

**AGREEMENT  
ENGINEERING/INSPECTION SERVICES  
BETWEEN  
THE COUNTY OF DUPLIN  
AND  
THE ADAMS COMPANY, INC.**

**THIS AGREEMENT**, made this 6<sup>th</sup> day of FEB, 2023 by and between the Board of Commissioners of Duplin County for itself and its successors and assigns, hereinafter referred to as the OWNER, and The ADAMS COMPANY, Inc., North Carolina for itself and its successors and assigns, hereinafter referred to as the CONSULTANT:

**WHEREAS**, the OWNER desires services of the CONSULTANT to provide engineering and inspection; and

**WHEREAS**, the OWNER selected and negotiated this contract with The ADAMS COMPANY, Inc.;

**NOW, THEREFORE**, the OWNER and the CONSULTANT in consideration of mutual covenants hereinafter set forth, agree as follows:

**SECTION A - PROGRAM DESCRIPTION**

The proposed activities of the project referred to as the MAGNOLIA MUNICIPAL AUDITORIUM DEMOLITION PROJECT which are included in this Agreement are as follows:

- a. Engineering services related to the demolition of the existing Magnolia Municipal Auditorium and restoration of the site following demolition.

**SECTION B - ENGINEERING/INSPECTION SERVICES**

The CONSULTANT agrees to furnish for the above named major construction work, services as hereinafter enumerated:

1. Perform necessary investigation for the design of the project (not to include right-of-way survey, utility site survey, acquisition survey, severance survey, easement survey, permit survey), prepare detailed plans, specifications and contract documents, apply for standard permits (DEQ, DHS, DOT, Sedimentation and Erosion, if needed) all in accordance with the intent of the project.
2. Obtain asbestos inspection.
3. Prepare demolition plan and demolition documents.
4. Provide copies of the detailed plans and specifications as required by prospective bidders (prospective bidders will be charged directly for plans and specifications) and not to exceed five (5) copies for execution and construction documents.
5. Attend and conduct bid openings, prepare and certify tabulation of bids, and make recommendations as to contract award.
6. Review and approve the Contractor's schedule of amounts for contract payment and certify

- partial payments to the Contractor.
7. Provide a weekly inspector for the purpose of inspecting the work as it proceeds. The performance of any Contractor is not guaranteed. Inspection services shall be provided for the contract period only, and any inspection beyond that period will be considered an additional service.
  8. Construction stakeout is not included in this Agreement.
  9. Be available for daily coordination with the OWNER'S resident inspector. This does not include daily site visits.
  10. Additional services shall be as per the attached Corporate Rate Schedule (Attachment A). Any additional services must be authorized by the County Manager. Additional services may include, but shall not be specifically limited to, the following:
    - a. Redesigns requested by the OWNER after final plans have been accepted by the OWNER, except redesigns to reduce the project cost to within the funds available.
    - b. Preparation for or appearances before courts or boards on matters of litigation or hearings related to the project.
    - c. All surveying and related services to include but not limited to:
      - i. All property line and right of way recovery and/or survey.
      - ii. Right of way, utility site and other acquisition or severance surveys and coordination (coordination prior to preliminary acquisition notice).
      - iii. Construction stakeout.
    - d. Subsurface soil investigations, soil borings, special geological investigations; pile installation monitoring; compaction testing; hydraulic investigations; laboratory test; similar special investigation, testing and reports.
    - e. Special permits to include but not limited to:
      - i. CAMA
      - ii. Wetlands
      - iii. US Army Corps of Engineers
      - iv. NPDES
    - f. Environmental Impact Statement.
    - g. Preparation of operation and maintenance manuals.
    - h. All respective services resulting from a change in activities by program amendment or other means.
  11. This contract may be amended at any time to include any additional consulting services requested by OWNER.

### **SECTION C - OWNER'S RESPONSIBILITIES**

1. The OWNER shall furnish the CONSULTANT in a timely manner with copies of pertinent correspondence relating to the project.
2. The OWNER shall provide full information as to requirements for work performed by the CONSULTANT.
3. The OWNER shall give prompt consideration to recommendations and work submitted by the CONSULTANT.
4. The OWNER shall be responsible for all legal fees, real estate appraisal fees, newspaper advertisement fees, audit fees, permit fees, encroachment fees, register

of deed fees, and other similar fees not directly associated with performance of the CONSULTANT responsibilities defined by this Agreement.

5. The OWNER will bear all costs incident to compliance with the requirements of this section.
6. The OWNER will give prompt notice to the CONSULTANT whenever OWNER observes or otherwise becomes aware of any defect in the project or changed circumstances.
7. The OWNER will guarantee access to and make provisions for the CONSULTANT to enter upon private property as required for the CONSULTANT to perform his services.

