

## AGREEMENT FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT made as of March 13, 2018 between the City of La Crosse (OWNER) and Ayres Associates Inc, 5201 E. Terrace Drive, Suite 200, Madison, WI (CONSULTANT).

OWNER intends to retain CONSULTANT for professional services to/for Veteran's Memorial Pool Replacement and Bathhouse Rehabilitation and as described in Attachment A (hereinafter called the Project).

OWNER and CONSULTANT agree to performance of professional services by CONSULTANT and payment for those services by OWNER as set forth below.

Attachment A - Scope of Services, consisting of 8 pages.

Attachment B - Period of Services, consisting of 2 pages.

Attachment C - Compensation and Payments, consisting of 2 pages.

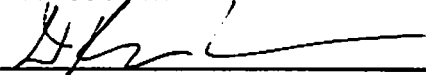
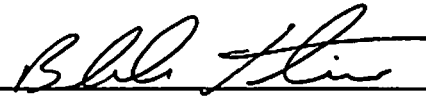
Attachment D - Terms and Conditions, consisting of 1 pages.

Attachment E - Insurance, consisting of 2 pages.

Exhibit 1 – Modified Standard Terms and Conditions of City of La Crosse, consisting of 2 pages.

This Agreement (consisting of 1 page), together with the Attachments identified above, constitute the entire agreement between OWNER and CONSULTANT and supersede all prior written or oral understandings. This Agreement and said Attachments may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first written above.

<u>City of LaCrosse</u> OWNER		<u>Ayres Associates Inc</u> CONSULTANT
<u>Timothy Kabat</u> TIMOTHY KABAT	(Signature)	 D. Bruce Morrow
<u>MAYOR</u>	(Title)	<u>Manager – Landscape Architecture</u>
<u>05/14/2018</u>	(Date)	<u>March 13, 2018</u>
<u>Teri Lehrke</u> Teri Lehrke	(Attest)	 Blake Theisen
<u>City Clerk</u>	(Title)	<u>Project Manager</u>

## ATTACHMENT A - SCOPE OF SERVICES

This is an attachment to the Agreement dated March 13, 2018 between City of La Crosse (OWNER) and Ayres Associates Inc (CONSULTANT).

### ARTICLE 1 - BASIC SERVICES

#### 1.1 General

1.1.1 CONSULTANT shall provide professional services for OWNER in all phases of the Project to which this Agreement applies. These services will include serving as OWNER's professional representative for the Project, providing professional consultation and advice, and performing the duties and responsibilities of CONSULTANT as provided below.

#### 1.2 Phase I. Site Assessment / Preliminary Design Development

Conduct background research and data collection. Acquire and review existing plans, surveys, reports, and maps related to the project.

1.2.1 Attend kickoff meeting with City staff (Meeting #1). This meeting will address topics including:

- Design program and budget
- Project timeline and public meeting dates
- Priorities and restrictions

1.2.2 Tour project site. Ayres will also photo-document existing conditions during this visit. Elements to be investigated include:

- Topography
- Drainage patterns
- Development limitations
- Existing adjacent park uses
- Connectivity patterns and circulation
- The historic and natural environment

1.2.3 Prepare two preliminary concept design plans. Elements to be addressed include:

- Site layout
- Site amenity layout
- Building configuration scenarios
- Design character images

1.2.4 Prepare preliminary cost estimate for the design development drawings. Our team uses current pricing structures from other recent team project bid tabulations, DOT standard costs, and input from local contractors, however, we cannot and do not guarantee that actual Construction Costs will not vary from our cost estimates.

1.2.5 Attend review meeting with City staff to refine final design direction (Meeting #2).

1.2.6 Refine preliminary drawings into the preferred concept option to incorporate City staff comments.

1.2.7 Present and review the final concept drawings to the City staff (Meeting #3). Ayres will also meet with the state pool/plumbing reviewers to secure early buy-in of the proposed features and mechanical system.

