

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("**Agreement**") is made and entered into this 5th day of May, 2025 ("**Effective Date**") by and between the CITY OF FOREST PARK, GEORGIA ("**City**") and NOVA ENGINEERING AND ENVIRONMENTAL, INC., a domestic profit corporation ("**Contractor**").

WHEREAS, the City desires to engage Contractor, and Contractor agrees to render certain technical advice and professional services to the City pursuant to the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual terms, conditions and covenants set forth herein, the parties hereto agree as follows:

1. **SERVICES.** Contractor agrees to provide professional building inspection services to the City ("**Services**"). The City and Contractor shall sign relevant task orders for necessary building inspection projects ("**Task Order**"), more particularly described in **Exhibit A** attached hereto and incorporated herein. In the event of any conflict between the terms of Exhibit A and this Agreement, the terms of this Agreement shall control.
2. **COMPENSATION.** In consideration for Services, the City shall pay to Contractor by monthly invoices pursuant to the completion of the Task Order issued by the City. The Contractor shall submit monthly invoices to the City upon final satisfactory completion of the Task Order which shall be determined by the City. The City agrees to pay Contractor's invoices within thirty (30) calendar days of receiving same. As the City is a local government entity and thus exempt from sales taxation, notwithstanding the terms of the proposal, Contractor acknowledges the City shall not be responsible for payment of any sales taxes on any invoices submitted for the services provided under this Agreement.
3. **TERM.** This Agreement shall commence on the Effective Date and shall terminate absolutely without further obligation on the part of the City upon December 31, 2025 ("**Initial Term**"). This Agreement shall automatically renew, upon the same terms and conditions at the expiration of the Initial Term, for two (2) subsequent annual terms ("**Renewal Term**" or "**Renewal Terms**"), unless the City provides written notice of non-renewal to Contractor sixty (60) calendar days prior to the expiration of the Renewal Term, or if the Agreement is otherwise terminated pursuant to the terms herein. In no event shall this Agreement be in any force and effect on January 1, 2028.
4. **RELATIONSHIP OF THE PARTIES.**
 - (a) *Independent Contractors.* Nothing contained herein shall be deemed to create any relationship other than that of independent contractor between the City and Contractor. This Agreement shall not constitute, create, or otherwise imply an employment, joint venture, partnership, agency, or similar arrangement between the City and Contractor. It is expressly agreed that Contractor is acting as an independent contractor and not as an employee in providing the Services under this Agreement.
 - (b) *Employee Benefits.* Contractor shall not be eligible for any benefit available to employees of the City including, but not limited to, workers' compensation insurance, state disability insurance, unemployment insurance, group health and life insurance, vacation pay, sick pay, severance pay, bonus plans, pension plans, or savings plans.

- (c) *Payroll Taxes.* No income, social security, state disability or other federal or state payroll tax will be deducted from payments made to Contractor under this Agreement. Contractor shall be responsible for all FICA, federal and state withholding taxes and workers' compensation coverage for any individuals assigned to perform the Services for the City.

5. **WARRANTY ON SERVICES RENDERED.** The Contractor warrants its Services and workmanship shall be performed by skilled personnel experienced in and capable of doing the kind of work assigned to them and performed in accordance with all applicable federal, state, and local laws, regulations, rules and policies. Upon receipt of written notice of a defect, the Contractor shall repair the defect in a timely manner at no expense to the City.

6. **TERMINATION FOR DEFAULT.**

- (a) The City may, subject to the provisions of subparagraph (c) below, by written notice of default to the Contractor, terminate the whole or any part of this Agreement in any one of the following circumstances; (i) if the Contractor fails to perform this Agreement within the time specified herein or any extension thereof; or (ii) if the Contractor fails to perform any of the other provisions of this Agreement, or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and does not cure such failure within a period of ten (10) calendar days after receipt of notice from the City specifying such failure.
- (b) In the event the City terminates this Agreement in whole or in part as provided in subparagraph (a) above, the City may procure, upon such terms and in such manner as the City may deem appropriate, services, similar to those so terminated, and the Contractor shall be liable to the City for any excess costs for the same, including without limitation all cost and expenses of the type specified in the "WARRANTY" paragraph of this Agreement; provided, that the Contractor shall continue the performance of this Agreement to the extent not terminated hereunder.
- (c) Except with regard to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the Contractor; such causes may include, but are not limited to, acts of God, or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, flood, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule. The term "subcontractor" shall mean subcontractor at any tier.
- (d) If, after notice of termination of this Agreement under the provisions of this paragraph, it is determined for any reason that the Contractor was not in default under the provisions above or that the default was excusable under the provisions of this paragraph, the rights and obligations of the parties shall be the same as if the notice of termination has been issued pursuant to the "Termination for Convenience" paragraph of this Agreement.
- (e) The rights and remedies of the City provided in this paragraph shall not be exclusive and are in

addition to any other rights and remedies provided by law or under this Agreement.

