

**Williston Town Council
Special Called Meeting
December 3, 2020
5:30 PM**

Minutes:

Notice of this meeting was posted at the Williston Town Hall and provided to The People Sentinel newspaper at least 24 hours in advance of the meeting in accordance with the S.C. Freedom of Information Act.

Members of Council present: Councilwoman Tyler, Councilman Moody, Councilman Valentine, Mayor Pro-Tem Williams

Members of Council absent: Councilman Odermatt and Councilwoman Neville

The Acting Town Clerk recorded the minutes for the meeting.

Acting Mayor Williams called for everyone's attention and welcomed everyone to the meeting.

Councilman Moody gave the invocation.

Councilman Valentine led the Pledge of Allegiance.

Acting Mayor Williams called the regular meeting to order, stated that a quorum of Council was present and welcomed everyone to the meeting.

Councilman Moody made a motion to accept the agenda. Councilwoman Tyler seconded the motion. All in favor.

Approval of Addendum to Kennedy Contract –

Mr. Cook stated that the Kennedy family needs a little more time to remove their personal property from the premises. He stated that the pandemic has made it more difficult than usual for estate sales and many of the companies that do them are behind schedule as a result. He stated that he is asking council to approve the addendum to allow the family to have through February 28, 2021 to remove their personal belongings.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BARNWELL.)

ADDENDUM TO
CONTRACT TO BUY AND
SELL REAL ESTATE

The Parties hereto agree to amend original Contract to extend the date of possession from December 15, 2020 through February 28, 2021.

The Parties further agree that the Town of Williston shall have no responsibility of liability for personal property of the Seller left on the premises from date of closing to date of possession. It is further understood and agreed that the Town of Williston will not maintain insurance of any kind on personal property left on the premises past December 15, 2020.

THIS IS A LEGALLY BINDING AGREEMENT. BOTH BUYER AND SELLER SHALL SEEK FURTHER ASSISTANCE IF THE CONTENTS ARE NOT UNDERSTOOD. BUYER AND SELLER ACKNOWLEDGE RECEIVING, READING AND UNDERSTANDING THIS AGREEMENT.

In Witness Whereof, this Agreement has been duly executed by the parties.

THE TOWN OF WILLISTON

Buyer Brett Williams, Mayor Pro Tem

Date: _____

Witness

Date: _____

Witness

Date: _____

Seller Jean Kennedy Killey

Date: _____

Witness

Date: _____

Witness

Date: _____

Councilman Valentine made a motion to approve the addendum to the Kennedy contract. Councilwoman Tyler seconded the motion.

Councilman Moody suggested to Mr. Cook that he recommend the Kennedy family look at Chavis Auction House in Williston. Mr. Cook stated that he would.

All in favor.

Approval of Engineer on RIA Grant Project –

Mr. Cook stated that this is similar to the request for approval from the November meeting. The difference is this approval is for the Rural Infrastructure Authority (RIA) Grant. He stated that the Turnipseed firm has done a tremendous job with the preliminary work. He stated that as with the Community Development Block Grant the fees would be roughly 12% of the total grant instead of the 16% that was paid to the last firm. Mr. Cook stated that the Turnipseed Engineer group has been very responsive to the town's needs and he recommends the approval to use them for the RIA Grant #R-21-1279.

AGREEMENT

PART I - ENGINEERING SERVICES

THIS AGREEMENT made as of the ____ day of _____ in the year Two Thousand and Twenty between the **TOWN OF WILLISTON, SOUTH CAROLINA** (hereinafter called the OWNER), and **G. BEN TURNIPSEED ENGINEERS, INC.** (hereinafter called the ENGINEER).

WITNESSETH, that whereas the OWNER intends to engage the ENGINEER to provide engineering services in connection with Rural Infrastructure Authority (RIA) **WATER SYSTEM IMPROVEMENTS** (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 – PRELIMINARY ENGINEERING REPORT

- A. Assist the Town with project scope selection to maximize engineering feasibility and application competitiveness.
- B. Prepare a Preliminary Engineering Report to support the project that includes a description of the existing infrastructure, recommendation of improvements, a detailed cost analysis, consideration of alternatives, a project schedule and an overview of the required operation and maintenance of the improvements.
- C. Prepare a Project Report Map to be used by your grant administrator during the application process.

