

**AGREEMENT  
FOR PROFESSIONAL SERVICES**

**Between**

**Prichard Water Works and Sewer  
Board**

**And**

**Hazen and Sawyer**

**FOR**

**Water Storage Tank Repainting,  
Control Valves/Vaults, and  
Environmental Documentation**

## Table of Contents

Art. 1	THE AGREEMENT DOCUMENTS .....	2
Art. 2.	SCOPE OF SERVICES AND DIVISION OF RESPONSIBILITIES .....	2
Art. 3.	NOTICE TO COMMENCE WORK AND DURATION OF AGREEMENT.....	3
Art. 4.	PAYMENT AND BILLING.....	4
Art. 5.	DATA AND INFORMATION.....	5
Art. 6.	SUBCONTRACTING.....	6
Art. 7.	CONFLICTS OF INTEREST.....	6
Art. 8.	SUSPENSION OF SERVICES .....	7
Art. 9.	TERMINATION.....	7
Art. 10.	CHANGES IN THE SERVICES .....	7
Art. 11.	NOTICES .....	8
Art. 12.	CLAIMS AND DISPUTES .....	8
Art. 13.	INSURANCE .....	9
Art. 14.	INDEMNIFICATION.....	10
Art. 15.	PERFORMANCE STANDARDS .....	11
Art. 16.	RECORDS .....	11
Art. 17.	AUDIT RIGHT AND RETENTION OF RECORDS .....	12
Art. 18.	LIMITATION OF LIABILITY.....	12
Art. 19.	SUCCESSORS AND ASSIGNEES.....	12
Art. 20.	MUTUAL WAIVER OF BREACH AND MATERIALITY .....	12
Art. 21.	PERMITS, LICENSES, NOTICES AND COMPLIANCE WITH LAWS.....	12
Art. 22.	SEVERANCE .....	13
Art. 23.	JOINT PREPARATION .....	13
Art. 24.	PRIORITY OF PROVISIONS.....	14
Art. 25.	PROJECT SPECIFIC TERMS .....	14
Art. 26.	COUNTERPARTS .....	14
Art. 27.	APPROVAL .....	15

**OWNER:** [Prichard Water Works and Sewer Board]

**PROJECT:** [Water Storage Tank Repainting, Control Valves/Vaults, and Environmental Documentation]

**AGREEMENT BETWEEN PRICHARD WATER WORKS AND SEWER BOARD  
AND HAZEN AND SAWYER  
FOR PROFESSIONAL SERVICES**

This Agreement, dated the 20<sup>th</sup> day of March , 2024 is made and entered into between  
Prichard Water Works and Sewer Board (Owner, hereinafter "**OWNER**")  
ATTN; John S. Young, Jr. LLC (Receiver)  
c/o John S. Young, Jr. Sole Member of Receiver  
125 East Clark Avenue  
Prichard, AL 36610

and

Hazen and Sawyer (hereinafter "**ENGINEER**")  
2 Chase Corporate Drive,  
STE 170  
Birmingham, AL 35244.

WHEREAS, the Receiver was appointed by the Circuit Court of Mobile County, Alabama in the case styled *Synovus Corporate Trust v. Water Works and Sewer Board of City of Prichard* by the order entered on November 10, 2012 ("Receiver Order"). Further Synovus Corporate Trust is the Indenture Trustee ("Trustee") as reflected in the Receiver Order;

WHEREAS, the Receiver is authorized to enter this Agreement on behalf of the Owner pursuant and subject to the terms of the Receiver Order;

WHEREAS, **OWNER's** Project, of which **ENGINEER's** services under this Agreement are a part, is generally identified as follows:  
Water Storage Tank Repainting, Control Valves/Vaults, and Environmental Documentation ,  
(hereinafter "**PROJECT**") ; and

WHEREAS, **OWNER** requests **ENGINEER's** services in connection with the **PROJECT**;

NOW THEREFORE, in consideration of the mutual promises herein contained, **OWNER** and **ENGINEER** agree as follows:

## Art. 1 THE AGREEMENT DOCUMENTS

- 1.1 Included Documents. The Agreement consists of: (1) this Agreement, including Schedule A, Scope of Services, and Schedule B, Compensation, attached hereto.
- 1.2 Entire Agreement. The Agreement represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral.
- 1.3 Modification. **Unless otherwise provided for herein**, no amendments, changes, alterations, or modifications of this Agreement shall be effective unless in writing and executed by **OWNER** and **ENGINEER**.

## Art. 2. SCOPE OF SERVICES AND DIVISION OF RESPONSIBILITIES

- 2.1 OWNER Responsibilities. In addition to other responsibilities of **OWNER** as set forth in this Agreement, **OWNER** must designate its representative to fulfill the following responsibilities, at its expense, which **ENGINEER** shall rely upon:
  - a) Provide **ENGINEER** with all criteria and full information as to **OWNER's** requirements for the **PROJECT**, including design objectives and constraints, flexibility, expandability, capacity and performance requirements, budgetary limitations, operating and testing data, as-built drawings, and previous reports if any. Provide **ENGINEER** with copies of all design and construction standards that **OWNER** will require to be included in the Drawings and Specifications, and provide copies of **OWNER's** standard forms, conditions, and related documents for **ENGINEER** to include in the bid documents, when applicable.
  - b) Provide to **ENGINEER** any other available information pertinent to the **PROJECT** including reports and data relative to previous designs, or investigation at or adjacent to the Site.
  - c) Following **ENGINEER's** assessment of initially available **PROJECT** data and upon **ENGINEER's** request, provide or make available such additional **PROJECT** related information and data as is reasonably required to enable **ENGINEER** to complete its services. Such additional information or data includes the following:
    1. Property descriptions.
    2. Zoning, deed, and other land use restrictions.
    3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.

