

**Minutes of the August 22, 2019**  
**Special Meeting of the Yancey County Board of Commissioners**  
**Held at 6:00 pm in the Yancey County Courtroom**  
**Yancey County Courthouse, Burnsville, North Carolina**

Present at the meeting held August 22, 2019 were Chairman Jeff Whitson, Commissioner Mark Ledford, Commissioner Jill Austin, Commissioner David Grindstaff, and Commissioner Johnny Riddle, County Manager Lynn Austin, Finance Officer Brandi Burleson, County Attorney Donny Laws, and Planning & Economic Development Director Jamie McMahan. In the Board Clerk's absence, Finance Officer Burleson recorded the minutes.

**Call to Order**

Chairman Whitson welcomed those in attendance and called the meeting to order.

**Approval of the Agenda**

Chairman Whitson asked for a motion to amend the agenda to include the Anchor QEA landfill contract and approve. Commissioner Riddle made a motion to amend and approve the agenda, with Commissioner Ledford providing a second. By unanimous vote the agenda was amended and approved. (Attachment A)

**Public Hearing**

Commissioner Grindstaff made a motion to open the floor for the purpose of holding a public hearing regarding the approval of the Newdale Volunteer Fire Department Re-Finance Agreement and RESOLUTION (Attachment B). Commissioner Austin seconded the motion. The Board voted unanimously to hold the public hearing. Chairman Whitson recognized David Dayton, President of Newdale Fire Department. Mr. Dayton gave a brief presentation on the terms of the refinancing agreement, including that the amount to be financed is \$499,000 at a non-taxable interest rate of 4.5%, which will result in a savings of approximately \$80,000 over a fifteen-year period. County Attorney Donny Laws updated the Board on the loan process regarding the county and the Local Government Commission (LGC). There was no other public comment. Chairman Whitson made a motion to close the public hearing with Commissioner Ledford seconding the motion. By unanimous vote the public hearing was closed. Chairman Whitson read the RESOLUTION. Commissioner Grindstaff made a motion to approve the refinance agreement and adopt the RESOLUTION, with Commissioner Ledford providing a second. By unanimous vote, the motion was carried.

**Public Hearing**

Commissioner Ledford made a motion to open the floor for the purpose of holding a public hearing to consider the road naming recommendation from the Yancey County Addressing Coordinator. Commissioner Grindstaff provided a second. By unanimous vote the motion was carried. Mark Thomas, Yancey County Addressing Coordinator, presented a letter and a detailed account to the Board (Attachment C) that summarized the steps taken in an attempt name the section of the road SR 1427 that the state sectioned out for the road-widening project that is not longer part of the main road. The subject section begins off of SR 1427 and runs west towards the town of Burnsville and ends in the cul de sac. Mr. Thomas indicated that he is invoking *2.25 (B) ROAD NAMING PROCEDURES FOR PRIVATE ROADS AND PUBLIC ROADS* of the **YANCEY COUNTY ADDRESSING AND ROAD NAMING ORDINANCE**. Mr. Thomas recommended the section of road described be named Mercy Street. There was no other public comment. Commissioner Ledford made a motion to close the hearing with Commissioner Riddle providing a second. The Board voted unanimously to close the public hearing. Commissioner Ledford made a motion to name the road Mercy Street, with Commissioner Grindstaff seconding the motion. The Board voted unanimously to name the road Mercy Street.

**Contract for Landfill**

County Manager Austin reviewed the Anchor QEA proposal for services to be provided at the landfill. (Attachment D). County Manager Austin reported that the cost of the contract

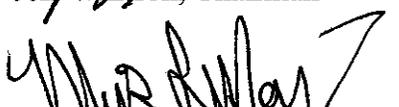
would be \$46,542, and that county would contract the mowing (Item #5 in the proposal) separately.

**Adjournment**

Having no further business, Commissioner Ledford made a motion to adjourn, with Commissioner Riddle seconding the motion. The Board of Commissioners voted unanimously to adjourn.

