

## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“**Agreement**”) is made and entered into as of this 12 day of September, 2024, (the “Effective Date”) by and between the **Town of Whiteland, Indiana**, (“**Town**”), and ADS Consulting LLC (dba Stone Municipal Group) (“**Firm**”) (the Town and Firm are sometimes collectively referred to herein as the “**Parties**” and individually as a “**Party**”).

### **1. Services Provided and Other Consideration.**

A. Firm shall provide the Town with the Financial Advisory Services specified in the Statement of Work dated September 12, 2024 attached hereto and incorporated herein as Exhibit “A” (the “**Services**”), and the Town shall compensate Firm as specified within Exhibit “A”, to be billed following each month of service, which services shall begin on the Effective Date. If the Agreement terminates during the middle of a service month, the Firm’s compensation shall be prorated to the date of termination.

B. In the event of any conflict between the terms and conditions of this Agreement and Exhibit “A”, the terms and conditions of this Agreement shall control.

2. **Term.** This Agreement shall commence upon execution and shall continue until terminated by either Party in accordance with the terms and conditions of this Agreement.

### **3. Payment of Compensation by Town to Firm.**

A. All payments made by the Town shall be in accordance with Indiana Code § 5-17-5-1 *et seq.*, the Prompt Payment Statute. The Town shall pay Firm only for professional services supported by invoices and documentation. The Town shall give Firm written notice within fourteen (14) days of receipt if the invoice or documentation is not acceptable.

B. The Town shall have the right to withhold from payments otherwise due to Firm such sums as necessary to protect the Town against any loss, claim, or damage which may result from the negligence or unsatisfactory work by Firm, failure by Firm to perform its obligations and responsibilities under this Agreement, or claims filed against Firm or the Town relating to Firm’s services or work. The Town shall provide Firm written notification of its reason for so withholding payment(s). When the grounds or causes for such withholding are removed, payment shall be made for amounts withheld because of them.

C. Upon satisfactory completion of all Services to be performed hereunder and if requested by the Town prior to final payment under this Agreement for such Services, or prior to settlement upon termination of this Agreement, and as a condition precedent thereto, Firm shall execute and deliver to the Town a release of all claims against the Town arising under or by virtue of this Agreement. In all events, the making and acceptance of final payment shall be conclusive as to the Town’s performance of the Agreement and shall constitute a waiver of all claims by Firm against the Town.

**4. Town Responsibilities.**

Town to provide financial and performance data as requested by a data request. Town shall make key staff available for routine communication and meetings. Town designates the following as the Town's primary contact persons for purposes of this Agreement:

Carmen Young, Director of Administration  
Melissa Fraser, Clerk-Treasurer

**5. Indemnification.**

A. Firm agree to indemnify and hold harmless the Town and its officers, agents, officials and employees for any and all claims, actions, causes of action, judgments and liens to the extent they arise out of any breach of this Agreement or any negligent act or omission by Firm or any of its officers, partners, agents, employees or subcontractors regardless of whether or not it is caused in part by the negligence of the Party indemnified hereunder. Such indemnity shall include attorneys' fees and all costs and other expenses arising therefrom or incurred in connection therewith and shall not be limited by reason of the enumeration of any insurance coverage required herein. This clause shall not apply to the extent coverage is excluded as a result thereof under Firm's professional errors and omissions insurance coverage, if obtained. The obligations of this section shall survive the termination of this Agreement.

B. Firm shall be fully responsible for all negligent acts, errors, or omissions of consultants and subcontractors and of persons and organizations directly or indirectly employed or engaged by Firm, and of persons and organizations for whose acts any consultant may be liable to the same extent that Firm is responsible for the negligent acts, errors or omissions of persons directly employed by it. Nothing in this Agreement, nor any communication, directive, action or failure to act on the part of Town, shall create any contractual relationship between Town and any consultant or subcontractor having a contract with Firm, nor shall it create any obligation on the part of Town to pay or to see to payment of any monies due any consultant or subcontractor to Firm. The obligations of this section shall survive the termination of this Agreement.

