

MASTER AGREEMENT FOR PROFESSIONAL ENGINEERING/ARCHITECTURAL SERVICES

THIS AGREEMENT is made and entered into this 30th day of September, 2024,
by and between the **CITY OF JACKSON, MISSOURI**, a municipal corporation (the “City”)
and **PINNACLE POWER SYTEMS AND CONTROLS LLC**. (the “Engineer”).

WHEREAS, the City has determined that from time to time the City requires professional engineering and architectural services to assist its staff with studies, design and/or construction improvements, operations and maintenance, and the management of various engineering projects; and

WHEREAS, Engineer submitted appropriate qualifications for the provision of such services; and

WHEREAS, the City has agreed to accept Engineer’s qualifications.

NOW, THEREFORE, in consideration of the above premises and promises contained herein, and other good and valuable consideration, the adequacy and sufficiency which we hereby acknowledge, each party hereby agrees as follows:

SECTION A – Scope

1. Engineer shall serve as a professional engineering consultant to the City regarding various assignments to which this Agreement shall apply, with said assignments to be individually authorized by the City on a task order basis. All services performed under the terms of this Agreement shall be performed under the direction of a professional engineer registered in

the State of Missouri and qualified in the particular field related to each specific assignment. The authorization of assignments (task orders) under this Agreement shall be accomplished as described in subsequent sections of this Agreement.

SECTION B – Authorization of Services

2. The services of the Engineer pertaining to any specific task order for which the City desires to obtain said services shall be initiated and performed by the Engineer only upon written Authorization, duly agreed to and properly executed by an authorized representative of both City and Engineer.

3. Projects where engineering fees are anticipated to exceed \$5,000.00 require the Engineer to submit a written scope of work, cost estimate, and project schedule to the City. A written notice to proceed from the City must be obtained by the Engineer prior to commencing with any work. The cost estimate is not to be exceeded without written approval from the City. For all projects anticipated to exceed \$5,000.00, task order authorizations shall be forwarded to the Mayor and Board of Aldermen for approval.

4. Engineer need not provide written cost estimates or schedules where the City requests informal engineering assistance or Engineer's review, comment, attendance at meetings, and similar services if the costs are not anticipated to exceed \$5,000.00 per project. Such services are to be provided to the City on a time and materials basis according to the terms of this Agreement. Verbal requests for services can only be relied and acted upon by Engineer if issued by the City Administrator, Assistant City Administrator, Director of Administrative Services, or the Director of Public Works.

SECTION C – Compensation for Engineering Services

5. The attached schedule of rates (Exhibit A) is provided by Engineer and agreed upon by the City as the unit rates for labor on all services. If Engineer engages a subcontractor, the cost of subcontracted services and materials shall not be billed to the City in an amount in excess of Engineer's rate schedule. Reimbursable expenses shall not be subject to markup and shall be invoiced at actual cost. All reimbursable expenses and their rates shall be listed in the rate schedule. The attached rate schedule can be modified only through a written addendum to this Agreement and changes are subject to the approval of the City Administrator. By approving the ordinance adopting this Agreement, the Mayor and Board of Aldermen hereby delegates authority to approve addenda increasing the Engineer's rates to the City Administrator.

6. Invoices for engineering services shall be submitted monthly. Separate invoices shall be submitted per project. Invoices must include the project name, task order number, and a brief description of the services provided during the billing period. Additionally, each invoice shall include a breakdown of personnel, hours worked, and materials used on the project. All invoices are to be sent to the attention of the Director of Public Works.

SECTION D – Miscellaneous Provisions

7. No portion of the work covered by this Agreement except as provided herein shall be sublet or transferred without written consent and approval of City Administrator, Assistant City Administrator, Director of Administrative Services, or Director of Public Works. The subletting of the work shall in no way relieve the Engineer of Engineer's primary responsibility of the quality and performance of the work. The Engineer will give personal attention to the faithful prosecution of the work and will keep all aspects of the work under Engineer's control.

8. Subcontracting shall not, under any circumstances, relieve the Engineer of liability or of any obligations under this Agreement. The Engineer must see that the work is being carried on in accordance with the requirements of Engineer as Engineer will be held strictly accountable for the work. A violation of this provision shall be good cause to terminate this Agreement.