#### **SECTION D - COMPENSATION FOR SERVICES**

1. The OWNER shall compensate the CONSULTANT for basic engineering services the lump sum of Fourteen Thousand Five Hundred and No/100 dollars (\$14,500.00). Compensation shall be invoiced in accordance with the attached Engineering Schedule of Values (Attachment B). Amounts shall be invoiced monthly
2. The OWNER shall compensate the CONSULTANT for basic resident inspector services the lump sum of Nine Thousand Nine Hundred Eighty and No/100 dollars (\$9,980.00). Monthly payments shall be made based upon the percentage of the payments to the contractor. Amounts shall be invoiced monthly.
3. The total amount to be paid by Owner under this Agreement shall not exceed Twenty Four Thousand Four Hundred Eighty Dollars (\$24,480.00) unless additional services are agreed upon and expressly authorized by the County Manager.
4. All payments due the CONSULTANT shall be paid in full on or before the tenth day of the month following the date of the bill.
5. The CONSULTANT shall complete the proposed activities within 12 months.
6. In the event that additional construction beyond the scope of the proposed work is necessary or possible, an addendum to be agreed upon by the OWNER and CONSULTANT shall be executed establishing the amount of additional compensation.
7. Payment for any additional engineering, inspection, survey or other technical services shall be based on the existing corporate fee schedule at the time of service.

#### **SECTION E - GENERAL CONDITIONS**

1. Conflict of Interest Interest of Members, Officers, or, Employees of the Recipient, Members of Local Governing Body, or Other Public Officials.  
No member, officer, or employee of the recipient, or its agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during the tenure or for one year thereafter, shall have

any financial interest, either direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this agreement. Immediate family members, officers, employees, and officials are similarly barred from having any financial interest in the program. The recipient shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.

2. Termination Provision - Legal Remedies Provision

The CONSULTANT and OWNER mutually agree as follows:

- a) This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this agreement through no fault of the terminating party: Provided, that no such termination may be effected unless the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.
- b) This Agreement may be terminated in whole or in part in writing by the OWNER for its convenience, provided, that such termination is for good cause (such as for legal or financial reasons, major changes in the work of program requirements, initiation of a new Step) and that the CONSULTANT is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.
- c) If termination for default is effected by the OWNER, an equitable adjustment in the price provided for in this Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment to the CONSULTANT at the time of termination may be adjusted to the extent of any additional costs occasioned to the OWNER by reason of the CONSULTANT default. If termination for default is effected by the CONSULTANT or if termination for convenience is effected by the OWNER, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the CONSULTANT for services rendered and expense incurred, prior to the termination, in addition to termination settlement cost reasonably incurred by the CONSULTANT, relating to commitments which had become firm prior to the termination.
- d) Upon receipt of a termination action pursuant to Paragraphs (a) or (b) above, the CONSULTANT shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to the OWNER all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the CONSULTANT in performing this Agreement, whether completed or in process.

3. Nondiscrimination Clause - Section 109, Housing & Community Development of 1974.  
No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this title.
4. Nondiscrimination Clause Civil Rights Act of 1964, Title VI  
No person in the United States shall on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity which receives federal funds.
5. Age Discrimination Act of 1975, As Amended Nondiscrimination on the Basis of Age  
No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.
6. Nondiscrimination on the Basis of Handicap - Section 504 of the Rehabilitation Act of 1973 as Amended  
No qualified handicapped person shall, on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.
7. "Section 3" Compliance in the Provision of Training, Employment, and Business Opportunities  
CONSULTANT agrees as follows:
  - a) The work to be performed under the contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 42 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
  - b) The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
  - c) The CONSULTANT will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees

- and applicants for employment or training.
- d) The CONSULTANT will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
  - e) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135 and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient, for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its engineers and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to sanctions as are specified by CFR Part 135.
8. Lobbying, As Required by Section 1352, U. S. Code
- a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative, agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - b) If any funds other than Federal appropriated funds have been paid or will be paid any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned Shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

9. Access to Records & Record Retainage  
The North Carolina Department of Commerce, the North Carolina Department of the Treasurer, U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Administering Agency which are pertinent to the execution of this Agreement, for the purpose of making audits, examinations, excerpts and transcriptions for a period of five years following project close out in compliance with 15 NCAC 13L Rule .0911, Recordkeeping.
10. Executive Order 11246 Equal Employment Opportunity. The CONSULTANT shall comply with all applicable provisions of Executive Order 11246, entitled "Equal Employment Opportunity" as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR, Part 60). During the performance of this contract, the CONSULTANT agrees as follows:
- a) The CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
  - b) The CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
  - c) The CONSULTANT will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the CONSULTANT commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - d) The CONSULTANT will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
  - e) The CONSULTANT will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules,

regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- f) In the event of the CONSULTANT noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g) The CONSULTANT will include the provisions of Paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONSULTANT will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