1.2.8 Communicate on a regular basis (biweekly minimum) with City staff via conference call and/ or email.

1.2.9 Deliverables for Phase I (delivered electronically in PDF or native file format as requested):

- One summary memo from kickoff meeting
- One updated project timeline
- Digital site photographs, field notes and observations
- One summary memo from each review meeting
- Two (2) 11x17 design development plan sets
- Staff review meeting presentation materials (digital format)
- Two preliminary cost estimates
- 24x36 color renderings and perspectives of preliminary and final concept plan

### **1.3 Phase II. Final Design and bid documents**

1.3.1 Prepare construction plan and bid documents to include:

- Demolition and erosion control
- Site layout
- Pool vessel
- Building plans
- Cross sections
- Utilities – storm, water, electrical, and sanitary
- Mechanical systems plans
- Pool piping plan
- Site construction and amenity details
- Special provision specifications and bid form documents (City to supply standard specification sections)

1.3.2 Submit 60%, and 90% completion materials to City staff for review and comment.

1.3.3 Attend final review meeting with City staff. All review materials will be submitted prior to meeting.

1.3.4 Complete DSPS, WRAPP, and local erosion control permits.

1.3.5 Deliverables for Phase II:

- Ten 11x17 review construction plan sets per meeting
- Three 11x17 final design drawings
- Three final specifications and bid documents
- One 11x17 complete permit as outlined in above scope
- 1 compact disk or DVD containing:
  - o PDF format final construction plans and bid documents
  - o Excel/Word format final quantity spreadsheet
  - o Final plan graphics (native software-CAD/GIS)
  - o Completed permit forms

#### **1.4 Phase III. Bid Process**

- 1.4.1 Assist City with public bidding process
- 1.4.2 Communicate on a regular basis (biweekly minimum) with City staff via conference call and/ or email.
- 1.4.3 Facilitate one pre-bid conference on-site and be available to answer technical questions.
- 1.4.4 Prepare addenda as needed and answer questions throughout the bidding process.
- 1.4.5 Assist City with bid evaluations and bidder recommendation.
- 1.4.6 Deliverables for Phase III (delivered electronically in PDF or native file format as requested):
  - One 8.5 x 11 summary from pre-bid conference
  - One digital copy of any required addenda
  - One 8.5 x 11 summary of recommended bidder

#### **1.5 Phase IV. Construction Administration**

During the Construction Phase:

- 1.5.1 General Administration of Construction Contract. CONSULTANT shall consult with and advise OWNER and act as OWNER's representative as provided in Articles 1 through 18, inclusive, of the Standard General Conditions of the Construction Contract, C-700 (2013 edition) of the Engineers Joint Contract Documents Committee. The extent and limitations of the duties, responsibilities and authority of CONSULTANT as assigned in said Standard General Conditions shall not be modified, except to the extent provided hereinafter and except as CONSULTANT may otherwise agree in writing.
- 1.5.2 Facilitate one preconstruction meeting on-site with general and subcontractors. The team will outline key project elements and establish detailed schedule milestones.
- 1.5.3 Review contractor and vendor supplied shop drawings.
  - 1.5.3.1 Shop Drawings. CONSULTANT shall review (and take other appropriate action in respect of) Shop Drawings (as that term is defined in the aforesaid Standard General Conditions), samples and other data which Contractor(s) are required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.
- 1.5.4 Prepare change orders if needed
  - 1.5.4.1 Interpretations and Clarifications. CONSULTANT shall issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare work directive changes and change orders as required.
- 1.5.5 Preparation and submittal of material to acquire occupancy permit
- 1.5.6 Facilitate biweekly progress meetings (16 weeks assumed) and conduct site inspections at key milestones.

1.5.6.1 CONSULTANT shall make visits to the site at intervals appropriate to the various stages of construction as CONSULTANT deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor(s)' work. Based on information obtained during such visits and on such observations, CONSULTANT shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and CONSULTANT shall keep OWNER informed of the progress of the work.

