

PROFESSIONAL SERVICES AGREEMENT

0224-PW03

Town of Myersville
301 Main Street
P.O. Box 295
Myersville, MD 21773

and ARRO Consulting, Inc.
201 Thomas Johnson Dr., Suite 207
Frederick, MD 21702

February 12, 2024

The purpose of this Agreement is to form the basis for ARRO Consulting, Inc. (ARRO) to provide consulting engineering services to assist Town of Myersville (Client) with compliance with the service line inventory requirements of the United States Environmental Protection Agency (USEPA) Lead and Copper Rule Revisions (LCRR) dated January 2021. ARRO will provide the services identified in the Scope of Services below.

SCOPE OF SERVICES

1. Attend one (1) kick-off meeting with the Client representatives to discuss details of the distribution system, known information about service lines, and availability of site records to be provided to ARRO for further investigation.
2. Review all records provided by the Client to determine the materials, age, and location of all services lines as defined above.
3. Communicate findings of records review with Client representatives. Discussion will include what additional information is needed, location of visual inspections, and schedule coordination.
4. Develop GIS service line tracking layer.
5. Perform a site visit in coordination with Client representatives, to verify the information provided by the Client. Site visit will include discussion and planning of additional investigation (excavation, etc.) that may be required to adequately determine service line materials.

This agreement is based on the verification under this task being limited to what can readily be visually observed at the site.

6. Perform additional services including coordination, performance of, and site visits related to, mechanical excavation, if a records review and site visit are unable to adequately determine the material of the entire service line,
7. Complete service line inventory form.
8. Submit service line inventory form in electronic format to the Client for review and submission to Maryland Department of the Environment (MDE).

SPECIFIC SERVICES EXCLUDED

Services not set forth within the Scope of Services are specifically excluded, including:

1. Evaluation of any piping inside or outside of any buildings not defined as a service line.

2. Design, engineering, or permitting for repair or replacement of any service lines, regardless of materials.
3. Obtaining (or costs related to) permitting required for excavation or other work required to determine service line materials.
4. Additional engineering and/or services resulting from the presence of sinkholes, unsuitable soil conditions or other unforeseen geological conditions.
5. Attendance at any additional meetings/site visits.
6. Services resulting from any revision or update to USEPA or MDE regulations or guidance related to the LCRR released or communicated after the date of this agreement.
7. Services resulting from significant changes to Scope of Services beyond reasonable control of ARRO. Such revisions include, but are not limited to, additional meetings, changes in the size, complexity, scheduling, or character of services required to complete this project.

SCHEDULE

ARRO will commence work upon receipt of written Notice-to-Proceed and will endeavor to complete the work by September 30, 2024, if written authorization to proceed is provided by February 21, 2024.

CLIENT'S RESPONSIBILITIES

1. Designate a person to act as its representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, and interpret and define the Client's policies and decisions pertaining thereto within a responsible amount of time so as not to delay the services of ARRO.
2. Arrange for access to and make all provisions for ARRO to enter upon public and private property as required by ARRO to perform its services.
3. Obtain approvals and permits from and pay fees of all governmental authorities having jurisdiction over the project, and such approvals and consents from others as may be necessary for completion of the project.
4. Assist ARRO by placing at its disposal all available information pertinent to the project including previous reports and any other data relative to the work covered herein.
5. Examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by ARRO, obtain advice of an attorney, insurance counselor, and other consultants as the Client deems appropriate for such examination, and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ARRO.
6. Provide such accounting, legal, and insurance counseling services as may be required by the Client for the project or as ARRO may reasonably request with regard to legal, accounting, and insurance issues pertaining to the project including any that may be raised by the contractor.

7. Give prompt written notice to ARRO when the Client observes or otherwise becomes aware of any development that affects the scope or timing of ARRO's services or becomes aware of any unsatisfactory performance by ARRO.
8. Provide site records and other available applicable information.

COMPENSATION


In consideration of the services performed by ARRO in accordance with this Agreement, the Client shall pay ARRO on a time and expenses basis in accordance with ARRO's 2024 "Schedule of Hourly Rates and Charges for Professional Services" which is attached. Work done in subsequent years shall be at the rates and charges applicable to that year, a copy of which will be furnished to the Client at their request.

These services shall be provided for an estimated time and material fee of Eighteen Thousand Dollars (\$18,000.00). ARRO shall notify the Client if the total fee will significantly vary from this estimate.

Invoices shall be rendered monthly and shall be paid within thirty (30) days of the date of the invoice.

