

ACCREDITATION AGREEMENT

This Agreement is entered into between the _____ (“the Agency”) with principal offices located at _____, and the American Public Works Association (“APWA”), an Illinois nonprofit corporation exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code with principal offices located at 1200 Main Street, Suite 1400, Kansas City, Missouri 64105.

APWA is an international educational and professional association of public agencies, private sector companies, and individuals dedicated to providing high quality public works goods and services. APWA has created the Accreditation Council (“the Council”) to recognize public works agencies in having policies and practices addressing subject areas as set forth in the *Public Works Management Practices Manual* (the “Manual”).

The Agency is responsible for directly or indirectly administering, managing or providing public works related services in ____ functional areas, more fully described on the Agency’s Application for Accreditation, which is hereby incorporated into this Agreement. The Agency desires that APWA assess the Agency’s practices in order for the Council to determine if the Agency is eligible for designation as accredited in accordance with the terms of this Agreement.

The parties, intending to be legally bound, agree as follows:

1. AGENCY RESPONSIBILITIES: The Agency shall:

1.1 Provide all information, including all documents, files, records, and other data as required by APWA except to the extent that the disclosure of such information is restricted by law (in which case, the Agency shall notify APWA that such information has been withheld);

1.2 Conduct a self-assessment as to compliance with recommended practices, including, without limitation, the practices set forth in the Manual (“Recommended Practices”), and provide full and accurate results thereof to APWA using software developed and approved by APWA;

1.3 Provide one or more persons to assist APWA’s representatives (“Evaluators”) in making the necessary inquiries and assessments of Agency information relative to compliance with the Recommended Practices; provide access to files and records and necessary facilities requested by the Evaluators during their inquiries; and

1.4 Respond to all communications from APWA promptly, but in no event later than ten (10) business days from the receipt thereof.

2. APWA RESPONSIBILITIES: APWA shall:

2.1 Provide necessary documentation, forms, and instructions regarding the accreditation process;

____Agency ____APWA

2.2 Provide Evaluators for the purpose of conducting an on-site evaluation of the Agency's policies and practices;

2.3 Promptly analyze compliance data and advise the Agency of the results of the on-site evaluation and the need for additional information, if any;

2.4 If the Agency is accredited, (a) provide an award, and (b) make available indicia of accreditation;

2.5 If the Agency is not accredited following an evaluation of its policies and practices, provide the Agency with reasons for the decision; and

2.6 Upon payment of the Agency of a \$1,000 appeal fee (which must be paid within sixty (60) days of notice by APWA of the reasons for the decision not to accredit the Agency), allow the Agency to appeal the decision of the Council (which fee shall be refunded if the Agency prevails on the appeal).

3. TERM:

3.1 This Agreement shall become effective when it has been signed by an authorized representative of each of the parties (the "Effective Date").

3.2 This Agreement shall terminate:

- (a) Upon execution of a Re-Accreditation Agreement between the Agency and APWA;
- (b) Either (i) thirty-six (36) months following the Effective Date of this Agreement or (ii) the expiration of any extension to the thirty-six (36) month period granted pursuant to Section 5.3 hereof, unless a successful on-site evaluation is completed prior to such date;
- (c) Upon written notice by the Agency that it withdraws from the accreditation process;
- (d) Upon termination pursuant to Section 5.2 hereof; or
- (e) Upon expiration or revocation of the Agency's accredited status.

3.3 Any accreditation granted to the Agency shall have a term of four (4) years from the date of issuance. If the Agency has not executed a Re-Accreditation Agreement (and paid the fees required thereby) and scheduled the re-accreditation on-site evaluation before the expiration of such four (4) year term, the accreditation shall lapse at the expiration of the four (4) year term and the Agency shall not thereafter hold itself out as being accredited by APWA.

4. MODIFICATION: There shall be no modifications of this Agreement except in writing, signed by both parties, and executed with the same formalities as this document.

5. TIME AND MANNER OF PAYMENTS:

5.1 The Agency may elect one of two options (lump sum or installment) for payment of the accreditation fee, which is not refundable. The Agency agrees to one of the following options by completing either subsection (a) or (b) below:

(a) Lump Sum Option

The Agency will remit to APWA a single payment in the lump-sum amount for processing of the accreditation of \$_____, upon the execution of this Agreement by the Agency.

