

City of Amery
COMMITTEE OF THE WHOLE AGENDA

Pursuant to Wisconsin Statutes 19.84, Notice is hereby given to the public that a meeting of the **Committee of the Whole** of the City of Amery will be held on Wednesday – August 17th, 2022 at 5:00 PM at 104 Maple St. W, Amery, WI.



Call to Order

Roll Call

Order of Items	AGENDA ITEMS
1	Department Head Reports – City Administrator, Clerk-Treasurer, Police Chief, Fire Chief, Library Director, Director of Public Works, Deputy Clerk-Treasurer.
2	Police Chief Update
3	Wastewater Treatment Plant Discussion
4	Garbage/Recycling Services Discussion
5	Proposed Developer’s Agreement for River Valley Enterprises
6	Public Comment/Community Updates**
7	Adjournment

** Although the public may speak on any item that is not included on this agenda as a “Public Hearing or Forum”. In accordance with open meeting laws, the Committee may not respond or discuss the issue brought forward at this time. In accordance with open meeting laws the Committee must notice an item on the agenda to allow discussion on that matter. Your comments will be considered and may be placed on a future agenda for further discussion. Any person wishing to submit a public comment digitally may email them to cityhall@amerywi.gov until noon of the day of the meeting. Although your comments will be presented to the Committee they may or may not be read aloud or discussed during the meeting. The Public Comment Portion will be limited to 10 minutes total for *speakers present at the meeting*.

Respectfully Submitted;

Ben Jansen, MPA
 City Clerk-Treasurer

**Posted: Monday – August 15th, 2022, on the City Website (www.amerywi.gov); and at Amery City Hall, Amery Public Library, and the Amery Police Department.

The City of Amery does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or provision of services, programs or activities.

NOTE: Upon reasonable notice, the City of Amery will accommodate the needs of disabled individuals through aids or services. For additional information or to request this service, contact the Clerk-Treasurer’s office at (715) 268-7486 by Noon the previous day so that arrangements can be made.

Supplemental Letter Agreement

In accordance with the Master Agreement for Professional Services between City of Amery ("Client"), and Short Elliott Hendrickson Inc. ("Consultant"), effective October 30, 2019, this Supplemental Letter Agreement dated September 7, 2022 authorizes and describes the scope, schedule, and payment conditions for Consultant's work on the Project described as: **Amery Wastewater Treatment Plant (WWTP) Design**.

Client's Authorized Representative: Patty Bjorklund, Administrator

Address: 104 Maple Street West - Suite A
Amery, WI 54001

Telephone: 715.268.3411 **email:** patty.bjorklund@amerywi.gov

Project Manager: Jeremiah J Wendt, PE

Address: 156 High Street, Suite 300
New Richmond, WI 54017

Telephone: 715.531.8063 **email:** jwendt@sehinc.com

Scope:

A. PROJECT DESCRIPTION

The project is for alterations and additions to the City of Amery's Wastewater Treatment Plant (WWTP) as outlined in the recently prepared Facility Plan. The recommended alternative from the Facility Plan includes the following improvements:

- 1) Construct new preliminary treatment building, including fine screening, grit removal, bypass channel, influent pumping, SBR blowers, valves and controls.
- 2) Modify current administrative building to remove existing headworks, make provisions for centrate and sludge pumping, and maximize storage/maintenance space.
- 3) Construct a new Two-Basin Sequencing Batch Reactor (SBR).
- 4) Convert the existing clarifier for sludge storage.
- 5) Convert the existing selector tank for centrate storage.
- 6) Rehabilitate the existing UV disinfection system.
- 7) Associated Mechanical, Electrical, Controls and Site improvements incidental to the above facilities.

B. CONSULTANT'S RESPONSIBILITIES

- 1) Design Services
 - a) Preliminary Design Phase
 - i) Prepare a project management plan setting forth the goals of the project, resources and schedule. Review the plan with Client. Periodically update the plan as required.
 - ii) Complete a site design survey of the existing WWTP site. Prepare site base mapping and topographic mapping necessary for the project.
 - iii) Assist Client in obtaining subsurface information. When, in the opinion of the Consultant, soil borings or other subsurface exploration are necessary to secure information for design purposes, the Consultant will assist Client in selecting a geotechnical engineering consultant to perform the subsurface explorations and prepare a geotechnical report. The contract for geotechnical services shall be between Client and geotechnical engineering consultant, and the costs shall be paid by Client.