4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions relating to existing surface or subsurface structures at the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
  5. Environmental assessments, audits, investigations, impact statements, and other relevant environmental or cultural studies as to the **PROJECT**, the Site, and adjacent areas.
  6. Data or consultations as required for the **PROJECT** but not otherwise identified in the Agreement or the Exhibits thereto.
- d) Provide prompt written notice to **ENGINEER** whenever **OWNER** observes or otherwise becomes aware of the presence at the Site of any environmental concern, or of any other development that affects the scope or time of performance of **ENGINEER** services, or any defect or nonconformance in **ENGINEER** services, the Work, or in the performance of any contractor.
  - e) Arrange safe access to and make all provisions for **ENGINEER** to enter upon public and private property as required for **ENGINEER** to perform services under the Agreement.
  - f) Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the **PROJECT** designed or specified by **ENGINEER** and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the **PROJECT**.

### Art. 3. NOTICE TO COMMENCE WORK AND DURATION OF AGREEMENT

- 3.1 Commencement. **ENGINEER** is authorized to begin rendering services as of the effective date and issuance of Notice-to-Proceed and will terminate either: (1) upon the satisfactory completion of **ENGINEER's** scope of services set forth in Schedule A; (2) on the date specified in Schedule B, if such date is specified, as applicable; or (3) as otherwise terminated under this Agreement.
- 3.2 Time for Completion. **ENGINEER** shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Schedules A and/or B. If, through no fault of **ENGINEER**, such periods of time or dates are changed, or the orderly and continuous progress of **ENGINEER's** services is impaired, or **ENGINEER's** services are delayed or suspended, then the time for completion of **ENGINEER's** services, and the rates and amounts of **ENGINEER's** compensation, shall be adjusted equitably. If **OWNER** authorizes changes in the scope, extent, or character of the **PROJECT**, then the time for completion of **ENGINEER's** services, and the rates and amounts of **ENGINEER's** compensation, shall be adjusted equitably. **OWNER** shall make decisions and carry out its other responsibilities in a timely manner so as not to delay **ENGINEER's** performance of its services.

## Art. 4. PAYMENT AND BILLING

- 4.1 Payment Amount(s). As compensation for the services to be performed by **ENGINEER**, **OWNER** shall pay **ENGINEER** the amount(s) set forth in Schedule B, attached hereto. The method of compensation shall be set forth in Schedule B. **OWNER** agrees only to be liable for payment to **ENGINEER** for **ENGINEER's** proper performance of services, as provided for in Schedule B.
- 4.2 Invoicing and Documentation. **ENGINEER** shall keep accurate back-up documentation of the time expended in executing its scope of work. Payment for services performed by **ENGINEER** shall be based upon **ENGINEER's** satisfactory completion of services as properly invoiced and documented by **ENGINEER**. **ENGINEER's** invoices and documentation shall be subject to verification by **OWNER** prior to payment. Engineer will receive payment on invoices directly from the **TRUSTEE**. All invoices shall be sent to **OWNER** and **TRUSTEE** at the following addresses: Invoices submitted by **ENGINEER**, at a minimum, shall:
- a) accurately describe the services rendered during the invoice period;
  - b) identify any other authorized expenses incurred hereunder; and
  - c) make reference to this Agreement, and otherwise identify the invoice in such manner as **OWNER** may reasonably require.

**ENGINEER** will receive payment on invoices directly from the **TRUSTEE**. All invoices and billing documentation shall be sent to **OWNER** and **TRUSTEE** at the following address:

**Prichard Water Works and Sewer Board**  
Attention: John S. Young, Jr. LLC (Receiver)  
125 East Clark Avenue  
Prichard, AL 36610  
j.young@comcast.net

**To Trustee:**  
Attention: Dean D. Matthews  
Managing Director, Corporate Trust  
Synovus Bank  
800 Shades Creek Parkway- STE 275  
Birmingham, AL 35209  
(205) 868-4873 (direct)  
deanmatthews@synovus.com

- 4.3 Failure to Pay. If **OWNER** fails to make any payment due to **ENGINEER** for services and expenses within 30 days after receipt of **ENGINEER's** invoice, then:
- a) amounts due to **ENGINEER** will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from the thirtieth day; and
  - b) **ENGINEER** may, after giving seven days written notice to **OWNER**, suspend services under this Agreement until **OWNER** has paid in full all amounts due

for services, expenses, and other related charges. **OWNER** waives any and all claims against **ENGINEER** for any such suspension.