- 11. **Key Personnel:** The Contractor shall not substitute key personnel assigned to the performance of this contract without prior written approval by the Agency's Contract Administrator and the grantor agency, the North Carolina Department of Commerce. Individuals designated as key personnel for purposes of this contract are those specified in the Contractor's proposal.
- 12. **Subcontracting:** Work proposed to be performed under this contract by the Contractor or its employees shall not be subcontracted without prior written approval by the Agency's Contract Administrator and the grantor agency, the North Carolina Department of Commerce. Acceptance of an offeror's proposal shall include any subcontractor(s) specified therein.
- 13. The OWNER and the CONSULTANT each binds themselves, their successors, legal representatives and assigns to the other party to the Agreement and to the successors, legal representatives and assigns of such other party in respect to all covenants of this Agreement. Except as above, neither the OWNER nor the CONSULTANT shall assign or transfer his interest in this Agreement without written consent of the other.
- 14. OWNER and the CONSULTANT agree that CONSULTANT is an independent



contractor and shall not represent itself as an agent or employee of OWNER for any purpose in the performance of CONSULTANT's duties under this Agreement. Accordingly, CONSULTANT shall be responsible for payment of all federal, state and local taxes as well as business license fees arising out of CONSULTANT's activities in accordance with this Agreement. For purposes of this Agreement taxes shall include, but not be limited to, Federal and State Income, Social Security and Unemployment Insurance taxes.

15. CONSULTANT, as an independent contractor, shall perform the Services required hereunder in a professional manner and in accordance with the standards of applicable professional organizations and licensing agencies
16. To the fullest extent permitted by laws and regulations, CONSULTANT shall indemnify and hold harmless the OWNER and its officials, agents, and employees from and against all claims, damages, losses, and expenses, direct, indirect, or consequential (including but not limited to fees and charges of engineers or architects, attorneys, and other professionals and costs related to court action or arbitration) arising out of or resulting from CONSULTANT's performance of this Agreement or the actions of the CONSULTANT or its officials, employees, or contractors under this Agreement or under contracts entered into by the CONSULTANT in connection with this Agreement. This indemnification shall survive the termination of this Agreement.

THE OWNER AND THE CONSULTANT hereby agree to the full performance of the covenants contained herein.

IN WITNESS WHEREOF they have executed this Agreement on the date and year first above written.

COUNTY OF DUPLIN

ATTEST:

By: *Davis H. Brinson*

By: *Elwood G. Garner*

Typed Name: DAVIS BRINSON

Typed Name: ELWOOD GARNER

Title: COUNTY MANAGER

Title: VICE-CHAIR BOCC



THE ADAMS COMPANY, INC.

ATTEST:

By: *Tammy H. Jones*

By: *M. Floyd Adams*

Typed Name: Tammy H. Jones

Typed Name: M. Floyd Adams

Title: Notary Public

Title: President



**ATTACHMENT A**

**THE ADAMS COMPANY, INC**  
**CORPORATE RATE SCHEDULE**

**SUBJECT:** Corporate Rate Schedule

**DATE:** January 1, 2022

**DISCUSSION:** The following rates shall be effective for all billings unless a lump-sum fee contract has been negotiated prior to execution of the required work. It is recommended that this fee schedule be used when a detailed scope of services cannot be outlined. In this situation, the clients will not end up paying for anticipated services that are not necessary and The ADAMS COMPANY, Inc. will not end up paying for services, which were not originally anticipated.

<b><u>Personnel Involved</u></b>	<b><u>Hourly Rate</u></b>
Senior Professional Engineer .....	\$140
Design Engineer.....	\$120
AutoCAD Drafting .....	\$105
Construction Inspector.....	\$75
CDBG Project Manager.....	\$110
Rehabilitation Inspector.....	\$75
Secretary .....	\$45

Registered Land Surveying provided by others – Call for quote.

**ATTACHMENT B**  
**ENGINEERING**  
**SCHEDULE OF VALUES**  
**COUNTY OF DUPLIN**  
**MAGNOLIA MUNICIPAL AUDITORIUM DEMOLITION PROJECT**

<u>Engineering and Inspection</u>	
Asbestos Inspection .....	\$2,500.00
Demolition Plans and Specifications Prepared for Bid and Award of Contract.....	\$12,000.00
Demolition Inspection (pro rata based on demolition work completed) .....	\$9,980.00
<b>Total Value of this Contract.....</b>	<b>\$24,480.00</b>