- iv) Furnish a project manager who will coordinate project activities and will be the principal liaison between the Consultant, Client and regulatory agencies.
 - v) Conduct a project kickoff meeting with Client and the design team to discuss the approach and goals of the design. Conduct a site investigation to become familiar with the current status of the existing facilities.
 - vi) Prepare base sheets of existing wastewater treatment facilities using a combination of the site design survey, existing record drawings, and additional information collected at the kickoff meeting. The base sheets will be used to show modifications required to the existing facilities.
 - vii) Prepare a pollutant mass balance for the proposed facilities showing wastewater characteristics, concentrations, flows, and sludge production and review with Client.
 - viii) Prepare a design basis memorandum for the proposed facilities and review with Client. The design basis memorandum will list and describe characteristics and capacities of treatment processes and proposed manufacturers of process equipment.
 - ix) Select and size equipment.
 - x) Perform hydraulic calculations to size new piping, pumps and blowers.
 - xi) Develop Flow Sheets showing process equipment, process flow streams, flow isolation and flow control devices, field instrumentation and control panels. Prepare a preliminary functional description of operation and control for each unit process. Flow Sheets will include a general description of signals to the Plant Monitoring System.
 - xii) Attend meeting with Client representatives to review flow sheets for coordinating the design with Client's needs. Revise the design in response to agreed upon changes by Client.
 - xiii) Prepare a conceptual site plan and preliminary layout drawings of new facilities showing plan views; major sections; building, tank, and room dimensions; major space requirements for process, electrical, I&C, HVAC, and architectural equipment; and size and elevation of large diameter process piping and channels.
 - xiv) Attend meeting with Client representatives to review preliminary layouts for coordinating with Client's needs. Revise the preliminary layouts in response to agreed upon changes by Client.
 - xv) Prepare a preliminary estimate of probable construction cost based on the preliminary layouts and flow sheets.
- b) Final Design Phase
- i) Prepare a final layout site plan and final layouts of new and existing facilities showing plan views; major sections; building, tank, and room dimensions; space requirements for process, electrical, I&C, HVAC, and architectural equipment; and size and elevation of process piping. The final layouts will incorporate Client and Consultant's changes on the preliminary layouts developed during the preliminary layout phase.
 - ii) Review the final layout drawings with Client. Revise the design in response to agreed upon changes by Client.
 - iii) Prepare a final Design Basis Memorandum for the proposed facilities and review with Client.
 - iv) Prepare contract documents including drawings and specifications necessary to receive competitive bids to construct the new facilities and for modifications to the existing facilities.
 - (1) Contract documents will be prepared based on one prime construction contract.
 - (2) Contract documents will be prepared based on final process design memorandum and final layouts.
 - (3) Contract documents will include standard forms produced by EJCDC (Engineer's Joint Contract Documents Committee) and Consultant's standard documents.
 - (4) Contract Documents will include process mechanical equipment, pumps, and piping for treatment, structural design of buildings, architectural design of buildings, site work including piping, grading and access drives, heating, ventilation and plumbing in buildings, and electrical and instrumentation for the buildings and for the treatment processes.
 - v) Develop recommended construction sequencing for improvements.
 - vi) Prepare an estimate of probable construction cost based on the contract documents.
 - vii) Print contract documents for final quality review, Client review, and review by Wisconsin Department of Natural Resources (DNR).

- viii) Submit the contract documents to Client and DNR for review and approval. Assist Client in obtaining approval of the documents from DNR.
- ix) Attend meeting with Client's representative to review Client's comments on contract documents. Revise the contract documents in response to agreed upon changes by Client.