Approved and authenticated this the 9<sup>th</sup> day of September 2019.

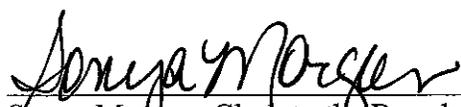
  
\_\_\_\_\_  
Jeff Wilson, Chairman

  
\_\_\_\_\_  
Mark Ledford, Vice Chairman

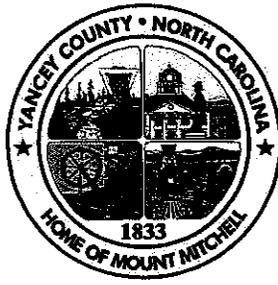
  
\_\_\_\_\_  
Jill Austin, Commissioner

  
\_\_\_\_\_  
David Grindstaff, Commissioner

  
\_\_\_\_\_  
Johnny Riddle, Commissioner

  
\_\_\_\_\_  
Sonya Morgan, Clerk to the Board





**AGENDA**  
**YANCEY COUNTY BOARD OF COMMISSIONERS**  
**SPECIAL MEETING**  
**August 22, 2019**  
**6:00 PM**

- I. Call to Order**
- II. Approval of the Agenda**
- III. Public Hearing for Approval of New Dale Volunteer Fire Dept. Re-Finance Agreement**
  - a. Written Agreement & Resolution**
- IV. Public Hearing to Consider Road Naming Recommendation from the Yancey County Addressing Coordinator**
- V. Adjourn**

APPROVAL AND WRITTEN AGREEMENT

The undersigned official of Yancey County (the "Municipality"), pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the "code"), hereby approves the entering into by Newdale Volunteer Fire Department (the "Fire Department") of an agreement in the aggregate principal amount not to exceed \$499,000.00 to re-finance the fire house located at 98 River Walk Drive, Burnsville, NC 28714 (the "Fire House") and to purchase certain equipment for the Fire Department that will be located at the Fire House.

This Approval is given following a public hearing held at the Fire House on May 28, 2019 at 6:00 p.m. and is solely for the purpose of satisfying the requirements of Section 147(f) of the code. This approval does not in any way constitute any financial involvement or obligation of the Municipality. The notice of public hearing was published at least fourteen (14) days prior to the date of this hearing. A copy of the affidavit of publication is attached hereto as Exhibit A.

Furthermore, this document acknowledges that for consideration, the receipt and sufficiency of which are hereby acknowledged, the Fire Department has provided fire fighting and other services for the municipality for many years and the Fire Department hereby agrees to meet the requirement to continue to provide fire fighting and other services for the Municipality.

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BE IT RESOLVED by the governing body for Yancey County, North Carolina:

Section 1: The governing body does hereby find and determine:

- (a) The Fire Department proposes to obtain a loan for the Fire House for use in providing fire protection services to an area within the jurisdiction of this governmental unit and to finance the purchase thereof through a financing contract with United Community Bank; and
- (b) After consideration, the governing body has determined that it is advantageous to approve the financing through a financing contract in the amount of \$499,000.00 with United Community Bank and the same is hereby approved pursuant to the Code.

Section 2: This Resolution shall take effect immediately upon its passage.

Newdale Volunteer Fire Department

By: David H Dayton

Printed Name: David H Dayton

Title: President

Municipality: Yancey County

By: Jeff Whitson

Printed Name: JEFF WHITSON

Title: CHAIRMAN

AFFIDAVIT OF PUBLICATION

Clipping of Advertisement

LEGAL NOTICE  
STATE OF NORTH CAROLINA  
COUNTY OF YANCEY  
NOTICE OF PUBLIC HEARING FOR APPROVAL OF NEW DALE VOLUNTEER FIRE DEPARTMENT RE-FINANCE AGREEMENT

