,000,000 per claim and \$2,000,000 in aggregate.

5. Documents and data

- (a) Client shall be responsible for, and GHD may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Client to GHD pursuant to this Agreement ("Client Data"). GHD may use such Client Data in performing the Services.
- (b) Client shall, if requested by GHD, review any designs, drawings, plans, specifications, reports, bids, proposals, and other information provided by GHD before they are finalized. Client shall make decisions within a reasonable time and carry out its other responsibilities in a timely manner so as not to delay the work of GHD. Client shall give prompt written notice to GHD whenever Client observes or otherwise becomes aware of any failure by GHD to satisfy the requirements of the Scope of Work.
- (c) At the request of GHD, Client shall provide GHD with the following information (which shall also be considered "Client Data") to the extent such information is in Client's possession and is pertinent to the Services, as determined by GHD:
 - (i) all criteria and full information as to Client's requirements; copies of all design and construction standards which Client will require to be included in GHD's work; copies of Client's standard terms, conditions, and related documents for GHD to include in bidding documents, when applicable; and
 - (ii) any other available information pertinent to the project, including, without limitation, reports and data relative to previous designs or investigations; environmental, geological, and geotechnical conditions of the project site and all surrounding area at or adjacent to the project site; and insofar as such information is not available, Client agrees to pay GHD for the reasonable cost of obtaining the same such information.
- (d) Client shall be responsible for providing information (which shall also be considered "Client Data") regarding the location of all known subsurface structures at the project site including but not limited to pipes, tanks, sewer, and utilities (power, phone, cable, gas, water, etc.).
- (e) Upon GHD's review of Client Data, if applicable, and compliance with any notice requirements to all utilities concerning the possible location of underground utilities, and following any on-site marking or notification in writing to GHD from such utilities, in addition to other indemnity provisions in this Agreement, to the extent not prohibited by law, Client shall release GHD from and defend, indemnify, and hold GHD harmless from and against all costs, liability, loss, and expense whatsoever (including, without limitation, consequential or indirect damages, attorneys' fees, court costs, and expenses) arising out of any act or omission of GHD, its agents, contractors, subcontractors, and/or employees, relating in any way to subsurface structures, to the extent GHD's acts or omissions cause or contribute to: (i) any disruption of service to users or damage for business interruption, production losses, or loss of revenues,

profits, data or use; (ii) any damage to or destruction of any subsurface structure; (iii) any injury or damage to property or injury to or the death of any persons; (iv) any other economic loss; (v) any other damage or liability whatsoever; or (vi) the assertion or filing of any claim, cause of action, or judgment whatsoever relating to such matters.

- (f) Client warrants that it owns all rights to Client Data required to meet the relevant Client obligations set forth herein. Client agrees to grant and hereby grants to GHD a non-exclusive, royalty-free, perpetual, worldwide license to access, revise, reproduce, distribute, and otherwise use and display Client Data and perform all acts with respect to Client Data as necessary for GHD to provide the Services to Client. Client shall disclose to GHD all known regulations and legal requirements associated with the use of Client Data. GHD shall have no obligation to validate any contents of Client Data for content, correctness, usability or for any other purpose. Client shall comply with any reasonable demand by GHD to correct, discontinue, or remedy any violation of applicable laws or regulations pertaining to Client Data or any other content collected or used by the Services.
- (g) Client agrees that GHD may use Client Data to add insight, analytics, and data science to the Services and/or to provide or suggest additional solutions and services to Client. Client acknowledges and agrees GHD may store Client Data on systems which may run on a public cloud (e.g., Amazon or Microsoft).
- (h) Client acknowledges and agrees that GHD may obtain and aggregate technical and other data related to the Services that is: (i) is anonymized and presented in a way which does not reveal Client's identity; and (ii) may be combined with historical or recent data and information of other clients or additional data sources ("Aggregated Statistics"). Client agrees that all right, title, and interest in Aggregated Statistics, including all intellectual property rights, are hereby assigned to and owned solely by GHD. GHD may reproduce, distribute, display, make publicly available, and otherwise use the Aggregated Statistics for any business purpose, during and after the term of this Agreement, such as for creating solutions and products for other GHD clients.