2) Bidding Services

- a) Finalize bidding documents after DNR review and approval.
- b) Reproduce up to 5 sets of drawings and specifications. These drawing and specification sets would be for the use of Client, distribution to "plan houses", and submittal to State of Wisconsin (Department of Commerce, Buildings and Safety Division).
- c) Provide bidding documents to prospective bidders through Consultant's online bidding service.
- d) Coordinate bidding for one prime construction contract which includes responding to contractor questions, preparation of appropriate addenda, and management of a pre-bid meeting,
- e) Attend bid opening, prepare bid tabulation, and make recommendation to Client on contract award.
- f) Review contractor's list of subcontractors, suppliers and major equipment, if included in the bid form.
- g) Prepare plan approval application and submittal of plans and specifications to State of Wisconsin (Department of Commerce, Buildings and Safety Division).
- h) Assist Client in assembling the Contract Documents for execution by Client and Contractor. Furnish copies of the executed Contract Documents to Client, Contractor, and appropriate regulatory agencies.

C. ASSUMPTIONS/CONDITIONS

- 1) Consultant's standard bidding documents, specifications, and general conditions format will be utilized on the project.
- 2) Contract documents will be EJCDC format.
- 3) Contract documents will be prepared for a single prime contract.
- 4) Presence of significant historic and cultural resources, or threatened and endangered species is not anticipated and, therefore, further studies or permitting relating to these are not included.
- 5) No property staking or land surveys are included in the scope of this Agreement.
- 6) No floodplain review is required.
- 7) Wetland review is limited to the use of DNR's Wetland Identification Service, and no delineation is required.
- 8) Construction Related Services are not included in this contract and will be addressed in a separate future agreement.

D. CLIENT'S RESPONSIBILITIES

- 1) Furnish Consultant information, reports, tests, operation and maintenance manuals, and record drawings of existing facilities, all of which Consultant may rely upon without independent verification.
- 2) Contract and pay directly for geotechnical services as recommended by the Consultant.
- 3) Designate a representative for the Project who shall have the authority to transmit instructions, receive information, interpret and define Client's policies and make decisions with respect to the Project.
- 4) Provide all criteria and full information as to Client requirements for the Project. Obtain (with Consultant's assistance, if applicable) necessary approvals and permits, attend Project-related meetings, provide interim reviews on an agreed-upon schedule, make decisions on Project alternatives, and generally participate in the Project to the extent necessary to allow Consultant to perform the design services outlined above.
- 5) Assist Consultant in preparation of Division 00 and 01 specifications in making fiscal, insurance, and legal decisions as necessary. These are the specifications that form the terms of the contract for construction.
- 6) Pay all charges or fees required by any agency or authority having jurisdiction over the Project for review of plans, specifications, and contract documents, or for obtaining permits.
- 7) Pay all charges or fees associated with advertising the project.
- 8) Publish any notices required by the grant application or administration process. All costs associated with any required public notices shall be a direct expense of Client.
- 9) Provide legal, financial advisor, and accounting fees that may be required as part of the grant application process.

E. SCHEDULE

Anticipated schedule of services is as follows:

- 1) Design Services – September 2022 to January 2024
- 2) Bidding Phase Activities – January 2024 to February 2024

F. PAYMENT


The lump sum fee is \$651,000 including expenses and equipment. The payment method, basis, frequency and other special conditions are set forth in attached Exhibit A-2. Additional work, if required, shall be compensated in accordance with Consultant's standard rates.

Other Terms and Conditions: Other or additional terms contrary to the Master Agreement for Professional Services that apply solely to this project as specifically agreed to by signature of the Parties and set forth herein: None.

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Short Elliott Hendrickson Inc.

City of Amery

By: 
Paulette Hedrington
Title: Regional Practice Center Leader

By: _____
Title: _____

Exhibit A-2
to Supplemental Letter Agreement
Between City of Amery (Client)
and
Short Elliott Hendrickson Inc. (Consultant)
Dated September 7, 2022

Payments to Consultant for Services and Expenses
Using the Lump Sum Basis Option

The Agreement for Professional Services is amended and supplemented to include the following agreement of the parties:

A. Lump Sum Basis Option

The Client and Consultant select the Lump Sum Basis for Payment for services provided by Consultant. During the course of providing its services, Consultant shall be paid monthly based on Consultant's estimate of the percentage of the work completed. Necessary expenses and equipment are provided as a part of Consultant's services and are included in the initial Lump Sum amount for the agreed upon Scope of Work. Total payments to Consultant for work covered by the Lump Sum Agreement shall not exceed the Lump Sum amount without written authorization from the Client.

