

VILLAGE OF WARRENSBURG, ILLINOIS

ORDINANCE NO.743

**AN ORDINANCE AUTHORIZING AND APPROVING
AGREEMENT FOR PROFESSIONAL SERVICES
WITH CHASTAIN & ASSOCIATES, LLC**

**ADOPTED BY THE
BOARD OF TRUSTEES
OF THE VILLAGE OF WARRENSBURG**

this 16th DAY OF DECEMBER, 2019

Published in pamphlet form by the authority of
the Board of Trustees of
the Village of Warrensburg, Macon County, Illinois,
this 16th day of December, 2019

ORDINANCE NO. 743

**AN ORDINANCE AUTHORIZING AND APPROVING
AGREEMENT FOR PROFESSIONAL SERVICES
WITH CHASTAIN & ASSOCIATES, LLC**

WHEREAS, the Village of Warrensburg ("Warrensburg") has identified the need for engineering and surveying services in connection with the proper administration of Warrensburg; and

WHEREAS, the exact quantities and scope of services required is subject to change based upon projects, complexity, and staff time restraints; and

WHEREAS, the Local Government Professional Services Selection Act, 50 ILCS 510/0.01, allows Warrensburg to waive the requirement of hiring an engineering and surveying firm on the basis of evaluations, discussions and presentations based upon a satisfactory relationship between Warrensburg and the engineering firm; and

WHEREAS, Warrensburg already has a satisfactory relationship with Chastain & Associates, LLC, based upon the provision of past services and a long relationship with engineers and supportive staff now affiliated with that firm; and

WHEREAS, Chastain & Associates has prepared a proposed Agreement for Professional Services which has been reviewed by Warrensburg and its legal counsel and it has been determined that it is advantageous for Warrensburg to enter into such an Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND TRUSTEES OF THE VILLAGE OF WARRENSBURG, ILLINOIS, MACON COUNTY, ILLINOIS:

Section 1:

The Agreement for Professional Services, a copy of which is attached hereto and made a part hereof, is hereby authorized and approved.

Section 2:

The President of the Board of Trustees and the Village Administrative Clerk be and are hereby authorized to execute the Agreement.

Section 3:

The Village Administrative Clerk of the Village of Warrensburg shall certify to the adoption of this Ordinance and shall cause it to be published in pamphlet form and this Ordinance shall take effect upon its approval and publication in pamphlet form as so certified.

AGREEMENT FOR PROFESSIONAL SERVICES

Municipal General Advisory Service Projects
Without a Predefined Scope of Engineering Services



MUNICIPALITY:
Village of Warrensburg
155 E Main Street
Warrensburg, Illinois 62573

ENGINEER:
Chastain & Associates LLC
5 N. Country Club Rd.
Decatur, Illinois 62521

This AGREEMENT is made and entered into this **16th day of December, 2019** between the above **MUNICIPALITY** and **ENGINEER** and covers certain professional engineering and surveying services in connection with the **ANNUAL PROFESSIONAL SERVICES AGREEMENT** project.

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ARTICLES

1. ENGINEER'S RESPONSIBILITIES

1.1. The Engineer shall provide the Municipality with various professional engineering and surveying services as set forth in this Agreement. The Engineer represents that it is properly licensed in the jurisdiction where the Municipality is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

1.1.1. Upon request of services by the Municipality, the Engineer shall prepare and submit a cost estimate for professional services for each Project after the scope of work has been determined. The estimate shall include an estimated fee for the Project and an estimate of any reimbursable expenses likely to be incurred. The estimate may be updated periodically to reflect changes to the scope of work.

1.1.2. Authorizations required for Professional Services shall be as follows:

1.1.2.1. Tier 1: By verbal means for Projects estimated to be **\$500.00** or less.

1.1.2.2. Tier 2: By task order for Projects estimated to be greater than **\$500.00** and less than **\$5,000.00**.

1.1.2.3. Separate written contracts shall be required for Projects estimated to be **\$5,000.00** or greater.

1.1.3. Only the following representatives of the Municipality may authorize requests for services:

Mr. Corey Maloney, Village President

1.1.4. The Engineer may begin work immediately upon receiving authorization as described in Article 1.1.2. from an authorized representative of the Municipality as established in Article 1.1.3.