The total amount of \$_____ is herein remitted to APWA (payable by check to the order of American Public Works Association) via check number _____, or

Purchase Order No. _____ is herein remitted to APWA in the amount of \$_____.

(b) Installment Option

The Agency will remit to APWA a total payment of \$_____ for processing of the accreditation. The first installment of \$_____ (50% of total fee) is due at the signing of this Agreement by the Agency. The second installment of \$_____ (remaining 50% of fee) is payable at the end of the eighteenth (18th) month from the effective date of this Agreement or at the time of submission of the completed self-assessment and request for the on-site evaluation, whichever occurs first.

The first installment of \$_____ is herein remitted to APWA (payable by check to the order of American Public Works Association) via check number _____, or

Purchase Order No. _____ is herein remitted to APWA in the amount of \$_____.

5.2 APWA will invoice the Agency for the actual on-site evaluation costs, including personnel costs, lodging, meals and transportation. An itemized invoice will be delivered to the Agency within sixty (60) days of completion of the on-site evaluation. APWA reserves the right to terminate this Agreement if such payment is delinquent by more than sixty (60) days, and APWA shall not be obligated to refund any fees previously paid.

5.3 If the Agency requires more than thirty-six (36) months to complete a successful on-site evaluation, the Agency may request a twelve (12) month extension to this Agreement. If the extension is granted, the Agency agrees to pay a nonrefundable extension fee amounting to twenty-five percent (25%) of the accreditation fee then in effect for that additional period. The

Agency may continue to request an additional extension every twelve (12) months thereafter, and agrees to pay the additional twenty-five percent (25%) extension fee, until a successful on-site evaluation has been achieved or this Agreement has been terminated in accordance with Section 3.2 hereof. No such additional fee will be levied where APWA is the cause of the inability to complete the evaluation within the thirty-six (36) month period (e.g., because APWA cancels a scheduled on-site evaluation or because APWA is unable to schedule the on-site evaluation on any of several dates reasonably proposed by the Agency).

5.4 If the Agency's initial on-site evaluation is not successful (i.e., work after the initial on-site evaluation is required to achieve compliance with the Recommended Practices), and the volume of review necessary for completion would require a second on-site evaluation, the Agency shall reimburse costs for a subsequent on-site evaluation and/or additional staff/evaluator assistance required on or off site. The additional work required (on and/or off site) must be completed within six (6) months.

6. CONFIDENTIALITY:

6.1 APWA shall receive and hold confidential any and all nonpublic: (i) reports, files, records and other data obtained from the Agency pursuant to this Agreement and (ii) materials developed by APWA in the furtherance of its responsibilities under this Agreement ("Confidential Information"). APWA shall use reasonable commercial efforts substantially similar to the efforts APWA uses to protect its own confidential information to prevent the disclosure, distribution, or release of the Confidential Information to any person or organization, except authorized Agency officials, employees or agents, or upon order of any court, state or federal. Notwithstanding anything in this Agreement to the contrary including the above, APWA is specifically authorized, but not required, in the exercise of its sole discretion, to conduct a meeting open to the public regarding the Agency's candidacy for accreditation or its continued compliance with applicable standards, including but not limited to all factual matters relating to the assessment, appraisal, and determination of accreditation and all comments which form a basis for the opinion either in favor of or against accreditation, unless specifically notified by the Agency in writing to the contrary, in which case such meeting shall be closed to the public. Nothing herein shall be construed to require APWA to conduct all or part of its meeting in public, including but not limited to the right of APWA, in the exercise of its sole discretion, to terminate a meeting open to the public at any time and conclude such meeting in a session closed to the public.

6.2 In response to inquiries concerning the accreditation status of the Agency, APWA's reply shall be limited to identifying the Agency's then current status. All other requests for information will be directed to the Agency.

7. NEWS RELEASES: Notwithstanding any provision of this Agreement to the contrary,

7.1 APWA shall have the right to identify the Agency in news releases and its publicity program after the Agency's on-site evaluation has been scheduled, to identify the Agency as seeking accreditation. Where specific mention of the Agency is used in this regard, a copy of the news release or publicity material will be provided to the Agency for its information.

7.2 The Agency shall provide APWA with a copy of all its news releases or publicity material concerning the Agency's accreditation activities and status.