6. Confidentiality

GHD shall not disclose any confidential information relating to Client to any third parties other than employees, subcontractors, or agents of GHD, without the prior written consent of Client, except as required by applicable law, regulation, or legal process, or as may be required by emergency situations. In the event GHD is requested pursuant to, or required by applicable law, regulation, or legal process to disclose any confidential information, GHD will notify Client of the circumstances requiring such disclosure and will refrain from such disclosure for the maximum period of time allowed by law so that Client may seek a protective order or other appropriate remedy to protect the confidentiality of the information. This provision shall not apply to data or information which (i) is or becomes part of the public domain other than as a result of disclosure by GHD; (ii) was acquired by GHD independently from third parties not under any obligation to Client to keep such data and information confidential; (iii) was in GHD's possession prior to disclosure of the same by Client; or (iv) has been independently developed by GHD, or its employees, subcontractors, or agents, without reference to Client's confidential information.

7. Independent contractor and subcontracting

The Parties acknowledge and agree that GHD shall be an independent contractor and shall have responsibility for and control over the means of providing the Services. GHD shall have the right to use subcontractors as GHD

deems necessary to assist in the performance of the Services. GHD shall not be required to employ any subcontractor that is unacceptable to GHD.

8. Site access and safety

Client shall provide right of entry and safe access as needed by GHD and necessary permissions in order for GHD to perform work under this Agreement. If Client does not own or control the project site, Client shall obtain permission from the project site owner for a right of entry as needed by GHD, its representatives, and its subcontractors to perform the Services. GHD shall only be responsible for the activities of its own employees and agents on a project site with respect to safety. GHD and its employees, agents, and subcontractors will comply with all reasonable known security, health, and safety requirements of the project site owner, as well as those of Client with respect to Client's facilities, which may be imposed upon GHD as a condition of its right of entry. If access to the project site is required to perform the Services and such access does not comply with all applicable Client approved safety plans, regulations and/or laws, GHD may, at its sole discretion, suspend services until such violations are remedied.

9. Hazards, materials, and samples

- (a) Unless otherwise stated in the Scope of Work, GHD shall have the primary responsibility of determining if known or potential health or safety hazards exist on or near the project site upon which Services are to be performed by GHD or its subcontractors, with particular reference to hazardous substances or conditions. To the extent that such information is in its possession, Client warrants that it will make full and accurate written disclosure as to any hazardous, radioactive, or toxic substance, or any irritant, contaminant, pollutant, or otherwise dangerous substance or condition ("Hazardous Conditions") which Client knows or has reason to believe exist at the project site prior to the commencement of the Services.
- (b) If Hazardous Conditions are discovered by GHD during the performance of its Services which it could not have reasonably discovered prior to the commencement of work, or which Client had in its possession and failed to disclose, and if the existence of such Hazardous Conditions materially changes the nature or conduct of GHD's work or responsibilities at the project site, Client and GHD shall seek to agree on an equitable adjustment to GHD's work to reflect such changes. If the Parties are unable to agree on such adjustments, or the delay exceeds 30 calendar days, the Agreement may be terminated by GHD in accordance with the termination provisions of this Agreement.
- (c) GHD and Client recognize and agree that GHD has neither created nor contributed to the existence of any Hazardous Conditions at the project site, and as such, GHD has no responsibility in relation to the presence of any such Hazardous Conditions. Accordingly, in the event of any claim against GHD arising out of any actual or alleged Hazardous Conditions on a project site, Client agrees to defend, indemnify, and hold GHD harmless from and against such claim(s) against GHD or its employees, agents, directors, officers, or subcontractors, unless such claims arise out of the willful misconduct of GHD. This indemnity obligation shall cover, without limitation, any claims or liability of GHD in relation to preexisting conditions on site, any statutory liability, and/or any strict liability under any federal, state, provincial, and/or local environmental laws alleging or asserting, without limitation, that GHD, by virtue of status as an owner, operator, handler, generator, arranger, transporter, treater, storer, or disposer, is liable for any Hazardous Conditions.

