

ORDINANCE NO. 105-25

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO
AN AGREEMENT WITH ENVIRONMENTAL DESIGN GROUP TO
ACQUIRE PERMANENT DRAINAGE EASEMENT AND TEMPORARY
CONSTRUCTION EASEMENTS SERVICES FOR
THE FRENCH CREEK GREENWAY PHASE 1 PROJECT
AND DECLARING AN EMERGENCY**

WHEREAS, Avon City Council recognizes the health, safety, and welfare benefits to its citizens that come from the promotion of alternative modes of transportation including walking and bicycling; and

WHEREAS, the City of Avon via the Northeast Ohio Areawide Coordinating Agency's (NOACA) Transportation for Livable Communities Initiative (TLCI) Planning Grant Program continues to work in concert with the Village of Sheffield and the Lorain County Metro Parks to finalize The Avon/Sheffield Village - Bicycle and Pedestrian Master Plan as part of an Active Transportation Initiative for all of Avon and the northeast portion of Sheffield that identifies and plans for a network of trails and other infrastructure improvements that will provide safe alternatives to motor vehicle transportation throughout the study area; and

WHEREAS, the TLCI Program provides federal funds for projects that integrate transportation and land use planning, increase transportation options, promote livability, and advance the goals of NOACA's Strategic Plan for northeast Ohio; and

WHEREAS, the Bicycle and Pedestrian Master Plan has identified the spine of the Avon trail network, to be known as the French Creek Greenway, that when fully constructed, will provide an alternate transportation link between key community resources such as parks, schools, health care facilities and commercial areas throughout Avon; and

WHEREAS, the City of Avon, with the assistance of its State Senator and Ohio House Representative, was successful in securing grant funding that can be utilized for the French Creek Greenway Phase 1 Project via the State Capital Budget, with such grant funds being administered by the Ohio Department of Natural Resources; and

WHEREAS, the City Engineer sought out proposals for easement acquisition services to secure needed easement areas at various locations along the French Creek Greenway Phase 1 project area and a valid response for such services was received from Environmental Design Group (EDG); and

WHEREAS, the EDG proposal was reviewed by the City Administration who found the cost proposal to be responsive to the project scope and reflective of unit task rates in line with similar services performed for other similar municipal projects; and

WHEREAS, City Council has reviewed the contract for professional easement acquisition related services submitted by Environmental Design Group and finds the proposal to be in the best interests of the health, safety, and welfare of the citizens of Avon in facilitating the acquisition of property rights needed for the construction of the French Creek Greenway Phase 1 Project together with all appurtenances thereto.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 - That the Avon City Council declares the necessity to acquire permanent drainage and temporary construction easements for areas as defined in plans for the French Creek Greenway Phase 1 Project as prepared by the City Engineer in conjunction with Chagrin Valley Engineering, Ltd.

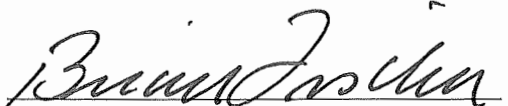
Section 2 - That the Mayor is hereby authorized to execute a contract with Environmental Design Group for said easement acquisition services related to the French Creek Greenway Phase 1 Project together with all appurtenances thereto, in substantially the form as set forth in the attached Exhibit A, which when finalized, shall both be incorporated herein and made a part of this Ordinance.

Section 3 - Payment in the amount up to **Seventy-Three Thousand Four Hundred Twenty-Five Dollars and 00/100 Cents (\$73,425.00)** to Environmental Design Group shall be made from the French Creek Greenway Fund No. 413 in said amount. The Finance Director is further authorized to increase this appropriation by a reasonable amount for engineering and legal fees associated with this project.

Section 4 - That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to meet project milestone dates established by the Ohio Department of Natural Resources for the noted project and its associated requirements; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: November 10, 2025 DATE SIGNED: November 10, 2025

By: 
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR: November 11, 2025



Bryan K. Jensen, Mayor

APPROVED AS TO FORM:


John A. Gasior, Law Director

ATTEST:

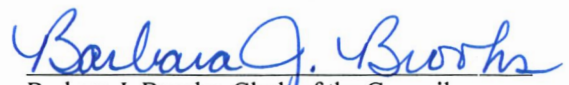

Barbara J. Brooks, Clerk of Council

Posted: November 12, 2025
Electronically and at City Hall as
Provided by Council

Prepared By:
John A. Gasior, Esq.
Law Director

I, Barbara J. Brooks, Clerk of the Council of the City of Avon, Ohio, hereby certify this document to be a true and exact copy of Ordinance No. 105-25, passed by the Council of said City on November 10, 2025.