Please take notice that Yancey County Board of Commissioners will hold a public hearing pursuant to Section 147(f) of the Internal Revenue Code on Thursday, August 22, 2019 at 6:00 pm in the Courtroom of the Yancey County Courthouse. The purpose of the hearing is to receive comment on New Dale Volunteer Fire Department (the "Fire Department") entering into an agreement with United Community Bank in the aggregate principal amount not to exceed \$499,000 to re-finance the fire house located at 98 River Walk Drive, Burnsville, NC 28714 (the "Fire House") and to purchase certain equipment for the Fire Department that will be located at the Fire House.

This, the 7th day of August 2019.

Sonya Morgan /s/  
Board Clerk  
Yancey County Board of Commissioners  
Published August 7, 2019

NORTH CAROLINA  
YANCEY COUNTY

Before the undersigned, a Notary Public of said County and State, duly commissioned, qualified, and authorized by law to administer oaths, personally appeared

Anna Webb

who being first duly sworn, deposes and says: that

he (she) is Business Manager

(Owner, partner, publisher, or other office or employee authorized to make this affidavit)

of The Yancey Common Times Journal (The Yancey Journal Inc.) published, issued, and entered as second class mail in the Town of Burnsville in said County and State; that he (she) is authorized to make this affidavit and sworn statement; that the notice or other advertisement, a true copy of which is attached hereto, was published in The Yancey Common Times Journal (The Yancey Journal Inc.) on the following dates:

August 7, 2019

and that the said newspaper in which such notice, paper, document, or advertisement was published was, at the time of each and every such publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina.

This 8 day of August, 2019

Anna Webb  
(Signature of person making affidavit)

Sworn to and subscribed before me, this 8<sup>th</sup> day of August, 2019

Dorothy Bendelich  
Notary Public

My Commission expires: May 1, 2020

To the Yancey County Commissioners:

I, Being the Yancey County Addressing Coordinator, after being in conversations and negotiations for almost a year with persons owning property adjacent to the section of SR 1427 that the state sectioned out for the road widening project and is no longer part of that main roadway. Which this section begins off of SR 1427 and runs west back towards the town of Burnsville and ends in a cul de sac. This section of SR 1427 still has the same road name as the main section of SR 1427 and must be changed due to having: A. Two different roads having the same name. B. (GPS) Emergency Location and Response. C. For addressing purposes for mail and parcel deliveries. D. For Businesses to be able to update pamphlets and letter heads, ect.

Due to the urgency of needing this road name resolved, I am invoking the Yancey County Addressing and Road Naming Ordinance 2.25 (B)

**2.25 ROAD NAMING PROCEDURES FOR PRIVATE ROADS AND PUBLIC ROADS**

(A) In the event that there are private or public roads which have no name on file with Addressing Coordinator, that department shall first determine if at least 80% of lands owners adjacent to the road are in agreement as to a particular name. In the event of such agreement and upon the recommendation of the Addressing Coordinator, the County Board of Commissioners shall have the option of declaring the newly selected name to be the official road name and it shall be placed on file in accordance with § 2.23 above.

(B) In the event that there are private or public roads which have no name on file with Addressing Coordinator, and in the event that an agreement has not been reached by at least 80% of adjacent land owners as to a particular name, that department shall make a name recommendation to the County Board of Commissioners which shall thereupon hold a public hearing, upon at least ten days prior notice published once in a newspaper of general circulation in the county setting forth the time, place, and subject matter of the public hearing. In addition, the Board of Commissioners shall cause the notice to be posted at the County Courthouse and in at least two public places in the township in which the road is located.

(C) CAMPERS/RV's/MOTORHOMES. Are Not eligible for the road naming process. It will be up to the discretion of the Addressing Coordinator for the final decision of this process.

