

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this "Agreement") is entered into by and between City of Sheboygan, a Wisconsin municipality ("Client") and EPLEX, LLC, a Wisconsin limited liability company (DBA E-Plan Exam) ("Consultant"), as of the date on which the last Party hereto executes this Agreement (as set forth on the signature page of this Agreement) (the "Effective Date"). Client and Consultant may each be referred to herein as a "Party", and collectively as the "Parties".

RECITALS

WHEREAS Client desires to retain Consultant to perform the services listed in **Exhibit A**, attached hereto (the "Services"), and Consultant is willing to perform the Services, in accordance with the terms of this Agreement.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Client and Consultant agree as follows:

1. CERTAIN DEFINITIONS. In addition to other terms defined throughout this Agreement, the following capitalized terms used herein shall have the following meanings:
 - a. "Accepted Project" means a Project for which Consultant has agreed to perform Services. Consultant shall be deemed to have agreed to perform Services for a Project if, and upon such time that, (i) Consultant has accepted such Project, (ii) Consultant is in receipt of all information and documentation required to perform the Services with respect to such Project (as determined in Consultant's sole discretion), (iii) Consultant has been paid all applicable Fees that are payable to Consultant with respect to such Project, and (iv) if such Project is a Client Reserved Project, Client has elected not to (or is deemed to have elected not to), perform plan reviews or other actions that would otherwise fall within the scope of the Services with respect to such Project in accordance with Section 3(a) (the date on which such acceptance occurs is the "Project Acceptance Date").
 - b. "Base Fees" means, collectively, the Commercial Plan Base Fees, the Stormwater Base Fees and the Exterior Plumbing Base Fees (as such terms are defined on **Exhibit B**).
 - c. "Client Reserved Project" means any Project described on **Exhibit C**. For the avoidance of doubt, no Client Reserved Project will include or consist of any Project (i) involving any building or structure that exceeds any Project Review Threshold, (ii) unless expressly set forth on **Exhibit C**, listed in Table 382.20-2 of Section 382.20 of the Wisconsin Administration Code or (iii) involving the reviewing of plans for fire alarm and/or sprinkler systems.
 - d. "Consultant Exclusive Project" means any Project (i) involving any building or structure that exceeds any Project Review Threshold, (ii) listed in Table 382.20-2 of Section 382.20 of the Wisconsin Administration Code, (iii) involving the reviewing of plans for fire alarm and/or sprinkler systems, and/or (iv) that is not a Client Reserved Project.
 - e. "Department" means the Wisconsin Department of Safety and Professional Services.

- f. “Project” means any individual construction, addition, relocation, alteration, change of occupancy and/or repair project with respect to any building, structure, parking lot, building component and/or building system within Client’s jurisdictional boundary for which a plan review request is submitted to Consultant and that meets the definition and criteria of a “Place of Employment” or “Public Building” as such terms are defined in Wis. Stat. §§ 101.01(11) and 101.01(12), respectively.
- g. “Project Review Threshold” means (i) with respect to any Project involving any new construction of a building or structure, 5,000 square feet of the floor area of such building or structure (as applicable), (ii) with respect to any Project involving an addition to an existing building or structure, 5,000 square feet of the floor area of such addition and (iii) with respect to any Project involving solely alteration work of an existing building or structure, 10,000 square feet of floor area of such building or structure (as applicable).

2. SCOPE OF SERVICES.

- a. Consultant shall perform the Services for the Accepted Projects (i) using one or more service providers that are licensed in the State of Wisconsin and (ii) in accordance with industry-standard levels of competency in the state and municipality in which the Services are to be performed.
- b. Subject to Section 4(e), Consultant shall complete the Services with respect to any Accepted Project within fifteen (15) business days following the Project Acceptance Date. For the avoidance of doubt, if Consultant requires additional documentation or information to complete the Services with respect to an Accepted Project (as determined in Consultant’s sole discretion), then such fifteen (15) business day period may be tolled by Consultant and such period shall only resume once Consultant is in receipt of such additional documentation or information.
- c. Client shall exclusively use Consultant to perform the Services with respect to any Consultant Exclusive Project, and Client agrees that it shall not perform (or engage any other person or entity to perform, other than the Department) any plan reviews or take any other action that would otherwise fall within the scope of the Services for any Consultant Exclusive Project.
- d. Client is not required to accept Consultant’s approval or disapproval of the plans for any Project for which Consultant performs Services hereunder. Notwithstanding the foregoing, Consultant will be entitled to retain all applicable Fees paid to Consultant hereunder with respect to the Services that Consultant performed.