1.5.6.2 The purpose of CONSULTANT's visits to the site will be to enable CONSULTANT to better carry out the duties and responsibilities assigned to and undertaken by CONSULTANT during the Construction Phase, and, in addition, by exercise of CONSULTANT's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor(s) will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor(s). On the other hand, CONSULTANT shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct or have control over Contractor(s)' work nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, CONSULTANT can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

1.5.6.2 Defective Work. During such visits and on the basis of such observations, CONSULTANT may disapprove of or reject Contractor(s)' work while it is in progress if CONSULTANT believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents.

1.5.7 Schedule and attend plumbing inspections with state regulatory bodies at appropriate times during construction.

1.5.8 Perform final punch list walk-through with contractor. Provide detailed punch list of incomplete/unsatisfactory items.

1.5.9 Provide the City with final operations, maintenance manuals, and project closeout documents.

1.5.10 Deliverables for Task IV:

- One 8.5x11 summary minutes from preconstruction meeting
- 8.5x11 meeting minutes from progress meetings
- Digital site photographs
- Copies of state inspection approvals
- 8.5x11 field inspection reports
- Digital as-built drawings

1.5.11 Limitation of Responsibilities. CONSULTANT shall not be responsible for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except CONSULTANT's own employees and agents) at the site or otherwise furnishing or performing any of the Contractor(s)' work; however, nothing contained in paragraphs 1.5.1 thru 1.5.10 inclusive, shall be construed to release CONSULTANT from

liability for failure to properly perform duties and responsibilities assumed by CONSULTANT in the Contract Documents.

## **ARTICLE 2 - ADDITIONAL SERVICES**

### **2.1 Services Requiring Authorization in Advance**

If authorized in writing by OWNER, CONSULTANT shall furnish or obtain from others Additional Services as provided below. These services are not included as part of Basic Services and will be paid for by OWNER as indicated in Attachment C.

2.1.1 Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2.1.2 Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

2.1.3 Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other causes beyond CONSULTANT's control.

2.1.4 Providing renderings or models for OWNER's use other than those listed in the Basic Services.

2.1.5 Preparing documents for alternate bids requested by OWNER for Contractor(s)' work which is not executed or documents for out-of-sequence work.

2.1.6 Investigations and studies involving, but not limited to, detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.

2.1.7 Furnishing services of independent professional associates and subconsultants for other than Basic Services (which include, but are not limited to, customary civil, structural, mechanical and electrical engineering and customary architectural design incidental thereto); and providing data or services of the types described in paragraph 3.4 when OWNER employs CONSULTANT to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.4.

2.1.8 Services resulting from the award of more separate prime contracts for construction, materials or equipment for the Project than are contemplated or if CONSULTANT has been required to prepare Contract Documents on the assumption that more than one prime contract will be awarded for construction, materials and equipment, but only one prime contract is awarded for construction,

materials and equipment for the Project, services attributable to the preparation of contract documentation that was rendered unusable and any revisions or additions to contract documentation used that was necessitated by the award of only one prime contract.

2.1.9 Services during out-of-town travel required of CONSULTANT other than visits to the site or OWNER's office as required by Basic Services.

2.1.10 Assistance in connection with bid protests, rebidding or renegotiating contracts for construction, materials, equipment or services.

2.1.11 Providing any type of property surveys or related engineering services needed for the transfer of interests in real property and field surveys for design purposes and engineering surveys and staking to enable Contractor(s) to proceed with their work; and providing other special field surveys.

2.1.12 Preparation of operating, maintenance and staffing manuals to supplement Basic Services under paragraph 1.5.9.

2.1.13 Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other legal or administrative proceeding involving the Project.

2.1.14 Additional services in connection with the Project, including services which are to be furnished by OWNER as listed below, and services not otherwise provided for in this Agreement.

## **2.2 Required Additional Services**

When required by the Contract Documents in circumstances beyond CONSULTANT's control, CONSULTANT shall furnish or obtain from others, as circumstances require during construction and without waiting for specific authorization from OWNER, Additional Services of the types listed in paragraphs 2.2.1 through 2.2.6, inclusive. These services are not included as part of Basic Services. CONSULTANT shall advise OWNER promptly after starting any such Additional Services which will be paid for by OWNER as indicated in Attachment C.