It is my recommendation for that section of SR 1427 describe above be named: Mercy St

Mark Thomas  
Yancey County  
Address Coordinator

Road Naming Process for the section of SR 1427 that was cut off of East US Hwy 19E that now begins across from the Yancey County Recycling Center and runs back and by the Tri County Pregnancy Center and ends into a cul de sac.

11-2-18-Spoke with Jack M. Griffith: He did not care what road name would be and said to let the Howell's and Young's decide.

11-7-18 -Spoke with Bill Young: Mr. Young gave me the road name of Terrill Way

11-8-18-Spoke with Joe Howell on 11-8-18 and 11-30-18 @ 4:20pm.

There was a delay in the road naming process with the Howell's due to the illness, then passing of Nat Howell. So I gave the family time. Mr. Joe Howell had stated to talk with his sister Mary Ann Higgins who is over or runs the building in which the Tri County Pregnancy Center operates out of along with other local organizations

I have also been working with the director of the Tri County Pregnancy Center (Danelle) who was my go between for the road naming process with Mrs. Higgins. Mrs. Danelle stated that Mrs. Higgins would like to use one of these names for the road name: Tri County Pregnancy Center Dr or Pregnancy Center Dr.

11-19-18 Spoke with Danny Ledford who is QP's area Supervisor. He said speaking for QP, he did not care. To let the other land owners, decide and he was fine with that. He would also sign any paper work to help out if need to get the road naming process completed.

During this process the Howell family did not want the road name of Terrill Way. Mr. Young did not want to use any of the suggestions of the Howell family.

Due to the passing of Nat Howell and moving on into the Christmas Holiday and New Year, I did not pursue the road naming process again until 3-21-19 in which I tried calling Mr. Young but could not get answer and could not leave a message.

I finally got in touch with Mr. Young on 4-4-19. Mr. Young asked if I could call him back later due to he had just come home from being in the hospital for a while. In which I agreed.

I called Mr. Young back and asked if I could come by to talk further about the road naming process and where I was at in the matter of a road name. He said yes so I went over to his house again. I suggested to Mr. Young since the Howell's did not like or want to use his suggestion of Terrill Way, what did he think of the road names Young Life or Young Hope. I was hoping both sides would like that road name due to the pregnancy center dealing with babies (young life) and it had young in there for Bill Young. Mr. Young said that was fine. He liked both of those suggestions but preferred the Young Life first.

I went back over to the Pregnancy Center and talked with Danelle and told her the two new road names that Mr. Young had agreed to. (Young Life or Young Hope) Danelle said she would talk with Mary Higgins and let her know.

Mary Higgins called me on 5-22-19 and left a message.

Mary Higgins called me back on 5-23-19 and asked if I could come over and meet her and her brother (Joe Howell) at the Pregnancy Center on 5-28-19 @ 9am to discuss further road names. I agreed.

I meet and spoke with Mrs. Higgins and Mr. Howell on 5-28-19 @ 9am @ the Pregnancy Center. Mr. Howell said that they did not like the Young Life or Young Hope road names stating that the Young's already had a road name above them Young Cir. Then Mr. Howell asked if the whole road could be called Nat Howell Forge Rd starting across from the recycling center then running up the hill to where it is now. I stated to Mr. Howell that I could not allow that. Reason being is that the road needing

named runs straight ahead and ends at the cult sac. I just told them both to think about new road names and give me three new names that they would like to have starting with the one they wanted the most. Then I would go back to Mr. Young and see if he agreed to their new road names.

On 5-29-19 Mrs. Higgins called me and left a message to call her back. She had 3 new road names for me. I called back with no answer so I left her a message. Mrs. Higgins called me back on 5-22-19 around 2:22pm. Mrs. Higgins gave me three new road names starting the first being the preferred road name and then going down the list. New Beginning, Resource Center Rd or Family Resource Center Rd.

I revisited Mr. Young the week of 6-24-19. Mr. Young not like the road names from the Howell Family. Mr. Young did not have any more road name suggestions. He stated that Terrill Way was his first choice or Young Life.