8. APWA AS AN INDEPENDENT CONTRACTOR: For all purposes under this Agreement, the parties are independent contractors as to one another and neither shall be deemed to be an employee, agent, franchise, partner, or legal representative of the other. Except as specifically set forth herein, neither party shall have any authority to create or assure any obligation on behalf of the other. Each party shall pay and discharge any and all obligations it may incur to federal, state, or local governments for estimated income taxes, Social Security contributions, and the like.

9. INTEGRATION: This instrument embodies the whole Agreement of the parties. The parties warrant that there are no promises, terms, conditions, or obligations other than those contained herein. This Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto relating to the subject matter hereof.

10. SEVERABILITY: If any provisions of this Agreement or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Agreement and the application of such provisions to persons or circumstances other than those to which is held invalid shall not be affected hereby.

11. CHOICE OF LAW; JURISDICTION AND VENUE: This Agreement and the rights of the parties hereunder shall be governed by and interpreted in accordance with the law of the State where the principal office of the Agency is located. Any arbitration or action to interpret or enforce any right or obligation hereunder shall be brought in the state or federal courts sitting in the jurisdiction encompassing Agency's principal office and the parties irrevocably consent hereby to jurisdiction and venue in any such court.

12. WARRANTY NOT INTENDED OR IMPLIED: It is understood that the award of accreditation represents that only that APWA and/or the Council has determined, based in part on information supplied by the Agency, that the Agency has policies and practices addressing the Recommended Practices, but neither APWA nor the Council is making any representations that such policies or practices are adequate or appropriate for the Agency. The Agency is solely responsible for determining whether its policies and practices are adequate and appropriate and the award of accreditation is not a substitute for the Agency's ongoing and in-depth monitoring and evaluation of its activities and the quality of its services. The Agency shall not make any oral or written disclosure, comment or announcement which conflicts with the provisions of this Section 12. Any oral or written statement by Agency regarding its accreditation status shall comply with any requirements made known to Agency from time to time.

13. WAIVER: Any waiver by APWA of any breach of this Agreement by the Agency shall relate only to that particular breach and shall not amount to a general waiver.

14. NOTICE: Any notice between the parties shall be in writing, postage prepaid, to the addresses as specified in the preamble of this Agreement or to such other address as either party may specify in writing in accordance with this section.

15. HEADINGS: The heading of this Agreement shall not be deemed part of it and shall not in any way effect its construction.

16. ESTABLISHMENT OF RECOMMENDED PRACTICES: The Agency and APWA agree that the Manual shall be the basis for the self-assessment conducted by the Agency and the evaluation conducted by APWA, unless otherwise agreed to in writing by APWA. The Agency's self-assessment shall be based upon the most recent edition of the Manual available at the time of the self-assessment. APWA's evaluation of the self-assessment prepared by the Agency and determination of the Agency's compliance with Recommended Practices and thus eligibility for accreditation shall be based on the edition of the Manual available at the time of such evaluation.

17. ASSIGNMENT: The Agency shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of APWA.

18. DISPUTE RESOLUTION: Any dispute or claim arising out of or related to this Agreement, or the interpretation, making, performance, breach, validity, or termination thereof, shall be settled by binding arbitration before a single arbitrator in accordance with the Commercial Arbitration Rules of American Arbitration Association ("Rules"), with judgment upon the award rendered by the arbitrator to be entered in any court of competent jurisdiction. The arbitrator shall be selected according to the Rules. The arbitrator may award to the prevailing party, if any, as determined by the arbitrator, all of its costs, expenses and fees, including, without limitation, administrative fees, arbitrator fees, travel expenses, out-of-pocket expenses (including, without limitation, such expenses as copying, telephone, facsimile, postage, and courier fees), witness fees, and reasonable and actual attorneys' fees. The arbitration shall be conducted in the venue identified in Section 11 above.

[Remainder of Page Intentionally left blank; signature page to follow.]

IN WITNESS WHEREOF, the Agency has caused this Agreement to be executed in duplicate on this ____ day of _____, 202____.

By: _____

(Typed name)

(Title)*

*Title of the Agency's Chief Executive Officer or Chief Elected Official and title and that of the appropriate civil authority in the event such signature is required to effect this Agreement. If not required, please so note in this signature block.

IN WITNESS WHEREOF, APWA has caused this Agreement to be executed by the Director of Education and Credentialing for the American Public Works Association, acting on its behalf.

By: _____

Becky Stein
Director of Education and Credentialing

Date