

CITY OF AURORA, ILLINOIS SERVICES AGREEMENT

THIS AGREEMENT, is entered on the Effective Date between the City of Aurora, Illinois (“City”) an Illinois home rule municipal corporation, with its office of City Clerk located at 44 E Downer Place, Aurora, Illinois and the Contractor, for the Services herein described. The terms “Effective Date,” “Contractor,” and “Services” shall be defined as set forth in Exhibit A.

1. Scope of Services. The Contractor shall perform the Services set forth in Exhibit A and any attachments thereto.

2. Term. The term of this Agreement shall be as set forth in Exhibit A. If provided in Exhibit A, the Agreement shall renew without further action by the Parties as set forth in therein, provided that the City Council of the City has budgeted funds for the services contemplated by this Agreement.

3. Standard of Performance. Contractor shall perform all Services set forth in this Agreement, and any other agreed documents incorporated herein, with the degree, skill, care and diligence customarily required of a professional performing services of comparable scope, purpose and magnitude under the same or similar circumstances (the “Standard of Care”). Contractor shall, at all times, exercise the Standard of Care to provide timely and satisfactory rendering and completion of the Services. Contractor and all of its employees or subcontractors performing Services under this Agreement shall, to the extent not inconsistent with the Standard of Care, be: (i) qualified and competent in the applicable discipline or industry; (ii) appropriately licensed as required by law; (iii) in compliance with applicable federal, state, and local laws, regulations or ordinances; and (iv) in conformance to the terms of this Agreement. Contractor shall, at all times until the completion of the Services, remain solely responsible for the professional and technical accuracy of all Services and deliverables furnished, whether such services are rendered by the Contractor or others on its behalf, including, without limitation, its subcontractors. No review, approval, acceptance, nor payment for any and all of the Services by the City shall relieve the Contractor from the responsibilities set forth herein.

5. Payment. Contractor shall invoice the City for its Services rendered in the amount and with the frequency set forth in Exhibit A. Upon receipt, the City shall review and process such invoices for payment in accordance with the procedures and the time limitations provided by the Local Government Prompt Payment Act. Approved but unpaid amounts shall accrue interest and penalties in the amount and to the extent authorized the Act.

6. Termination for Convenience. The City has the right to terminate this Agreement, in whole or in part, for any reason or if sufficient funds have not been appropriated to cover the estimated requirement of the Services not yet performed, by providing Contractor with thirty (30) days notice specifying the termination date. On the date specified, this Agreement will end. If this Agreement is terminated by the City, as provided herein, the City shall pay the Contractor only for services performed up the date of termination. After the termination date, Contractor has no further contractual claim against the City based upon this Agreement and any payment so made

to the Contractor upon termination shall be in full satisfaction for Services rendered. Contractor shall deliver to the City all finished and unfinished documents, studies and reports and shall become the property of the City.

7. Indemnification and Insurance

- a. Hold Harmless:** To the fullest extent permitted by law, the contractor shall hold harmless, defend at its own expense, and indemnify the City of Aurora, its elected officials, officers, employees, agents, and volunteers, against any and all third-party liability, claims, losses, damages, or expenses, including reasonable attorney's fees, to the extent caused by the negligent acts or omissions of the contractor or its officers, agents, or employees in rendering services under this contract; excluding, however, such liability, claims, losses, damages, or expenses arising from the City's negligence or willful acts.
- b. Insurance Requirements:** The contractor must agree to have and maintain the policies set forth in Exhibit B entitled "Contractor Insurance Requirements," which is attached hereto and incorporated herein. This contract requires City of Aurora Insurance requirements as depicted on Exhibit B. All policies, endorsements, certificates, and/or binders shall be subject to approval by the Chief Operating Officer/Risk Manager and the Law Department as to form and content. These requirements are subject to amendment or waiver only if approved in writing by the City's Chief Operating Officer/Risk Manager or his/her designee. A lapse in any required insurance coverage during the term of a contract shall be a breach of the contract.
- c. Waiver of Subrogation.** The contractor agrees to a waive of subrogation as indicated in Exhibit B. That is, neither the Contractor nor its insurers shall have the right to pursue the City to recover its costs associated with a claim arising out of a contract.

