

# ENGINEERING AGREEMENT

FOR

**CITY OF ROCHELLE, ILLINOIS  
ROCHELLE MUNICIPAL UTILITIES**

**Waterworks Improvements  
Design and Construction of  
Water Well No. 12 and Well Building  
and Well Building No. 4**

February 13, 2012



**WILLETT HOFMANN  
& ASSOCIATES INC**

ENGINEERING ARCHITECTURE LAND SURVEYING

809 EAST 2ND STREET, DIXON, IL 61021-0367  
T: 815-284-3381 DESIGN FIRM: #184-000918

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THIS AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year Two Thousand and Twelve between Rochelle Municipal Utilities Rochelle, Ogle County, Illinois (hereinafter called the OWNER) and WILLET, HOFMANN & ASSOCIATES, INC. CONSULTING ENGINEERS, 809 East Second Street, Dixon, ILLINOIS (hereinafter called the ENGINEER).

WITNESSETH, that whereas the OWNER intends to construct a new Water Well No. 12 and associated well buildings for Well No. 12 and Well No. 4 with appurtenances (hereinafter called the Project).

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

## SECTION 1 - SERVICES OF THE ENGINEER

### 1.1 General

1.1.1. The ENGINEER agrees to perform professional services in connection with the Project as hereinafter stated.

1.1.2. The ENGINEER will serve as the OWNER's professional representative in all phases of the Project, and will give consultation and advice to the OWNER during the performance of his services.

### 1.2 Design Phase

During the design phase the ENGINEER will:

1.2.1. On the basis of the approved Project Planning Document provide the necessary engineering topographic surveys and prepare detailed engineering drawings and detailed specifications and contract booklets for bidding.

1.2.2. Furnish to the OWNER engineering data for and assist in the preparation of the required documents so that the OWNER may secure approval of such governmental authorities as have jurisdiction over design criteria applicable to the Project.

1.2.3. Advise the OWNER of any adjustment of the cost estimate for the Project caused by changes in scope, design requirements or construction costs and furnish a revised cost estimate for the Project based on the completed drawings and specifications.

1.2.4. Prepare proposal forms and notice to bidders and assist in the preparation of the Contract Documents.

1.2.5. Furnish ten copies of the contract documents consisting of construction agreement form, general conditions, special provisions, detailed construction drawings and technical provisions.

1.2.6. Provide three standard core borings, probings or subsurface explorations; hydrographic surveys; laboratory testing and inspection of samples or materials for building foundation design.

### 1.3 Construction Phase

During the construction phase the ENGINEER will:

1.3.1. Assist the OWNER in obtaining and evaluating bids and awarding a contract for the construction of the Project.

1.3.2. Provide on-site periodic observation services as the ENGINEER deems necessary to observe the progress and quality of the executed work and to determine in general if the work is proceeding in accordance with the Contract Documents; he will not be responsible for the techniques and sequences of construction or the safety precautions incident thereto; and during such visits and on the basis of his on-site observations as an experienced and qualified design professional, he will keep the OWNER informed of the progress of the work, will endeavor to guard the OWNER against defects and deficiencies in the work of the Contractor, and may disapprove work as failing to conform to the Contract Documents. The ENGINEER is not responsible for testing or inspection of materials other than that which may be required at the site of the work.

1.3.3. Set construction stakes to establish line and grade of the work to such extent as to control and reference the construction, but not to such an extent as to transfer such line and grades to the Contractor's batter boards, laser, forms and excavated areas.

1.3.4. Review shop drawings, diagrams, illustrations, catalog data, schedules and samples, the results of tests and inspections and other data which the Contractor is required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents; and assemble maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection as required by the Contract Documents.

1.3.5. Consult and advise with the OWNER; act as the OWNER's representative; issue all instructions of the OWNER to the Contractor; prepare routine change orders as required; whenever he considers it necessary or advisable to insure the proper carrying out of the intent of the Contract Documents, he may, as the OWNER's representative, direct the Contractor to stop the work or require special examination or testing of the work (whether or not fabricated, installed or completed); he will act as interpreter of the terms and conditions of the Contract Documents and judge of the performance thereunder.

1.3.6. Based on his on-site observations as an experienced and qualified design professional and on his review of the Contractor's applications for payment, and supporting data determine the amount owing to the Contractor and approve in writing payment to the Contractor in such amounts; such approvals of payment to constitute a representation to the OWNER, based on such observations and review, that the work has progressed to the point indicated and that, to the best of his knowledge, information and belief, the quality of the work is in accordance with the Contract Documents, subject to the results of any subsequent test called for in the Contract Documents and any qualifications stated in his approval.