- 4.4 Disputed Invoices. If **OWNER** contests an invoice, **OWNER** shall promptly advise **ENGINEER** of the specific basis for doing so, may withhold only that portion so contested, and must pay the undisputed portion.
- 4.5 Legislative Actions. If after the Effective Date any governmental entity takes a legislative action that imposes taxes, fees, or charges on **ENGINEER's** services or compensation under this Agreement, then **ENGINEER** may invoice such new taxes, fees, or charges as a reimbursable expense. **OWNER** shall reimburse **ENGINEER** for the cost of such invoiced new taxes, fees, and charges; such reimbursement shall be in addition to the compensation to which **ENGINEER** is entitled under the terms of Schedule B.
- 4.6 Opinions of Probable Construction Cost. **ENGINEER's** opinions of probable construction cost are to be made on the basis of **ENGINEER's** experience and qualifications and represent **ENGINEER's** best judgment as an experienced and qualified professional generally familiar with the construction industry. However, because **ENGINEER** has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, **ENGINEER** cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction costs prepared by **ENGINEER**. If **OWNER** requires greater assurance as to probable construction cost, **OWNER** must employ an independent cost estimator.
- 4.7 Opinions of Total Project Costs. The services, if any, of **ENGINEER** with respect to total project costs shall be limited to assisting the **OWNER** in collating the various cost categories which comprise total project costs. **ENGINEER** assumes no responsibility for the accuracy of any opinions of total project costs.

## Art. 5. DATA AND INFORMATION

- 5.1 All documents are instruments of services in respect to this **PROJECT** and **ENGINEER** shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of **ENGINEER**) whether or not the **PROJECT** is completed. **OWNER** shall not rely in any way on any document unless it is in printed form, signed or sealed by **ENGINEER** or one of its consultants.
- 5.2 **OWNER** may make and retain copies of documents for information and reference in connection with use on the **PROJECT** by **OWNER**. **ENGINEER** grants **OWNER** a limited license to use the documents on the **PROJECT**, extensions of the **PROJECT**, and for related uses of the **OWNER**, subject to receipt by **ENGINEER** of full payment for all services relating to preparation of the documents and subject to the following limitations: (1) **OWNER** acknowledges that such documents are not intended or represented to be suitable for use on the **PROJECT** unless completed by **ENGINEER**, or for use or reuse by **OWNER** or others on extensions

of the **PROJECT**, on any other project, or for any other use or purpose, without written verification or adaptation by **ENGINEER**; (2) any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by **ENGINEER**, as appropriate for the specific purpose intended, will be at **OWNER's** sole risk and without liability or legal exposure to **ENGINEER** or to its officers, directors, members, partners, agents, employees, and consultants; (3) **OWNER** shall indemnify and hold harmless **ENGINEER** and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by **ENGINEER**; and (4) such limited license to **OWNER** shall not create any rights in third parties.

- 5.3 If **ENGINEER** at **OWNER's** request verifies the suitability of the documents, completes them, or adapts them for extensions of the **PROJECT** or for any other purpose, then **OWNER** shall compensate **ENGINEER** at rates or in an amount to be agreed upon by **OWNER** and **ENGINEER**.

## Art. 6. SUBCONTRACTING

Performance of this Agreement shall not be subcontracted in whole or in part without the consent of **OWNER** which shall not be unreasonably withheld. In the event **OWNER** consents to such subcontract, **ENGINEER** shall remain bound by the terms of this Agreement until the satisfactory completion of all work hereunder or the termination or expiration hereof, whichever shall first occur. **ENGINEER** may employ consultants as **ENGINEER** deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by **OWNER**.

## Art. 7. CONFLICTS OF INTEREST

- 7.1 Neither **ENGINEER** nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with **ENGINEER's** loyal and conscientious exercise of judgment related to its performance under this Agreement.
- 7.2 **ENGINEER** agrees that none of its officers or employees shall, during the duration of this Agreement, serve as an expert witness against **OWNER** in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of **OWNER** for the work performed under this Agreement or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding.
- 7.3 In the event **ENGINEER** is permitted to utilize subcontractors to perform any services required by this Agreement, **ENGINEER** agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this Article 7.



## Art. 8. SUSPENSION OF SERVICES

- 8.1 By OWNER. **OWNER** may suspend, delay, or interrupt the **PROJECT** for up to 60 days upon 7 days written notice to **ENGINEER**. The written notice must be in advance of the effective time and date of suspension and will fix the date on which performance of such services will be resumed. **ENGINEER** shall be entitled to an adjustment in compensation, an extension of time, or both, directly attributable to any such suspension, to the extent that such suspension was not due to any fault of **ENGINEER**.
- 8.2 By ENGINEER. **ENGINEER** may suspend, delay, or interrupt its services, or any portion thereof, for a period of 60 days upon 7 days written notice to **OWNER** for nonpayment.