On 7-22-19 Mary Higgins called at 2:11pm inquiring if there had been a road name agreement yet. I advised there had not been and that I was going to make a recommendation to the County Commissioners at the next County Commissioners Meeting. Mrs. Higgins called back at 2:38pm same day and had another road name suggestion from her brother Joe Howell. The suggestion is Mercy and it didn't matter to them about the suffix. I told Mrs. Higgins I would contact Mr. Young tomorrow and see what his response would be to the new road name.

On 7-23-19 I tried contacting Mr. Young by phone with no answer. I left Mr. Young a message to call me back. I have not heard back from Mr. Young.

This is where we are at today.

Mark Thomas  
Yancey County  
Address Coordinator  
GIS Technician  
110 Town Square, Room 7  
Burnsville, NC 28714  
(828)682-1813  
[Mark.Thomas@yanceycountync.gov](mailto:Mark.Thomas@yanceycountync.gov)

**Terrill Way**

**Tri County Pregnancy Center Rd**

**TCPC Rd**

**Young Hope**

**Young Life**

**New Beginning**

**Resource Center Rd**

**Family Resource Center Rd**

**Mercy St**

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April 11, 2019

Ms. Lynn Austin  
Yancey County Manager  
110 Town Square  
Burnsville, North Carolina 28714

Re: Proposed Solid Waste Services Budget for Fiscal Year 2019-2020

Dear Ms. Austin,

Anchor QEA of North Carolina, PLLC (Anchor QEA), is pleased to submit the following budget and Standard Agreement for solid waste services associated with the Closed Yancey County Sanitary Landfill (Permit No. 100-01), the Closed Construction and Demolition Debris (C&D) Landfill (Permit No. 100-02), and Operating Transfer Station (Permit No. 100-3T), located at 555 Landfill Road in Burnsville, North Carolina.

### Scope of Services

Anchor QEA will perform the following scope of services subject to the attached Standard Agreement:

1. Quarterly landfill gas (LFG) screening, indoor air monitoring, and reporting— \$ 4,808  
Measurements will be collected and reported during August 2019, November 2019, February 2020, and May 2020 at the following locations:
  - Closed Yancey County Sanitary Landfill—Eight screening locations consisting of MSW-1, MSW-2, MSW-3, MSW-4, MSW-5, MSW-6, MSW-7, and MSW-8
  - Closed Yancey County C&D Landfill—Six screening locations consisting of CD-1, CD-2, CD-3, CD-4, CD-5, and CD-6
  - Indoor Locations—Seven indoor locations consisting of the visitor's center, clay studio, glass studio, gallery, transfer station building, scale house, and boiler building

After the LFG measurements are collected, Anchor QEA will prepare a brief letter report that includes figures showing the measurement locations as well as a summary table of the measurements. The letter report will compare measured values to thresholds published by the North Carolina Department of Environmental Quality (DEQ).

2. Water quality sampling and reporting, Closed Yancey County Sanitary Landfill— \$ 19,835  
Anchor QEA will collect groundwater and surface water samples for laboratory analysis. Once the laboratory analytical results are received, we will prepare and submit a report to the DEQ, Division of Waste Management, Solid Waste Section (SWS). Sampling events will be completed in September 2019 and March 2020. Prior to sampling, the water level will be measured in each monitoring well to determine purge volumes and direction of groundwater flow. During purging, pH, specific conductivity, dissolved oxygen, oxidation-reduction potential, turbidity, and temperature will be collected. The following locations will be sampled for Appendix I (as defined in Appendix I of 40 Code of Federal Regulations, Part 258) volatile organic compounds (VOCs); 1,4-dioxane; and eight Resource Conservation and Recovery Act metals using appropriate laboratory methods:
- Monitoring wells MW-AR, MW-B, MW-2, and MW-3

One trip blank will be analyzed for Appendix I VOCs and 1,4-dioxane only. Analysis for 1,4-dioxane is now required per the May 29, 2018 memorandum from the DEQ, Division of Waste Management, SWS.