THE TERMS OF THIS AGREEMENT SHALL REMAIN OPEN FOR ACCEPTANCE FOR A PERIOD OF SIXTY (60) DAYS FROM THE ABOVE DATE, AFTER WHICH TIME ARRO RESERVES THE RIGHT TO REVIEW, REVISE, OR WITHDRAW THIS AGREEMENT.

THE ATTACHED STANDARD TERMS AND CONDITIONS ARE INCORPORATED INTO AND A PART OF THIS AGREEMENT.

Town of Myersville	ARRO Consulting, Inc.
BY: _____	BY:  _____
PRINTED NAME: _____	PRINTED NAME: Nate J. Merkel, GISP
TITLE: _____	TITLE: Vice President
DATE: _____	DATE: February 12, 2024
CLIENT'S DESIGNATED REPRESENTATIVE: _____	_____

ARRO CONSULTING, INC.
SCHEDULE OF HOURLY RATES AND CHARGES FOR PROFESSIONAL SERVICES

Calendar Year 2024

I. COMPENSATION FOR PERSONNEL SHALL BE IN ACCORDANCE WITH THE FOLLOWING HOURLY RATES:

CLASS	POSITIONS	HOURLY RATE
1	OFFICE & FIELD SUPPORT CADD Clerk, Engineering Intern, Secretary I, Secretary II, Secretary III, Secretary IV	\$61.00
2	TECHNICIANS Administrative Assistant I, Administrative Assistant II, CADD Operator I, CADD Operator II, Engineering Technician I, GIS Technician I, Operations Consultant I, Resident Project Representative I	\$82.00
3	DESIGNERS Administrative Manager, Designer I, Engineering Technician II, Resident Project Representative II	\$105.00
4	PROJECT TECHNICIANS Designer II, Engineer I, Engineering Technician III, GIS Analyst I, GIS Technician II, Grant Specialist, Planner I, Project Administrator, Resident Project Representative III, Scientist I	\$139.00
5	PROFESSIONALS, SPECIALISTS Engineer II, GIS Analyst II, Planner II, Scientist II, Designer III, Engineering Technician IV, Operations Consultant II, Resident Project Representative IV	\$170.00
6	PROJECT PROFESSIONALS, SENIOR PROJECT TECHNICIANS Engineer III, GIS Analyst III, Planner III, Scientist III, Designer IV, Engineering Technician V, Operations Consultant III, Specifications Writer	\$181.00
7	SENIOR PROJECT PROFESSIONALS, PROJECT SPECIALISTS Engineer IV, GIS Analyst IV, Planner IV, Project Manager I, Scientist IV, Computer Services Manager, Design Manager, Engineering Specialist, Operations Consultant IV	\$191.00
8	SENIOR PROFESSIONALS, SENIOR PROJECT SPECIALISTS Engineer V, GIS Analyst V, Planner V, Project Manager II, Scientist V, Senior Engineering Specialist, Operations Consultant V	\$197.00
9	MANAGING PROFESSIONALS Assistant Vice President, Chief Engineer, Engineer VI, GIS Manager, Operations Consultant VI, Senior Planner, Senior Project Manager, Scientist VI	\$199.00
10	MANAGING PRINCIPALS Chief Executive Officer, President, Executive Vice President, Senior Vice President, Vice President	\$199.00

II. COMPENSATION FOR EXPENSES AND OTHER CHARGES SHALL BE AS FOLLOWS:

MILEAGE	FEDERAL ALLOWABLE VEHICLE REIMBURSEMENT RATE
COMMERCIAL TRAVEL/LIVING EXPENSES	NET COST
DATA PROCESSING & DUPLICATING WORK	SCHEDULE SUPPLIED UPON REQUEST
OUTSIDE SERVICES	NET COST PLUS 15%

III. TECHNOLOGY SURCHARGE WILL BE APPLIED TO COVER LICENSING FEES/ UPGRADES FOR COMPUTER-RELATED SERVICES (GIS, CADD, GPS, SURVEYING, HYDRAULIC MODELING, AND OTHER PROPRIETARY SOFTWARE).

IV. STATEMENTS WILL BE RENDERED MONTHLY AND ARE PAYABLE UPON RECEIPT.

V. CERTIFICATES OF INSURANCE COVERAGE WILL BE SUPPLIED UPON REQUEST.

VI. EXCEPTIONS TO OR DEVIATION FROM ANY OF THE FOREGOING TERMS SHALL BE VALID ONLY AS SPECIFICALLY AND MUTUALLY AGREED UPON.