## Art. 9. TERMINATION

- 9.1 Termination for Cause by Either Party. Either party may terminate this Agreement at any time for cause by giving the other party **seven days** written notice if the other party fails to perform its obligations under this Agreement and fails to cure within such **seven-day** period.
- 9.2 Termination for Cause by ENGINEER. Upon seven days written notice if **OWNER** demands that **ENGINEER** furnish or perform services contrary to **ENGINEER**' responsibilities as a licensed professional; or upon seven days written notice if **ENGINEER**'s services for the **PROJECT** are delayed or suspended for more than 60 days for reasons beyond **ENGINEER**'s control, **ENGINEER** may terminate this Agreement. **ENGINEER** shall have no liability to **OWNER** on account of such termination.
- 9.3 Termination for Convenience. **OWNER** may terminate this Agreement at any time with or without cause upon at least **fourteen days** written notice to **ENGINEER**. In the event of such a termination for convenience, **ENGINEER** will be paid for that portion of the work satisfactorily completed prior to termination.
- 9.4 Payments Upon Termination. In the event of any termination, **ENGINEER** will be entitled to invoice **OWNER** and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination. In the event of termination by **OWNER** for convenience or by **ENGINEER** for cause, **ENGINEER** shall be entitled, in addition to invoice **OWNER** and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with **ENGINEER**'s subcontractors or consultants, and other related close-out costs.

## Art. 10. CHANGES IN THE SERVICES

- 10.1 Written Change Order. **OWNER** may, by written order to **ENGINEER**, request additional services, issue revisions or direct the omission of services within the general scope of this Agreement. Any additional services shall be performed upon

execution of an applicable change order regarding compensation and extensions of time. No changes will be made absent specific written direction and agreement for payment.

- 10.2 Equitable Adjustment. If such changes cause an increase or decrease in **ENGINEER's** cost of, or time required for, performance of any services under this Agreement, an equitable adjustment may be made in price and/or time of performance, provided that any claim for an adjustment must be made in strict accordance with the terms of this Agreement. **ENGINEER** shall submit such claim in writing within **30 days** of receipt of said written order.

## Art. 11. NOTICES

All notices or orders provided for in this Agreement shall be in writing, addressed to the appropriate party at the address which appears below (or as modified in writing by such party) and given personally, by United States mail (return receipt requested), or by a courier service. All notices shall be effective upon the date of receipt.

**OWNER** if mailed by certified or registered mail, postage prepaid to:

Prichard Water Works and Sewer Board  
Attention: John S. Young, Jr. - Receiver  
125 East Clark Avenue  
Prichard, AL 36610;

or

**ENGINEER** if mailed by certified or registered mail, postage prepaid to:

Hazen and Sawyer  
Attention: Stephen H. King  
2 Chase Corporate Drive,  
STE 170  
Birmingham, AL 35244.

## Art. 12. CLAIMS AND DISPUTES

- 12.1 Applicable Law. This Agreement shall be interpreted and construed in accordance with the laws of the state where the **PROJECT** is located.
- 12.2 Dispute Resolution Procedure. **OWNER** and **ENGINEER** each hereby waives any rights it may have to a trial by jury of any such litigation. Further, any such claims or disputes and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the courts of the state in which the **PROJECT** is located.
- 12.3 Neither **OWNER** nor **ENGINEER** shall be liable to the other for any special, incidental, indirect or consequential damages whatsoever arising out of or relating in any way to this Agreement.

## Art. 13. INSURANCE

- 13.1 ENGINEER Coverage. **ENGINEER** shall procure and maintain insurance as set forth below. **ENGINEER** shall cause **OWNER** to be listed as an additional insured on any applicable general liability insurance policy carried by **ENGINEER**.
- 13.2. Minimum Coverage of ENGINEER. **ENGINEER** shall maintain at a minimum the following insurance policies and coverage with carriers authorized to cover risks and licensed to underwrite policies and have an A.M. Best's rating of A-VII or higher:
- (a) Worker's Compensation & Disability Insurance as required by all applicable state and federal laws.
  - (b) Employer's Liability with limits of **\$500,000** each accident, **\$500,000** Disease (each employee) and **\$500,000** Disease (policy limit).
  - (c) Comprehensive General Liability with minimum limits of **\$1,000,000** per occurrence and **\$1,000,000** in the aggregate.
  - (d) Professional Liability with limits of not less than **\$1,000,000**, per claim and **\$1,000,000** in the aggregate, insuring the professional liability of **ENGINEER**.
  - (e) Business Auto Insurance for all owned, hired, non-owned and Employers' non-ownership vehicles with minimum limits of **\$1,000,000** combined single limit.
  - (f) Other Insurance Coverage Requirements: None
- 13.3 Certificates of Insurance. **ENGINEER** shall deliver to **OWNER** certificates of insurance evidencing the coverages indicated in Sections 13.1 and 13.2 above. Such certificates shall be furnished prior to commencement of **ENGINEER's** services and at renewals thereafter during the life of the Agreement.
- 13.4 At any time, **OWNER** may request that **ENGINEER** or its consultants, at **OWNER's** sole expense, provide additional insurance coverage, increased limits, or revised deductibles.
- 13.5 Cancellation, Renewal or Modification. Should coverage afforded under any policy be canceled, non-renewed, materially changed (materially changed defined as a reduction in the policy limit by endorsement during the policy period), or allowed to expire, **ENGINEER** shall provide **OWNER** with at least 30 days prior written notice or, in the event of non-payment, ten days prior written notice.
- 13.6 Failure to Maintain Insurance. In the event **ENGINEER** fails to maintain any of the insurance required under this Agreement, it shall constitute a material breach of this Agreement.