The Lump Sum amount includes compensation for Consultant's services and the services of Consultant's Consultants, if any for the agreed upon Scope of Work. Appropriate amounts have been incorporated in the initial Lump Sum to account for labor, overhead, profit, expenses and equipment charges. The Client agrees to pay for other additional services, equipment, and expenses that may become necessary by amendment to complete Consultant's services at their normal charge out rates as published by Consultant or as available commercially.

B. Expenses Not Included in the Lump Sum

The following items involve expenditures made by Consultant employees or professional consultants on behalf of the Client and shall be paid for as described in this Agreement.

1. Expense of overtime work requiring higher than regular rates, if authorized in advance by the Client.
2. Other special expenses required in connection with the Project.
3. The cost of special consultants or technical services as required. The cost of subconsultant services shall include actual expenditure plus 10% markup for the cost of administration and insurance.

The Client shall pay Consultant monthly for expenses not included in the Lump Sum amount.

document1

WATERMAN RECYCLING & DISPOSAL, LLC

663 85TH St.
Amery, WI 54001

715-268-6471
800-828-6471

City Of Amery

CONTRACTORS SCHEDULE OF CHARGES

2 year contract, starting July 1, 2022, with an initial price increase from the previous contract for fuel surcharges and environmental fees as stated below. Starting at the 2nd year of the contract, there will be a yearly 3% monthly increase for cost of living for each cart.

Specifications for volume-based refuse services.

Type of service: Volume Based: 35, 64, and 96 gallon carts to be supplied by contractor.

35/64 Gallon Cart: \$21 per month for weekly trash pick up

96 Gallon Cart: \$23 per month for weekly trash pick up

Contractor's driver has the option to automatically increase cart size when volume of trash continuously exceeds the cart size.

Any trash exceeding container volume will be left until homeowner arranges payment with Waterman's office or city hall.

Waterman's Recycling and Disposal will continue to pick-up city-wide events (fall festive, music on the river, fly in breakfast, etc)

This contract will be for a period of 2 years starting July 1, 2022. Unless notice is given to the contrary, this contract shall automatically renew at the expiration of the term, for a period of 3 additional years on the same terms as herein contained. If either party would not like to renew at these terms, a 6-month notice must be given at the end of the contract and services would stop at the end of the calendar year.

Date of Acceptance: _____

City Of Amery: _____

Waterman Recycling & Disposal: _____

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT MADE (this "Agreement") is made and entered into this _____ day of August of 2022, by and between the City of Amery, a Wisconsin Municipal Corporation (the "City"), and River Valley Enterprises, LLC or one of its affiliated LLC's, a Wisconsin Limited Liability Corporation or assigns (the "Developer").

WITNESSETH

WHEREAS, Developer desires to develop a 22-lot subdivision in the City (hereinafter sometimes referred to as the "Project" or "Development");

WHEREAS, the City desires to assist Developer in the development of said subdivision as shown in the attached Exhibit A and incorporated herein by reference;

WHEREAS, the City will create Tax Incremental Financing (TIF) District #10 pursuant to § 66.1105 of the Wisconsin Statutes, the "Tax Increment Law", which provided authority and establishes procedures by which the City may exercise powers necessary and convenient to carry out the purposes of the Tax Increment Law;

WHEREAS, said Development of the Project within the boundaries of TID #10 will benefit the community through the provision of additional housing lots;

WHEREAS, said Development cannot occur without the assistance of the City, as set forth in this Agreement;

WHEREAS, in connection with the proposed creation and of TID #10, the City has approved the use of Tax Increment Financing for the purpose of recovering project costs to the extent provided by the Tax Increment Law and this Agreement;

WHEREAS, the City believes that improvements to the parcel within TID #10 is in the best interests of the City and its residents and in accordance with the public purposes and conditions of applicable State and local laws;

WHEREAS, the proposed project meets the requirements under which TID #10 has been created, and;

WHEREAS, this agreement is intended to outline the duties and responsibilities of the City and Developer in order to facilitate new development within TID #10;

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein, the promises and mutual obligation of the parties hereto, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

I. DEFINITIONS

As used in this agreement or in the collateral documents attached hereto as appendices, the following terms, shall have the following meanings:

Agreement: The Development Agreement by and between the City and Developer, including this Agreement as amended and supplemented from time to time.