3. CLIENT RESERVED PROJECTS.

- a. Client shall have the right to independently perform plan reviews and take any other action that would otherwise fall within the scope of the Services with respect to any Client Reserved Project. Within five (5) business days following the submission of a plan review to Consultant for a Project that constitutes a Client Reserved Project, Consultant shall notify Client of such submission. Within five (5) business days following such notice, Client shall notify Consultant in writing whether Client elects to perform the plan review and/or any other action that would

otherwise fall within the scope of the Services with respect to such Client Reserved Project. If Client either (i) fails to provide such notice within such five (5) business day period, or (ii) elects not to perform such plan review and/or other action. If Client elects to perform such plan review and/or other actions with respect to such Project, then Client shall be solely responsible and liable for all plan reviews and all other obligations, and Consultant shall have no obligations of any kind or nature, with respect to any Project that Client has elected to perform (and such Project shall not constitute an Accepted Project).

- b. Notwithstanding anything to the contrary in this Agreement, Client may only perform plan reviews with respect to any Project if Client conducts such plan reviews using one or more qualified individuals that maintain the license(s) required to perform such plan reviews (without reliance on any of Consultant's or any of its personnel's licenses, or any requirement for Consultant to oversee such plan reviews) for the applicable Project and are in good standing with the applicable licensing authority.
- c. Client may request that the Department perform any plan review with respect to any Project in lieu of Consultant, in which case Consultant shall have no obligations of any kind or nature with respect to such Project.

4. CLIENT OBLIGATIONS.

- a. Client shall take all actions necessary to either (i) receive delegated authority from the Department to perform building inspection services, or (ii) become an appointed agent of the Department to examine plans and make inspections for building and alterations for Projects of unlimited size, in each case pursuant to the applicable provisions of Wis. Stat. § 101.12 (in either such case, an "Appointed Agent"). Client shall comply in all respects with all applicable statutes, codes and regulations pertaining to obtaining or maintaining its status as an Appointed Agent including, without limitation, adopting or amending any applicable ordinances. Consultant agrees to provide commercially reasonable assistance to Client with respect to obtaining Appointed Agent status, provided that (y) all out of pocket fees and expenses incurred by Consultant shall be promptly reimbursed by Client, and (z) Consultant shall have no obligation to commence or participate in any legal action or similar proceeding in connection therewith.
- b. Client shall be solely responsible for determining the requirements for the commencement of any Project including, without limitation, any and all required documentation, approvals, permits, bonds, zoning compliance, historical review and architectural review board approvals with respect to any such Project.
- c. Client shall provide (whether or not requested by Consultant), in a timely manner and (if applicable) promptly upon Consultant's request, all data, information, plans, specifications, municipal forms, structural calculations, and all other documentation and information reasonably required to perform the Services.
- d. Client shall employ or retain, at its sole cost and expense, a sufficient number of licensed and credentialed inspectors to the extent required by the Department to obtain, or maintain (as applicable), Appointed Agent status.

- e. Notwithstanding anything to the contrary, any deadline for the performance of Services by Consultant shall be extended to the extent, and for the duration, that Client fails to comply with any provision of this Section 4.