2.2.1 Services in connection with work change directives and change orders to reflect changes requested by OWNER if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.

2.2.2 Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions proposed by Contractor(s); and services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor.

2.2.3 Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

2.2.4 Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, and (4) default by any Contractor.

2.2.5 Services in connection with any partial utilization of any part of the Project by OWNER prior to Substantial Completion.

2.2.6 Evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.

### **ARTICLE 3 - OWNER'S RESPONSIBILITIES**

OWNER shall do the following in a timely manner so as not to delay the services of CONSULTANT:

3.1 Designate in writing a person to act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to CONSULTANT's services for the Project.

3.2 Provide all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Project.

3.3 Place at CONSULTANT's disposal all available pertinent information including previous reports and any other data relative to design or construction of the Project.

3.4 Furnish to CONSULTANT, as required for performance of CONSULTANT's Basic Services, the following, all of which CONSULTANT may use and rely upon in performing services under this Agreement:

3.4.1 Data prepared by or services of others, including without limitation borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment; including appropriate professional interpretations.

3.4.2 Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the site, and adjacent areas.

3.4.3 Property, boundary, easement, right-of-way, topographic and utility surveys.

3.4.4 Property descriptions.

3.4.5 Zoning, deed and other land use restriction.

3.4.6 Other special data or consultations not covered under Basic Services and Additional Services.

3.5 Provide engineering surveys to establish reference points for construction to enable Contractor(s) to proceed with the layout of the work.

3.6 Arrange for access to and make all provisions for CONSULTANT to enter upon public and private property as required for CONSULTANT to perform services under this Agreement.

3.7 Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by CONSULTANT, obtain advice of an attorney, insurance counselor, financial/municipal advisor, and other consultants as OWNER deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of CONSULTANT.



3.8 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.

3.9 Recognizing and acknowledging that CONSULTANT's services and expertise do not include the following services, provide, as required for the Project:

3.9.1 Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.

3.9.2 Legal services with regard to issues pertaining to the Project as OWNER requires, Contractor(s) raises, or CONSULTANT reasonably requests.

3.9.3 Such auditing services as OWNER requires to ascertain how or for what purpose any Contractor has used the money paid.

3.10 If OWNER designates a person to represent OWNER at the site who is not CONSULTANT or CONSULTANT's agent or employee, the duties, responsibilities and limitations of authority of such other person and the affect thereof on the duties and responsibilities of CONSULTANT and the Resident Project Representative (and any assistants) will be set forth in an exhibit that is to be identified, attached to and made a part of this Agreement before such services begin.

3.11 If more than one prime contract is to be awarded for construction, materials, equipment and services for the entire Project, designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.

3.12 Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings and substantial completion inspections and final payment inspections.

3.13 Give prompt written notice to CONSULTANT whenever OWNER observes or otherwise becomes aware of a hazardous environmental condition or any other development that affects the scope or timing of CONSULTANT's services, any defect or nonconformance in CONSULTANT's services, or any defect or nonconformance in the work of any Contractor.

3.15 Furnish, or direct CONSULTANT to provide, Additional Services as stipulated in paragraph 2.1 or other services as required.

3.16 Bear all costs incident to compliance with the requirements of Article 3.

## **ATTACHMENT B - PERIOD OF SERVICES**

This is an attachment to the Agreement dated March 13, 2018 between City of La Crosse (OWNER) and Ayres Associates Inc (CONSULTANT).

### **ARTICLE 4 - PERIOD OF SERVICES**

4.1 The provisions of this Article 4 and the compensation for CONSULTANT's services have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the Construction Phase. CONSULTANT's obligation to render services hereunder will extend for a period which may reasonably be required for the design, award of contracts, construction, and initial operation of the Project including extra work and required extensions thereto. If specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided below and if such dates are exceeded through no fault of CONSULTANT, compensation provided herein shall be subject to equitable adjustment.

4.2 The services called for in Phase I Site Assessment / Preliminary Design Development will be completed by September 1, 2018 after written authorization to proceed which will be given by OWNER within forty five days after CONSULTANT has signed this Agreement.