3. Water quality sampling and reporting, Closed Yancey County C&D Landfill— \$ 18,923  
Anchor QEA will collect groundwater and surface water samples for laboratory analysis. Once the laboratory analytical results are received, we will prepare and submit a report to the DEQ, Division of Waste Management, SWS. Sampling events will be completed in September 2019 and March 2020 and will be performed concurrently with the sampling event at the Closed Yancey County Sanitary Landfill. Prior to sampling, the water level will be measured in each monitoring well to determine purge volumes and direction of groundwater flow. During purging, pH, specific conductivity, dissolved oxygen, oxidation-reduction potential, turbidity, and temperature will be collected. The following locations will be sampled for Appendix I VOCs; 1,4-dioxane; and metals, as well as sulfate, chloride, alkalinity, and total dissolved solids using appropriate laboratory methods:
- Monitoring wells MW-H, MW-I, and MW-J
  - Surface water sampling locations SW-1 (upstream of the C&D Landfill) and SW-2 (downstream of the C&D Landfill). Surface water samples will also be analyzed for hardness.

Three trip blanks will be analyzed for Appendix I VOCs and 1,4-dioxane only.

4. Quarterly landfill inspections, Closed Yancey County Sanitary and C&D Landfills— \$ 2,976  
These inspections will be based on the inspection checklist that was developed based on post-closure requirements contained in the landfill permits. These inspections will be completed concurrently with the LFG screening events. After each landfill inspection is complete, a brief report of the inspection results will be provided to Yancey County. Each landfill inspection report will include recommendations for repairs and improvements, as applicable.
- ~~5. Anchor QEA will contract with a mowing company to mow the upper slopes of the Closed Yancey County Sanitary Landfill and the cap/slope of the C&D Landfill. These mowing events are expected to take place in fall 2019 and spring 2020. Anchor QEA will meet with the contractor on site to review the areas to be mowed and to assess the site once mowing is complete. \$ 17,416~~

### Assumptions

Completion of the scope of services described herein in accordance with the total budget of ~~\$67,542~~ \$46,542 and schedule, is based on the following assumptions:

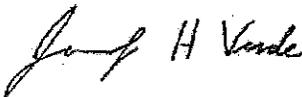
- Weather will not delay completion of sampling events.
- This scope of services includes laboratory analysis for Appendix I parameters only. If it becomes necessary to analyze samples for Appendix II parameters, additional costs will be incurred.
- This scope of services does not include additional responses to the DEQ for violations or other deficiencies.

### Schedule

Anchor QEA will begin working on the scope of services on July 1, 2019, upon receiving the signed Standard Agreement.

If you have any questions or would like to discuss this proposal, please call (828-772-1250) or email me (jverde@anchorqea.com) at your convenience.

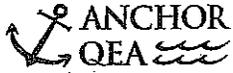
Sincerely,



Jennifer Verde  
Managing Engineer

### Attachments

Attachment 1 Standard Agreement



## STANDARD AGREEMENT

This agreement is entered into on the full execution date indicated on the signature page by and between Anchor QEA of North Carolina, PLLC, a North Carolina Professional Limited Liability Company with a location at 231 Haywood Street, Asheville, North Carolina 28801, and affiliated companies, hereinafter referred to as "Anchor QEA," and Yancey County Manager, 110 Town Square, Burnsville, North Carolina 28714, hereinafter called "CLIENT."

This AGREEMENT is for the Assessment, Mapping, and Design Preparation for Proposed Solid Waste Services Budget for Fiscal Year 2019-2020.

### PROVISIONS

#### ARTICLE 1: TERMS OF PAYMENT

##### A. Invoicing

Monthly invoices will be issued to the CLIENT for payment and will represent the value of the Scope of Services completed to date.