IN WITNESS WHEREOF, I have on this 11th day of November 2025, affixed my signature and official seal.


Barbara J. Brooks, Clerk of the Council
of the City of Avon, Ohio



1200 E. Market Street
Suite 780
Akron, OH 44305

Cleveland • Columbus
Mason • Newark

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November 3, 2025 – REVISED
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Ryan Cummins, PE, CPESC, Consulting City Engineer
City of Avon
36080 Chester Road
Avon, Ohio 44011

RE: LOR-French Creek Greenway Path Phase 1
Environmental Design Group No. 25-00498-01P

Dear Mr. Cummins,

Environmental Design Group is pleased to submit our proposal for professional services ("Services") in response to our meeting on September 25, 2025, for the associated fee and conditions as attached. If this proposal is satisfactory, you may authorize Environmental Design Group to proceed by returning one (1) signed copy to us.

If a contract is not fully executed between the Client and Environmental Design Group, LLC, this project will operate under Environmental Design Group's Standard Terms and Conditions.

If there is a need for clarification or if changes in contractual arrangements are desired, please contact me at 330-375-1390. We look forward to working with you and appreciate your business.

Sincerely,

Iain Crouch | icrouch@envdesigngroup.com
Right of Way Project Manager

R. Douglas Briggs, P.E., P.S. | dbriggs@envdesigngroup.com
Director

Enclosures:
Exhibit A: Scope of Services, Fee, & Assumptions
Exhibit B: Contract

ACCEPTANCE BY CLIENT

I / We hereby authorize Environmental Design Group to perform the services as outlined above and accept the terms listed. Please sign, fill out AP information, and return one (1) copy to our office via email.

Signature

Bryan K. Jensen, Mayor

Print

Date

11-11-25

Special Instructions: _____



We will be sending invoices and payment reminders via e-mail. By sending these documents via email, we can ensure each includes the information you require. Please provide the following information:

AP Contact Steve Presley, Finance Director

AP Email Spresley@cityofavon.com

AP Phone 440-937-7806

Email an additional copy of the Invoice to:

1. cummins@cvelimited.com

2. dstreator@cityofavon.com

We accept all major credit cards for payment of services. A 4% service charge will be applied at the time of payment. Payments can be submitted directly over the phone by calling 330-375-1390 or securely through our payment portal on our website (envdesigngroup.com). Please have the following information readily available when processing payment: Client Name, Invoice Number, Project Number, Total Amount, and credit card information.



EXHIBIT A

Scope of Services, Fee, Assumptions
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PROJECT UNDERSTANDING

The project is located in the City of Avon, Lorain County, Ohio. Our proposed scope of services is outlined below, and we have also included a list of assumptions and exclusions that will help clarify the intended scope of work, both for you and for Environmental Design Group.

SCOPE OF SERVICES

The services to be performed by Environmental Design Group in accordance with this proposal are as follows:

Right of Way Acquisition Services for Phase 1 of the French Creek Greenway Path

Environmental Design Group will provide Right of Way acquisition services for up to 18 parcels for the French Creek Greenway Path, Phase 1 project. These services will include project management, appraisals, title research, negotiations, and closings.

The project involves the acquisition of easements to construct a Shared Use Path that is proposed to run along French Creek Road from west of Fairfield Drive to Kenwyn Boulevard.

Based on the right of way plans provided, this project will require right-of-way acquisition from 18 owners. The takes include temporary, drainage, and path easements. Appraisal scoping of the project will be needed to gain a final idea of appraisal types. Currently, it appears that the appraisals will be Value Analysis.

Our cost proposal is based on the assumption that, prior to authorization, Environmental Design Group will receive from the City of Avon the following information:

- Environmental Document approval
- Complete Right-of-Way Plans
- Complete Construction (Stage 3) Plans

Environmental Design Group services to be performed include:

- Project Management
- Value Analysis Appraisal
- Title Report Research and Preparation
- Negotiations for Easements
- Closings
- Miscellaneous
 - Copies and Recording fees (direct pass through)

The Ohio Department of Transportation's standard scope of services and ODOT policies and procedures for Real Estate Services will be used. Billing packets will be provided in the format requested by the City of Avon, and final deliverables will be provided for review upon project completion.

If there are delays, changes in scope, or other unforeseen factors, we request the opportunity to review and renegotiate this fee proposal.