4.3 After acceptance by OWNER of the Phase I Site Assessment / Preliminary Design Development, CONSULTANT shall proceed with the performance of the services called for in Phase II. Final Design and bid documents by February 1, 2019.

4.4 After acceptance by OWNER of the CONSULTANT's Drawings, Specifications and other Final Design Phase documentation including the most recent opinion of probable Total Project Costs and upon written authorization to proceed, CONSULTANT shall proceed with performance of the services called for in Phase III Bid Process. This Phase shall terminate and the services to be rendered thereunder shall be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective Contractor.

4.5 The Construction Phase will commence with the execution of the first prime contract to be executed for the work of the Project or any part thereof, and will terminate upon completion of the project closeout documents.

4.6 If OWNER has requested significant modifications or changes in the general scope, extent or character of the Project, the time of performance of CONSULTANT's services shall be adjusted equitably.

4.7 If OWNER fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, or if the Construction Phase has not commenced within 180 calendar days after completion of Final Design Phase, CONSULTANT may, after giving seven days' written notice to OWNER, suspend services under this Agreement.

4.8 OWNER shall be liable for all costs and damages incurred by CONSULTANT for delays caused in whole or in part by OWNER's interference with CONSULTANT's ability to provide services, including, but not limited to, OWNER's failure to provide specified facilities or information, or if CONSULTANT's services are extended by OWNER's actions or inactions for more than ninety days. OWNER agrees to indemnify and hold CONSULTANT harmless for any delays caused by OWNER. If delays are caused by unpredictable occurrences including, without limitation, terrorism, fires, floods, riots, strikes, unavailability of labor or materials, delays or defaults by suppliers of material or services, process

shutdowns, acts of God or the public enemy, or acts or regulations of any governmental agency, the costs for services and schedule commitments shall be subject to change.

## ATTACHMENT C - COMPENSATION AND PAYMENTS

This is an attachment to the Agreement dated Mach 13, 2018 between City of La Crosse (OWNER) and Ayres Associates Inc (CONSULTANT).

### ARTICLE 5 - COMPENSATION AND PAYMENTS

#### 5.1 Compensation for Services and Expenses

5.1.1 Basic Services. OWNER shall pay CONSULTANT for Basic Services set forth in Attachment A, as follows:

5.1.1.1 A Lump Sum amount of \$163,158 based on the following assumed distribution of compensation:

a. Phase I. Site Assessment / Preliminary Design Development	\$34,150
b. Phase II. Final Design and bid documents	\$91,076
c. Phase III. Bid Process	\$6,626
d. Phase IV. Construction Administration	\$31,306

5.1.1.2 CONSULTANT may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total Lump Sum amount unless approved in writing by OWNER.

5.1.1.3 The Lump Sum includes compensation for CONSULTANT's services and services of CONSULTANT's independent professional associates and subconsultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses.

5.1.1.4 Permit, submittal, and other fee are not included compensation for CONSULTANT's services. The CONSULTANT anticipates approximately \$5,000.00 in such fees that shall be reimbursed to the CONSULTANT by the OWNER at the time such fees are paid by CONSULTANT on behalf of the OWNER.

5.1.3 Additional Services. OWNER shall pay CONSULTANT for Additional Services, if any, as follows:

5.1.3.1 For services of CONSULTANT's employees engaged directly on the Project pursuant to Attachment A, paragraph 2.1 or 2.2 (except for services as a consultant or witness under Attachment A, paragraph 2.1.13), a lump sum will be negotiated to complete such work.

5.1.4 Amounts Billed.

5.1.4.1 Lump Sum Services. The portion of the amounts billed for CONSULTANT's services which are related to services rendered on a Lump Sum basis will be billed based upon CONSULTANT's estimate of the proportion of the total services actually completed during the billing period to the Lump Sum.

## 5.2 Payments

5.2.1 Times of Payments. CONSULTANT shall submit monthly invoices for Basic and Additional Services rendered and for Reimbursable Expenses incurred. OWNER shall make prompt monthly payments in response to CONSULTANT's invoices.