5. FEES; INVOICES.

- a. In consideration of Consultant performing the Services, Consultant shall be entitled to the applicable fees for the Services performed as set forth on Exhibit B (the “Fees”). Fees are payable in full to Consultant by the applicant of a Project (an “Applicant”) prior to Consultant’s commencement of Services with respect to such Project; provided, however, that if such applicant fails to pay the applicable Fees with respect to any Project for which Consultant performs Services for any reason as reasonably determined by Consultant (including, without limitation, in the event of a bounced or fraudulent check or credit charge), then Client shall be responsible for paying and shall promptly pay the Fees for such Services directly to Consultant. For the avoidance of doubt, Consultant shall not be required to (i) initiate any litigation or collections proceeding against any Applicant, (ii) engage any collections agency or other third party, or (iii) otherwise incur any out-of-pocket fees or expenses of any kind or nature, in each case for the purpose of collecting any amounts owed by any Applicant.
- b. On each three (3) year anniversary of the Effective Date (each, a “Fee Escalation Anniversary”), Consultant and Client agree to negotiate in good faith a reasonable increase in the Base Fees. If Consultant and Client are not able to agree on a reasonable increase in the Base Fees within the ninety (90) day period following an applicable Fee Escalation Anniversary, then the Base Fees will automatically increase upon the expiration of such ninety (90) day period based on the most recent increase of the U.S. Bureau of Labor Statistics Consumer Price Index (CPI) from the last time that Base Fees were increased or established (as applicable), as determined by Consultant in its reasonable discretion.
- c. Within fifteen (15) days following the end of each month during the term of this Agreement, Consultant shall deliver to Client an invoice (which shall include applicable supporting documentation) setting forth (i) the amount of Fees owed to Consultant for Services performed during the previous month, (ii) the amount of Fees actually collected by Consultant during the previous month, (iii) Client’s portion of the Base Fees (as set forth on Exhibit A) actually collected by Consultant during the previous month and (iv) any incidental charges or out-of-pocket expenses that are reimbursable by Client in accordance with the terms of this Agreement and the Exhibits hereto (collectively, “Reimbursable Costs”). Client shall have the right to dispute any item set forth on any such invoice during the fifteen (15) day period following the date such invoice was issued, in which case the Parties agree to negotiate in good faith to attempt to resolve such dispute. If Client does not dispute any item on an invoice within such fifteen (15) day period, then Client shall be deemed to have waived its right to dispute such invoice.
- d. Within forty-five (45) days following the date of such invoice, Consultant shall remit to Client its portion of the Base Fees (as set forth on Exhibit A) actually collected by Consultant during the previous month in accordance with the written instructions of Client.

- e. Within fifteen (15) days following Consultant's delivery of an invoice to Client, Client shall pay to Consultant the amount of any Reimbursable Costs set forth on such invoice.
6. DOCUMENT AND PLAN SUBMISSIONS. Client shall take all reasonable efforts necessary, including, without limitation, adopting any ordinances, to permit and enable the electronic submission of plans and other associated documents for review (collectively, "Submitted Documents") in .pdf format. If the electronic submission of Submitted Documents in .pdf format is not possible after Client has taken all such reasonable efforts, then the submission thereof in paper format shall be permissible. In such case, Client and Consultant shall create and implement a procedure for the shipping and handling of Submitted Documents to Consultant to enable Consultant to perform the Services with respect to such Submitted Documents. Any direct or indirect charges, fees or expenses associated with labor, material, or other costs arising from or in connection with the delivery of Submitted Documents to approved third party couriers to ship materials, whether to Consultant, Client or any third party, shall be the sole responsibility of Client, and shall be included in the Reimbursable Costs.
7. TERM. The initial term of this Agreement shall commence on the Effective Date and shall remain in effect for a period of three (3) years from the Effective Date. This Agreement shall automatically renew for successive one (1) year periods, unless a Party notifies the other Party in writing at least thirty (30) days prior to the date on which the term of this Agreement will renew of such Party's election not to renew this Agreement. Notwithstanding the foregoing, if the time for performance of any Services has not expired as of the date the term of this Agreement would otherwise expire, then the term of this Agreement shall automatically extend to the date on which the time for performances of such Services expires.
8. TERMINATION.
- a. Either Party may terminate this Agreement upon thirty (30) days' written notice to the other Party, with or without cause at any time.
 - b. Each Party may terminate this Agreement, effective upon written notice to the other party (the "Defaulting Party"), if the Defaulting Party:
 - i. materially breaches this Agreement, and such breach is incapable of cure or, with respect to a material breach capable of cure, the Defaulting Party does not cure such breach to the non-breaching Party's reasonable satisfaction within ten (10) days after receipt of written notice of such breach; or
 - ii. (I) becomes insolvent or admits its inability to pay its debts generally as they become due; (II) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within sixty (60) business days or is not dismissed or vacated within sixty (60) days after filing; (iii) is dissolved or liquidated or takes any corporate action for such purpose; (iv) makes a general assignment for the benefit of creditors; or (v) has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