1.3.7. Conduct, in the company with the OWNER, a final inspection of the Project for conformance with the design concept of the Project and compliance with the information given by the Contract Documents, and approve in writing final payment to the Contractor.

1.3.8. Revise the contract drawings to reflect the changes made during construction as furnished to the ENGINEER and to represent graphically the locations of the improvements and although the drawings are not warranted as to their accuracy, the location of the improvements shown can be found within reasonable tolerance.

1.3.9. Through the on-site observations of the work in progress and field checks of materials and equipment the ENGINEER will endeavor to provide protection for the OWNER against defects and deficiencies in the work.

1.3.10. Provide final closeout documentation required by the Illinois Environmental Protection Agency Low Interest Loan Program.

## SECTION 2 - ADDITIONAL SERVICES OF THE ENGINEER

### 2.1 General

If authorized in writing by the OWNER, the ENGINEER will furnish or obtain from others additional services of the following types which will be paid for by the OWNER as indicated in subsection 5.1.3.

2.1.1. Furnishing non-standard or additional core borings, probings or subsurface explorations; hydrographic surveys; laboratory testing and inspection of samples or materials; and other special consultation.

2.1.2. Assist the OWNER's Attorney in the preparation of parcel descriptions and parcel drawings for land acquisition and easements for all parcels requiring easements.

2.1.3. Additional services due to significant changes in general scope of the Project or its design including, but not limited to, changes in size, complexity, or character of construction.

2.1.4. Revising previously approved studies, reports, design documents, drawings or specifications.

2.1.5. Preparing documents for alternate bids requested by the OWNER for work which is not executed.

2.1.6. Preparing detailed renderings, exhibits or scale models for the Project.

2.1.7. Furnishing additional copies of reports and additional prints of drawings and specifications.

2.1.8. Investigations involving detailed consideration of operations, maintenance and overhead expenses; and the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations; detailed quantity surveys of material and labor; and material audits or inventories required for certification of force account construction performed by OWNER.

- 2.1.9. Preparing special change orders requested by the OWNER.
- 2.1.10. Making an inspection of the Project prior to expiration of the guarantee period and reporting observed discrepancies under guarantees provided by the construction contract.
- 2.1.11. Furnishing the OWNER, on request, a set of reproducible record prints of drawings showing those changes made during the construction process, based on the marked up prints, drawings and other data furnished by the Contractor to the ENGINEER and which the ENGINEER considers significant.
- 2.1.12. Additional or extended services during construction made necessary by: (1) work damaged by fire or other cause during construction; (2) prolongation of the construction contract time by more than 25%; (3) acceleration of the work schedule involving services beyond normal working hours; and (4) contract default due to delinquency or insolvency.
- 2.1.13. Extensive assistance in the initial start-up and test operation of equipment or systems and the preparation of manuals of operation and maintenance.
- 2.1.14. Additional services and costs necessitated by out of town travel required of the ENGINEER other than visits to the Project as required by Section 1.
- 2.1.15. Serving as an expert witness for the OWNER in any litigation or other proceeding involving the Project.
- 2.1.16. Additional services in connection with the Project not otherwise provided for in this Agreement.
- 2.1.17. Provide Technical Assistance to the OWNER for completing all forms and miscellaneous documents for obtaining a low interest loan from the Illinois Environmental Protection Agency.

### SECTION 3 - THE OWNER'S RESPONSIBILITIES

The OWNER will:

- 3.1. Provide full information as to his requirements for the Project.
- 3.2. Assist the ENGINEER by placing at his disposal all available information pertinent to the site of the Project including previous reports and any other data relative to design and construction of the Project.
- 3.3. Guarantee access to and make all provisions for the ENGINEER to enter upon public and private lands as required for the ENGINEER to perform his work under this Agreement.
- 3.4. Examine all studies, reports, sketches, estimates, specifications, drawings, proposals and other documents presented by the ENGINEER and shall render in writing decisions pertaining thereto within a reasonable time so as not to delay the work of the ENGINEER.
- 3.5. Advertise for Proposals from bidders, open the proposals at the appointed time and place, and pay for all costs incident thereto.

3.6. Provide such legal, accounting and insurance counseling services as may be required for the Project.

3.7. Designate in writing a person to act as OWNER's representative with respect to the work to be performed under this Agreement, and such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to materials, equipment elements and systems pertinent to the work covered by this Agreement.