##### B. Payment

Payment is due within 30 calendar days of date of the invoice for the entire invoice amount. Any invoice not paid within 30 days shall bear interest at the equivalent of 18 percent per year.

##### C. Final Payment

Final payment of any balance will be made upon completion of the Scope of Services, and receipt of all deliverables and all PROJECT-related documents and data that are required to be furnished under this AGREEMENT.

#### ARTICLE 2: OBLIGATION OF ANCHOR QEA

##### A. Independent Contractor

Anchor QEA is an independent contractor and will maintain complete control of and responsibility for its employees, agents, and operations.

##### B. Lower Tier Subcontracts

Anchor QEA shall not sublet or assign any of the work covered by this Agreement, except with the prior written approval of the CLIENT and in compliance with the terms, provisions, and conditions of this Agreement. Anchor QEA will bind all Lower Tier Subconsultants to the Provisions of this AGREEMENT.

Neither this AGREEMENT nor any Lower Tier subcontract will create any contractual relationship between any Lower Tier Subconsultant and the CLIENT nor any liability of the CLIENT to any Lower Tier Subconsultant.

##### C. Standard of Care

In providing services under this Agreement, Anchor QEA will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

##### D. Notice of Delay

The time schedule for the performance of services as set forth under this Agreement is based on Anchor QEA's anticipation of the orderly and continuous progress of the project. If Anchor QEA is delayed in the performance of services by conditions that are beyond its control, Anchor QEA shall notify the CLIENT in writing of the cause of delay and the amount of delay anticipated. Such notice shall be delivered to the CLIENT within five (5) days of the time Anchor QEA is aware of the delay.

##### E. Insurance

Anchor QEA will maintain throughout this AGREEMENT the following insurance and will submit certificates verifying such to the CLIENT when requested:

- (1) Worker's compensation insurance as required by the state or province where the work is performed and Employers Liability as follows:

- \$1,000,000 each accident
- \$1,000,000 each employee
- \$1,000,000 disease aggregate

- (2) Comprehensive automobile liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, with \$1,000,000 combined single limits.
- (3) Commercial general liability insurance covering claims for injuries arising out of any negligent act or omission of Anchor QEA or of any of its employees, agents, or subconsultants, with \$1,000,000 per occurrence/general aggregate.
- (4) Professional liability insurance of \$1,000,000, per claim and in the aggregate.

Anchor QEA will give the CLIENT thirty (30) days notice of any cancellation of the policies.

#### **F. Limitation of Liability**

To the maximum extent permitted by law, the CLIENT agrees to limit Anchor QEA's liability for the CLIENT's damages and legal costs to Anchor QEA's fees for the services provided under this AGREEMENT.

#### **G. Indemnification**

Anchor QEA and the CLIENT mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damage, liability, or cost, including reasonable attorneys' fees and costs of defense, arising from their own negligent acts, errors or omissions in the performance of their services under this AGREEMENT, to the extent that each party is responsible for such damages, liabilities and costs on a comparative basis of fault.

#### **H. Consequential Damages**

Notwithstanding any other provision of this AGREEMENT, and to the fullest extent permitted by law, neither the CLIENT nor Anchor QEA, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the project or to this AGREEMENT. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the CLIENT and Anchor QEA shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

#### **I. Permits, Licenses, and Fees**

Anchor QEA will obtain and pay for all permits and licenses required by law that are associated with Anchor QEA's performance of the Scope of Services and will give all necessary notices.

#### **J. Access to Records**

Anchor QEA will maintain accounting records, in accordance with generally accepted accounting principles and practices to substantiate all invoiced amounts. Said records will be available for examination by the CLIENT during Anchor QEA's normal business hours for a period of 3 years after the final invoice to the extent required to verify the costs incurred hereunder.