END OF SECTION 1

SECTION 2 - BASIC SERVICES OF THE ENGINEER

A. General

1. The ENGINEER agrees to perform professional services in connection with the Project as hereinafter stated.
2. The ENGINEER shall serve as the OWNER'S professional engineering representative in those phases to which this Agreement applies and will give consultation and advice to the OWNER during the performance of his services.
3. The ENGINEER shall prepare plans and specifications necessary for the proposed improvements. Water System Improvements as outlined in the Preliminary Engineering Report from Section 1.
4. The ENGINEER shall conduct a field survey of the Project area locating all known underground utilities within the limits of construction. All locations of underground or surface facilities of the Project area shall be confirmed by the OWNER.
5. The ENGINEER shall prepare plans and specifications showing all pertinent topo, grades as required and complete construction details of proposed improvements.
6. The ENGINEER shall contact a representative of the OWNER for an on-site inspection of the areas of construction to establish the preliminary location and requirement of the proposed improvements.
7. In the advanced stage of design, the ENGINEER shall submit to the OWNER, working drawings for review and approval. The ENGINEER shall schedule on-site or design review conferences as necessary to resolve any problems.
8. Coordinate all subsurface soils investigations to be performed by others.

B. Final Design Phase

1. Prepare for incorporation in the Contract Documents, detailed drawings and plans to show the character and scope of the work to be performed by contractors on the Project (hereinafter called the Drawings, and instruction to bidders, general conditions, special conditions and technical provisions hereinafter called the Specifications).
2. Secure approval of such governmental authorities as have jurisdiction over design criteria applicable to the Project.
3. Prepare proposal forms and notice to bidders.
4. Furnish five (5) copies of the Drawings and Specifications in final form.

C. Bidding or Negotiating Phase

1. Assist the OWNER in obtaining and evaluating bids or negotiating proposals and prepare the Contract Documents with the assistance of the OWNER.
2. Consult with the OWNER concerning and participate in all decisions as to the acceptability of subcontractors and other persons and organizations proposed by the general contractor for those portions of the work as to which such acceptability is required by the bidding documents.

D. Construction Phase

The construction phase will commence with the award of the construction contract and will terminate upon written approval of final payment by the ENGINEER. During the construction phase, the ENGINEER will:

1. Make periodic visits to the site 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 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 or reject work as failing to conform to the Contract Documents.
2. Issue all instructions of the OWNER to the Contractor, prepare routine change orders as required, act as interpreter of the terms and conditions of the Contract Documents and judge of the performance thereunder by the OWNER and the Contractor and will make decisions on all claims of the OWNER and the Contractor relating to the execution and progress of the work and all other matters and questions related thereto.
3. Based on his on-site observations 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.
4. Conduct an inspection to determine if the Project is substantially complete and a final inspection to determine if the Project has been completed in accordance with the Contract Documents and the Contractor has fulfilled all of his obligations thereunder so that the ENGINEER may approve in writing final payment to the Contractor.

5. The ENGINEER shall not supervise, direct or have control over the work being performed by the Contractor. The ENGINEER shall not be responsible for the means, methods or procedures used by the Contractor for construction, for safety on the site, for safety precautions, nor for Contractor's failure to comply with Laws and Regulations relating to construction of the work.
6. The ENGINEER shall not be responsible for the acts or omissions of the Contractor, any subcontractor or any of the Contractor's or subcontractor's agents or employees or any other person performing any of the work under the Construction contract.

E. Periodic Construction Observation

The ENGINEER shall furnish one Project Inspector who will be directed by the ENGINEER in order to provide more extensive representations at the Project site during the construction phase.

Through the on-site observations of the work in progress and field checks of materials and equipment by the Project Inspector, the ENGINEER will endeavor to provide further protection for the OWNER against defects and deficiencies in the work, but the furnishing of such Project Inspector shall not make the ENGINEER responsible for the Contractor's failure to perform the construction work in accordance with Contract Documents.