- 1.2. The Engineer shall perform its services consistent with the professional skill and care ordinarily provided by engineers practicing in the same or similar locality under the same or similar circumstances. The Engineer shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.
- 1.3. The Engineer shall identify a representative authorized to act on behalf of the Engineer with respect to each Project.
- 1.4. Except with the Municipality's knowledge and consent, the Engineer shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Engineer's professional judgment with respect to the Projects.
- 1.5. The Engineer shall maintain Commercial General Liability, Automotive Liability, Workers' Compensation and Employers' Liability at or above statutory limits. Additional limits shall be furnished at the Municipality's expense.

2. MUNICIPALITY'S RESPONSIBILITIES

- 2.1. Unless otherwise provided for under this Agreement, the Municipality shall provide information in a timely manner regarding requirements for and limitations of each Project, including a written program which shall set forth the Municipality's objectives, schedule, constraints and criteria.
- 2.2. The Municipality shall identify a representative authorized to act on the Municipality's behalf with respect to each Project. Such representative shall render decisions and approve the Engineer's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Engineer's services.
- 2.3. The Municipality shall provide prompt written notice to the Engineer if the Municipality becomes aware of any fault or defect in the Projects, including errors, omissions or inconsistencies in the Engineer's Instruments of Service.
- 2.4. The Municipality shall advise the Engineer in writing of any confidential or proprietary information that is to be incorporated into any Projects.

3. MISCELLANEOUS PROVISIONS

- 3.1. The Engineer shall have the right to include photographic or artistic representations of the design of each Project among the Engineer's promotional and professional materials. The Engineer shall be given reasonable access to the completed Projects to make such representations. However, the Engineer's materials shall not include the Municipality's confidential or proprietary information if the Municipality has previously advised the Engineer in writing of the specific information considered by the Municipality to be confidential or proprietary. The Municipality shall provide professional credit for the Engineer in the Municipality's promotional materials for the Project.
- 3.2. If the Engineer or Municipality receives information specifically designated by the other party as "confidential" or "business proprietary", the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.
- 3.3. The Engineer and Municipality agree that if the design services do not include construction phase services, the Municipality shall be solely responsible for interpreting the Contract Documents and observing the work of the contractor(s) to discover, correct or mitigate

errors, inconsistencies or omissions. If the Municipality authorizes deviations, recorded or unrecorded, from the documents prepared by the Engineer, the Client shall indemnify and hold the Engineer, its agents and employees harmless from and against claims, losses, damages, and expenses, including but not limited to defense costs and the time of the Engineer, to the extent such claim, loss, damage or expense arises out of or results in whole or in part from such deviations, regardless of whether or not such claim, loss, damage or expense is caused in part by a party indemnified under this provision.

3.4. Opinions or estimates of probable construction costs are prepared on the basis of the Engineer's experience and qualifications and represent the Engineer's judgment as a professional generally familiar with the industry. However, since the Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, over contractor's methods of determining prices, or over competitive bidding or market conditions, the Engineer cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from the Engineer's opinions or estimates of probable construction costs.

4. SPECIAL TERMS AND CONDITIONS

4.1. The initial term of this Agreement, as of the Agreement date set forth above, and shall expire at the end of the current calendar year and shall thereafter automatically renew itself for successive one-year periods each unless either party gives written notice of its intention to terminate or amend the Agreement by giving fifteen (15) days prior written notice to the other party.

4.2. The Engineer's current Schedule of Rates shall be updated annually on January 1. Upon Municipality's request, an updated Schedule of Rates shall be provided to the Municipality.

5. SCOPE OF THE AGREEMENT

5.1. This Agreement represents the entire and integrated agreement between the Municipality and the Engineer and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Municipality and Engineer.