Environmental Design Group's services for this project do not include the following:

- Design Survey
- Appraisal Review



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- Title Update for Appropriation
- Mortgage Release
- Relocation
- Relocation Review
- Attorney services for Appropriations cases
- Right of Way staking for property Owners

PROJECT QUOTATION

Environmental Design Group will invoice monthly for the described professional services on a percent complete basis as follows:

RW ACQUISITION SERVICES COST PROPOSAL

Company Name: Environmental Design Group

District: 03

Date: 10/13/25

PID NO.

Task No.:

Project CRS: LOR-French Creek Greenway Path Phase 1

Pay Item	Type of Unit	No. of Units	Fee Per Unit	Total Amount
1. Appraisal				
a. RE 95 Preparation	parcel			\$0.00
b. R/W Appraisal Report (RE 25-17)	parcel			\$0.00
c. Limited Scope R/W Appraisal Report (RE 25-17)	parcel			\$0.00
d. Value Finding (RE 90)	parcel			\$0.00
e. Value Analysis	parcel	18	\$650.00	\$11,700.00
f. Project Data Book	parcel			\$0.00
g. Project Management	parcel	18	\$150.00	\$2,700.00
SECTION SUBTOTAL				\$14,400.00
2. Title Researches				
a. Abbreviated Titles	parcel	18	\$400.00	\$7,200.00
b. Full Title (42 year)	parcel			\$0.00
c. Title Update	parcel			\$0.00
d. Project Management	parcel	18	\$150.00	\$2,700.00
SECTION SUBTOTAL				\$9,900.00
SECTION TOTAL				\$24,300.00



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3. Negotiation				
a. Negotiation (includes letters, packets, negotiations, billings, document preparation, plan revision coordination, etc.)	parcel	18	\$975.00	\$17,550.00
b. Negotiation-package submission	parcel	18	\$975.00	\$17,550.00
b. Bill of Sale Negotiation	Per			\$0.00
c. Negotiation Trainee	parcel			\$0.00
d. Project Management	parcel	18	\$200.00	\$3,600.00
SECTION SUBTOTAL				\$38,700.00
4. Closings				
a. Mail Out	parcel	18	\$350.00	\$6,300.00
b. Formal (includes forms RE 30, 31, 44, 45 & 57 and etc.)	parcel			\$0.00
c. Formal - structure parcels	parcel			\$0.00
d. Title Update for Appropriation	parcel			\$0.00
e. Mortgage Release	per release			\$0.00
f. Project Management	per release	18	\$150.00	\$2,700.00
SECTION SUBTOTAL				\$9,000.00
5. Miscellaneous				
a. Red Books	parcel			\$0.00
b. Meetings and Testimony for appropriations	parcel			\$0.00
c. Property Management	parcel			\$0.00
d. Specialty Appraisal Studies (Parking, Rent, Architectural etc.)	parcel			\$0.00
e. Copies and Recording fees (reimbursable based on actual cost for Titles and Closings - receipts necessary)	parcel	19	\$75.00	\$1,425.00
f. R/W Cost Estimate (RE-101)	parcel			\$0.00
SECTION SUBTOTAL				\$1,425.00
SECTION TOTAL				\$49,125.00
GRAND TOTAL				\$73,425.00



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This offer remains valid for 30 days; acceptance thereafter is subject to our approval. Reimbursable expenses (i.e., prints, reproductions, photos, mileage, consultant and agency fees, etc.) are included in the price shown for professional services. From the date of acceptance of this agreement, the above fees will apply for one (1) year. If the work is not completed during that period, the agreement may be subject to renegotiation.

PROJECT SCHEDULE

Environmental Design Group will complete the scope of services with reasonable diligence to meet your anticipated completion schedule of May 31, 2026.

ASSUMPTIONS AND EXCLUSIONS

Below is a list of assumptions and exclusions that apply to our proposal for technical services for this project. These items were considered while defining the scope and cost of our services. These assumptions and exclusions also describe the responsibilities of both Environmental Design Group and the Client in the event there is a need for work outside the defined scope of services.