END OF SECTION 2

SECTION 3 - ADDITIONAL SERVICES

- A. Court Appearance
Court appearances, testifying or other substantiation of the results obtained under this project.
- B. Changes in Design
Any changes in design requested by the OWNER.
- C. Boundary Survey
If property boundaries and right-of-way cannot be determined during field survey satisfactory to the ENGINEER, services from a licensed surveyor will be utilized as selected and contracted by the OWNER.
- D. Easements
Coordination of easement plat preparation and assistance with obtaining easements including meeting with OWNER, property owner, appraiser, or attorney to obtain the easements. Preparation of easement plats shall be by a licensed surveyor selected and contracted by the OWNER.
- E. Environmental Studies, Reports and Permitting
Preparation of environmental study and reports, meetings regarding study and report, and submittal of study and reports required by the DHEC or DOT to construct the improvements. Coordinate well water samples to be analyzed by a DHEC approved laboratory for design of the filtration system. Preparation of application to obtain buffer variances, and highway and railroad permits, as required.
- F. NPDES Stormwater Permitting and Monitoring Plan
Preparation of stormwater pollution prevention plan (SWPPP) and permits, meetings concerning plans and permits and submittal of plans and permits required to construct the improvements. Preparation of Notice of Intent (NOI) and Notice of Termination (NOT).

END OF SECTION 3

SECTION 4 - THE OWNER'S RESPONSIBILITIES

The OWNER will:

- A. Provide full information as to his requirements for the particular Project.
- B. 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.
- C. Furnish to ENGINEER, as required for performance of ENGINEER's Basic Services, data prepared by or services of others, including without limitation, layout of proposed buildings, grading plans, site plans, core borings, probings, and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment tests, inspections and reports regarding hazardous materials, toxic wastes and any other type of pollutant; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic and utility surveys; property descriptions; zoning, deed and other land use restrictions; and other special data or consultations not covered in Section 1; all of which ENGINEER may rely in performing his services.
- D. Designate in writing a person to act as OWNER'S representative with respect to the services to be rendered under this Agreement. 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 ENGINEER'S services.
- E. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER'S services, or any defect in the work of Contractor(s).
- F. 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.
- G. 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.
- H. Advertise for proposals from bidders, open the proposals at the appointed time and place and pay for all cost's incidental thereto.
- I. If any Project involves more than one general contract or separate construction contracts for different building trades or separate equipment contracts, ensure that the General Conditions of all such contracts are substantially identical.

END OF SECTION 4

SECTION 5 - PAYMENT TO THE ENGINEER

A. Payments for Services of the Engineer

1. The OWNER will pay ENGINEER for basic services performed under Section 1, a lump sum fee of: **NO CHARGE**
2. The OWNER will pay ENGINEER for basic services performed under Section 2 for design, bidding and construction phases a fee based on:

Total construction cost times 9.0%

3. Under Section 2, Item E, the OWNER shall pay the ENGINEER for periodic construction observation based on:

Total construction cost times 3.0%

4. Under Section 3, Items A through F will be paid based on payroll cost times 1.7124 plus non-salary costs times 10%. Mileage will be at \$0.58/per mile.

B. Methods and Times of Payment

Payments on account of said fee for Basic Services shall be made as follows:

1. Progress payments shall be made monthly in proportion to services performed. The statements shall be based upon the ENGINEER'S estimate of the proportion of the total services actually completed at the time of billing. The compensation for basic services shall amount to the following percentage of the total fee at completion of each phase of work:
 - a. Final Design Phase 75 percent.
 - b. Bidding or Negotiating Phases 10 percent.
 - c. Construction Phase 15 percent.
2. Times of Payments. The ENGINEER shall submit monthly statements for Basic and Additional Services rendered and for Reimbursable Expenses incurred. OWNER shall make prompt monthly payments in response to ENGINEER'S monthly statements.
3. Other Provisions Concerning Payments
 - a. If OWNER fails to make any payments due ENGINEER for services and expenses within sixty (60) days after receipt of ENGINEER'S bill thereof, the amounts due ENGINEER shall include a charge at the rate of 1.5% per month from said sixtieth day, and in addition, ENGINEER may, after giving seven (7) days written notice to OWNER, suspend services under this

Agreement until he has been paid in full all amounts due him for services and expenses.