5.2. This Agreement is comprised of the following documents listed below:

This Instrument consisting of pages 1 through 4
Attachment A – Task Order Form
Attachment B – Terms and Conditions
Attachment C – Current Schedule of Rates
Attachment D – Current Insurance Certificate

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed in duplicate
Executed by the MUNICIPALITY:

ATTEST:	Village of Warrensburg
	155 E Main Street
	Warrensburg, Illinois 62573
Sign _____	Sign _____
By _____	By _____
Title _____	Title _____

Executed by the ENGINEER:

ATTEST:	Chastain & Associates LLC
	5 N. Country Club Rd.
	Decatur, Illinois 62521
Sign _____	Sign _____
By _____	By _____
Title _____	Title _____

TASK ORDER

MUNICIPALITY:
Village of Warrensburg
PO Box 350
Warrensburg, Illinois 62573

ENGINEER:
Chastain & Associates LLC
5 N. Country Club Rd.
Decatur, Illinois 62521

In accordance with the Agreement for Professional Services between the above **MUNICIPALITY** and **ENGINEER**, dated the _____ day of _____, _____ ("Agreement"), for various professional engineering and surveying services in connection with the **ANNUAL PROFESSIONAL SERVICES AGREEMENT** project, the Municipality and Engineer agree as follows:

PROVISIONS

- **Specific Project Data**
 - Title: {Insert Project Name here}
 - Description: {Insert Project Description here}
 - Fee Basis: Lump Sum Amount
 - Estimated Cost (figured on time and materials basis)
- **Services of Engineer**
 - The Engineer shall furnish or cause to be furnished the following services:
 - {Incorporate applicable text or paragraphs specifying Engineer's Scope of Service - either by reference or by insertion here}
- **Owner's Responsibilities**
 - The Owner shall have those responsibilities set forth in Article 2 of the Agreement, subject to the following:
{Insert any additions or modifications to Agreement for this Specific Project here}
- **Times for Rendering Services**
 - The Engineer shall complete the following Tasks by the following Completion Dates:
{Insert any completion dates for this Specific Project here}
- **Sub-consultants**
 - The following Sub-consultants will be required for the completion of this Project:
{Insert list of Engineering Sub-consultants here, if required}

- **Other Modifications to “Agreement”**
 - The following modifications to the Agreement are hereby made:
 {Insert Supplements or modifications to Agreement, if appropriate}
- **Attachments**
 {List Attachments, if appropriate}
- **Documents Incorporated By Reference**
 {List References, if appropriate}

Terms and Conditions: Execution of this Task Order by Municipality and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a signed approval of this Task Order by Owner.

The Effective Date of this Task Order is the _____ day of _____, _____.

OWNER:

ENGINEER:

By: _____

By:

Name: _____

Name:

Title: _____

Title: Member

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: _____

Name:

Title: _____

Title:

E-Mail Address: _____

E-Mail Address:

Phone:

Phone:

These Terms and Conditions are a part of the Agreement between the Client and Chastain & Associates LLC, (Consultant). Any provision or part thereof of this Agreement held to be void or unenforceable under any law shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the parties. The parties agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

AMENDMENTS

This Agreement may be amended only in writing by both the Client and Consultant.

FEE BASIS (COMPENSATION FOR PROFESSIONAL SERVICES)

The basis for compensation will be either 1) Lump-Sum Amount as noted on the face of this Agreement or 2) Estimated Amount (figured on time and materials basis) is invoicing for all hours worked on the project based on the indicated rate for the class of personnel shown on the current Schedule of Hourly Rates (available upon request) in effect plus reimbursable expenses.

"Reimbursable Expenses" means the actual expenses incurred directly or indirectly in connection with the work, including but not limited to the following:

Expenses such as interim travel and subsistence, telephone, blueprints, subsurface investigations, laboratory testing, and subcontractor work approved by the client, will be charged at actual cost. A Fathometer for hydrographic surveys will be invoiced at \$150.00 per day. The use of a Survey Laser Scanner will be invoiced at \$1,000.00 per day. The use of an ATV or UTV will be invoiced at \$200.00 per day. The use of a drone for aerial surveys or photography will be invoiced at \$50.00 per hour. Necessary field vehicles are charged at \$65.00 per day. All other mileage is charged at 58.0 cents per mile net (or the current rate allowed by the I.R.S.). Boat Service fees are \$350 per day.