7. **TERMINATION FOR CONVENIENCE.** The City may at any time by written notice terminate all or any part of this Agreement for the City's convenience. If this Agreement is terminated, in whole or in part, for the City's convenience, the Contractor shall be paid an amount, to be mutually agreed upon, which shall be adequate to cover the actual and reasonable cost paid by the Contractor for the actual services reasonably rendered by the Contractor to perform the work under this Agreement to the effective date of termination; provided that no amount shall be paid to the Contractor for (i) any anticipatory profits related to work under this Agreement not yet performed, or (ii) costs incurred due to the Contractor's failure to terminate work as ordered on the effective date of termination. In no event shall the total amount paid under the provisions of this paragraph exceed the prices set forth in this Agreement for the work terminated.
8. **DISPUTES.** Pending resolution of any dispute hereunder, the Contractor shall proceed diligently with the performance of work in accordance with the City's direction.
9. **INDEMNIFICATION.** To the fullest extent permitted by law, Contractor agrees to indemnify, defend, and hold harmless the City and its board members, directors, officers, officials, employees, agents, and legal representatives (collectively, the "**City Indemnitees**") from and against any and all liabilities, demands, losses, damages, fines, penalties, costs or expenses (including but not limited to reasonable attorney's fees and costs or fines or penalties charged by any governmental entity), incurred by any City Indemnatee as a result of or arising out of (i) the wrongful misconduct or negligence (including fraud) of Contractor or its employees, agents, and representatives in performing this Agreement; (ii) a material breach by Contractor of its covenants; or (iii) failure by Contractor or its employees, agents, and representatives to comply with all applicable federal, state, or local law, rule or regulation in connection with services provided under this Agreement. Contractor expressly understands and agrees that any bond or insurance protection required by this Agreement, or otherwise provided by Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City Indemnitees as provided herein. These obligations shall survive termination.
10. **RISK MANAGEMENT REQUIREMENTS.** The Contractor shall abide by the City's applicable Risk Management Requirements, attached to this Agreement as **Exhibit B**, and incorporated herein by reference.
11. **STANDARD OF PERFORMANCE AND COMPLIANCE WITH APPLICABLE LAWS.**
 - (a) Contractor warrants and represents that it possesses the special skill and professional competence, expertise, and experience to undertake the obligations imposed by this Agreement.
 - (b) Contractor agrees to perform in a diligent, efficient, competent, and skillful manner commensurate with the highest standards of the profession, and to otherwise perform as is necessary to undertake the Services required by this Agreement.
 - (c) Contractor warrants and represents that it will, always, observe and comply with all federal, state, local and municipal laws, ordinances, rules, and regulations, relating to the provision of the Services to be provided by Contractor hereunder or which in any manner affect this Agreement.
12. **WORK ON THE CITY'S DESIGNATED PREMISES.** If the Contractor, the Contractor's employees or agents or the Contractor's subcontractors enter the City's designated premises for any

reason in connection with this Agreement, the Contractor and such other parties shall observe all security requirements and all safety regulations.

13. THE CITY'S ASSISTANCE AND COOPERATION. During the Contractor's performance of this Agreement, the City may, but has no obligation to, aid, or cooperate with, the Contractor in activities that facilitate the proper performance and completion of this Agreement by the Contractor. Such assistance or cooperation by the City shall not be construed, and the Contractor agrees that it will not claim that any such assistance or cooperation operates, to relieve the Contractor from complete, proper, and punctual performance of all the Contractor's obligations under this Agreement.

14. CONFLICTS OF INTEREST. Contractor warrants and represents that:

- (a) The Services to be performed hereunder will not create an actual or apparent conflict of interest with any other work it is currently performing;
- (b) Contractor is not presently subject to any agreement with a competitor or with any other party that will prevent Contractor from performing in full accord with this Agreement; and
- (c) Contractor is not subject to any statute, regulation, ordinance, or rule that will limit its ability to perform its obligations under this Agreement. The parties agree that Contractor shall be free to accept other work during the term hereof; provided, however, that such other work shall not interfere with the provision of Services hereunder.