5.2.2 Failure to Pay. If OWNER fails to make any payment due CONSULTANT for services and expenses within thirty days after receipt of CONSULTANT's invoices, the amounts due CONSULTANT will be increased at the rate of 1-1/2% per month (18% A.P.R.), or the maximum rate of interest permitted by law, if less, from said thirtieth day, and in addition, CONSULTANT may, after giving seven days' written notice to OWNER, suspend services under this Agreement until CONSULTANT has been paid in full all amounts due for services and expenses.

5.2.3 Payments Upon Termination. In the event of termination by OWNER under Attachment D, CONSULTANT will be entitled to invoice OWNER and to receive full payment for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination. In the event of termination by OWNER for convenience or by CONSULTANT for cause, CONSULTANT also shall be entitled to invoice OWNER and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with CONSULTANT's independent professional associates and subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth in this Attachment C.

5.2.4 Payments for Taxes Assessed on Services. The amount of any excise, value-added, gross receipts, or sales taxes that may be imposed on payments shall be added to the compensation as determined above.

5.2.5 Deductions or Offsets. No deductions or offsets shall be made from CONSULTANT's compensation or expenses on account of any setoffs or back charges.

## **ATTACHMENT D - TERMS AND CONDITIONS**

This is an attachment to the Agreement dated March 13, 2018 between City of La Crosse (OWNER) and Ayres Associates Inc (CONSULTANT).

See Exhibit 1 – City of La Crosse Standard Terms and Conditions

## ATTACHMENT E - INSURANCE

This is an attachment to the Agreement dated March 13, 2018 between City of La Crosse (OWNER) and Ayres Associates Inc (CONSULTANT).

### ARTICLE 8 - INSURANCE

#### 8.1 Workers' Compensation

Workers' Compensation insurance covering the CONSULTANT for any and all claims which may arise against the CONSULTANT because of Workers' Compensation and Occupational Disease Acts shall be carried. The Employer's Liability Section shall have limits of not less than the following:

Each Accident:	\$	100,000
Disease, Policy Limit:	\$	500,000
Disease, Each Employee:	\$	100,000

#### 8.2 Commercial General Liability

Commercial General Liability insurance protecting the CONSULTANT against any and all general liability claims which may arise in the course of performance of this Agreement shall be carried. The limits of liability shall not be less than the following:

General Aggregate:	\$	1,000,000
Products-Completed Operations Aggregate:	\$	1,000,000
Personal and Advertising Injury:	\$	1,000,000
Each Occurrence:	\$	1,000,000

Property damage liability coverage shall not exclude explosion, collapse, and underground perils if CONSULTANT is engaged in these activities.

Commercial General Liability coverage shall also protect the CONSULTANT for the same limits of liability for claims which may arise because of the indemnity or contractual liability agreement contained within this Agreement.

#### 8.3 Business Automobile Liability

Business Automobile Liability insurance including Owned, Non-Owned, and Hired vehicles shall be carried with a limit of not less than the following:

Bodily Injury and Property Damage, Combined Single Limit:	\$	1,000,000
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#### 8.4 Umbrella Excess Liability

Excess liability insurance (umbrella form) over underlying Employer's Liability, Commercial General Liability, and Business Automobile Liability shall be carried. The limits of liability shall be not less than the following:

Each Occurrence:	\$ 1,000,000
Aggregate:	\$ 1,000,000

### **8.5 Professional Liability (Errors and Omissions)**

Professional Liability insurance protecting the CONSULTANT against Professional Liability claims which may arise in the course of this Agreement shall be carried. The limits of liability shall be not less than the following:

Each Claim:	\$ 1,000,000
Aggregate:	\$ 1,000,000

### **8.6 Valuable Papers**

During the life of this Agreement, the CONSULTANT shall maintain in force Valuable Papers and Records Insurance in an amount equal to the maximum exposure to loss of written, printed, or otherwise inscribed documents and records, including books, maps, films, drawings, abstracts, deeds, mortgages, and manuscripts as shall be required and/or produced in the completion of this Agreement by the CONSULTANT.