1. Unless the Client designates an alternate in writing, the person signing the agreement will be considered the Client's only official representative with respect to this agreement.
2. Client will provide engineering and surveying data and other existing information in the Client's possession to Environmental Design Group that may be useful in the performance of the professional services described in the proposal. These items include Environmental Site Assessments, Wetland Delineations, Boundary Surveys, Topographic Surveys, ALTA Surveys, plans and specifications of existing facilities, and similar documents.
3. Client will make all provisions for Environmental Design Group personnel to enter upon public and private lands as required to perform the described services.
4. This proposal outlines the agreed-upon scope of services. It supersedes any other previous requests, discussions, or versions, including requests for proposals or other owner-initiated scope documents.
5. This proposal is based upon the current regulations of the applicable local, county, and state regulatory agencies. While Environmental Design Group does not anticipate major changes in these regulations, changes in rules adopted by the agencies during the project process may affect the fees quoted herein, and Environmental Design Group reserves the right to renegotiate such fees accordingly.
6. Fees for Permits, Plan Reviews, or any other fees to governmental agencies are not included in this proposal. It is the responsibility of the Client to pay these fees at the time of submittal if any such fee is encountered.
7. Environmental Design Group offers professional services and will work to accomplish the Client's goals, but the fees established herein shall be paid regardless of the outcome. Environmental Design Group will advise the Client on the likely approvability of the project but cannot guarantee that the desired approvals by regulatory agencies will be granted. Unfortunately, such approvability is not certain until the project has gone through the entire regulatory process.
8. Environmental Design Group has included normal review durations by the public agencies, based on our experience, in the project schedule contained herein. However, the actual duration of such reviews is beyond the control of Environmental Design Group, and extended review periods may impact and/or delay project completion.
9. If Environmental Design Group identifies an event or condition which under applicable law requires a report or notification to a government agency, the Client will report or notify the appropriate agency. Any additional costs associated with reporting or documentation to a government agency will be the responsibility of the Client.
10. This proposal has been based on a continuous project development process from start to finish. After the project is authorized, should the project be put on hold by the Client or otherwise be pursued in a start-stop-resume manner, Environmental Design Group reserves the right to renegotiate the fees established herein to account for the extra costs resulting therefrom.
11. Rates are based on the level of complexity as determined from right-of-way plans. Property valuations and unanticipated ownership issues may complicate the work process.
12. It is assumed that rights of entry and appropriations are acceptable methods for clearing the parcels in circumstances where normal acquisition procedures are not successful.



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13. It is assumed that the Client will provide their own legal counsel for appropriations cases. If outside counsel is needed, Environmental Design Group can provide recommendations at the request of the Client.
14. Environmental Design Group is offering expert witness services for appropriations cases based on opinions and interpretation of information based on professional expertise and sound professional judgment. Environmental Design Group does not warrant or guarantee the outcome of the claim. Client agrees that Environmental Design Group cannot be held liable for the outcome, but the fees established herein shall be paid regardless of the outcome.



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STANDARD PROVISIONS OF AGREEMENT (CONTRACT)

This Contract between City of Avon (Client) and Environmental Design Group, an Ohio limited liability company ("CONSULTANT"), is effective as of November 6, 2025. The parties agree as follows:

1. Consultant shall perform the services set forth in EXHIBIT A ("Contracted Services"), attached and incorporated herein by reference.
2. This Agreement will be binding upon the heirs, executors, administrators, successors, and assignees of Client and Consultant and will not be assigned by either Client or Consultant without the prior written consent of the other.
3. This Agreement contains the entire agreement between the Client and Consultant relating to the project and the provision of services to the project. Any prior agreements, promises, negotiations, or representations that are not expressly set forth in this Agreement are of no force or effect. Subsequent modifications to this Agreement will be in writing and signed by both Client and Consultant. The Client may use purchase orders as an administrative convenience; however, any terms and conditions contained in such purchase orders are not to be considered terms and conditions of this Agreement and will not be binding upon Consultant unless expressly agreed to in writing by Consultant.
4. This Agreement will be governed by and construed in accordance with the laws of the State of Ohio. Any legal proceedings related to this Agreement must be brought in a court of competent jurisdiction, venued in Lorain County, Ohio.
5. Consultant's waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, will not constitute the waiver of any other term, condition, or covenant, or the breach of any other term, condition, or covenant.
6. If any term, condition, or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or not enforceable, the remaining provisions of this Agreement will be valid and binding on Client and Consultant.
7. Consultant will only act as an advisor in all governmental relations. Obtaining government approvals is not a term of this agreement unless expressly set forth herein.
8. Consultant is not responsible for delay or damages caused by activities or factors beyond Consultant's reasonable control, including but not limited to, delays or damages by reason of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of Client or his agents to furnish timely information or approve or disapprove Consultant's work promptly, faulty performance by Client or other contractors, or the actions or inactions of governmental agencies including, but not limited to permit processing, changes in policy, environmental impact reports, dedications, general plans and amendments hereto, zoning matters, annexations or consolidations, use or conditional use permits, and building permits. When such delays beyond Consultant's reasonable control occur, Client agrees Consultant will not be deemed to be in default of this agreement.
9. The following will be considered as additional services to be performed for an additional fee: a) Changes to plans, specifications, or other documents and/or field work required by one or more governmental agencies, as a result of changes or official interpretations in its ordinances, policies, procedures or requirements after the date of this Agreement; b) Any and all increase in costs and expenses contemplated by this Agreement due to the granting of wage increases and/or other employee benefits to field or office employees as a result of the terms of any labor agreement, or rise in the cost of living, during the lifetime of this agreement. Client will be billed for the additional, percentage increase applied to all remaining compensation due with respect to services performed pursuant to this Agreement; c) Incidental services as required by Client not specified in writing within the scope of work on the front hereof; d) Cost of replacing any staking destroyed, damaged, or disturbed by an act of God or parties other than Consultant; e) The costs of checking and inspection fees, zoning and annexation application fees, assessment fees, soils engineering fees, soils testing fees, aerial topography fees, and all other fees, permits, bond premiums, title company charges, blueprints and reproductions, and all other charges not specifically covered by the terms of this Agreement.