15. CONFIDENTIAL INFORMATION. Contractor acknowledges that it may have access to and become acquainted with confidential information, including, but not limited to, any information the disclosure of which is limited by state or federal law. Unless approved in advance in writing or is required to be disclosed by court order, subpoena or by law, neither Contractor nor any of its employees, will disclose, transfer, distribute or allow access to any confidential information of the other party to third parties. These obligations shall survive termination.

16. ASSIGNMENT AND SUBCONTRACTING. The Contractor shall not assign this Agreement or any portion of this Agreement, nor shall the Contractor subcontract for goods or completed or substantially completed services purchased hereunder without the prior express written consent of the City. No assignment or subcontract by the Contractor, including any assignment or subcontract to which the City consents, shall in any way relieve the Contractor from complete and punctual performance of this Agreement, including without limitation all the Contractor's obligations under the warranty provisions of this Agreement.

17. ATTORNEYS' FEES. Both parties agree to pay reasonable attorneys' fees to the other party should either party be required to incur attorneys' fees in enforcing the provisions of this Agreement or in the collection of any monies herein required to be paid by the other party.

18. GOVERNING LAW AND CONSENT TO JURISDICTION. This Agreement is made and entered into in the State of Georgia, and this Agreement and the rights and obligations of the parties hereto shall be governed by and construed according to the laws of the State of Georgia without giving effect to the principles of conflicts of laws. The jurisdiction for resolution of any disputes arising from this Agreement shall be in the State Courts of Clayton County, Georgia.

19. INTERPRETATION. The Parties acknowledge that this Agreement and all the terms and conditions herein have been fully reviewed and negotiated by the Parties. Having acknowledged the foregoing, the

Parties agree that any principle of construction or rule of law that provides that, in the event of any inconsistency or ambiguity, an agreement shall be construed against the drafter of the agreement shall have no application to the terms and conditions of this Agreement.

- 20. NOTICES.** All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally in hand, or when mailed by certified or registered mail, return receipt requested with proper postage prepaid, addressed to the appropriate party at the following address or such other address as may be given in writing to the parties.

If to the City:

City of Forest Park, Georgia
Attn: City Manager
745 Forest Pkwy
Forest Park, Georgia 30297
rclark@forestparkga.gov

With a copy to:

Denmark Ashby LLC
Attn: City Attorney
100 Hartsfield Centre Pkwy, Ste. 400
Atlanta, Georgia 30354
ewhigham@denmarkashby.com

If to Contractor:

Nova Engineering and Environmental, Inc.
Attn: John D. Maggard, CEO
289 S Culver Street
Lawrenceville, Georgia 30046

- 21. NON-WAIVER.** The failure by either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict performance with every provision of this Agreement.
- 22. SEVERABILITY.** If any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.
- 23. AMENDMENTS.** Any and all modifications or changes to this Agreement must be in writing and signed by the parties to this Agreement.
- 24. COUNTERPARTS.** This Agreement may be executed in multiple counterparts, each of which shall constitute the original, but all of which taken together shall constitute one and the same Agreement. PDF signatures shall constitute original signatures.
- 25. ENTIRE AGREEMENT.** This Agreement, which includes the exhibits attached hereto, contains the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior discussions, representations and understandings, whether oral or written. In case of conflict between any term of the Contractor's Bid/Proposal and this Agreement, the terms of this Agreement shall control unless otherwise stated herein.
- 26. CAPTIONS.** The captions appearing herein are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement or any clause or provision hereof.
- 27. CALCULATION OF TIME PERIODS.** Unless otherwise provided herein, whenever this Agreement calls for or contemplates a period of time for the performance of any term, provision, or condition of

this Agreement, all of the days in such period of time shall be calculated consecutively without regard to whether any of the days falling in such period of time shall be a Saturday, Sunday, or other non-business day; provided, however, if the last day of any period of time shall happen to fall on a Saturday or Sunday or legal holiday observed by the State of Georgia, the last day shall be extended to the next succeeding business day immediately thereafter occurring.

IN WITNESS WHEREOF, said parties have hereunto set their seals on the Effective Date first written above.