City: The City of Amery, Wisconsin, a Wisconsin municipal corporation.

Developer: River Valley Enterprises, LLC or affiliated LLC's, a Corporation duly organized to do business in the State of Wisconsin, or their assigns as owners of the real estate identified in Exhibit A.

Development Cost: The cost of Public Infrastructure improvements to the property.

Development Site: The land area described in the attached Exhibit A.

Project or Development: The 22-lot subdivision shown in Exhibit A (Preliminary Map of Survey).

Public Infrastructure: Public Infrastructure includes public water main, sanitary sewer, storm sewer, and construction of the street, including curb & gutter to serve the development. The proposed scope of work and estimate is provided in Exhibit B. Included in the Public Infrastructure is the cost of design and construction engineering associated with the Public Infrastructure.

Tax Increment: Shall have the meaning given the term of Section 66.1105, Wisconsin Statutes as applied solely to the parcel and Development Costs involved in this Agreement.

TID #10: City of Amery Tax Increment District #10, including the project plan and boundary description approved by the City Council for Tax Increment District #10.

II. CITY OBLIGATIONS

In order to assist the Project or Development and as an inducement to Developer to expand the Project or Development within TID #10, the City agrees to incur the following project costs and undertake the following obligations:

A. Tax Increment Financing District #10. The City agrees to take the necessary steps to create Tax Increment Financing (TIF) District #10 within the City of Amery. The boundaries of the TID #10 shall include the Development Site This obligation is contingent on approval of the City Council and Joint Review Board.

B. Easement. The City shall obtain an easement for public street and utilities on property owned by the Amery School District as shown on Exhibit A.

C. Installation of Public Infrastructure. The City will be responsible for the installation of public water main, sanitary sewer, storm sewer, and construction of the street, including curb & gutter to serve the development. The proposed scope of work and estimate is provided in Exhibit B. Included in the Public Infrastructure is the design and construction engineering associated with the Project.

D. Payment for Public Infrastructure. The City will pay for 50% of the final cost associated with the Public Infrastructure as described in Section II. B.

III. DEVELOPER/BUSINESS OBLIGATION

In order to assist in the Project or Development within TID #10, Developer/Business agrees to undertake the following obligations:

A. Construct Project or Development. Developer shall undertake the construction of four (4) duplexes on Lots 11, 12, 21, and 22 as show on Exhibit A. Said Project or Development described therein shall be concluded by December 31, 2025. Said duplexes will have a minimum value of \$450,000 each (\$225,000 each unit).

The remaining eighteen single-family lots will be sold to prospective buyers. All single-family lots will be sold and homes constructed on said lots by December 31, 2025. Single-family homes will have a minimum value of \$300,000. The minimum construction schedule is as follows:

- One duplex at \$450K (minimum value) and one single-family at \$300K (minimum value) in each year of 2023 and 2024 (total of 2 duplexes and 2 single family homes in two years);
- One duplex and two single-family homes in 2025 and 2026 (total of 2 duplexes and 4 single-family homes in two years);
- Three single-family homes in each year for years 2027 through 2030 (total 12 single-family homes in four years).

The Developer is responsible for all costs associated with installation of all private infrastructure improvements on the Development Site (not within right-of-way) including, but not limited to sewer laterals, water, surface water, electrical, sewage and related improvements. The developer will be responsible for the extension of electric, gas, and/or telecommunications service extensions (within the right-of-way) to the development. The sewer utility shall accept sewage from the Development Site as defined in the City's waste operating standards and policies.

B. Payment of Public Infrastructure. The Developer will pay for 50% of the final cost associated with the Public Infrastructure as described in Section II. B. Developer will be invoiced by the City as invoices or Contractor Pay Applications are submitted to the City. The Developer will submit payment to the City within 15 days of the invoice.

C. Subdivision and Platting. The Developer is responsible for compliance with all local and state subdivision regulations based on the proposed layout in Exhibit A.

D. Job Postings. Pursuant to sec. 106.16 WI Stats., the Business shall notify the local Job Service Office and Workforce Development Councils of any vacant full-time positions relating to the Project. The Business shall provide such notice at least two weeks prior to advertising for such full-time positions.