## Art. 14. INDEMNIFICATION

- 14.1 Indemnification by ENGINEER. To the fullest extent permitted by law, **ENGINEER** shall indemnify and hold harmless **OWNER**, and its officers and employees from and against claims, damages, losses and expenses of any nature or kind including, but not limited to, reasonable attorneys' fees, arising out of, resulting from or relating in any way to negligence, recklessness, intentionally wrongful conduct or breach of contract of **ENGINEER**, its subcontractors, anyone directly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Article 14.
- 14.2 Indemnification by OWNER. To the extent permitted by Alabama law, **OWNER** shall indemnify and hold harmless **ENGINEER** and its shareholders, directors, officers, agents and employees from and against claims, damages, losses and expenses of any nature or kind including, but not limited to, attorneys' fees, arising out of, resulting from or relating in any way to negligence, recklessness, intentionally wrongful conduct or breach of contract of **OWNER**, its subcontractors, anyone directly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Article 14.
- 14.3 Environmental Indemnification. To the fullest extent permitted by law, **OWNER** shall indemnify and hold harmless **ENGINEER**, and its shareholders, directors, officers, agents and employees from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of **ENGINEER**, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from an environmental concern at, on, or under the site, provided that (1) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to the injury or to destruction of tangible property (other than the work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate **OWNER** to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- 14.4 Mutual Waiver. To the fullest extent permitted by law, **OWNER** and **ENGINEER** waive against each other, and the other's shareholders, directors, officers, agents and employees, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the **PROJECT**.
- 14.5 This Article 14, Indemnification, shall survive the termination of this Agreement.
- 14.6 Both parties acknowledge and agree that the foregoing obligations are specific considerations for this Agreement and without such duties and obligations neither party would enter this Agreement.

## Art. 15. PERFORMANCE STANDARDS

- 15.1 Standard of Care. **ENGINEER** shall perform all professional services with the care and skill ordinarily exercised by members of the same profession currently practicing in the United States, on projects of similar size and complexity at the time the services are performed. **ENGINEER** makes no warranties, express or implied, under this Agreement or otherwise, in connection with **ENGINEER's** services.
- 15.2 Reliance on Others. Subject to the standard of care set forth in Article 15, **ENGINEER** and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- 15.3 **ENGINEER** shall not be required to sign any documents, no matter by whom requested, that would result in **ENGINEER** having to certify, guarantee, or warrant the existence of conditions whose existence **ENGINEER** cannot ascertain. **OWNER** agrees not to make resolution of any dispute with **ENGINEER** or payment of any amount due to **ENGINEER** in any way contingent upon **ENGINEER** signing any such documents.
- 15.4 During construction, **ENGINEER** neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform the work in accordance with the contract documents.
- 15.5 During construction, **ENGINEER** shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- 15.6 During construction, **ENGINEER** shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other person (except **ENGINEER**; own agents, employees, and consultants) at the site or otherwise furnishing or performing any work; or for any decision made regarding the contract documents, or any application, interpretation, or clarification of the contract documents, other than those made by **ENGINEER**.

## Art. 16. RECORDS

- 16.1 If the services to be performed hereunder relate to a state or federal government contract, the Comptroller General of the United States and the department or agency of the government having cognizance over this Agreement, and any of their duly authorized representatives, shall have access to and the right to examine any directly pertinent books, documents, papers and records of **OWNER** or **ENGINEER** involving transactions related to this Agreement.
- 16.2 **ENGINEER** shall grant access to such records until the expiration of **three years** after final payment under this Agreement.

## Art. 17. AUDIT RIGHT AND RETENTION OF RECORDS

- 17.1 **OWNER** shall have the right to audit the books and records of **ENGINEER**. **ENGINEER** shall keep such records and accounts as may be necessary in order to record complete and correct entries related to the **PROJECT**.
- 17.2 **ENGINEER** shall preserve and make available, at reasonable times for examination and audit by **OWNER** all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement until the expiration of **three years** after final payment under this Agreement.

## Art. 18. LIMITATION OF LIABILITY

To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of **ENGINEER** and **ENGINEER's** officers, directors, members, partners, agents, employees, and Consultants, to **OWNER** and anyone claiming by, through, or under **OWNER** for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the **PROJECT** or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of **ENGINEER** or **ENGINEER's** officers, directors, members, partners, agents, employees, or Consultants shall not exceed the total compensation received by **ENGINEER** under this Agreement.

## Art. 19. SUCCESSORS AND ASSIGNEES

This Agreement is to be binding on the heirs, successors and assignees of **OWNER** and **ENGINEER**, but is not to be assigned by either **OWNER** or **ENGINEER**, without first obtaining the written consent of the other.

## Art. 20. MUTUAL WAIVER OF BREACH AND MATERIALITY

Failure by **either party** to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement. **OWNER** and **ENGINEER** agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

## Art. 21. PERMITS, LICENSES, NOTICES AND COMPLIANCE WITH LAWS

- 21.1 **ENGINEER** shall comply with federal, state and local tax laws, social security acts, unemployment compensation acts and worker's compensation acts insofar as applicable to the performance of services under this Agreement.
- 21.2 **ENGINEER** shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds

provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by **OWNER**, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards.