- (d) In the event GHD performs any Services for Client that involve the taking of samples, GHD shall preserve such samples obtained from the project site as it deems necessary for the project, but not longer than 45 calendar days after the issuance of any document that includes data obtained from such samples. GHD shall arrange for the disposal of samples containing hazardous materials on behalf of Client, which may consist of returning the samples to the project site, and Client agrees to pay GHD for the cost of returning or disposing of such samples. Samples shall remain the property of Client, and ultimate responsibility for their disposal shall remain with Client. Unless otherwise stated in the Scope of Work, GHD shall not assume title to any samples taken on behalf of Client

10. Standard of care

GHD represents that its Services shall be performed in a manner consistent with the level of care and skill ordinarily exercised by members of GHD's profession practicing under similar circumstances at the same time and in the same locality. No warranties, guaranties, or representations of any kind, either express or implied, are included or intended by this Agreement or in any proposal, contract, report, opinion, or other document in connection with this project. Upon receipt of notice from Client, GHD shall promptly correct, without additional compensation, any Services which fail to conform to the standard of care established in this Section.

11. Indemnity and liability

- (a) Subject to the limitations of Section 11(d) and Section 11(e) below, GHD agrees to indemnify and hold harmless Client (including its officers, directors and employees) from and against any and all losses, damages, liabilities and expenses (including reasonable legal fees, court costs, and costs of investigation) to the proportionate extent caused by: (i) the failure of GHD to comply in material respects with federal, state, provincial and/or local laws and regulations applicable to Services hereunder; (ii) a breach by GHD of representations or other provisions hereunder; or (iii) the negligence or willful misconduct on the part of GHD in performing Services hereunder.
- (b) Subject to the limitations of Section 11(d) and Section 11(e) below, Client agrees to indemnify and hold harmless GHD (including its parents, subsidiaries, affiliates, and the officers, directors, employees, agents, subcontractors, and any successors or assigns) from and against any and all losses, damages, liabilities and expenses (including reasonable legal fees, court costs, and costs of investigation) to the proportionate extent caused by: (i) any negligence or willful misconduct of Client; (ii) any breach by Client of any warranties or other provisions hereunder; or (iii) any condition existing at the project site prior to the arrival of GHD of which GHD had no actual knowledge and over which GHD had no control. In addition, Client shall indemnify, defend, and hold GHD harmless from all claims, damages, losses, and expenses including attorneys' fees or other costs arising out of or resulting from Client's unauthorized use, reuse, or modification of GHD IP, as defined in Section 12, without written verification or adaptation by GHD.
- (c) The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- (d) To the maximum extent permitted by law, for any damage caused by negligence, including errors, omissions, or other acts; or for any damages based in contract; or for any other cause of action; GHD's liability, including that of its employees, agents, directors, officers, and subcontractors, shall be strictly

limited to the greater of the contract value or \$50,000, but in no event shall GHD's liability exceed \$1,000,000, except as to damage resulting from the gross negligence or willful misconduct of GHD. Client's liability to GHD (not including payment obligations), except as to damage resulting from Client's gross negligence or willful misconduct, including that of its employees, agents, directors, officers and contractors, will be limited to \$1,000,000.

- (e) Except as explicitly provided herein, in no event shall either Party be liable to the other under this Agreement or otherwise for any consequential, special, indirect, incidental, or punitive damages, and/or damages resulting from the loss of profits, revenue, opportunity, anticipated savings, use, data and/or goodwill.

12. Intellectual property

- (a) All work product, including reports, plans, drawings and specifications, images, computer code, software, or any other work, prepared or furnished by GHD are instruments of service with respect to the Scope of Work, and GHD shall retain a copyright, ownership, and property interest therein whether or not the Scope of Work is completed. With respect to any inventions, works, products, software, other materials, and methodologies proprietary to GHD or its subcontractors or suppliers and created, conceived, or reduced to practice by GHD prior to or independently of this Agreement, and any trade secrets, know how, methodology, and processes related to GHD products or services (hereinafter the "GHD IP"), to the extent that any GHD IP is incorporated into any deliverable for Client and on the condition that Client has fully paid GHD for such deliverable, GHD hereby grants Client a limited, nonexclusive, nontransferable, perpetual, irrevocable, royalty-free, paid-up, license to utilize the GHD IP for the purposes of Client's project.
- (b) Client may make and retain copies for information and reference in connection with the construction, improvement, use or occupancy of the project by Client. Any reuse or modification without written verification or adaptation by GHD for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to GHD and Client agrees to defend, indemnify, and hold harmless GHD for any unauthorized reuse or redistribution.