TIME OF PAYMENT

The Consultant may submit monthly statements for services and expenses based upon the proportion of the actual work completed at the time of billing. Unless provided for otherwise, payments for professional services will be due and payable upon the issuance of the Consultant's invoice. We bill for work done each month by the 10th of the following month.

LATE PAYMENT

If the Client fails to make any payment due the Consultant for services and expenses within 30 days of invoice issuance, a service charge of 1.5% (annual rate of 18%) per month may be added to the Client's account at the Consultant's discretion. Client further agrees to pay all expenses of collection, including court costs and reasonable attorney fees, should it become necessary to refer Client's account for collection. If the Client is in breach of the payment terms or otherwise is in material breach of this Agreement, the Consultant may suspend performance of services upon five (5) calendar days' notice to the Client. The Consultant shall have no liability to the Client, and the Client agrees to make no claim for any delay or damage as a result of such suspension caused by any breach of this Agreement by the Client. Upon receipt of payment in full of all outstanding sums due from the Client, or curing of such other breach which caused the Consultant to suspend services, the Consultant shall resume services and there shall be an equitable adjustment to the remaining project schedule and fees as a result of the suspension.

LIMITATION OF LIABILITY

In recognition of the relative risks and benefits of the Project to both the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of the Consultant to the Client for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of the Consultant to the Client shall not exceed \$50,000, or the Consultant's total fee for services rendered on this Project, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

AUTHORITY AND RESPONSIBILITY

The Consultant shall not guarantee the work of any Contractor or Subcontractor, shall have no authority to stop work, shall have no supervision or control as to the work or persons doing the work, shall not have charge of the work, shall not be responsible for safety in, on, or about the job site or have any control of the safety or adequacy of any equipment, building component, scaffolding, supports, forms or other work aids. In the event we are not providing site observation services, the Client will indemnify and hold Consultant harmless for claims arising from modifications, clarifications, interpretations, adjustments or changes made to the contract documents to reflect changed field or other conditions.

DULY AUTHORIZED SIGNATORIES

Each party represents and warrants that its signatory whose signature appears on this Agreement has been, and is on the date of this Agreement, duly authorized by all necessary corporate or other appropriate action to execute this Agreement.

TERMINATION

This Agreement may be terminated by either party within 15 days after receiving written notice. Any termination shall only be for good cause such as for legal disputes, unavailability of adequate financing or major changes in the work. In the event of any termination, the Consultant will be paid for all services and expenses rendered to the date of termination on a basis of the Schedule of Rates plus reimbursable expenses and reasonable termination costs.

DELIVERABLES AND ELECTRONIC FILES

Plans, specifications, and electronic files are instruments of service and remain the property of the Consultant. Sealed hardcopy plans provided by the Consultant are actual deliverables and have precedence over any electronic files supplied to the Client as a convenience. Electronic files are supplied in the software format currently in use by the Consultant, who has no control over deterioration or functional obsolescence due to upgraded versions of software programs. Client agrees to indemnify and hold Consultant harmless from claims resulting from unauthorized reuse of electronic files or unauthorized changes made by Client or others to files in the Client's possession. Information contained in electronic files is valid only for 60 days following delivery to the Client, and the Consultant is not responsible for data deterioration within the file.

REUSE OF DOCUMENTS

All documents including drawings and specifications furnished by Consultant pursuant to this Agreement are instruments of his services in respect of the work. They are not intended or represented to be suitable for reuse by Client or others on extensions of this work, or on any other work.

ESTIMATES OF COST

Estimates of probable project cost that may be provided for herein are to be made on the basis of the Consultant's experience and qualifications and represent their best judgment as a professional familiar with the industry, but Consultant cannot and does not guarantee that proposals, bids or the cost will not vary from estimate of probable cost prepared by them. If the Client wishes greater assurance as to the Cost, they shall employ an independent cost estimator.