- 21.3 **ENGINEER's** decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.
- 21.4 **ENGINEER** shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability. In addition, **ENGINEER** shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.
- 21.5 **ENGINEER** shall take affirmative action to ensure that applicants are employed, and employees are treated without regard to race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability during employment. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

## Art. 22. SEVERANCE

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless **OWNER** elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within **seven days** after the finding by the court becomes final.

## Art. 23. JOINT PREPARATION

Preparation of this Agreement has been a joint effort of **OWNER** and **ENGINEER**, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

## Art. 24. PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in the Articles of this Agreement shall prevail and be given effect.

## Art. 25. PROJECT SPECIFIC TERMS

The following additional **PROJECT** specific terms and conditions are:

\_None

## Art. 26. COUNTERPARTS

This Agreement may be executed in **counterparts**, each of which shall be deemed to be an original.

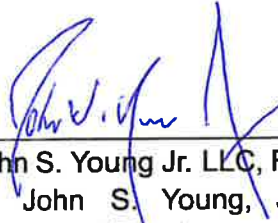


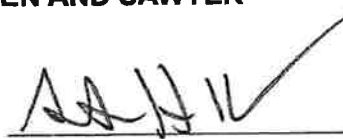
Art. 27. APPROVAL

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers and is made effective the day and year first above written.


**PRICHARD WATER WORKS AND SEWER BOARD**


**HAZEN AND SAWYER**

By:   
John S. Young Jr. LLC, Receiver  
By John S. Young, Jr. LLC Sole  
Member of Receiver  
Date: 03-20-2024

By:   
Stephen King, P.E., BCEE  
Associate Vice President  
Date: 3-15-2024

Witnessed By:

  
Jayson J. Page Date 3/20/24  
Vice President  
Title

 3/15/2024  
Jeremy T. Hise, PE Date  
Associate Vice President  
Title

Digitally signed by Jeremy Hise  
DN: cn=Jeremy Hise, email=jeremy.hise@hazenandswayer.com,  
c=US, ou=Hazen and Sawyer, cn=Jeremy  
Hise  
Date: 2024.03.15 16:33:01 -0400

**SCHEDULE A**  
**SCOPE OF SERVICES**

**Prichard Water Works and Sewer Board**

**Water Storage Tank Repainting, Control Valves/Vaults, and Environmental  
Documentation**

The scope of work to be provided by **ENGINEER** includes professional services for the elements listed below.

*Chickasaw Tank, Vigor Tank, Lott Road Tank, and Anderson Road Tank*

PWW&SB's Chickasaw, Vigor, and Anderson Road Storage Tanks are all one-million-gallon, steel-welded, leg supported, elevated storage tanks constructed approximately in the 1960's. The Lott Road storage tank is a 0.025 MG steel-welded, leg supported elevated storage tank. In 2020, Suez performed a washout and condition inspection on all tanks and published a Condition Assessment report. Key findings of the report include:

- *“Exterior coating – recommend overcoating in the near future.*
- *Interior coating – recommend removal and reapplication in the near future.*
- *Various exceptions were noted with regard to the condition of the access ladder, vent, hatch, foundations, riser rods, wind rods, balcony, or other appurtenances.”<sup>1</sup>*

Based upon the Suez Report's conclusions, PWW&SB desires to have the following improvements performed on the tanks:

- Clean, prep, and full blast the entire exterior of the tanks (if deemed necessary)
- Paint graphics (PWW&SB's logo) onto exterior if requested
- Clean interior portion of the bowls
- Clean, prep, and full blast the entire interior portion of the tank
- Modify overflow pipe to comply with ADEM requirements

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<sup>1</sup>Suez Tank Washout Condition Assessment Report, (October 2020)  
HAZEN AGREEMENT PWW&SB – Water Tank Repainting Project

### *Office Standpipe Tank*

PWW&SB' Office Standpipe Tank is a 500,000-gallon, steel-welded, standpipe constructed approximately in the 1960's. This tank is no longer needed and will be demolished and removed as part of this project.

PWW&SB intends to have these improvements performed under three (3) or more separate Contracts.

The purpose of this project is to develop three independent sets of bidding documents. One for the Chickasaw, Vigor, and Lott Road Tanks. The Anderson Tank will be bid as either a standalone or included in the package with the other tanks. One package for control valves and the other for demolition of the Office Standpipe. Engineering services to be provided include the development of Bid Documents and supporting PWW&SB through the bidding phase, award phase, and the construction phase for each project.

## **Scope of Work**

To accomplish this effort, Hazen will provide the following services:

- Task 1: Bid Documents
- Task 2: Bid Phase Services
- Task 3: Award and Construction Phase Services including Observation Services

### **Task 1: Bid Documents**

#### *Kickoff Meeting and Site Visit*

Hazen will meet with PWW&SB and then visit the project sites to identify and inspect the project components and to ensure that PWW&SB and Hazen determine and finalize the construction scope. Hazen will provide recommendations on the types and extent of interior and exterior coatings replacements (including painting systems and surface preparation) for PWW&SB to consider for the coatings scope of work.