3.8. Give prompt written notice to the ENGINEER whenever the OWNER observes or otherwise becomes aware of any defect in the Project.

3.9. Obtain approval of all governmental authorities having jurisdiction over the Project and such approvals and consents from such other individuals or bodies as may be necessary for completion of the Project.

3.10. Furnish, or direct the ENGINEER to provide at the OWNER's expense, necessary additional services as stipulated in Section 2 of this Agreement, or other services as required.

3.11. To furnish the ENGINEER with a description of and the names of owners and lien holders of property adjacent to the proposed improvement, where such data is needed for the preparation of plans and/or right of way or easement plats.

#### SECTION 4 - PERIOD OF SERVICE

4.1. Unless sooner terminated as provided in Section 6.1, this Agreement shall remain in force: (1) for a period which may reasonably be required for the design, award of contracts and construction of the Project, including extra work and any required extension thereto; or (2) in case construction is not commenced, for a period of 12 months after the completion of any phase of the work.

4.2. The Agreement shall be complete 120 days from the date of the construction contractor's final date of contract completion.

#### SECTION 5 - PAYMENTS TO THE ENGINEER

5.1. The OWNER will pay the ENGINEER for the services performed as follows:

5.1.1. For all work under the Design Phase, the OWNER shall pay the ENGINEER, a lump sum fee of \$325,000. Such basic fee shall be due and payable as follows:

Monthly during the design phase of the ENGINEER's work, he shall be paid an amount equal to an amount computed by multiplying the percentage of work performed by the lump sum fee. From the partial payments thus computed each month, there shall be deducted all previous partial fee payments made to the ENGINEER.

The balance of the design phase fee will become due and payable upon the presentation of the ENGINEER's statement upon completion of the awarding of the contracts for this Project.

5.1.2. For all work under the Construction Phase of the Project, the OWNER shall pay the ENGINEER an amount equal to the established billing rates of the ENGINEER — Billing Rate being defined herein as payroll, social security, retirement deductions, unemployment tax, insurance overhead and profit. In addition, all materials and out-of-pocket expenses shall be paid at their actual cost to the ENGINEER; that payment for such services will be made monthly to the ENGINEER during the course of the ENGINEER's work, upon his submission to the OWNER of an itemized statement showing such time, rates and employees' names.

5.1.3. For "Additional Services" performed:

5.1.3.1. By personnel assigned to the regularly established office of the ENGINEER, an amount equal to the established billing rates of the ENGINEER as defined in subsection 5.1.2 above.

5.1.3.2. In connection with administering sub-contracts for services by others than described in 5.1.3.1 ante, an amount equal to the actual costs billed to the ENGINEER, plus 5% to cover overhead and handling.

5.1.3.3. In addition, all materials and out-of-pocket expenses shall be paid at their actual cost to the ENGINEER; that payment for such services will be made monthly to the ENGINEER during the course of the ENGINEER's work, upon his submission to the OWNER of an itemized statement showing such time, rates and employees' names.

5.1.4. As per Section 2.1, the OWNER authorizes the ENGINEER to perform the work as detailed below. The authorized work is estimated to be \$630,000 and work will not be performed in excess of this amount without prior authorization by the OWNER. The estimated cost breakdown is as follows:

Water Rate Study	\$ <u>5,000</u>
Design	<u>325,000</u>
Easements/Property Acquisition	<u>10,000</u>
Bidding/Award	<u>10,000</u>
Construction Observation	<u>280,000</u>
TOTAL	<u>\$630,000</u>

## 5.2 General

5.2.1. If any portion of the Project is not bid or put under contract for a period of 6 months after completion of the design phase, the ENGINEER's compensation shall be in accordance with the third paragraph of subsection 5.1.1.

5.2.2. If this Agreement is terminated upon completion of any phase of the ENGINEER's services, the progress payments to be made in accordance with Section 5.1 on account of that and all prior phases shall constitute total payment for services rendered; if terminated during any phase of the work, the ENGINEER shall be paid for services performed during such phase on the basis of his reasonable estimate of the portion of such phase completed prior to termination.

5.2.3. If, prior to termination of this Agreement, any work designed or specified by the ENGINEER during any phase of the work is suspended in whole or in part for more than three months, or abandoned, after written notice from the OWNER, the ENGINEER shall be paid for services performed on account of it prior to receipt of such notice from the OWNER as provided in subsection 5.2.2 for termination during any phase of the work.