**6. Insurance.**

A. Professional liability coverage shall be in effect from the effective date of this Agreement and shall remain in effect continuously until the applicable statute of limitations has run in an amount not less than One Million and no/100 Dollars (\$1,000,000.00) ("**Coverage Period**"). Professional Liability Insurance, shall be filed with the Town prior to the effective date of this Agreement. Such policies and certificates shall contain a provision that coverages afforded under the policies will not be cancelled or not renewed until at least thirty (30) days after written notice has been given to the Town.

B. Nothing in the above provisions shall operate or be construed as limiting the amount of liability of Firm to the enumerated amounts.

C. Regardless of the nature of the policy or whether the deductible is per claim or per occurrence, all deductibles shall be the responsibility of Firm.

**7. Confidentiality.**

A. Firm understands that the information provided to it or obtained from the Town during the performance of its Services is confidential and may not, without prior written consent of the Town, be disclosed to a person not an employee or agent of the Town except to employees or agents of Firm who have a need to know in order to provide the Services. Further, Firm's work product generated during the performance of this Agreement is confidential to the Town. The failure to comply in all material respects with this section shall be considered a material breach of this Agreement. The obligations of this section shall survive the termination of this Agreement and shall be applicable to the full extent permissible under statutes governing access to public records. Confidential information shall not include information, that: (a) was known by Firm at the time it was received; (b) is, as of the time of its disclosure or thereafter becomes, part of the public domain through a source other than Firm; (c) is made known to Firm by a third person who does not impose any obligation of confidence on Firm with respect to such information; (d) is required to be disclosed pursuant to governmental authority, law, regulation, duly authorized subpoena or court order whereupon Firm shall provide notice to the Town prior to such disclosure; or (e) information that is independently developed by Firm without references to the confidential information.

B. Firm shall not, under any circumstances, release information provided to it by, or on behalf of, the Town that is required to be kept confidential by Town pursuant to Indiana law except as contemplated by Section 6(A)(d).

**8. Ownership of Documents and Materials.**

A. All documents, including records, programs, data, film, tape, articles, memos, and other materials, created or developed under this Agreement, shall be considered "work for hire" and Firm transfers any ownership claim to the Town and all such matters will be the property of the Town. Use of these materials, other than related to contract performance by the Firm, without the prior written consent of the Town, is prohibited. During the performance of the Services specified herein, Firm shall be responsible for any loss or damage to these materials developed for or supplied by the Town and used to develop or assist in the Services provided herein while the materials are in the possession of Firm. Any loss or damage thereto shall be restored at Firm's expense. Full, immediate, and unrestricted access to the work product of Firm during the term of this Agreement shall be available to the Town. Notwithstanding the foregoing, Firm shall be entitled to retain a set of its work papers in accordance with professional standards.

B. Notwithstanding anything to the contrary contained in this Agreement, it is understood and agreed that Firm shall retain all of its rights in its proprietary information including, without limitation, its methodologies and methods of analysis, ideas, concepts, expressions, know how, methods, techniques, skills, knowledge and experience possessed by Firm prior to, or acquired by Firm during, the performance of this Agreement and the same shall not be deemed to be work product or work for hire and Firm shall not be restricted in anyway with respect thereto.

**9. Termination for Cause or Convenience.**

A. If Firm becomes insolvent, or if it refuses or fails to perform the Services provided by this Agreement, or if it refuses to perform disputed work or services as directed pending resolution of such dispute, or if it fails to make payments to subcontractors or consultants employed by it, or if it otherwise violates or fails to perform any term, covenant or provision of this Agreement, then Town may, without prejudice to any other right or remedy, immediately terminate this Agreement in whole or in part, by providing written notice (delivered by certified mail, return receipt requested) of Town's termination of the Agreement. In determining the amount of final payment to be made to Firm upon such termination for default, if any, no amount shall be allowed for anticipated profit on unperformed services or other work; furthermore, an adjustment shall be made to the extent of any additional costs incurred or reasonably foreseen by Town to be incurred by reason of Firm's default.

B. Both Parties shall have the right to terminate this Agreement at any time for convenience, provided that the Party which is being notified of the termination is provided written notice (delivered by certified mail, return receipt requested) at least 30 days in advance of the other Party's specified termination date and an opportunity for consultation prior to the effective date of the termination.