VII. CHARGES ARE SUBJECT TO REVISION.

All services performed by ARRO are performed in accordance with and subject to the attached Standard Terms and Conditions. ARRO expressly rejects any other terms and conditions which may be presented to it, including any presented as part of a municipal appointment. Any changes to these Standard Terms and Conditions shall be mutually agreed to in writing.

**ARRO HOLDINGS, LLC; THE ARRO GROUP & SUBSIDIARIES,
ARRO CONSULTING, INC., CKS ENGINEERS, INC., CASTLE VALLEY CONSULTANTS, INC.
STANDARD TERMS AND CONDITIONS**

1. OPINION OF PROBABLE COSTS

Opinions of probable construction and related costs, financing and acquisition of land and rights-of-way prepared by ARRO represent its judgment as a design professional and are supplied for the general guidance of the Client. Since ARRO has no control over cost of labor, materials, equipment or services furnished by others, over contractors' methods of determining prices, over costs of financing, acquisition of land or rights-of-way or over competitive bidding, market or negotiating conditions, ARRO does not guarantee that any such opinions will not vary from actual costs or contractors' bids to the Client.

2. INSTRUMENTS OF SERVICE

All reports, plans, specifications, drawings, field data, notes, formulae, calculations, codes, computer programs and any other documents used in the preparation of the work hereunder or delivered to the Client hereunder, including electronic or digitized versions thereof, are instruments of service of ARRO and shall remain the property of ARRO. Client has the right to use the work delivered hereunder for an indefinite period of time for the purposes outlined in this Agreement. However, the work furnished by ARRO hereunder, whether in document form or electronic or digitized versions thereof, are not to be reused by the Client or any other person or entity for extensions of the project for which they were prepared or on any other project. Any reuse of the documents or their electronic or digitized versions without specific written verification or adaptation by ARRO will be at the Client's sole risk and without liability to ARRO, and Client shall hold ARRO harmless from any claims or damages resulting from such reuse, including claims of infringement of proprietary information.

3. CHANGED CONDITIONS

ARRO has used its professional judgment in establishing the scope of services and fee for this project, given the information provided by the Client or known to ARRO about the project's nature and risks and current laws, codes, regulations, standards and permit conditions in effect thirty (30) days prior to the date of this proposal/Agreement. Occurrences or discoveries that were not originally contemplated by or known to ARRO shall constitute changed conditions and shall require an equitable adjustment in scope, schedule and/or fee under this Agreement. If ARRO should request an adjustment to this Agreement, ARRO shall identify the changed conditions and the Client shall promptly and in good faith enter into a renegotiation of this Agreement. If the Client refuses to renegotiate, ARRO may terminate this Agreement.

4. ADDITIONAL WORK

The Client or ARRO may, from time to time, during the course of the work request changes or modifications in the "Scope of Services" to be performed hereunder. Such changes and/or modifications, including any increase or decrease in the amount of ARRO's compensation, which are mutually agreed upon between the Client and ARRO, shall be incorporated in written amendments to this Agreement. In the event the Client desires additional work performed, which is not covered by the proposal and/or Agreement, the parties shall execute an amendment to this Agreement, and ARRO shall be paid for the additional work in accordance with the terms and conditions for extra work as set forth in the Agreement.

5. DELAYS

In the event of delays through no fault of ARRO, the Client shall pay all costs which have been reasonably incurred by ARRO in suspending the services including all costs incurred in reactivating the services. This is in addition to compensation for services performed and costs incurred prior to suspension.

6. WARRANTY AND REMEDY

ARRO warrants that it shall exert the degree of care and skill in the performance of its services normally exercised by similar professionals under similar circumstances. This warranty is in lieu of and excludes all other warranties whether express or implied, by operation of law or otherwise, including any warranty of fitness for particular purpose.

ARRO's liability to the Client for losses, injuries, damages or expenses arising from ARRO's services under this Agreement and which are covered by ARRO's liability insurances shall be limited to the then remaining limits of ARRO's applicable liability insurance coverage(s). For any other losses, injuries, damages or expenses arising from ARRO's services, Client agrees that ARRO's total aggregate liability therefore shall not exceed the amount of ARRO's service revenue under this Agreement.

In addition, the Client agrees to extend any and all liability limitations and indemnifications provided by the Client to ARRO to those individuals and entities ARRO retains for performance of the services under this Agreement, including ARRO's subconsultants and their assigns.