## SECTION 6 - GENERAL CONSIDERATIONS

### 6.1 Termination

This agreement may be terminated by the OWNER upon giving notice in writing to the ENGINEER at his last know post office address. Upon such termination, the ENGINEER shall cause to be delivered to the OWNER all drawings specifications partial and completed estimates and data, if any completed pursuant to the agreement up to date of termination with the understanding that all such material becomes the property of the OWNER. The ENGINEER shall be paid for any services completed and any services partially completed in accordance with Section 5.2 of PAYMENTS TO THE ENGINEER.

### 6.2 Indemnification

ENGINEER will indemnify and hold harmless the OWNER and its agents and employees from and against all claims, damages, losses and expenses, including attorney fees arising out of or resulting from the performance of the Engineering Services under this Agreement which is caused in whole or in part by any negligent or willful act or omission of the ENGINEER or anyone directly or indirectly employed by the ENGINEER or any one for whose acts the ENGINEER may be liable.

### 6.3 Estimates

Since the ENGINEER has no control over the cost of labor and materials, or over competitive bidding and market conditions, the estimates of construction cost provided for herein are to be made on the basis of his experience and qualifications but the ENGINEER does not guarantee the accuracy of such estimates as compared to the contractor's bids or the Project construction cost.

### 6.4 Insurance

The ENGINEER shall secure and maintain such insurance as will protect him from claims under the Workmen's Compensation Acts and from claims for bodily injury, death, or property damage which may arise from the performance of his services under this agreement. ENGINEER shall cause the OWNER to be named as an additional insured on such coverage.

GENERAL LIABILITY	
EACH OCCURRENCE	\$ 1,000,000
DAMAGE TO RENTED PREMISES	
EACH OCCURRENCE	\$ 300,000
MED EXP (Any one person)	\$ 5,000
PERSONAL & ADV INJURY	\$ 1,000,000
GENERAL AGGREGATE	\$ 3,000,000
PRODUCTS – COMP/OP AGG	\$ 3,000,000
AUTOMOBILE LIABILITY	\$ 1,000,000
UMBRELLA LIABILITY	
EACH OCCURRENCE	\$ 3,000,000
AGGREGATE	\$ 3,000,000
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	
E.L. EACH ACCIDENT	\$ 1,000,000
E.L. DISEASE – EA EMPLOYEE	\$ 1,000,000
E.L. DISEASE – POLICY LIMIT	\$ 1,000,000

## 6.5 Successors and Assigns

The OWNER and the ENGINEER each binds himself and his partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the OWNER nor the ENGINEER shall assign, sublet or transfer his interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

## 6.6 Audit and Access to Records

6.6.1. The ENGINEER agrees to include subsections 6.6.2 through 6.6.5 below in all his contracts and all subcontracts directly related to project performance, which are in excess of \$25,000.

6.6.2. The ENGINEER shall maintain books, records, documents and other evidence directly pertinent to performance of Agency grant work under this agreement consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards (666 Fifth Avenue, New York, New York 10019; June 1, 1987). The local agency shall have access to such books, records, documents and other evidence for the purpose of inspection, audit and copying. The ENGINEER will provide facilities for such access and inspection.

6.6.3. Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards.

6.6.4. The ENGINEER agrees to the disclosure of all information and reports resulting from access to records pursuant to subsection 6.6.2 above, to the Agency. Where the audit concerns the ENGINEER, the auditing agency will afford the ENGINEER an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties.

6.6.5. Records under subsection 6.6.2 above shall be maintained and made available during performance on Agency loan work under this agreement and until three years from date of final Agency loan audit for the project. In addition, those records which relate to any "dispute" appeal under an Agency loan agreement, or litigation, or the settlement of claims arising out of such performance, costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

## 6.7 Covenant Against Contingent Fees

The ENGINEER warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty, the loan recipient shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

## SECTION 7 - SPECIAL PROVISIONS

The OWNER and the ENGINEER mutually agree that this Agreement shall be subject to the following special provisions, which together with the provisions hereof and the exhibits hereto represent the entire Agreement between the OWNER and the ENGINEER; they may only be altered, amended or repealed by a duly executed written instrument.

All additions and deletions made in the printed words of this Agreement were so made prior to its execution by the parties hereto.

That the ENGINEER certifies that the services of anyone that has been debarred or suspended under the Federal Executive Order 12549 has not or will not be used for planning, design and construction work.