#### *Bid Documents*

Hazen will develop bid documents that define the work to be bid and constructed, the milestone and final completion dates to be achieved during construction, and other construction contract conditions and bidding requirements. The Bid Documents subtask is based upon the decisions made during the Kickoff Meeting and Site Visit subtask.

Design submittals will be presented to PWW&SB for review at two progressive milestones (75% and 100%). For each of these milestones, Hazen will develop the appropriate level of design, perform internal QA/QC, and submit in-progress documents to PWW&SB for review and comment. Prior to continuing to the next design milestone, Hazen will conduct a meeting with PWW&SB to review and discuss the bid documents.

## 75% Design Submittal

Hazen will prepare plans and specifications that comply with applicable codes, laws, and regulations, and be suitable for submittal and approval by authorities having jurisdiction. Hazen will incorporate PWW&SB's standard bidding and contract requirements and specifications (if available) in the documents as appropriate. The 75% Design Submittal will generally include the following:

- Narrative Summary of Work to describe all elements of the work to be performed.
- Drawings
  - Utilizing PWW&SB record drawings and photos, support the Narrative Summary of Work to help ensure that Bidders have a complete understanding of the project scope.
  - Standard Details, as needed.
- Specifications
- Bid Form, including line items identified within the Suez Report as well as Owner Directed Work unit price items for work not identified within the reports but that may be identified during the construction phase.
- Opinion of Probable Construction Cost (AACE Class 3, +30% through – 20%)
  - The Opinion of Probable Cost will incorporate an additional contingency to accommodate the current market volatility.
- 2020 Condition Assessment Report (by Suez)

## 100% Design Submittal

The 100% Design Submittal will incorporate 75% Design Submittal comments and input from PWW&SB. The intent of this Submittal is to confirm that the documents are ready for bidding; it is not anticipated that new design elements will be added to the project after the 75% Design Submittal. Comments received as a part of the 100% Design Submittal will be incorporated into the Issued for Bid documents (see Task 2).

## Issued for Bid Documents

For the Water Tank Repainting, Control Valves/Vaults Construction, and Office Tank Demolition bidding documents, Hazen will produce three separate Issued for Bid Document packages that include schematic drawings, specifications, and attachments. All comments and input from the 100% Design Submittal review will be incorporated into the Issued for Bid Documents. In general, the Issued for Bid Documents will include:

- Divisions 00-01 Bidding and Contract Requirements (aka 'Front Ends')
- Divisions 02-46 (as appropriate) Technical Specifications
- Schematic Drawings
- Applicable attachments, including Suez's condition assessment report

Hazen will submit a draft copy of the Issued for Bid documents to PWW&SB for review and will incorporate comments into a signed and sealed “Issued for Bid” bid package ready for PWW&SB to issue for public solicitation.

The bid packages for Water Storage Tank Repainting and Demolition of the Office Standpipe will be submitted together and the bid package for the Control Valves/Vaults may be submitted up to 90 days later.

### **Task 1 Assumptions**

The following assumptions will apply to work conducted as part of this task:

- Task 1 will run concurrently for all Water Storage Tanks. Submittals, reviews, and meetings will be coordinated for all tank repainting projects concurrently. PWW&SB will provide electronic and/or hard-copy versions of available as-builts or design plans and specifications, record drawings, and condition assessment reports.
- No field work will be performed as a part of this task (including topographic survey, geotechnical investigations, or tank condition inspections).
- The project scope does not include any additional lead paint, or other hazardous material survey or abatement other than what’s already provided in the report by Suez.
- Hazen is not performing tank inspections as a part of the project. The scope of work to be included in the Bidding Documents is based upon the Report and items identified by PWW&SB and/or Hazen as a part of the Kickoff Meeting and Site Visit subtask.
- Hazen is not performing structural design as a part of this project.
- Hazen will coordinate with PWW&SB and local representatives for major coatings manufacturers/suppliers to develop a coatings regimen for the project (including primer, stripe coat, and finish coat).
- It is not anticipated that any permits will be required as a part of this project.
- Control vaults are assumed to include a PRV and a flow control valve. No flow measurement devices (e.g. mag meters) will be installed within the control vaults. PRV and flow control features will be determined during design.
- Standard details will be prepared for overflow modifications and control vaults, which can be utilized at various sites.

### **Task 1 Meetings**

- Kickoff meeting
- Design milestone document review meetings (anticipate three meetings: 75% and 100% milestones + one additional)

## **Task 1 Deliverables**

Hazen will provide the following deliverables:

- Agendas and summaries for all meetings
- Chickasaw, Vigor, Lott Road, and Anderson Water Storage Tanks
  - 75% Design Submittal
  - 100% Design Submittal
  - Issued for Bid Documents
- Office Tank Demolition
  - 75% Design Submittal
  - 100% Design Submittal
  - Issued for Bid Documents
- Control Valves/Vaults (may be submitted up to 90 days after Water Storage Tank Submittal)
  - 75% Design Submittal
  - 100% Design Submittal
  - Issued for Bid Documents

## **Task 2: Bid Phase Services**

### *Bidding Period*

For all Projects, PWW&SB will facilitate and lead the bid phase of the project. As requested by PWW&SB, Hazen will support PWW&SB during this period, including:

- Leading the Pre-Bid Meeting.
- Interpret, clarify, or modify the bidding documents by addenda.