For purposes of this Agreement the term "liable" and "liability" shall mean liability of any kind that may be found to rest upon ARRO, whether arising from the negligence of ARRO, its subcontractors, agents or employees, breach of warranty, breach of contract, strict or absolute liability and/or any other cause.

7. CONSEQUENTIAL DAMAGES

Neither ARRO nor Client shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by ARRO or the Client, their employees, agents, subconsultants or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

8. TERMS OF PAYMENT

In the event that payment is not made within thirty (30) days from date of billing, interest will be charged at the rate of one percent (1%) per month, or the maximum amount permitted by law.

9. PATENTS

ARRO will not conduct patent searches in the performances of its services and assumes no responsibility or liability for any patent or copyright infringement arising therefrom. Nothing contained herein shall be construed as a warranty or representation that anything made, used or sold arising out of the services provided for the project will be free from infringement of patents.

10. SUSPENSION OF SERVICES

If payment of ARRO's invoices is not maintained as per the Terms of Payment set forth herein, ARRO may by seven (7) days written notice to the Client suspend further services without liability until the Client has paid in full all amounts due ARRO on account of services rendered and expenses incurred, including interest on past due invoices. Suspension exceeding ninety (90) days shall, at ARRO's option, make this Agreement subject to renegotiation or termination. Any suspension shall extend the time schedule for performance in a manner that is satisfactory to ARRO.

11. TERMINATION

This Agreement for ARRO's services may be terminated by either party upon thirty (30) days prior written notice to the other party. In the event of termination, ARRO shall be compensated for services performed and expenses incurred up to the date of termination, plus reasonable actual costs incurred by ARRO as a result of a termination by the Client.

12. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon the parties and their respective successors and assigns. ARRO may employ such independent consultants, associates and subcontractors as it may deem appropriate. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the parties.

3. SEVERABILITY AND REFORMATION

Any provision or part thereof of this Agreement held to be void or unenforceable under any law or order of court shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the Client and ARRO. In addition, the parties agree that this Agreement shall be reformed to replace such stricken provision(s) or part(s) thereof with a valid and enforceable provision(s) which comes as close as possible to expressing the intention of the stricken provision(s).

14. EMPLOYEE LIABILITY

The Client acknowledges that ARRO is a corporation and agrees that any claim made by the Client arising out of any act or omission of any director, officer or employee of ARRO in the execution or performance of this Agreement, shall be made against ARRO and not against such director, officer or employee.

15. FORCE MAJEURE

Client and ARRO agree that there shall be no liability on the part of either party for any failure or delay in the performance of any obligations hereunder resulting from any cause beyond their reasonable control, including, but not limited to: acts of God; acts or omissions of civil or military authority; acts or omissions of contractors or suppliers; fires; floods; epidemics; quarantine restrictions; severe weather; strikes; embargoes; wars; political strife; riots; delays in transportation; compliance with any regulations or directives of any national, state, local, or municipal governments or any department thereof; fuel, power, materials or labor shortages.

16. ENTIRE AGREEMENT

This Agreement, upon its acceptance by the Client, shall constitute the entire and integrated understanding between the parties and supersedes all prior and contemporaneous negotiations and agreements, whether oral or written, with respect to the subject matter herein. This Agreement may be amended only by a written instrument signed by both parties.

17. ASBESTOS OR HAZARDOUS OR TOXIC MATERIALS

ARRO's scope of services does not include any services related to asbestos or hazardous or toxic materials. ARRO shall have no responsibility under this Agreement to determine the existence, location, quantity, type or composition of any hazardous or toxic materials that may exist at the site. In the event ARRO or any other party encounters asbestos or hazardous or toxic materials at the site, or should it become known in any way that such materials may be present at the site or any adjacent areas that may affect the performance of ARRO's services, ARRO may, at its option and without liability for consequential or other damages, suspend performance of services on the project until the Client retains appropriate specialist consultant(s) or contractor(s) to identify, abate and/or remove the asbestos or hazardous or toxic materials, and warrant that the site is in full compliance with applicable laws and regulations.