INFORMATION PROVIDED BY OTHERS

The Client shall furnish, at the Client's expense, all information, requirements, reports, data, surveys and instructions required by this Agreement. The Consultant may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof.

DISPUTE RESOLUTION

This Agreement shall be governed according to the laws of the State of Illinois. Venue for any legal or equitable action between the Client and the Consultant, which relates to this Agreement, shall be in the courts located in Macon County, Illinois.

ATTACHMENT C



2019 SCHEDULE OF RATES

<u>Classification</u>	<u>Per Hour Rate Net</u>		
	<u>RANGE</u>		
	<u>From</u>		<u>To</u>
Engineers			
Project Principal	\$180.00	-	\$219.00
Senior Project Manager	\$204.00	-	\$216.00
Project Manager II	\$147.00	-	\$167.40
Project Manager I	\$126.00	-	\$146.10
Project Engineer II	\$114.90	-	\$135.90
Project Engineer I	\$107.10	-	\$128.70
Engineer	\$75.00	-	\$90.00
Surveyors			
Chief of Survey	\$114.60	-	\$114.60
Surveyor II	\$93.90	-	\$105.90
Surveyor I	\$86.40	-	\$91.50
Technical			
Tech. IV	\$121.50	-	\$141.30
Technician III	\$123.00	-	\$123.00
Technician II	\$66.00	-	\$106.20
Technician I	\$48.00	-	\$81.90
Office Services and Records			
Administrative	\$51.60	-	\$93.00

Expenses such as interim travel and subsistence, telephone, blueprints, subsurface investigations, laboratory testing, and subcontractor work approved by the client, will be charged at actual cost.

A Fathometer for hydrographic surveys will be invoiced at \$150.00 per day. The use of a Survey Laser Scanner will be invoiced at \$1,000.00 per day. The use of an ATV or UTV will be invoiced at \$200.00 per day or actual rental cost. The use of a drone for aerial surveys or photography will be invoiced at \$50.00 per hour.

Necessary field vehicles are charged at \$65.00 per day. All other mileage is charged at 58.0 cents per mile net (or the current rate allowed by the I.R.S.). Boat Service fees are \$350 per day.

Above quotations are subject to change with 60 days review by client, due to circumstances beyond our control.

TRUSTEES:

Ray Ewing	Aye - ____	Nay - ____	Absent - ____
Douglas Fisher	Aye - ____	Nay - ____	Absent - ____
Leland Hackl	Aye - ____	Nay - ____	Absent - ____
Kerry Hood	Aye - ____	Nay - ____	Absent - ____
Nelson E. Lock	Aye - ____	Nay - ____	Absent - ____
John Oakley	Aye - ____	Nay - ____	Absent - ____
Corey Maloney	Aye - ____	Nay - ____	Absent - ____

PRESENTED, PASSED and APPROVED this 16th day December, 2019.

RECORDED this 16th day of December, 2019.

Approved:

*President of the Board of Trustees of the
Village of Warrensburg, Illinois*

ATTEST:

*Village Administrative Clerk of the
Village of Warrensburg, Illinois*

STATE OF ILLINOIS)
) ss
COUNTY OF MACON)

I, CYNTHIA A. HUNDLEY, certify that I am the duly appointed Village Administrative Clerk of the Village of Warrensburg, Macon County, Illinois.

I further certify that on the 16th day of December, 2019 the President and Board of Trustees of the Village of Warrensburg passed and approved Ordinance No. 743, entitled "An Ordinance Authorizing and Approving Agreement for Professional Services with Chastain & Associates, LLC", which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 743, including Ordinance and cover sheet thereof was prepared, a copy of such Ordinance was posted in the Warrensburg Village Hall, the Barclay Public Library, and Warrensburg Post Office, commencing December 17, 2019, and continuing for at least 10 days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Village Administrative Clerk.

DATED at Warrensburg, Illinois this 17th day of December, 2019.

Cynthia A. Hundley
*Village Administrative Clerk of the
Village of Warrensburg, Illinois*