CITY OF FOREST PARK, GEORGIA:

CONTRACTOR: NOVA ENGINEERING AND ENVIRONMENTAL, LLC

By: _____

By:  _____

Name: _____

Name: Kyle Hougham

Title: _____

Title: Vice President

EXHIBIT A
TASK ORDER FORM

Nova Engineering and Environmental, Inc. ("Contractor") shall perform building inspection services ("Services") for the City of Forest Park, Georgia ("City") pursuant to all terms of this Task Order No. _____, subject to the following:

Project (description of services):	
Location of Project:	
Deadline to Complete Project:	
Applicable Contact Information to Complete Project:	
Hourly Rate to Complete Project:	
Anticipated Number of Hours to Complete Project:	
Total Cost to Complete Project:	
Any Other Pertinent Information:	

If the Task Order total cost is less than the amount of \$10,000.00, then the City Manager is the appropriate authorized designee for the City.

IN WITNESS WHEREOF, both parties have set their hand and seal to this Task Order on the Effective Date first written above:

CITY OF FOREST PARK, GEORGIA

**NOVA ENGINEERING AND
ENVIRONMENTAL, INC.**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT B
RISK MANAGEMENT REQUIREMENTS

The Contractor will provide minimum insurance coverage and limits as per the following: The Contractor will file with the City Certificates of Insurance, certifying the required insurance coverage and stating that each policy has been endorsed to provide thirty (30) days' notice to the City if coverage is cancelled, non-renewed or the types of coverage or limits of liability are reduced below those required. All bonds and insurance coverage must be placed with an insurance company approved by City Management, admitted doing business in the State of Georgia, and rated Secure ("B+" or better) by A.M. Best Company in the latest edition of Property and Casualty Ratings, or rated by Standard & Poors Insurance Ratings, latest edition as Secure ("BBB" or better). Worker's Compensation self-insurance for individual Contractors must be approved by the Worker's Compensation Board, State of Georgia and/or Self-Insurance pools approved by the Insurance Commissioner, State of Georgia.

CONTRACTS FOR UP TO \$50,000

Worker's Compensation – Worker's Compensation coverage on a statutory basis for the State of Georgia with an Employer's Liability limit of \$100,000 each Accident, Disease \$100,000 each employee, \$500,000 Disease policy limit.

Automobile Liability – Automobile liability coverage for owned, hired, and non-owned vehicles in the amount of \$500,000 combined single limit.

Commercial General Liability – Coverage to be provided on "occurrence" not "claims made" basis. The coverage is to include Contractual liability, Per Project Limit of Liability, losses caused by Explosion, Collapse and Underground ("xcu") perils, the "City of Forest Park, Georgia" is to be added as an Additional Insured and Products and Completed Operations coverage is to be maintained for three (3) years following completion of work.

CONTRACTS FOR MORE THAN \$50,000

Worker's Compensation – Worker's Compensation coverage on a statutory basis for the State of Georgia with an Employer's Liability limit of \$1,000,000. The increased Employer's Liability limit may be provided by an Umbrella or Excess Liability policy.

Automobile Liability - Automobile liability coverage for owned, hired and non-owned vehicles in the amount of \$1,000,000 combined single limit.

Commercial General Liability – Coverage to be provided on "occurrence" not "claims made" basis. The coverage is to include Contractual liability, Per Project Limit of Liability, losses caused by Explosion Collapse and Underground ("xcu") perils, the "City of Forest Park, Georgia" is to be added as an Additional Insured and Products and Completed Operations coverage is to be maintained for three (3) years following completion of work.

RISK MANAGEMENT REQUIREMENTS (Cont'd)

CONTRACTS FOR UP TO \$50,000	CONTRACTS FOR MORE THAN \$50,000
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LIMITS OF LIABILITY:

\$1,000,000	Per Occurrence
\$1,000,000	Personal and Advertising
\$50,000	Fire Damage*
\$5,000	Medical Payments*
\$1,000,000	General Aggregate
\$1,000,000	Products/Completed Operations per Occurrence and Aggregate

**These are automatic minimums*

Owner's Protective Liability – The City's Management may, in its discretion, require Owner's Protective Liability in some situations.

Umbrella and/or Excess Liability – The umbrella or Excess Liability Policy may be used to combine with underlying policies to obtain the limits required. The Management of the City may elect to require higher limits.

Owner's Protective Liability – The City's Management may, in its discretion, require Owner's Protective Liability in some situations.