8. Certificate of Insurance

- a.** The contractor must provide a compliant certificate of insurance (COI) prior to distribution of the sponsored items or funds. The COI must provide evidence of the coverage required and the terms of the applicable policies should extend through the duration of the project.
 - b.** The contractor must also provide an endorsement naming the City of Aurora, its elected officials, employees, agents, and volunteers as primary, noncontributory, additional insureds on the commercial general liability (including completed operations), business auto, and umbrella liabilities policies.
 - c.** The Contractor's insurer(s) shall provide the City with no less than thirty (30) days' written notice of cancellation, non-renewal, or material change in coverage, and no less than ten (10) days for non-payment of premium.
- 9.** Insurers providing coverage on behalf of contractors shall have a minimum A.M. Best rating of A: VII.

9. Miscellaneous Provisions.

a. Illinois Freedom of Information Act. The Contractor acknowledges the requirements of the Illinois Freedom of Information Act (FOIA) and agrees to comply with all requests made by the City of Aurora for public records (as that term is defined by Section 2(c) of FOIA in the undersigned's possession and to provide the requested public records to the City of Aurora within two (2) business days of the request being made by the City of Aurora. The undersigned agrees to indemnify and hold harmless the City of Aurora from all claims, costs, penalty, losses and injuries (including but not limited to, attorney's fees, other professional fees, court costs and/or arbitration or other dispute resolution costs) arising out of or relating to its failure to provide the public records to the City of Aurora under this agreement.

b. Consents and Approvals. The Parties represent and warrant to each other that each has obtained all the requisite consents and approvals, whether required by internal operating procedures or otherwise, for entering into this Agreement and the undertakings contemplated herein.

c. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

d. Force Majeure: In the event that either party is unable to perform its obligations under this Agreement as a result of a Force Majeure, neither party shall be liable to the other for direct or consequential damages resulting from lack of performance. "Force Majeure" shall mean fires, earthquakes, floods, acts of God, strikes, work stoppages, or other labor disturbances, riots or civil commotions, acts of terrorism or other hostilities, litigation, war or other act of any foreign nation, power of government or governmental agency or authority, epidemics, pandemics or any other cause like or unlike any cause above mentioned which is beyond the control of either party.

e. Jurisdiction and Venue. The Parties agree that in the event of litigation arising from this Agreement, the exclusive venue for the adjudication of such disputes shall be the Circuit Court of the Sixteenth Judicial Circuit, Kane County and that the Illinois law shall apply to such disputes without regard to its choice of law principles.

f. Construction of Contract Provisions. The Parties acknowledge that this Agreement and all the terms and conditions contained herein have been fully reviewed and negotiated by the Parties. This Agreement may only be amended as provided herein. In the event of a conflict between the terms of this agreement and Exhibit A or B, the terms of the agreement shall control, and the Exhibits are subordinate thereto. 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.

g. Notices. Notices shall be deemed properly given hereunder if in writing and either hand delivered or sent by United States mail, postage prepaid, or by email transmission with the sending Party retaining confirmation of receipt, to the Parties at their respective addresses provided below:

Contractor

Attn: RS&H, Inc.

Legal Department

Address: 10748 Deerwood Park Blvd South

Jacksonville, FL 32256

Send copies to: Exhibit A

Email: See Exhibit A

Phone: See Exhibit A

City of Aurora

Attn: Legal Department

44 E. Downer Ave

Aurora, IL 60507

lawdept@aurora.il.us

630-256-3060

Notices personally delivered shall be deemed given on the date of delivery, notices sent by U.S. mail shall be deemed delivered following deposit in the mail, and notices sent by email transmission shall be deemed given on the date of transmission if sent on or before 5:00 p.m. on a business day, or, if later, the next business day.

h. Entire Agreement. This Agreement, along with Exhibits A and B represents the entire agreement between the parties with respect to the performance of the Services. No other contracts, representations, warranties or statements, written or verbal, are binding on the parties.

i. Employment of Illinois laborers Act. Contractor must comply with the Illinois Laborers Act, 30 ILCS 570, when applicable. It is the duty of Contractor to verify status of the Act and comply

Date: _____

FOR: CITY OF AURORA, ILLINOIS

By: _____

Jolene Coulter

Director of Purchasing

FOR: RS&H, Inc.