E. Obligation to Maintain and Repair Project or Development. Developer shall at all time after construction of the Project or Development, or any part thereof, keep and maintain the Project or Development in good repair and maintenance. Developer shall also make or cause to be made from time to time all necessary repairs thereto so as to maintain the Project or Development in habitable or usable form, absent ordinary wear and tear.

F. Use of Development Site. The Project or Development and use of the Development Site shall at all times be in compliance with the City of Amery Zoning Code and all other City ordinances, together with applicable state and federal laws and regulations. The use of the site will not be the cause of any public or private nuisance to the immediately adjacent parcels or otherwise.

G. City Right of Access to Project or Development. Developer does hereby grant to the City the unqualified right to enter upon the Development Site at all times for the purpose of constructing, reconstructing, maintaining, repairing or servicing any of the public improvements or public utilities now or hereafter located within the Development Site. The unqualified right of entry is subject to the condition that no such improvement or utility shall be located beneath a building located within the Development Site. Additionally, Developer agrees not to locate any buildings or improvement over any utility without prior express written permission from the City. Developer will execute such easements from time to time in a form acceptable to the City as the City, in their sole discretion, may deem advisable.

H. Insurance. Developer, its successors and assigns, shall purchase or cause to be purchased and continually maintained in effect, insurance against such risks, both generally and specifically, with respect to the Project or Development that are customarily insured against developments of like size and character, including, but not limited to: Casualty Insurance, Comprehensive General Liability Insurance, Physical Damage Insurance, Builder's Risk Insurance, and all other forms of insurance generally required by the State of Wisconsin for entities such as Developer from time to time during construction and operation of the Project or Development. Such insurance shall be maintained in amounts and with terms of coverage generally customary to such Project or Development.

In the event the Project or Development is damaged or partially or fully destroyed, Developer shall cause the insurance proceeds from such loss to be used to promptly repair and restore to its original condition.

V. CONTINGENCIES

This Agreement is contingent on and shall be of no force and effect until the happening of the following:

A. Developer obtaining equity investors and financing which are necessary to make the Project or Development feasible and providing the City with reasonable proof of the same.

B. Developer providing the City with organizational information, including LLC member names, investor information, and such other information as the City may require to be reasonably assured the Project or Development is feasible and so that the City can comply with Section 19.59 of the Wisconsin Statutes ("Code of Ethics for Local Government Officials").

VI. BINDING EFFECT

This agreement shall inure to the benefit of and shall be binding upon the City, Developer, and Business and their respective successors and assigns. This agreement represents the entire agreement between Developer, Business and the City and shall not be amended, changed or modified except as provided herein. This agreement shall be assignable by Developer without the need for consent by the City. This agreement shall not be affected, modified or impaired on the happening from time to time of any event, including without limitation, the following:

- A. Failure to give notice to any party of default under the terms of the Agreement.
- B. The waiver of payment or performance of any obligations contained in this Agreement.
- C. The extension of time for payment of any amount or performance of any obligation under this Agreement.
- D. The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshaling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, compromise with creditors or readjustment of, or similar proceedings affecting Developer and Business or its assets, any allegation or contest as to the validity of the Agreement in any such proceeding.
- E. To the extent permitted by law, the release or discharge of Developer and Business from the obligations or observation of any obligation, covenant or agreement contained in this Agreement or arising by operation of the law.

VII. AMENDMENT, CHANGES, MODIFICATIONS

This agreement may be amended or any of its terms modified only by a written document duly authorized, executed and delivered by the City, Developer, and Business.

VIII. FURTHER ASSURANCES AND CORRECTIVE INSTRUMENTS

The City, Developer, and Business agree that they will, from time to time, execute, acknowledge, deliver or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of land hereby conveyed or intended to be conveyed, and for carrying out the express intention of this Agreement.

IX. EXECUTION AND COUNTERPARTS

This agreement may be simultaneously executed in several counterparts, each of which shall be original and all of which shall constitute one and the same instrument. Each party to this Agreement hereby expressly represents and warrants that it executes the Agreement with full and complete authorization of the respective entities they represent.