18. PHASE I & PHASE II ENVIRONMENTAL SERVICES

In consideration of the substantial risks to ARRO in performing Phase I and Phase II environmental assessment services, the Client agrees, to the maximum extent permitted by law, to indemnify and hold harmless from any damage, liability or cost, including reasonable attorneys' fees and costs of defense, arising out of or resulting from the performance of services under this Agreement or related in any manner whatsoever to the existence, identification, release or disposal of hazardous or toxic substances, except those damages, liabilities or costs arising directly from the sole negligence or willful misconduct of ARRO.

a. REGULATED CONTAMINANTS

The Phase II environmental assessment is being conducted solely to permit ARRO to render a professional opinion on the likelihood of regulated contaminants being present on, in, or beneath the site identified in the Agreement at the time the services are rendered. Client acknowledges and understands that the findings derived from a Phase II environmental assessment are limited and that ARRO cannot know or state as an absolute fact that the site is unaffected by reportable quantities of regulated contaminants. Furthermore, even if ARRO believes, in its professional opinion, that reportable quantities of regulated contaminants are not present at the site, Client still bears the risk that such contaminants may be present or may migrate to the site after the study is completed. Client's acceptance of this Agreement shall evidence that Client understands the risks associated with the Phase II environmental assessment and, in consideration of ARRO agreeing to provide these services, Client agrees, to the maximum extent permitted by law, to waive any claim against ARRO and agrees to defend, indemnify, and hold ARRO harmless from any damage, claim, liability, or cost, including reasonable attorneys' fees and costs of defense, for injury or loss which may arise out of or result from any alleged contamination or existence of hazardous material discovered at the site or performance of services under this Agreement or related in any manner whatsoever to the existence, identification, release or disposal of hazardous or toxic substances, except those damages, liabilities or costs arising directly from the sole negligence or willful misconduct of ARRO.

b. SAMPLING BYPRODUCTS

All substances on, in, or beneath the Client's site identified in the Agreement, or obtained from the site as samples or as byproducts of the sampling process are, and shall remain, the Client's property. Any samples or byproducts of the sampling process that are, or are assumed to be regulated contaminants, or in ARRO's opinion, may be affected by a regulated contaminant, will be packaged in accordance with applicable law and these materials will be promptly turned over to the Client and the Client will be responsible for legal disposal of them. ARRO shall not have any responsibility under this Agreement to arrange for disposal, or dispose, of materials that are, or are suspected to be, affected by regulated contaminants. Client shall sign all manifests for the disposal of regulated contaminants or suspected regulated contaminants. ARRO will not, under any circumstances, be considered a generator, transporter, or disposer of the materials affected by regulated contaminants. Because involvement with the Client's contaminated samples can expose ARRO to considerable risks, Client agrees, to the maximum extent permitted by law, to waive any claim against ARRO and agrees to defend, indemnify, and hold ARRO harmless from any damage, claim, liability, or cost, including reasonable attorneys' fees and costs of defense, for injury or loss which may arise out of or result from ARRO containing, labeling, transporting, testing, temporarily storing, and other handling of the Client's contaminated samples or performance of services under this Agreement or related in any manner whatsoever to the existence, identification, release or disposal of hazardous or toxic substances, except those damages, liabilities or costs arising directly from the sole negligence or willful misconduct of ARRO.

c. CROSS CONTAMINATION

Sampling may result in unavoidable cross-contamination of subsurface areas, such as when a probe or boring penetrates through a contaminated area into an aquifer, underground stream, or other hydrous body not previously contaminated. Client acknowledges and understands that ARRO cannot, despite exercising due care, completely eliminate this risk. Because sampling is an essential element of the Phase II environmental services covered by this Agreement and can expose ARRO to considerable risks, Client agrees, to the maximum extent permitted by law, to waive any claim against ARRO and agrees to defend, indemnify, and hold ARRO harmless from any damage, claim, liability, or cost, including reasonable attorneys' fees and costs of defense, for injury or loss which may arise out of or result from any cross-contamination allegedly caused by sampling or performance of services under this Agreement or related in any manner whatsoever to the existence, identification, release, or disposal of hazardous or toxic substances, except those damages, liabilities or costs arising directly from the sole negligence or willful misconduct of ARRO.

19. THIRD PARTY BENEFICIARY

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or ARRO. ARRO's services under this Agreement are being performed solely for the Client's benefit, and no other entity shall have any claim against ARRO because of this Agreement or the performance or nonperformance of services hereunder. The Client agrees to include a provision in all contracts with contractors and other entities involved in this project to carry out the intent of this paragraph.

20. GOVERNING LAW

The laws of the Commonwealth of Pennsylvania shall govern the validity of this Agreement, its interpretation and performance. Any litigation arising in any way from this Agreement shall be brought in the Courts of Common Pleas of Pennsylvania having jurisdiction.