#### **K. Ownership**

CLIENT retains ownership of all instruments of professional service developed by Anchor QEA under this AGREEMENT. Anchor QEA shall not be liable for any reuse or modification of these work products for purposes not anticipated by Anchor QEA under this AGREEMENT.

#### **L. Equal Employment Opportunity**

Anchor QEA, with regard to the work performed by it after approval and/or award and prior to completion of this contract, shall comply with all applicable provisions of Executive Agreement 11246 of September 24, 1965, as amended, the terms of which are incorporated herein by this reference and made a part of this AGREEMENT. Anchor QEA will provide equal employment opportunity and adhere to federal, state and local laws pertaining thereto. Appropriate action will be taken by Anchor QEA, with respect to itself and any of its subconsultants, vendors and suppliers to ensure compliance with such laws. All federal, state and local equal opportunity and affirmative action requirements with regard to race, gender, creed, color, age, religion, national origin, disability or veteran status are incorporated into this AGREEMENT by reference. Anchor QEA will give all notices, pay all fees and take all other action which may be necessary to conduct its business in accordance with all applicable statutes, ordinances, rules and regulations including, without limitation, the above stated standards and acts, any statutes regarding qualification to do business and any statutes prohibiting discrimination among employees because of race, creed, color, national origin, age, or sex.

### **ARTICLE 3: GENERAL PROVISIONS**

#### **A. Waivers**

No waiver by either party of any default by the other party in the performance of any provision of this AGREEMENT will operate as, or be construed as, a waiver of any future default, whether like or different in character.

**B. Force Majeure**

Neither party to this AGREEMENT will be liable to the other party for delays in performing the Scope of Services, or for the direct or indirect costs resulting from such delays, that may result from labor strikes, riots, war, acts of governmental authorities, extraordinary weather conditions or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.

**C. Authorization to Proceed**

Execution of the AGREEMENT by the CLIENT will be authorization for Anchor QEA to proceed with the Scope of Services, unless otherwise provided for in this AGREEMENT.

**D. No Third Party Beneficiaries**

This AGREEMENT gives no rights or benefits to anyone other than Anchor QEA and the CLIENT and has no third-party beneficiaries.

**E. Jurisdiction**

The laws of the state in which the project is located shall govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it; venue of any lawsuit shall also be in the jurisdiction of that office location.

**F. Disputes**

In the event of any dispute arising out of this Agreement, the parties agree to submit the dispute to non-binding mediation and binding arbitration under the then prevailing rules of the American Arbitration Association (AAA) for construction industry disputes, provided that no party objects to arbitration within 30 days after a demand for arbitration is filed with AAA. In any action brought for such dispute, the prevailing party shall be entitled to recover its reasonable costs and attorney fees.

**G. Severability and Survival**

If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, unenforceability will not affect any other provision of this AGREEMENT. The provisions of this AGREEMENT shall survive its termination and completion of services.

**H. Termination/Cancellation**

The CLIENT will have the right to terminate this AGREEMENT for its convenience. After termination, Anchor QEA will be reimbursed for services rendered and necessary expenses incurred to the termination date upon submission to the CLIENT of detailed supporting invoices.

**I. Complete Agreement**

This AGREEMENT constitutes the complete and final understanding between the parties. The CLIENT may adjust the Scope of Services by either adding to or deleting from the services to be performed. If such adjustment increases or decreases the cost or time required for Anchor QEA's Scope of Services, adjusting compensation and/or time will be mutually agreed upon in writing. Additional Services provided by Anchor QEA will be entitled to additional compensation or extension of time only as authorized in writing by the CLIENT.

This Agreement represents the entire agreement between the parties, supersedes all prior agreements and understandings, and may be changed only by written amendment executed by both parties.

**Approved for Anchor QEA**

**Accepted for CLIENT**

By: James Robert Howell  
Name: Rob Howell  
Title: Partner-in-charge  
Date: 4/11/19

By: Lynn Austin  
Name: Lynn Austin  
Title: County Manager  
Date: 8-22-19