13. Termination

- (a) Client will have the right to terminate this Agreement at any time with or without cause, based solely on Client's convenience, provided that GHD is provided 30 calendar days advance written notice of the termination. Client shall pay GHD for all Services performed and expenses incurred to the effective date of termination including but not limited to demobilization and remobilization costs, costs to cancel or suspend subcontracts, and other related close-out costs.
- (b) GHD may terminate its obligations pursuant to this Agreement under the following circumstances:
 - (i) In the event of a breach or default of any obligation by Client, except payment of disputed amounts as provided in Section 3 of this Agreement;
 - (ii) If GHD is unable, for any reason beyond its control, including, without limitation, a Force Majeure event, to perform its obligations pursuant to this Agreement in a safe, lawful, or professional manner; or

- (iii) Upon the institution by or against Client of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of either Party's debts, upon Client making an assignment for the benefit of creditors, upon Client winding up or liquidating its business, upon Client's dissolution or ceasing to do business, or upon Client admitting in writing that it is unable to pay its debts as they generally become due.
- (c) If either circumstance described in Section 13(b)(i) or 13(b)(ii) above occurs, GHD shall notify Client of pertinent conditions and recommend appropriate action. If within 30 calendar days of such notice the circumstances described in Section 13(b)(i) or 13(b)(ii) above have not been remedied or cured, GHD may terminate its Agreement hereunder. In the event of termination, GHD shall be paid for Services performed to the date of termination plus reasonable termination expenses.

14. Dispute resolution

Both Parties agree in good faith to attempt to resolve amicably, without litigation, any dispute arising out of or relating to this Agreement or the work to be performed hereunder. Following notification of a dispute, the Parties shall have 5 business days from the date of notification to begin negotiations and 15 business days from the notification date to complete negotiations, unless otherwise agreed in writing. If any dispute cannot be resolved through direct discussions, the Parties agree to endeavor to settle the dispute by mediation. The Parties shall have 45 business days within which to commence the first mediation session following the conclusion of their good faith negotiations or expiration of the time within which to negotiate. Either Party may make a written demand for mediation, which demand shall specify the facts of the dispute. The matter shall be submitted to a mediator mutually selected by the Parties. The mediator shall hear the matter and provide an informal nonbinding opinion and advice in order to help resolve the dispute. The mediator's fee shall be shared equally by the Parties. If the dispute is not resolved through mediation, the matter may be submitted to the judicial system in the courts of general jurisdiction where the project site is located, in which event all litigation and collection expenses, witness fees, court costs, and reasonable legal fees shall be paid to the prevailing Party. For the avoidance of doubt, GHD's statutory or other right, if any, to file a lien for Client's nonpayment will not be conditioned upon or subject to the dispute resolution rules contained in this Section.

15. Records and audit

Client shall have the right, upon reasonable advance notice, to audit records associated with the Services performed and with the charges invoiced to Client pursuant to this Agreement. Client's right to audit shall not extend to proprietary information or the profit margin and composition of GHD's fees, except for that portion of the Services priced on a cost reimbursable basis. Such records shall be open to inspection and audit by authorized representatives of Client during normal business hours at the place where such records are kept until the completion or termination of this Agreement and for a minimum of 3 years thereafter. GHD shall require its subcontractors to similarly maintain records and to permit the inspection and audit of such records by Client upon similar conditions and time periods.

16. Force majeure

If either Party is rendered unable, wholly or in part, by Force Majeure (as defined below) to carry out its obligations under this Agreement, other than the obligation to pay funds due, that Party shall give the other Party prompt

written notice of the Force Majeure with reasonably full particulars thereof. Thereupon, the obligations of the Party giving notice, so far as they are affected by the Force Majeure, shall be suspended during, but not longer than, the continuance of the Force Majeure. The affected Party shall use all reasonable diligence to remove or remedy the Force Majeure as quickly as possible. The requirements that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes, lockouts, or other labor difficulty by the Party claiming Force Majeure contrary to its wishes. The term "Force Majeure" as used in this Agreement shall mean an Act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, pandemic, lightning, fire, storm, flood, explosion, blackout, governmental restraint, unavailability of equipment, personnel or information, and any other cause, whether of the kind specifically enumerated above or otherwise, which is not reasonably within the control of the Party claiming suspension.

