

RESOLUTION 2021- 12

RESOLUTION AUTHORIZING EXPENDITURE OF FUNDS TO  
POGGEMEYER DESIGN GROUP, INC. FOR A SLUDGE  
HANDLING STUDY AND TO DECLARE AN EMERGENCY.

WHEREAS, The Village of Centerburg wishes to improve the efficiency and reduce the cost of sludge handling; and

WHEREAS, the Village Administrator has received a proposal for the cost of a study to present additional sludge handling options; and

WHEREAS, the Village received ARPA funds which may be used to invest in vital wastewater infrastructure improvements; and

WHEREAS, Council has determined that the Study is the first step toward improvements which are in the best interest of the village residents' health, welfare, and safety;

NOW THEREFORE, be it resolved by the Council of the Village of Centerburg, Ohio.

**Section 1:** That the Village Administrator is hereby authorized to contract with Poggemeyer Design Group, Inc. for an amount not to exceed \$6,000.00 for the Study as outlined in Exhibit A.

**Section 2:** That the Fiscal Officer is hereby authorized to expend ARPA funds from fund \_\_\_\_\_ for this purpose and to make necessary amendments to the 2021 Budget per Ordinance 2020-08 and the Appropriations for 2021 per Ordinance 2020-22 to the extent necessary to reflect the expenditure of funds;

**Section 3:** Council declares this to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare such emergency arising out of the interest in timely improvements and cost reductions in the Village's manner of sludge handling.

WHEREFORE, this Resolution is declared to be an emergency and shall take effect immediately upon passage and approval by the Mayor.

DATE PASSED 11/01/2021  
ATTEST [Signature on file]  
CLERK OF COUNCIL

[Signature]  
[Signature on file]  
PRESIDENT OF COUNCIL  
[Signature]  
[Signature on file]  
MAYOR

APPROVED AS TO FORM:  
[Signature on file]  
LEGAL COUNSEL

I hereby certify that the ordinance or a summary of the ordinance was published once a week for two consecutive weeks on 11/03, 2021 and 11/10, 2021 in the *Mount Vernon News* in conformance with the Ohio Revised Code.

Signature on file

~~Signature~~  
FISCAL OFFICER



**EXHIBIT B**

**1. CERTIFICATE OF OWNER'S ATTORNEY**

I, \_\_\_\_\_, the undersigned, duly authorized and acting legal representative of the Village of Centerburg, Ohio, do hereby certify as follows:

I have examined the attached contract and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions and provisions thereof.

Date: \_\_\_\_\_

Seal:

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

**2. CERTIFICATION REGARDING THE AVAILABILITY OF FUNDS**

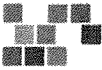
Attest: I, \_\_\_\_\_, Fiscal Officer of the Village of Centerburg, Ohio hereby certify that the money to meet this contract has been lawfully appropriated for the purpose of this contract and is in the treasury of \_\_\_\_\_, or is in the process of collection to the credit of the appropriate fund, free from prior encumbrance.

Date: \_\_\_\_\_

Seal:

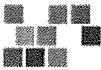
Signed: \_\_\_\_\_

Title: \_\_\_\_\_



9. **WAIVER OF CONSEQUENTIAL DAMAGES**

Neither party shall be liable to the other for any consequential damages, including but not limited to, loss of profits, loss of use, incidental, indirect, exemplary, punitive, penal, multiple, or other special damages incurred by the other party or for which either party may be liable to any third party.



## EXHIBIT A

### 1. **OWNER'S RESPONSIBILITIES**

OWNER shall provide all criteria and full information as to OWNER's requirements for the project and shall give prompt written notice to ARCHITECT/ENGINEER whenever OWNER observes or otherwise becomes aware of any defect in the work. The OWNER may designate representatives to act with authority on OWNER's behalf on various aspects of the projects. OWNER shall provide unimpeded and timely access to the jobsite as may be required of ARCHITECT/ENGINEER for the successful and timely performance of the services including third party sites.

### 2. **REUSE OF DOCUMENTS**

Drawings and Specifications are instruments of service and are and shall remain the property of the ARCHITECT/ENGINEER whether the Project for which they are made is executed or not. The OWNER shall be permitted to retain copies, including reproducible copies, of Drawings and Specifications for information and reference in connection with the OWNER's use and occupancy of the Project. The Drawings and Specifications shall not be used by the OWNER on other projects, for additions to this Project, or for completion of this Project by others, except by agreement in writing and with appropriate compensation to the ARCHITECT/ENGINEER.

Any reuse without written verification or adaptation by the ARCHITECT/ENGINEER for other than the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ARCHITECT/ENGINEER.

### 3. **REIMBURSABLE EXPENSES**

Reimbursable Expenses are included in the compensation fee for basic and additional services and are the actual expenses incurred by ARCHITECT/ENGINEER or ARCHITECT/ENGINEER's independent professional associates or consultants, directly or indirectly, in connection with the Project. These include expenses for: transportation; obtaining bids or proposals from Contractor(s); toll telephone calls; reproduction of reports, Drawings, Specifications, Bidding Documents; pictures, stakes, monuments, and similar Project-related items.

### 4. **TERMINATION**

The obligation to provide further services under this Agreement may be terminated by either party (upon seven day's written notice and opportunity to cure) in the event of substantial failure by the other party to perform in accordance with the material terms hereof, through no fault of the terminating party. In the event of any termination, ARCHITECT/ENGINEER will be paid in full for all services rendered to the date of termination, all Reimbursable Expenses and termination expenses.