### *Conformed Contract Documents*

For all Projects, Hazen will develop conformed drawings and specifications for execution of a contract between PWW&SB and the Contractor, including:

- Complete conformed drawings/specifications to include all changes made by addenda.

## **Task 2 Assumptions**

The following assumptions will apply to work conducted as part of this task:

- The Water Storage Tank Repainting, the Demolition of the Office Standpipe, and the Control Valves/Vaults project will all proceed fully through the bidding phase of the project, anticipating that PWW&SB will execute a contract to perform this work as a part of this proposal.
- Hazen will use PWW&SB's Division 00 Procurement and Contracting Requirements specifications for the contract's "Bidding and Contract Requirements" if available. If

documents are not available Hazen will use the EJCDC standard documents. Hazen will develop Division 01 General Requirements and 02-46 Technical Specifications (as applicable) using CSI 48 Division format.

- Pre-qualification of contractors will be managed in the specification documents.
- The Tank bidding process to select a construction contractor will only involve a single round of solicitation, and the project will be bid as a single construction contract.
- PWW&SB will be primarily responsible for the project's Bid Phase, including distributing bid documents, receiving and evaluating bids, and executing the contract. Hazen will support PWW&SB on an as-needed, as-requested basis.

### **Task 2 Meetings**

- Water Storage Tank Repainting and Tank Demolition Pre-Bid Meeting may be in-person or via online Team's meeting.

### **Task 2 Deliverables**

Hazen will provide the following deliverables:

- Agendas and summaries for all meetings
- Water Storage Tank Repainting, Office Standpipe Demolition, and Control Valves/Vaults
  - Addenda to Bid Documents, as required
  - Conformed Contract Documents
    - Four (4) originals for execution (2 for PWW&SB, 1 for Contractor, 1 for Hazen)
    - Electronic (PDF) copy of executed Contract for all parties

### **Task 3: Construction Phase Services**

- **Contract Administration**

Assist Owner in general Contract Administration associated with the project.

- **Construction Progress Meetings**

Assist Owner in construction progress meetings. Attendance at one (1) Pre-Construction Meeting and (2) progress meeting has been assumed. Hazen has also assumed three (3) conference calls for minor progress meetings that Hazen is not required to be onsite for, but may be needed to address technical questions.

- **Shop Drawings**

Receive, log and review shop drawings and other data submitted for review and approval by construction contractor as requested by the Owner. Review of five (5) shop drawings has been assumed for each Contract.

- **Requests for Information**

Receive, log and develop response for Contractor's Request for Information (RFI) as requested by the PWW&SB. Review of five (5) RFI's has been assumed.

- **Observation Service**

Engineer will not perform full time construction observation services; however, observation services will be performed at a frequency to match the work as determined by the Engineer. Critical phase coating inspections will be made by a third-party coating inspector retained by Engineer and Engineer's expense.

- **Final Inspection**

Perform a final inspection of the completed project with the PWW&SB.

### **Assumptions**

The following scope assumptions were made in preparing this Scope of Work and Fee Estimate:

1. Geotechnical services, environmental field delineations, and site survey are not included.
2. The PWW&SB will provide timely (within 1 week) review of submittals in order to maintain the proposed project schedule.



**TIME OF COMPLETION**  
**Prichard Water Works and Sewer Board**  
**Water Storage Tank Repainting, Control Valves/Vaults, and Environmental**  
**Documentation**

**TIME OF COMPLETION**

**Schedule**

The planned schedule is shown below.

Bid Ready Package for Water Storage Tank Repainting	April 12, 2024
Environmental Document per Funding Requirements	April 12, 2024*
Award- Tank Repainting	June 4, 2024
Construction start – Tank Repainting	June 18, 2024
Construction completion (target completion date) - Tank Repainting	December 1, 2024
Bid Ready Package for Control Valves/Vaults	June 12, 2024
Award - Control Valves/Vaults	August 5, 2024
Construction start – Control Valves/Vaults	August 19, 2024
Construction completion (target completion date) - Control Valves/Vaults	December 1, 2024

\*This document will not be complete as responses from several federal agencies are required.

**SCHEDULE B  
COMPENSATION**

**Prichard Water Works and Sewer Board**

**Water Storage Tank Repainting, Control Valves/Vaults, and Environmental  
Documentation**

**OWNER** shall pay **ENGINEER** as full compensation for the services identified under Schedule A at the lump sum amounts listed below:

Compensation for the Scope of Services outlined above will be in on a lump sum basis as outlined below:

**Bid Document Preparation**

Water Storage Tank Repainting

Chickasaw, Vigor, Lott Road, and Anderson Tank \$60,000

Office Standpipe Demolition \$15,000

Control Valves/Vaults \$30,000

**Bid Document Preparation Subtotal \$105,000**

**Environmental Document Preparation \$35,000**

**Bidding (3 contracts) \$22,500**

**Award/Construction Services**

Construction Services (engineering) \$40,000

Observation Services

(subconsultant- coating inspector) \$75,000

Tank Demolition (as needed) \$15,000

Control Valves/Vaults (as needed) \$7,500

**Award/Construction Services Subtotal \$137,500**

**Total \$300,000**