17. Notice

Notices pertaining to this Agreement shall be in writing and deemed to have been duly given if delivered in person, by overnight courier, or by email to the respective Party's authorized representative identified below, or at such other address as may be changed by either Party by giving written notice thereof to the other:

GHD: GHD Consulting Services Inc.	Client
Attention:	David Britton, PE
Address:	285 Delaware Avenue, Suite 500 Buffalo, New York 14202
Email:	david.britton@ghd.com
Telephone:	716-362-8815
Facsimile:	716-856-2160

18. Miscellaneous

- (a) Third party beneficiaries. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the Parties.
- (b) Municipal advisor rule. GHD's Services do not include serving as a "municipal advisor" or advising Client or any other entity in any manner regarding municipal financial products or municipal securities.
- (c) Reliance. Client acknowledges that documents, information, and work product provided in the performance of GHD's services may not be relied on by any third party entity or person without GHD's prior written consent, which shall be granted only if such third party requests and is granted the right to rely prior to the commencement of GHD's services and such third party has (i) executed GHD's standard form reliance letter/deed and (ii) paid fees as specified in the Scope of Work.
- (d) Waiver. No failure or delay by either Party in exercising any right, power, or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any such right, power, or privilege preclude any other or further exercise thereof.
- (e) Successors and assignment. Neither Party may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies that are due or may become due) in this Agreement without the

written consent of the other Party. The obligations of the Parties under this Agreement will not terminate upon any attempted assignment that violates this Agreement. Any assignment or attempted assignment violating this Agreement is void. Notwithstanding the preceding provisions of this Section, Client hereby agrees that this Agreement may be assigned to another entity within the GHD group of companies that will be directly or indirectly wholly owned by GHD Group Limited (a "Related Entity"). Any such Related Entity shall assume all GHD's liabilities, duties, and obligations in, to, and under this Agreement. Client hereby agrees that this assignment may be effected without any notice or action on the part of GHD. Upon request, Client agrees to execute and deliver any documents as may be reasonably requested by GHD or its successor to evidence consent to such assignment.

- (f) Severability and survival. The Parties agree that, in the event one or more of the provisions or a portion thereof of this Agreement should be declared void or unenforceable, the remaining provisions shall not be affected and shall continue in full force and effect. The Parties also agree that the obligations and representations which by their nature are intended to survive the termination of this Agreement, including those pertaining to indemnification, limitations of liability, intellectual property, and confidentiality shall survive the termination of this Agreement.
- (g) Governing law. This Agreement shall be governed by the laws of the State or Province in which the project site is located, or if no such single site exists, and no agreement exists between the Parties as to applicable law, then the State or Province in which GHD is incorporated.
- (h) Authority to sign. Each of the persons signing below on behalf of any Party hereby represents and warrants that they are signing with full and complete authority to bind the Party on whose behalf they are signing, to every term of this Agreement. This Agreement may be executed in any one or number of counterparts, each of which will be deemed an original and which together will constitute one and the same instrument.
- (i) Entire agreement. This Agreement, including all attached Exhibits and documents referenced in those Exhibits, constitute the complete and final agreement between GHD and Client regarding the subject matter hereof. This Agreement supersedes all prior or contemporaneous communications, representations, undertakings, or understandings of the Parties, whether oral or written, relating to the Services and subject matter of this Agreement, except to the extent that such prior communications have explicitly been incorporated into the Agreement or one of the attached Exhibits. Modifications of this Agreement shall not be binding unless made in writing and signed by an authorized representative of each Party.

In witness whereof, GHD and Client have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

GHD

GHD Consulting Services Inc.



Robert P. Lannon Jr., PE
Project Director

Client

Name:

Title:

Exhibit "A": Scope of Work

Scope of Work	
Description of the Services	The scope of Services to be provided by GHD is as follows:
Description of the Services	Refer to GHD Request for Reappointment proposal dated December 14, 2021
GHD Subcontractor(s)	N/A
Fee Schedule including markups	See GHD letter dated December 14, 2021, Attachment 1
Materials/premises to be provided by Client	N/A
Other information relevant to the Services	N/A
Key dates	
Commencement date	[Select date]
Milestones, deadlines, timelines	[Enter details]
End date	[Select date]
Additional Terms and Conditions	
Special Conditions	N/A