**5. SUCCESSORS AND ASSIGNS**

OWNER and ARCHITECT/ENGINEER each is hereby bound as are the partners, successors, executors, administrators and legal representatives of OWNER and ARCHITECT/ENGINEER in respect to any covenants, agreements and obligations of this Agreement. Nothing contained in this Agreement shall prevent ARCHITECT/ENGINEER from employing such independent professional associates and consultants as ARCHITECT/ENGINEER may deem appropriate to help in the performance of services hereunder.

**6. HAZARDOUS WASTE AND ASBESTOS INDEMNIFICATION CLAUSE**

In consideration of the unavailability of professional liability insurance for services involving or relating to hazardous waste elements of this Agreement, or the removal or encapsulation of asbestos, it is further agreed that the OWNER shall indemnify and hold harmless ARCHITECT/ENGINEER and their consultants, agents and employees from and against all claims, damages, losses, and expenses, direct and indirect, or consequential damages, including but not limited to, fees and charges of attorneys and court and arbitration costs arising out of or resulting from the performance of the work related to hazardous waste or asbestos activities.

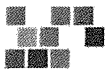
The above indemnification provision extends to claims against ARCHITECT/ENGINEER which arise out of, are related to, are based upon the dispersal, discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases or any other material, irritant, contaminant or pollutant in or into atmosphere or on, onto, upon, in or into the surface or subsurface (a) soil, (b) water or watercourses, (c) objects, or (d) any tangible or intangible matter, whether sudden or not.

**7. SALES TAX ON ENGINEERING DRAWINGS AND PLANS**

OWNER states that the objects of this contract are to obtain ARCHITECT/ENGINEER's professional expertise and skill, as well as ARCHITECT/ENGINEER's professional consultation. OWNER and ARCHITECT/ENGINEER agree that all drawings and plans are an inconsequential portion of the transaction with a reasonable value allocable to those drawings and plans of no more than ten percent of the total compensation earned under this Agreement (estimated cost of the plans and drawings materials including reproduction costs). OWNER and ARCHITECT/ENGINEER each believes that this contract is not taxable under the Ohio sales or use tax laws. However, if a sales tax or use tax should be assessed, then payment of the tax shall be the OWNER's responsibility.

**8. LIMITATION OF LIABILITY CLAUSE**

The ARCHITECT/ENGINEER's liability to the OWNER for any cause or combination of causes is, in the aggregate, limited to an amount no greater than the total compensation earned under this Agreement or \$50,000, and OWNER hereby releases ARCHITECT/ENGINEER from any liability above such amount.



October 20, 2021

Mr. Joe Hardin  
Village Administrator  
Village of Centerburg  
8 North Clayton Street  
Centerburg, Ohio 48011

VIA E-mail: [jhardin@centerburgoh.org](mailto:jhardin@centerburgoh.org)

Re: WWTP Sludge Handling Study  
Centerburg, Ohio  
PDG Proposal No. MW221567.001P

Dear Mr. Hardin:

As we discussed at our meeting, Poggemeyer Design Group, Inc., A Kleinfelder Company (Kleinfelder-PDG) is providing this letter contract for review and execution. PDG proposes to provide professional engineering services to assist the Village of Centerburg, Ohio (Owner) with a Sludge Handling Study (hereinafter referred to as the "project").

The Village shall be responsible for providing a detailed summary of the requirements for the project, including any special considerations or services needed. In addition, the Village will provide all pertinent existing data related to this project to PDG.

Basic services provided under this contract will consist of preparing a study to review the sludge handling process at the WWTP and evaluate other options, including engineer's opinion of probable construction costs to handle the sludge.

If you believe that revisions and/or additional discussions/clarifications are necessary concerning the scope of this project and the services that our firm will provide, please contact our office as soon as possible.

PDG will perform services in a manner consistent with that level of care and skill ordinarily exercised by other members of PDG's profession practicing in the same locality under similar conditions and at the date the services are provided. NO OTHER REPRESENTATION, GUARANTEE, OR WARRANTY, EXPRESS OR IMPLIED, IS INCLUDED OR INTENDED IN THIS AGREEMENT, OR IN ANY COMMUNICATION (ORAL OR WRITTEN), REPORT, OPINION, DOCUMENT, OR INSTRUMENT OF SERVICE.

PDG will complete these design services within six (6) months following execution of this agreement.

The fee for providing these services is a time and expense fee based on PDG's current hourly rate schedule with a maximum fee of \$6,000.



A Kleinfelder Company

Mr. Joe Hardin  
October 20, 2021  
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If work activities are required which are not included in the basic services described above, PDG can provide these based on its current hourly rate schedule.

PDG will provide monthly invoices for services, with payments being due within thirty (30) days of receipt to avoid potential finance charges.

PDG will begin work on the project upon receipt of this executed letter contract and will complete its services within the time frame specified above.

If there are delays beyond four (4) months from the execution of this contract, an equitable adjustment of this fee will be negotiated, taking into consideration the impact of such delay. Changes in price indices and applicable pay scales will be considered in these negotiations.

If the Village of Centerburg, Ohio has a budgetary limit for this project, please provide this in writing, so that the project can be designed within those limitations.

This letter contract, with Exhibits A (3 pages) and B (1 page), represents the entire agreement between PDG and the Village of Centerburg, Ohio in respect to the project and may only be modified in writing after agreement by both parties. If this letter contract accurately reflects your understanding of our agreement, please sign in the space provided below and return one entire contract to PDG. This contract will be open for acceptance for a period of thirty (30) days, unless adjusted by PDG or the Village in writing.

If there are any questions or you need additional information, please do not hesitate to contact this office.

Sincerely,

POGGEMEYER DESIGN GROUP, INC.  
(A Kleinfelder Company)

Signature on file

Michael Athertine, P.E.  
Area Manager

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by the undersigned who is duly and legally authorized to enter into such legal contracts for the above-referenced entity.

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone/Fax #: \_\_\_\_\_