Signed by:
By: James Shaw
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Print: James R. Shaw, PE

Title: Vice President

**EXHIBIT A
CITY OF AURORA, ILLINOIS
SERVICES AGREEMENT**

Contractor Information ("Contractor")	
Legal Name:	RS&H, Inc.
Type of Entity:	☐ Illinois Business Corporation ☐ Illinois Not-For Profit Corporation ☐ Illinois Limited Liability Company or Limited Partnership ☐ Partnership or Solo Proprietorship ☒ Other. Organized under the laws of the State of <u>Florida</u> , and authorized to do business in Illinois.
Address:	2580 Foxfield Road, Suite 301 St. Charles, IL 60174
Email	arielle.malinowski@rsandh.com
Phone	630-364-5213
Contract Term Information	
Effective Date:	
Term:	
Renewal Period:	

Payment Terms	
☐ Daily	The City shall compensate the Contractor on an hourly daily basis at the rate of \$100.00 per hour.
☐ Monthly	The City shall compensate the Contractor on a monthly basis at the rate of \$_____ per calendar month.
☒ Total	The total compensation of the Contractor under this Agreement shall be \$117,809.
☐ Other	

Expenses	
☒ Authorized	The City shall reimburse the Contractor for its ordinary and customary expenses incurred in the performance of the Services under this Agreement.
☐ Not Authorized	The Contractor is responsible for its ordinary and customary expenses incurred in the performance of the Services under this Agreement.

Scope of Work

The Contractor agrees to perform the Services set forth herein pursuant to this Agreement.

Project Scope Overview

Regularly scheduled dam inspections have occurred at this location. In October 2020, seepage from the Fox River into the Canoe Chute was noted at Sta. 1+80 in the east Canoe Chute wall. In December 2025, a 1 ft – 6in. x 2in. void was observed at the bottom of the wall where the seepage was noted in October 2020. The 2025 inspection report recommended an immediate repair of the wall to seal the void to restrict water flow from the Fox River into the Canoe Chute. The City of Aurora noted that this repair had not yet been completed and that they were planning on bidding out the repair in summer 2026.

The construction work associated with this project is located along the east Canoe Chute wall just north of drop structure four. The proposed repair includes the construction of a cofferdam, positively attaching the sheeting to the reinforced concrete (RC) wall via internal steel bracing to create a sealed coffer cell, and repairing the wall void.

During recent high-water events along the Fox River at this location, photos and videos have been captured depicting a turbulent area in the Canoe Chute near the wall void location. The turbulent area is accompanied by debris build up on the Fox River side signifying possible siphon action. A contingent repair to address undermining of the east Canoe Chute wall will also be included in the deliverable.

The scope of work to be completed includes:

Task 1 – Data Collection and Coordination

RS&H will obtain, compile, and review readily available pertinent information related to the existing facility. Staff will perform up to 3 site visits utilizing a drone to prepare a photo/video log and document conditions. Coordination meetings with the City of Aurora will take place as needed, assume up to three 1 hour virtual meetings.

Additionally, a plan-in-hand on-site review meeting will take place following the Pre-Final Plan Submittal.

Task 2 – Repair Design and Structural Calculations

The proposed repair includes the construction of a cofferdam, positively attaching the sheeting to the reinforced concrete (RC) wall via internal steel bracing to create a sealed coffer cell, and repairing the wall void. A contingent repair to address undermining of the east Canoe Chute wall will also be included in the deliverable.