- c. In the event of termination, Consultant shall retain its portion of the Fees for Services completed up to and including the effective date of termination. In addition, Consultant shall have the right to return to Client or otherwise dispose of any Submitted Documents without comments or the performance of any Services with respect thereto.
 - d. Notwithstanding anything to the contrary in this Agreement, the provisions of Sections 9 (Indemnification), 10 (Limitation of Liability), 14 (Ownership of Documents), 15 (Confidentiality), 19 (Dispute Resolution), 20 (Choice of Forum), 21 (Waiver of Jury Trial), 22 (Governing Law), and any other term or condition under this Agreement which by its nature should survive the termination or expiration of this Agreement, shall survive the expiration or earlier termination of this Agreement.
9. INDEMNIFICATION. Client agrees to defend, indemnify and hold Consultant and its members, directors, managers, officers, employees, affiliates, agents and representatives (each, a “Consultant Indemnified Party”) harmless from and against all costs, expenses, fees (including, without limitation, reasonable attorneys’ fees), penalties, damages, liabilities, losses, taxes, demands, lawsuits, claims, proceedings and/or causes of action incurred by or asserted against any Consultant Indemnified Party arising from or in connection with or otherwise related to (a) any breach by Client of any representation, covenant, agreement or obligation set forth in this Agreement, (b) personal injury (including death) or damage to real or personal property resulting from any act or omission of Client or any of its employees, affiliates, agents and/or representatives, (c) any negligent or more culpable act or omission of Client or any of its employees, affiliates, agents and/or representatives (including any reckless or willful misconduct), (d) any failure by Client or any of its employees, affiliates, agents and representatives to comply with any applicable federal, state, or local laws, statutes, regulations, or codes, (e) any Project for which Consultant did not perform any Services (including, without limitation, any Client Reserved Project or any Project for which Client or the Department performed plan reviews), and/or (f) any failure of Client to adequately inspect any Project.
10. LIMITATION OF LIABILITY.
- a. EXCEPT AS OTHERWISE PROVIDED IN SECTION 10(d), IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY LOSS OF USE, REVENUE, PROFIT OR LOSS OF DATA OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
 - b. EXCEPT AS OTHERWISE PROVIDED IN SECTION 10(d), IN NO EVENT WILL EITHER PARTY’S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), OR OTHERWISE, EXCEED THE AGGREGATE AMOUNT PAID TO CONSULTANT PURSUANT TO THIS AGREEMENT IN THE SIX-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.
 - c. EXCEPT FOR THE EXPRESS WARRANTIES IN THIS AGREEMENT, CONSULTANT HEREBY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND

CONSULTANT SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF TITLE AND NON-INFRINGEMENT.

- d. The exclusions and limitations in Section 10(a) and Section 10(b) shall not apply to Client's indemnification obligations under Section 9.

11. SUBCONTRACTORS. Consultant shall have the right to subcontract all or portions of the Services without notice to Client; provided that Consultant shall not be relieved of any of its obligations under this Agreement. Upon completion of the Services for an applicable Project, Consultant shall provide Client a list of all personnel utilized in the completion of the Services (whether or not such personnel are subcontractors), including applicable license information for such personnel and the portion of the Services performed by such personnel.

12. INSURANCE.

- a. Consultant shall procure and maintain the following insurance policies with at least the minimum insurance coverages listed below:
 - i. Commercial general liability insurance with a combined single limit of one million dollars (\$1,000,000.00) each occurrence and two million dollars (\$2,000,000.00) general aggregate, which shall include coverage for all premises and operations of Consultant, bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts) blanket contractual independent Consultant's products and completed operations.
 - ii. Professional liability insurance with a combined single limit of one million dollars (\$1,000,000.00) each occurrence and two million dollars (\$2,000,000.00) general aggregate.
 - iii. Umbrella insurance with a limit of five million dollars (\$5,000,000).
- b. Consultant's insurance policies will not cover subcontractors as named insureds. Subcontractors that perform any Services shall be required to maintain their own insurance coverage for the same limits and requirements as set forth in this Agreement, covering their respective portion of the Services performed.
- c. Consultant shall provide certificates of insurance reflecting the above coverages to Client upon request.