- b. In the event of termination by OWNER under PART II paragraph 1 upon completion of any phase of the Basic Services, progress payments due ENGINEER for services rendered through such phase shall constitute total payment for such services. In the event of termination by OWNER during any phase of the Basic Services, ENGINEER will be paid for services rendered during that phase on the basis of Payroll Costs times a factor of 2.15 for services rendered during that phase to date of termination by principals and employees assigned to the Project. In the event of any such termination, ENGINEER will be paid for all unpaid Additional Services and unpaid Reimbursable Expenses, plus all termination expenses. Termination expenses mean Reimbursable Expenses directly attributable to termination, which shall include an amount computed as a percentage of total compensation for Basic Services earned by ENGINEER to the date of termination, as follows:
- 20% if termination occurs after commencement of the Preliminary Design Phase but prior to commencement of the Final Design Phase; or
 - 10% if termination occurs after commencement of the Final Design Phase.

END OF SECTION 5

SECTION 6 - TIME OF PERFORMANCE

A. Basic Services

1. The Final Design Phase shall be completed by the ENGINEER within 180 calendar days after the date of execution of this Agreement and a Notice-to-Proceed from the OWNER to the ENGINEER.
2. The Bidding or Negotiating Phase shall be completed within 90 calendar days after the Final Design Phase has been completed or at such time all permits are approved and the Town has obtained the necessary easements.

B. Extensions of Time

The times indicated may be extended from time to time by the OWNER for causes beyond the control of either the ENGINEER or the OWNER. Should the ENGINEER require extensions of time for reasons satisfactory to the OWNER, request for such extensions shall be made by the ENGINEER promptly following the discovery of such need and in no event less than ten (10) days prior to the end of the times indicated above. All requests by the ENGINEER for extension of time and all extensions granted by the OWNER shall be in writing.

END OF SECTION 6

SECTION 7 - GENERAL CONSIDERATIONS

A. Ownership of Drawings and Documents

It is understood that the ENGINEER is preparing documents for specific installations, rather than standard documents for repetitive multiple use. Therefore, all documents, including original drawings, estimates, specifications, field notes and data are and remain the property of the ENGINEER as instruments of service. The OWNER may obtain, upon payment of fees due the ENGINEER, reproducible copies of Drawings, and copies of other documents, in consideration of which it is mutually agreed that the OWNER will use them solely in connection with the Project, and shall not authorize their use on other projects, except by written agreement with the ENGINEER.

B. Estimates

Since the ENGINEER has no control over the cost of labor, material or equipment, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, the estimates of construction cost provided for herein are to be made on the basis of his experience and qualifications and represent his best judgement as a design professional familiar with the construction industry, but the ENGINEER cannot and does not guarantee that bids or the Project construction cost will not vary from cost estimates prepared by him.

C. Insurance

The ENGINEER shall secure and maintain such insurance as will protect him from claims under the Workman'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.

END OF SECTION 7

SECTION 8 - TERMS AND CONDITIONS

This Agreement is subject to and incorporates the provisions attached hereto as PART II - TERMS AND CONDITIONS.

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

TOWN OF WILLISTON, SOUTH CAROLINA

ATTEST:

BY: _____
Brett Williams

TITLE: Mayor Pro-Tem

WITNESSED:

DATE: _____

(Seal)

G. BEN TURNIPSEED ENGINEERS, INC.

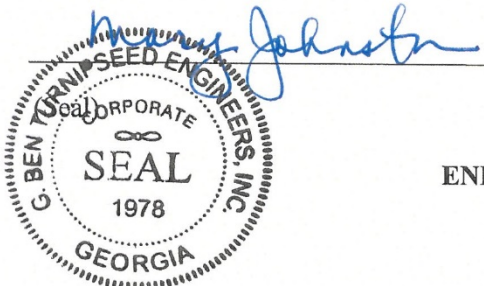
ATTEST:

BY: Kenneth E. Green
Kenneth E. Green, P.E.