EQUAL EMPLOYMENT OPPORTUNITY: During the performance of work under this Agreement, the ENGINEER, for himself, his assignees and successors in interest agrees to conform to the requirements of the "Special Provisions for Fair Employment Practices" of the Illinois Department of Transportation. The words "contract" and "contractor" in the special provision shall be interpreted to mean "Agreement" and "ENGINEER" respectively.

### SUBAGREEMENT FOR PERSONAL AND PROFESSIONAL SERVICES

Evidence that affirmative steps have been taken, such as, but not limited to, a copy of the advertisement(s) and the record of negotiation in accordance with federal Executive Order 11625 and 12138, to assure that disadvantaged business enterprises are used when possible as sources of supplies equipment construction and services.

The ENGINEER agrees to take affirmative steps to assure that Disadvantaged Business Enterprises are utilized when possible as sources of supplies, equipment, construction and services in accordance with the Public Water Supply Loan Program rules. As required by the award conditions of USEPA's Assistance Agreement with IEPA, the Engineer acknowledges that the fair share percentage's are 5% for MBE's and 12% for WBE's.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement the day and year first above written.

OWNER:

ROCHELLE MUNICIPAL UTILITIES

BY: \_\_\_\_\_

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

ATTEST:

BY: \_\_\_\_\_

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

(SEAL)

ENGINEER:

WILLET, HOFMANN & ASSOCIATES, INC.

BY: Ronald J. Stenken

Title: PRESIDENT

ATTEST:

BY: Thomas W. Hove

Title: SECRETARY

(SEAL)



WILLETT HOFMANN  
& ASSOCIATES INC  
ENGINEERING ARCHITECTURE LAND SURVEYING

April 3, 2011  
(Revised)

GENERAL RATES FOR ENGINEERING SERVICES  
(FIELD AND OFFICE)

CLASSIFICATION OF EMPLOYEE	REGULAR HOURLY RATE		OVERTIME RATE
	From	To	
Engineering Manager II	\$123.00	\$172.00	Regular Rate
Engineering Manager I	\$109.00	\$151.00	Regular Rate
Civil Engineer IV	\$100.00	\$142.00	Regular Rate
Civil Engineer III	\$79.00	\$124.00	Regular Rate
Civil Engineering Intern II	\$70.00	\$101.00	Regular Rate
Civil Engineering Intern I	\$64.00	\$83.00	Regular Rate
Architect IV	\$103.00	\$142.00	Regular Rate
Architect III	\$88.00	\$124.00	Regular Rate
Architectural Intern II	\$70.00	\$101.00	Regular Rate
Architectural Intern I	\$59.00	\$83.00	Regular Rate
Prof Land Surveyor Manager	\$79.00	\$121.00	Regular Rate
Prof. Land Surveyor IV	\$73.00	\$110.00	Regular Rate
Prof. Land Surveyor III	\$64.00	\$101.00	Regular Rate
Prof. Land Surveyor (SIT) II	\$59.00	\$83.00	Regular Rate
Prof. Land Surveyor (SIT) I	\$50.00	\$71.00	Regular Rate
Technician IV	\$61.00	\$92.00	1.3 x Regular Rate
Technician III	\$56.00	\$83.00	1.3 x Regular Rate
Technician II	\$50.00	\$71.00	1.3 x Regular Rate
Technician I	\$44.00	\$62.00	1.3 x Regular Rate
Survey Party Chief	\$59.00	\$98.00	1.3 x Regular Rate
Instrument Operator	\$44.00	\$65.00	1.3 x Regular Rate
Administrative Assistant	\$35.00	\$68.00	1.3 x Regular Rate
Expenses and Materials	At Cost		

The above hourly rates shall be applicable for a period of one year from the date hereon, after which time they shall be subject to adjustments to reflect payroll cost.

Generally field crews work a nine-hour day, which involves an hour of overtime each day. The rates for field personnel apply office to office exclusive of the lunch period.



EPA Project Control Number

United States Environmental Protection Agency  
Washington, DC 20460

**CERTIFICATION REGARDING  
DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The prospective participant certifies to the best of its knowledge and belief that it and the principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from coverage by any department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction: violation of Federal, State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated or cause or default.

I understand that a false statement on this certification may be ground for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine up to \$10,000 or imprisonment for up to 5 years, or both.

Ronald J. Steenken, President and General Manager

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

February 6, 2012

Date

I am unable to certify to the above statements. My explanation is attached.