13. INDEPENDENT CONTRACTOR. Consultant is an independent contractor, and neither Consultant, nor any employee or agent thereof, shall be deemed for any reason to be an employee or agent of Client. The details of the method and manner for performance of the Services by Consultant shall be under its own control. Consultant shall be solely responsible for supervising, controlling, and directing the details and manner of the completion of the Services. Nothing in this Agreement shall give Client the right to instruct, supervise, control, or direct the details and manner of the completion of the Services.

14. OWNERSHIP OF DOCUMENTS.

- a. All intellectual property rights in all documents, data, know-how, methodologies, software, and other materials provided by or used by Consultant in performing the Services and developed or acquired by Consultant prior to or independently of this Agreement shall be owned exclusively by Consultant and its licensors.
- b. Client hereby grants Consultant a nonexclusive, nontransferable and fully-paid license to use and display Client's name in Consultant's marketing materials, on its website, and for other similar purposes.

15. CONFIDENTIAL INFORMATION.

- a. All non-public, confidential or proprietary information of Consultant ("Confidential Information"), including, but not limited to, information about Consultant's business affairs, products, services, methodologies, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, disclosed by Consultant to Client, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, or otherwise learned by Client in connection with this Agreement, and whether or not marked, designated, or otherwise identified as "confidential," is confidential, solely for use in performing this Agreement and may not be disclosed or copied unless authorized by Consultant in writing. Client shall protect and safeguard the confidentiality of the Confidential Information with at least the same degree of care as Client would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care. Confidential Information does not include any information that: (i) is or becomes generally available to the public other than as a result of Client's breach of this Agreement; (ii) is obtained by Client on a non-confidential basis from a third-party that was not legally or contractually restricted from disclosing such information; (iii) Client establishes by documentary evidence, was in its possession prior to Consultant's disclosure hereunder; (iv) was or is independently developed by Client without using any of the Confidential Information; or (v) is required to be disclosed under applicable federal, state or local law, regulation or a valid order issued by a court or governmental agency of competent jurisdiction, in which case Client shall provide Consultant with prompt written notice thereof to permit Consultant an opportunity to appeal or challenge any such purportedly required disclosure.
- b. Client shall be responsible for any breach of this Section 15 caused by any of its employees, contractors, agents, or representatives. At any time during or after the term of this Agreement, at Consultant's written request, Client shall promptly return to Consultant all copies, whether in written, electronic or other form or media, of the Confidential Information, or destroy all such copies and certify in writing to Consultant that the Confidential Information has been destroyed. Client's obligations under this Section 15 will survive termination or expiration of this Agreement for a period of three (3) years, except for Confidential Information that constitutes a trade secret under any applicable law, in which case, such obligations shall survive for as long as such Confidential Information remains a trade secret under such law.

16. REQUIRED AUTHORIZATIONS. Each of the Parties represents that it has and shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement.

17. **SEVERABILITY.** If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
18. **NOTICES.** All notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a “Notice”) must be in writing and addressed to the other Party at its address set forth below (or to such other address that the receiving Party may designate from time to time in accordance with this Section). Unless otherwise agreed herein, all Notices must be delivered by email, personal delivery, nationally recognized overnight courier or certified or registered mail. A Notice is effective only (a) on receipt by the receiving Party; and (b) if the Party giving the Notice has complied with the requirements of this Section 18:

If to Client:	If to Consultant:
Name: <u>City of Sheboygan</u>	EPLEX, LLC (d/b/a E-Plan Exam)
Attn: <u>Taylor Zeinert</u>	Attn: David Adam (DA) Mattox
Address: <u>828 Center Avenue</u>	<u>12605 W North Ave., #189</u>
<u>Sheboygan, WI 53081-4442</u>	Brookfield, WI 53005
Email: <u>TZ1388@sheboyganwi.gov</u>	Email: damattox@eplanexam.com