TITLE: President

WITNESSED:

DATE: 12/2/20



END OF SECTION 8

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AGREEMENT

PART II - TERMS AND CONDITIONS

1. Termination of Agreement for Cause

If, through any cause, the ENGINEER shall fail to fulfill in timely and proper manner his obligation under this Agreement, or if the ENGINEER shall violate any of the covenants, agreements, or stipulations of this Agreement, the OWNER shall thereupon have the right to terminate this Agreement by giving written notice to the ENGINEER of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the ENGINEER under this Agreement shall, at the option of the OWNER, become its property and the ENGINEER shall be entitled to receive just and equitable compensation of any work satisfactorily completed hereunder.

Notwithstanding the above, the ENGINEER shall not be relieved of liability to the OWNER for damages sustained by the OWNER by virtue of any breach of the Agreement by the ENGINEER, and the OWNER may withhold any payments to the ENGINEER for the purpose of set-off until such time as the exact amount of damages due the OWNER from the ENGINEER is determined.

2. Termination for Convenience of the OWNER

The OWNER may terminate this Agreement at any time by giving at least ten (10) days notice in writing to the ENGINEER. If the Agreement is terminated by the OWNER as provided herein, the ENGINEER shall be paid for the time provided and expenses incurred up to the termination date. If this Agreement is terminated due to the fault of the ENGINEER, Paragraph 1 hereof relative to termination shall apply.

3. Changes

The OWNER may, from time to time, request changes in the scope of the services of the ENGINEER to be performed hereunder. Such changes, including any increase or decrease in the amount of the ENGINEER'S compensation, which are mutually agreed upon by and between the OWNER and the ENGINEER, shall be incorporated in written amendments to this Agreement.

4. Personnel

- (a) The ENGINEER represents that he has or will secure at his own expense all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the OWNER.

- (b) All of the services required hereunder shall be performed by the ENGINEER or under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
- (c) None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the OWNER. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.

5. Assignability

The ENGINEER shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the OWNER thereto: Provided, however, that claims for money by the ENGINEER from the OWNER under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the OWNER.

6. Reports and Information

The ENGINEER, at such times and in such forms as the OWNER may require, shall furnish the OWNER such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

7. Records and Audits

The ENGINEER shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the OWNER to assure proper accounting for all project funds, both Federal and non-Federal shares. These records will be made available for audit purposes to the OWNER or any authorized representative and will be retained for three years after the expiration of this Contract unless permission to destroy them is granted by the OWNER.

8. Findings Confidential

All of the reports, information, data, etc., prepared or assembled by the ENGINEER under this Agreement are confidential and the ENGINEER agrees that they shall not be made available to any individual or organization without the prior written approval of the OWNER.

9. Copyright

No report, maps or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the ENGINEER.

10. Compliance with Local Laws

The ENGINEER shall comply with all applicable laws, ordinances and codes of the State and local governments, and the ENGINEER shall save the OWNER harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.

**END OF PART II
TERMS AND CONDITIONS**

Councilman Moody made a motion to approve Turnipseed Engineers for the RIA Grant #R-21-1279. Councilman Valentine seconded the motion. All in favor.

Special Recognition –

Acting Mayor Williams asked Mr. Jamie Wootten to come to the front. He stated that Mr. Wootten has been an integral part of the Williston Community for the last fifteen years. He stated that Mr. Wootten was there to be recognized for heading up the Drive-Through Trunk or Treat, but that Mr. Wootten has also been named the Citizen of the Year for 2020. Acting Mayor Williams listed several ways that Mr. Wootten has helped Williston during that time. He stated that there is a Proclamation, but he wanted to go down to the Town Christmas Tree to read it and let Mr. Wootten light the tree.

Mayor's Report -

Acting Mayor Williams stated that council needed to come up with how they were going to be in the Christmas Parade on December 13th. It was suggested that they ride on the fire trucks again this year. It was also suggested that they ride in golf carts.

Acting Mayor Williams stated that he would speak with Fire Chief Melton and see if the fire trucks would be available.

Councilman Valentine made a motion to adjourn. Councilwoman Tyler seconded the motion. All in favor.

The meeting adjourned at 5:50 PM.

TOWN OF WILLISTON, SOUTH CAROLINA

Billy W. Williams, III, Interim Mayor

ATTEST:

Angela S. Overton, Acting Town Clerk