X. DEFAULT

A. Remedies on Default. In the event of any default in or breach of this Agreement or any of its terms or conditions, by any party hereto or any successor in interest to such party, such party shall cure or remedy such default or breach within 60 days of written notice of default describing the nature of the default, what action, if any, is deemed necessary to cure the same and specify the time period of not less than 60 days in which the default may be cured by the defaulting party. In case such action is not taken or is not diligently pursued or the defaulted breach cannot be cured or remedied within the aforesaid time, the non-defaulting party must institute such proceedings as may be necessary or desirable in its opinion to cure the default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations.

If such a proceeding is commenced, the prevailing party in such proceeding shall be entitled to recover from the other party its reasonable costs incurred in such proceeding, including attorney fees.

B. Rights and Remedies. The rights and remedies of the parties to this Agreement whether provided by law or provided by the Agreement, shall be cumulative and the exercise by any party of any one or more of such remedies shall not preclude the exercise by it at the same or different times of any such remedies for the same event of default or breach or any other party. No waiver or breach of any term or condition of this Agreement shall operate as a waiver of any other breach of such term or condition, or of any other term or condition, nor shall any failure to enforce any provisions hereunder operate as a waiver of such provision or any other provision hereunder.

XI. TERMINATION

This agreement shall terminate and be of no further force and effect upon recovery of all cost associated with the Developer's Obligations (Section II. Developer's Obligations).

XIII. MISCELLANEOUS

A. Sale of Project or Development. Should Developer sell, transfer or convey the Project or Development to any entity that is not required to pay real estate taxes, this agreement shall be null and void.

B. Enforced Delay. No party shall be considered in breach or default of its obligation in the event of enforced delay in the performance of such obligations due to causes beyond its control and without its fault or negligence including, but not restricted to: Acts of God, acts of the public enemy, acts of the Federal government, fires, floods, epidemics, quarantine restrictions, strikes, embargoes and unusually severe weather or delays of subcontractors due to such causes. In the event of the occurrence of any such enforced delay, the time or times of performance of any of the obligations of the party shall be extended for the period of the enforced delay as determined by the other party, provided that the party seeking the benefit of the enforced delay shall have first notified the other parties thereof and the cause or causes thereof and requested an extension of the period the enforced delay.

C. Wisconsin Law/Venue. This agreement shall be deemed to have been made in the State of Wisconsin, and its validity, construction, performance, breach and operation shall be covered by law of the State of Wisconsin. Venue for any legal dispute involving this Agreement

or any other document executed pursuant to this Agreement shall be in Polk County Circuit Court, Amery, Wisconsin.

D. Notices, Demands. All notices, demands or other communications under this Agreement shall be sufficiently given or delivered when hand-delivered or when mailed by first class mail, postage prepaid, as indicated below:

City: City Administrator
City of Amery
104 Maple Street – Suite A
Amery, WI 54001

Developer: River Valley Enterprises, LLC
103 Main Street; PO Box 527
Somerset, WI 54025

E. Severability. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby and such remainder would then continue to conform to the requirements of applicable laws.

F. Not Private Right or Cause of Action. Nothing contained therein shall be interpreted or construed to create any private right or any private cause of action by or on behalf of any person not a party hereto, except as may be provided in this Agreement.

G. Authority. By signing below, each party represents and warrants that they have appropriate authority to bind their respective parties.

H. Report on Status of District. The City shall, upon Developer's request provide to Developer an accounting of the status of TID#10 including but not limited to Tax Increment, Project Cost expenditures, and the payments made under Paragraph II.C., above.

By: _____

By: _____

STATE OF WISCONSIN)
)ss
Polk County)

Personally came before me, this ____ day of _____ 2022, _____ and _____ as Managing Partners, of the above named Corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such as Managing Partners of said Corporation, and acknowledge that they executed the forgoing instrument as such officers of the above named Corporation.

* _____ Notary Public
My Commission Expires: _____

By: _____
Mayor

Attest: _____
City Administrator

STATE OF WISCONSIN)
)ss
Polk County)

Personally came before me, this ____ day of _____ 2022, Chad Leonard, Mayor and Patrice Bjorklund, City Administrator, of the above named Corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such Mayor and City Administrator of said City of Amery, and acknowledge that they executed the forgoing instrument as such officers of the above named City of Amery.

* _____ Notary Public
My Commission Expires: _____