19. **DISPUTE RESOLUTION.** Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity hereof (each, a “Dispute”), shall be submitted for negotiation and resolution to the President of Consultant (or to such other person of equivalent or superior position designated by Seller in a written Notice to Client) and to the recipient of Notices for Client (as set forth in Section 18, above), by delivery of written Notice (each, a “Dispute Notice”) from either of the Parties to the other Party. Such persons shall negotiate in good faith to resolve the Dispute. If the Parties are unable to resolve any Dispute within 90 days after delivery of the applicable Dispute Notice, either Party may file suit in a court of competent jurisdiction in accordance with the provisions of Sections 20, 21 and 22 hereunder.
20. **CHOICE OF FORUM.** Each Party irrevocably and unconditionally agrees that it shall not commence any action, litigation or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement, including all exhibits, schedules, attachments and appendices attached hereto and thereto, and all contemplated transactions, including contract, equity, tort, fraud, and statutory claims, in any forum other than the state and federal courts of the State of Wisconsin and any appellate court from any thereof. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees to bring any such action, litigation or proceeding only in the state and federal courts of the State of Wisconsin and any appellate court from any thereof. Each Party agrees that a final judgment in any such action, litigation or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.
21. **WAIVER OF JURY TRIAL.** Each Party acknowledges and agrees that any controversy that may arise under this Agreement, including any [exhibits, schedules, attachments, and appendices attached to this Agreement, is likely to involve complicated and difficult issues and, therefore, each such Party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of

any legal action arising out of or relating to this Agreement, including any exhibits, schedules, attachments, and appendices attached to this Agreement, or the transactions contemplated hereby.

22. GOVERNING LAW. This Agreement and all related documents including all exhibits attached hereto, and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute are governed by, and construed in accordance with, the laws of the State of Wisconsin, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Wisconsin.
23. FORCE MAJEURE. No Party shall be liable or responsible to the other Party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of Client to make payments to Consultant hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's reasonable control, including, without limitation, the following force majeure events: (a) acts of God; (b) flood, fire, earthquake, pandemics, epidemics, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages, or slowdowns, or other industrial disturbances; (h) telecommunication breakdowns; and (i) other similar events beyond the reasonable control of the impacted Party.
24. AMENDMENTS. Any changes to Services, and any other proposed amendments to this Agreement, exhibits, schedules, attachments, and appendices attached to this Agreement, shall be mutually agreed upon between the Parties and shall be made in writing, which shall specifically designate any changes in compensation for the Services and be made as a signed and fully executed (by both Parties) amendment to this Agreement.
25. SUCCESSORS AND ASSIGNS. This Agreement is binding on and inures to the benefit of the Parties and their respective permitted successors and permitted assigns.
26. COUNTERPARTS; ELECTRONIC EXECUTION. This Agreement, and any amendments hereto, may be executed by electronic means (e.g., via DocuSign, .portable document format or any other electronic signature) and in any number of counterparts, and each such counterpart and electronic executed copy hereof shall be deemed to be an original instrument, and all such counterparts together shall constitute but one agreement.
27. ASSIGNMENT. Client shall not assign, transfer, delegate, or subcontract any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Consultant. Any purported assignment or delegation in violation of this Section 27 shall be null and void. No assignment or delegation shall relieve Client of any of its obligations under this Agreement. Consultant may assign any of its rights or delegate any of its obligations to any affiliate or to any person acquiring all or substantially all of Consultant's assets without Client's consent.
28. ENTIRE AGREEMENT. This Agreement, along with attached exhibits, constitutes the complete, entire and final Agreement of the parties hereto with respect to the subject matter hereof, and shall supersede any and all previous communications, representations, whether oral or written,

with respect to the subject matter hereof. The Parties expressly agree that no terms or conditions set forth in any form or document issued by Client and/or the Applicant shall be deemed to modify or amend the terms of this Agreement (all of which are hereby rejected by Consultant) unless expressly agreed to in writing by Consultant. The acceptance of any Accepted Project by Consultant is expressly made conditional on, and subject to, the acceptance of the terms and conditions set forth in this Agreement, notwithstanding any terms or conditions in any other form or document that may be different from, or in addition to, the terms and conditions set forth herein.

[Signature Page Follows]

IN WITNESS HEREOF, the Parties have caused this Agreement to be executed in their respective names on the dates hereinafter enumerated.