9. In providing the services under this Agreement, the Engineer shall perform in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality. All plans, specifications, and other documents shall be endorsed by the Engineer and shall reflect the name and seal of the professional engineer endorsing the work. However, it is agreed that work performed for City user rate studies may be done by or in conjunction with financial and rate professionals and may not require a professional engineer registered in the State of Missouri.

10. The Engineer shall maintain all records, survey notes, design documents, cost and accounting records, construction records, and other records pertaining to this project for a period not less than five years following final payment. Even upon the expiration of said five-year term, Engineer shall not destroy any of the above-listed records without first giving the Director of Public Works thirty days' notice in writing. The Public Works Director shall then, at the City's option, take possession of such records on the City's behalf and at no additional cost to the City. If the City has not exercised its option to take custody of the file after thirty days, Engineer may then destroy the records. Engineer's records of City's projects shall be made available for inspection by authorized representatives of the City.

11. Drawings, details, specifications, engineering calculations, designs, and other data prepared under this Agreement shall be delivered to and become the property of the City upon termination or completion of work at no additional cost to the City. All such information produced under this Agreement shall be available for use by the City without restriction or limitation on its use, provided that in doing so the City complies with the laws of the State of Missouri. It is agreed that any such reuse by City will be at City's sole risk and without liability or legal exposure to Engineer and that the City shall indemnify and hold harmless Engineer from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting therefrom. Engineer shall maintain its intellectual property rights in its drawings, details, specifications, engineering calculations, and designs utilized in the performance of services under this Agreement. However, nothing herein shall be construed to limit the use of drawings, details, specifications, engineering calculations, designs, and other data prepared under this Agreement by the City.

12. The City may terminate the Agreement at any time by giving written notice. If the Agreement is terminated because the project is abandoned or postponed by the City, the Engineer will be paid for actual expenses incurred up to the time of termination. If the Agreement is terminated due to services that the City, in its judgment, deems unsatisfactory, or if the Engineer fails to prosecute the work with due diligence, the City may procure completion of the work in the manner as it considers to be in the best interest of the City. The Engineer will be responsible for any additional cost in excess of the rate schedule and any other damages the City may sustain by reason of the termination of this Agreement due to unsatisfactory performance.

13. In the event that Engineer does not receive from the City at least one task order authorization during a period of three years, both the City and Engineer agree that this

Agreement shall be terminated by the City due to inactivity. Thereafter, the parties may enter into a new Master Agreement for Professional Engineering/Architectural Services at the discretion of the parties. However, regardless of any frequency of work performed by the Engineer, the City may update, amend, alter, or terminate the Agreement; or otherwise issue addendum to the Agreement at any time by giving written notice.

14. Work performed under this Agreement must be satisfactory to the City. The City shall have the final say in determining such questions. If after the City determines that work performed under this Agreement is unsatisfactory and if the parties are unable to resolve a remedy of the issue, then the City may seek such redress and remedy as are available under the terms of this Agreement or otherwise at law.

15. The Engineer agrees to keep information and materials provided by the City, or prepared by the Engineer in performance of this Agreement, confidential except to the extent disclosure is reasonably necessary to carry out and provide engineering services.

16. Except for paragraph 11 above, to the fullest extent permitted by law, Engineer agrees to indemnify, defend, and hold harmless the City, its officers, agents, volunteers, and employees from and against all suits, claims, damages, losses, and expenses, including but not limited to attorneys' fees, court costs, or alternative dispute resolution costs arising out of or related to any such suit, claim, damage, loss, or expense involving an injury to a person or persons, whether bodily injury or other personal injury (including death), or involving an injury or damage to property (including loss of use or diminution in value), but only to the extent that such suits, claims, damages, losses, or expenses were caused by the negligence or other wrongdoing of Engineer or of any supplier or subcontractor, or their agents or employees,

directly or indirectly, regardless of whether caused in part by the negligence or wrongdoing of City or any of its agents or employees. The duty to defend does not apply to professional liability claims.