RS&H will perform the following subtasks:

- a. Wall repair design and calculations
- b. Infill wall design and calculations

Task 3 – Plans, Specification, and Estimate Preparation

RS&H will prepare construction documents including plans and details. RS&H will provide a specifications document and anticipate developing two project specific special provisions. RS&H will provide an engineer’s opinion of probable construction cost based on unit costs from recent bid tabulations.

A Pre-Final submittal will be provided to the City for review and comment. RS&H will incorporate any applicable review comments and provide a disposition of comments with the Final submittal.

RS&H will perform the following subtasks:

- a. Production (5 sheets)
 - i. Cover Sheet
 - ii. Index of Sheets, Standards, General Notes, & Commitments
 - iii. Summary of Quantities
 - iv. General Plan and Elevation for Wall Repair
 - v. Repair Details
 - vi. As-built plans, Inspection Reports, and other references to be included as attachments
- b. Specifications
- c. Quantities and Cost Estimate – nine pay items estimated

Deliverables:

Project Plans, Specifications, and Estimates (Pre-Final and Final)

Task 4 – IDNR and USACE Permit Applications

RS&H will initiate coordination with the Illinois Department of Natural Resources (IDNR) and the U.S. Army Corps of Engineers (USACE) to determine the permitting requirements for the east Canoe Chute wall repair work, including the preparation, submittal, and procurement of the required permits. For IDNR, may include one or more of the following: a Regulation of Public Waters Permit (Part 3704), a Floodway Construction Permit (Part 3708), and/or a Dam Safety Permit (Part 3702). Because the Fox River is likely considered Waters of the United States (WOTUS), the anticipated USACE permit is Nationwide Permit 3 - Maintenance.

The permit scope includes coordination meetings with IDNR and USACE, preparation of the joint permit application, and compilation of an executive summary, relevant exhibits, and supporting plan sheets for the permit submittal. The concept construction approach is to dewater the Canoe Chute by closing the upstream gate and perform the repair work from a temporary platform with negligible temporary impacts to the WOTUS or the floodway/floodplain; therefore, hydrologic and hydraulic modeling is excluded from this scope of services. If IDNR or USACE requires additional documents or H&H modeling for the permit submittal, a supplement will be submitted to the City for the additional services.

RS&H will perform the following subtasks:

- a. Coordination with IDNR and USACE
- b. IDNR/USACE Joint Permit Application
- c. Address IDNR/USACE review comments and up to 1 resubmittal of the Permit Application

The certification fees associated with the permit applications are included in this scope and assume one submittal per permit. Any additional permitting fees exceeding \$5,000 are out of scope and will require a supplement.

Task 5 – Bid and Construction Phase Services Support

RS&H will perform up to 160 hours of bid and construction phase services support. This may include the following subtasks:

- a. Review of Requests for Information/Clarification
- b. Coordination Meetings
- c. Design Revisions due to Unforeseen Conditions
- d. Review of Contractor Submittals (i.e. cofferdam plans and calculations, temporary works calculations, etc.)

Task 6 – Quality Management

RS&H will conduct QA/QC reviews of engineering procedures, methodologies, and deliverables in conformance with RS&H's Quality Management Plan.

Task 7 – Administration

RS&H will undertake all other administrative duties necessary to support the successful completion of the project. This work will include:

- a. General project management duties including Project Officer oversight
- b. Preparing project correspondence including meeting minutes, phone memos, etc.
- c. Preparing monthly invoices and progress reports

Exclusions and Assumptions

The following is a summary of assumption or items that are excluded from the scope of services.

- Design per AASHTO LRFD Bridge Design Specifications, 10th Edition and IDOT Standard Specifications for Road and Bridge Construction, January 2022.
- Construction access plans and maintenance of traffic plans are not included.
- Topographic Survey and Underwater Inspection is not included. Existing plans, inspection reports, and as-builts will be provided to the Contractor for their use.
- Utility coordination activities are not included.
- Stability analysis of the east Canoe Chute wall is not included.
- Geotechnical investigations and recommendations are not included.
- Hydrologic and hydraulic modeling is not included.