Client: City of Sheboygan

Consultant: EPLEX, LLC

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: David Adam Mattox

Title: _____

Title: President

Date: _____

Date: _____

Exhibit A – Services

1. PLAN REVIEW SERVICES

Plan review is limited to Building, HVAC, Plumbing, Fire Alarm, and Fire Sprinkler trades/disciplines for Accepted Projects.

2. PLAN REVIEW FEE:

- Building, HVAC, Plumbing, Fire Alarm and Fire Sprinkler plan review Fees shall be based upon the fee schedule set forth on Exhibit B.
- Base Fees will be split with Client as follows:
 - **90%** of Base Fees that are collected by Consultant are retained by Consultant and **10%** are remitted to Client, in each case in accordance with the terms of the Agreement.
 - Out of Consultant's retained Base Fees, Consultant shall be responsible for fees due to the Department as required by and set forth in the applicable provisions of Section SPS 302.31(g) and Section SPS 302.31(h) of the Wisconsin Administrative Code.

Exhibit B – Fees

COMMERCIAL PLAN REVIEW FEE SCHEDULE – BUILDING/HVAC/FIRE ALARM/FIRE SUPPRESSION				
1. New construction, additions, relocated buildings, repairs & alteration plan review fees are computed per this table. Fees for Projects are calculated based on the total gross floor area of the structure.				
2. A separate plan review fee is charged for each type of plan review.				
Base Fee Schedule (“Commercial Plan Base Fees”)				
Area (Square Feet)	Building Plans	HVAC Plans	Fire Alarm System Plans	Fire Suppression System Plans
2,500 or less	\$300	\$180	\$150	\$150
2,501 - 5,000	\$350	\$250	\$150	\$150
5,001 – 7,500	\$600	\$350	\$150	\$150
7,501 - 10,000	\$750	\$400	\$200	\$200
10,001 – 15,000	\$850	\$500	\$200	\$200
15,001 - 20,000	\$1,100	\$550	\$200	\$200
20,001 - 30,000	\$1,350	\$600	\$250	\$250
30,001 - 40,000	\$1,700	\$1,000	\$450	\$450
40,001 - 50,000	\$2,300	\$1,350	\$600	\$600
50,001 - 75,000	\$3,200	\$1,700	\$850	\$850
75,001 - 100,000	\$4,000	\$2,400	\$1,200	\$1,200
100,001 - 200,000	\$6,500	\$3,200	\$1,450	\$1,450
200,001 - 300,000	\$11,400	\$7,300	\$3,600	\$3,600
300,001 - 400,000	\$16,800	\$10,600	\$5,300	\$5,300
400,001 - 500,000	\$20,000	\$13,000	\$6,700	\$6,700
Over 500,000	\$22,000	\$14,500	\$7,700	\$7,700
BUILDING/HVAC/FIRE ALARM/FIRE SUPPRESSION FEE SCHEDULE NOTES				
Note:	1. A Plan Entry Fee of \$100.00 shall be paid to Consultant with each submittal of plans in addition to the plan review and inspection fees.			
	2. Upon mutual agreement of Client’s Supervisor of Building Inspection and Consultant’s Plans Examiner, Commercial Plan Base Fees may be modified, reduced or waived based on scope of services, project type, or other relevant factors.			
Determination of Floor Area	The area of a floor is the area bounded by the exterior surface of the building walls or the outside face of columns where there is no wall. Floor area includes all floor levels such as subbasements, basements, ground floors, mezzanines, balconies, lofts, all stories, and all roofed areas including porches and garages, except for cantilevered canopies on the building wall. Use the roof area for free standing canopies.			
Structural Plans and other Component Submittals	When submitted separately from the general building plans, the review fee for structural plans, precast concrete, laminate wood, beams, cladding elements, other facade features or other structural elements, the review fee is \$250.00 per plan with an additional \$100.00 plan entry fee per each plan set.			
Permission to Start	In addition to the other Fees due hereunder, the plan review fee for permission to start construction shall be \$150.00.			
Plan Examination Extensions	The fee for the extension of an approved plan review shall be 50% of the original plan review fee, not to exceed \$3,000.00.			
Resubmittals & revisions to approved plans	When deemed by Consultant’s Plan Examiner to be a minor revision from previously reviewed and/or approved plans, the review fee relating to the minor revision shall be \$75.00. Any significant changes or alterations beyond minor amendments as determined by Consultant’s Plan Examiner and Client’s Inspection Services Department may result in additional charges as appropriate			
Submittal of plans after construction	Where plans are submitted after construction, the standard late submittal fee of \$250.00 will be assessed per each review type that occurred after construction. This is in addition to any other plan entry fees, structural components and base fees applied to a project.			