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10. Consultant makes no representations and does not guarantee expressly or implicitly: a) The estimated quantities made in connection with maps, plans, specifications, or drawings; other than that all such figures are estimates only and Consultant shall not be responsible for interpretational differences or fluctuations. Estimates of areas provided under this agreement are not to be considered precise unless Consultant specifically agrees to provide the precise determination of such areas. b) The completion or quality of performance of Contractor or the completion or quality of performance of agreements by the construction contractor or contractors, or other third parties, nor is it responsible for their acts or omissions. c) Its findings, recommendations, specifications, or professional advice, except that the work was performed pursuant to generally accepted standards of practice in effect at the time of performance. d) Soil conditions, unless specifically included in writing in this Agreement, and it is further not liable for any damages arising out of the making or failure to make soil surveys, sub-surface soil tests, or general soil testing.
11. What may be referred to as a *cost estimate* or *engineer's estimate*, as made by Consultant herein or in other correspondence regarding the Project, shall be deemed an opinion of probable construction cost. In providing opinions of probable construction cost, it is recognized that neither Client nor Consultant has control over the costs of labor, equipment, materials, or over the contractor's methods of determining prices or bidding, or over market conditions. The opinion of probable construction costs is based on Consultant's reasonable professional judgment and experience and does not constitute a warranty, express or implied, that the contractor's bids or the negotiated price of the work will not vary from the Client's budget or from any opinion of probable cost prepared by Consultant. If Client wishes greater assurances as to Total Project or Construction Costs, Client may employ an independent cost estimator.
12. Copies of documents that may be relied upon by Client are limited to the printed copies (also known as hard copies) that are signed or sealed by Consultant. Files in electronic media format of text, data, graphics, or other types that are furnished by Consultant to Client are only for the convenience of Client. In the event there is a discrepancy between the electronic files and the hard copies, the hard copies govern. When transferring documents in electronic media format, Consultant makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by Consultant at the beginning of this Project.
13. All original papers, documents, drawings, and other work product of Consultant, and copies thereof, produced by Consultant pursuant to this Agreement, except documents which are to become permanent public record, will remain the property of the Consultant and may be used by Consultant without the consent of Client. Consultant retains all rights of copyright on work performed pursuant to this Agreement. All services provided pursuant to this Agreement may be used by Client only for the project described on the face hereof. Client agrees not to use or permit any other person to use plans, drawings, or other documents prepared by Consultant, which are not signed by Consultant and permitting agencies. Client agrees to be liable and responsible for any such use of unsigned plans, drawings, or other documents not signed by Consultant and agencies and will indemnify, hold harmless, and defend Consultant for any liability or damage incurred by Consultant as a result of such use.
14. Client acknowledges that all certifications of Consultant that appear on drawings shall be limited to the original purpose for which the respective drawings were to be used; that such certification and drawings are not intended to embrace any changes or modifications to such drawings regardless of their nature or scope; and that any obligations of Consultants attaching to such drawings shall be subject to the foregoing qualifications.
15. This agreement may be terminated by either party with thirty (30) days written notice if the other party has substantially failed to perform in accordance with the terms herein through no fault of the terminating party. Otherwise, Consultant has the right to complete all services agreed to be rendered pursuant to this agreement. In the event this Agreement is terminated before the completion of all services, Client agrees to release Consultant from all liability for work performed. In the event that all or any portion of the work prepared or partially prepared by Consultant is suspended, abandoned, or terminated by any party or for any reason, Client will pay Consultant for all fees, charges, and services provided for the project.
16. In the event that changes are made in the plans and specifications by Client or by any other person other than Consultant, any and all liability arising out of or resulting from such changes is waived by Client against Consultant, and Client assumes full responsibility and liability for such changes unless Client gives Consultant prior written notice of such changes and Consultant consents in writing to such



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changes. Client agrees to indemnify Consultant against any and all liability, loss, costs, damages, fees of attorneys, and other expenses which Consultant may sustain or incur as a result of such unconsented changes.