17. Engineer shall purchase and maintain the following insurance, at Engineer's expense:

- Professional Liability Insurance with a minimum limit of \$1,000,000 each claim / \$2,000,000 general aggregate written on an occurrence basis.
- Commercial General Liability Insurance with a minimum limit of \$1,000,000 each occurrence / \$2,000,000 general aggregate written on an occurrence basis.
- Comprehensive Business Automobile Liability Insurance for all owned, non-owned, and hired automobiles and other vehicles used by Engineer with a combined single limit of \$1,000,000 minimum.
- Worker's Compensation Insurance within statutory limits required by any applicable federal or state law and Employers Liability Insurance with minimum limit of \$1,000,000 per accident.
- Additional Insured Endorsement. An endorsement on the required form supplied by the City naming the City of Jackson as an additional insured.

18. Engineer shall make City an additional insured on the general liability of insurance that Engineer is required to maintain under the Agreement documents. Similarly, Engineer shall require insurance with the same coverage and limits from its subcontractors and suppliers and their insurance policies shall be endorsed to name the same additional insureds as

required of Engineer. Each additional insured endorsement shall expressly afford coverage to the additional insureds not only arising out of the named insured's operations or work but also arising out of the named insured's completed operations. All completed operations coverages shall be maintained by Engineer and its subcontractors or suppliers for five years following the completion of the work. Any coverage available to City as a named insured shall be secondary so that the coverage to the City as an additional insured on the policies maintained by Engineer and subcontractors is primary. City reserves the right to selectively trigger any one or more insurance policies that afford City coverage, whether as a named insured or as an additional insured. Engineer agrees that City shall be provided at least sixty days advance written notice of any cancellation or rescission of any policy that Engineer or any of its subcontractors or suppliers is required to maintain under the Agreement documents. Prior to commencing work, Engineer shall provide City certificates of insurance evidencing the required coverages. City's receipt or review of any certificate of insurance reflecting that Engineer or one of its subcontractors or suppliers has failed or may have failed to comply with any insurance requirement of the Agreement documents shall not constitute a waiver of any of City's insurance rights under the Agreement documents, with all such rights being fully and completely reserved by the City.

19. No provision of this Agreement shall constitute a waiver of the City's right to assert a defense based on the doctrines of sovereign immunity, official immunity, or any other immunity available under law.

20. The Engineer shall comply with all federal, state, and municipal laws, regulations, and ordinances, including, but not limited to, environmental and labor statutes and regulations.

21. Engineer agrees that during the life of this Agreement it will not discriminate against any employee, applicant for employment, or subcontractor because of race, religion, and national origin. A similar nondiscrimination provision will be included in all subcontracts entered into in the performance of this Agreement. Violation of this provision shall be good cause for the City to terminate this Agreement, and any payment due or subsequently accruing to the Engineer under this Agreement may be subject for forfeiture in the event of multiple violations of this paragraph.

22. The Engineer understands that this Agreement is non-exclusive and that the City is contracting with multiple engineers in order to best provide for its citizens' need for professional engineering services. By executing this Agreement, the Engineer waives any and all complaints it might otherwise have against the City as to the particular Engineer assigned individual tasks or projects. The assignment of projects through task orders authorized under this Agreement shall be in the City's sole discretion and no party to this Agreement shall be entitled to any minimum frequency or dollar amount of task orders.

23. This Agreement shall bind the parties hereto, their successors, and assigns.

24. This Agreement and attached addendum (if any) constitute the entire Agreement between the parties and supersede any prior representations, offers, negotiations, or understandings between the parties with respect to the subject matter of this Agreement.

25. This Agreement shall be taken and deemed to have been fully executed and made by the parties in and governed by the laws of the State of Missouri for all purposes and intents. The venue for any dispute between the parties shall be in the Circuit Court of Cape Girardeau County, Missouri.

[Remainder of page intentionally left blank. Signatures appear on following page.]

CITY OF JACKSON, MISSOURI

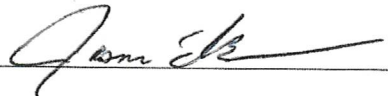
By: _____

Dwain L. Hahs, Mayor

ATTEST:

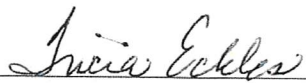
Angela Birk, City Clerk

**PINNACLE POWER SYSTEMS AND
CONTROLS LLC**



Jason Eckles, P.E., President

ATTEST:



Tricia Eckles