Expedited Priority Plan Review	The fee for a priority plan review, which expedites completion of the plan review in less than the normal processing time when the plan is considered ready for review, shall be 200% of the fees specified in these provisions.
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Plumbing Plan Review Fee Schedule	
Plumbing Site work - Stormwater Review Base Fees (“Stormwater Base Fees”)	
Acres (area of drained to a plumbing system)	Fee
up to 5	\$400.00
greater than 5 up to 10	\$600.00
greater than 10 up to 15	\$750.00
Each acre beyond 15 (rounded up)	\$750.00 base plus \$50.00 per acre
Plumbing Sanitary Drain and Water Supply Laterals Base Fees (“Exterior Plumbing Base Fees”)	
\$45.00 per combined inch of pipe size (diameter pipe rounded up to nearest inch)	
Interior Plumbing Plan Review Fee Base Fees (“Interior Plumbing Base Fees”)	
For all interior plumbing as well as miscellaneous fixtures that necessitate review per SPS 382	
Base Plumbing Plan Review fee	\$250.00 + \$4.00 per fixture
Plumbing Plan Review Fee Schedule Notes	
All individually submitted plumbing plan sets plan entry fee. (applies to site work and laterals if submitted separately as well)	\$100.00
Resubmittals & revisions to approved plans	When deemed by Consultant’s Plan Examiner to be a minor revision from previously reviewed and/or approved plans, the review fee shall be \$75.00. Any significant changes or alterations beyond minor amendments as mutually determined by Consultant’s Plan Examiner and Client’s Building Inspection Department may result in additional charges as appropriate.
Early Start	The plan review fee for permission to start construction shall be \$150.00 for all structures.
Submittal of plans after construction	Where plans are submitted after construction, the standard late submittal fee of \$250.00 will be assessed per each review type that occurred after construction. This is in addition to any other plan entry fees, structural components and Base Fees applied to a Project.
Expedited Priority Plan Review	The fee for a priority plan review, which expedites completion of the plan review in less than the normal processing time when the plan is considered ready for review, shall be 200% of the fees specified in these provisions.

Upon mutual agreement of Client's Supervisor of Building Inspection and Consultant's Plans Examiner, Stormwater Base Fees, Exterior Plumbing Base Fees and/or Interior Plumbing Base Fees may be modified, reduced or waived based on scope of services, project type, or other relevant factors.

3. Supplemental Services as Required by Client:

- The hourly rate for services not included in the Services that are requested in writing to be performed by Client, and agreed in writing to be performed by Consultant, shall be performed at \$225.00 per hour, and the performance for which shall be subject to the terms and conditions of the Agreement in all respects.
 - This hourly rate is not intended for plan review services, but rather for incidental supplemental "on call" professional engineering services as required beyond the scope as outlined in services defined throughout the balance of Exhibit A.

4. PLAN REVIEW FEE – includes the following services:

- ✓ One optional remote code consultation meeting after conclusion of the first review.
- ✓ Consultation via phone during duration of Project regarding reviews performed.
- ✓ Up to three (3) reviews of all disciplines to verify that all comments have been addressed.
 - Subsequent reviews may result in resubmittal plan examination fees to be assessed.
- ✓ Changes to plans after conditional approval is granted may result in resubmittal plan examination fees to be assessed.
- ✓ Free code consultation with all inspectors/municipal staff, both employed directly and under contract, serving the Client for the entirety of the duration of any Project reviewed by Consultant. This free consultation period shall extend prior to any formal submission of any plan documents to the conclusion of any Project reviewed or termination of this Agreement (whichever occurs first).

5. CONSULTANT CONTACT

Consultant will provide a qualified professional to oversee this project. They are available by phone and email using the contact information listed below.

Plan Review Management Contact

David Adam Mattox, P.E.

Direct: 414-635-3274

Office: 414-296-2144

damattox@eplanexam.com

Exhibit C – Client Reserved Projects

None