17. Client agrees that Consultant will not perform on-site construction review for this project unless specifically provided for in this agreement, that such services will be performed by others. Any review of shop drawings and/or submittals is solely for general conformance with the design concept and contract documents and shall not form the basis of any liability of Consultant. Reviews of shop drawings and/or submittals by Consultant shall not alter the terms of this Agreement and shall not be construed to relieve any construction contractor of its obligations.
18. Client agrees that in accordance with generally accepted construction practices, the construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property; that this requirement shall be made to apply continuously and not be limited to normal working hours, and Client further agrees to defend, indemnify and hold Consultant harmless from any and all liability, real or alleged, in connection with the performance of work on this project, excepting liability arising from the sole negligence of Consultant.
19. All fees and other charges will be billed monthly and will be due at the time of billing unless otherwise specified in this Agreement. Client agrees that the periodic billings from Consultant to Client are correct, conclusive, and binding on Client unless Client, within twenty (20) days from the date of receipt of such billing, notifies Consultant in writing of alleged inaccuracies, discrepancies, or errors in the billing. After ninety (90) days, Environmental Design Group will stop working on the project until such invoices are paid in full. Invoices not paid within ninety (90) days of the date rendered may be referred for collection.
20. Limits of Liability shall be as specified below:

The total aggregate liability of the Consultant to the Client shall not exceed the remaining available limits of the Consultant's General Commercial Liability policy and its Professional Liability policy. It is intended that this limitation apply to any and all liability or cause of action, however alleged or arising, unless otherwise prohibited by law.
21. Client and Consultant agree that they will first try to resolve any claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement via good faith negotiations. If negotiations prove unsuccessful, Client and Consultant further agree to submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, effective as of the date of this agreement.
22. Under no circumstances will any legal action in any way connected with this Agreement or services performed hereunder be initiated by either party after six (6) years from the date of Substantial Completion, unless this Agreement is terminated prior to substantial completion, in which case the date of termination of this Agreement will be the date on which such period will commence.
23. The work is being conducted and the report is prepared for the sole use of the Client and represents a professional opinion based on the information available to Consultant at the time of the investigation and report.
24. Assignment of reliance to third parties can be made; however, this will be considered an additional service. Such letters of reliance may be provided on a case-by-case basis as requested. It is further understood that the scope, terms, and conditions under which this report was originally prepared apply to any and all third-party recipients.
25. Insurance: Environmental Design Group warrants that it has workers' compensation coverage, professional liability, and such coverage under public liability and property damage insurance policies as it deems to be adequate. Certificates of all such policies of insurance shall be provided to you upon request in writing.
26. Environmental Design Group's work being performed, and Environmental Design Group's findings and conclusions are for the benefit of the Client and appropriate regulatory agencies and are not to be relied upon by any other parties. A party's failure or delay to require



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strict performance on any provision of this agreement shall not be considered a waiver or deprive such party of the right to insist upon strict adherence to that term or other terms of this agreement.

27. Standard of Care: Services performed by Environmental Design Group under this Agreement will be conducted in a manner consistent with the level of care and skill ordinarily exercised by firms similar to Environmental Design Group which are currently providing similar services in the same geographical area. Notwithstanding anything to the contrary herein, nothing in this Agreement shall require Environmental Design Group to perform professional services to a standard that exceeds the Standard of Care.

28. Client recognizes that subsurface conditions or other field conditions may vary from those encountered at locations where borings, surveys, or other observations are made by Environmental Design Group and that the data interpretations and recommendations by Environmental Design Group are based solely on information available to Environmental Design Group.

Environmental Design Group will be responsible for those data interpretations and recommendations, but shall not be responsible for any interpretations by others of the information developed.

29. SPECIAL TERMS AND CONDITIONS

The following articles are hereby modified and shall take precedence over the corresponding articles within the agreement:

Modification #	Modification Description