C. Upon receipt of a termination notice for default or for convenience, Firm shall upon the effective date, unless the Party's agree otherwise: (1) discontinue all services affected, and (2) deliver or otherwise make available to Town all data, drawings, specifications, reports, estimates, summaries, and such other information, materials or documents as may have been accumulated by Firm in performing this Agreement, whether completed or in process.

**10. Miscellaneous Provisions.**

A. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, written or verbal, between the Town and Firm with respect to the services described herein. No statements, promises or agreements whatsoever, in writing or verbal, in conflict with the terms of the Agreement have been made by the Town and Firm which in any way modify, vary, alter, enlarge or invalidate any of the provisions and obligations herein stated. This Agreement may be amended and modified only in writing signed by both the Town and Firm.

B. **Independent Contractor.** The Parties agree that Firm is an independent contractor as that term is commonly used and is not an employee of the Town. As such, Firm is solely responsible for all taxes and none shall be withheld from the sums paid to Firm. Firm acknowledges that it is not insured in any manner by the Town, for any loss of any kind whatsoever. Firm has no authority, express or implied, to bind or obligate the Town in any way.

C. **Subcontracting.** The Parties agree that Firm shall not subcontract, assign, or delegate any portion of this Agreement or the Services to be performed hereunder without prior written consent and approval by the Town. In the event that the Town approves any such subcontracting,

assignment, or delegation, Firm shall remain solely responsible for managing, directing, and paying the person or persons to whom such responsibilities or obligations are sublet, assigned or delegated. Town shall have no obligation whatsoever toward such persons. Firm shall take sole responsibility for the quality and quantity of any services rendered by such persons. Any consent given in accordance with this provision shall not be construed to relieve Firm of any responsibility for performing under this Agreement.

**D. Necessary Documentation.** Firm certifies that it will provide the Town, if requested, any and all documentation, certification, authorization, license, permit, or registration required by the laws or rules and regulations of Town, the State of Indiana, and the United States. Firm further certifies that it is now in and will maintain its good standing with such governmental agencies and that it is now and will maintain its license, permit, registration, authorization, or certification, as applicable, in force during the term of this Agreement. Failure of the Firm to comply with this paragraph shall constitute a material breach of this Agreement.

**E. Obligations During Disputes.** Firm shall carry on all work required under this Agreement and maintain the schedule for services during all disputes or disagreements with Town. No work shall be delayed or postponed pending resolution of any disputes or disagreements except as Firm and Town may otherwise agree in writing. Should Firm fail to continue to perform its responsibilities as regards all non-disputed work without delay, any additional costs incurred by the Town or Firm as a result of such failure to proceed shall be borne by Firm, and Firm shall make no claim against the Town for such costs. The Town may withhold payments on disputed items pending resolution of the dispute.

**F. Non-Discrimination.** Firm and its subcontractors shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to her or his hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of her or his race, sex, religion, color, national origin, ancestry, age, sexual orientation, gender identity, familial status, disability, or United States military service veteran status. Breach of this section shall be regarded as a material breach of this Agreement.

**G. Conflict of Interest.** Firm certifies and warrants to Town that neither it nor any of its agents, representatives or employees who will participate in the performance of any services required by this Agreement has or will have any conflict of interest, direct or indirect, to the Town.

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

**I. Applicable Law; Forum.** Firm agrees to comply with all applicable federal, state, and local laws, rules, regulations, or ordinances and all provisions required thereby to be

included herein are hereby incorporated by reference. This Agreement shall be construed and interpreted in accordance with the laws of the State of Indiana and by all applicable Municipal Codes or Ordinances of the Town. The Parties agree that any action related to this Agreement shall be brought in a forum appropriate for Johnson County, Indiana, and neither party shall remove it therefrom.

J. **Severability.** Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law; but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.

K. **Waiver.** The Town's delay or inaction in pursuing any of its remedies set forth in this Agreement or available by law shall not operate in any way as a waiver of the Town's rights or remedies. No single or partial exercise or any right or remedy shall operate as a waiver or preclusion to the exercise of any other rights or remedies the Town may have under this Agreement or applicable law.

L. **Binding Effect.** This Agreement shall bind all of the parties hereto and their respective heirs, personal representatives, successors, and assigns.

M. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall constitute an original and all of which taken together shall constitute the same agreement.

N. **Time.** Time is of the essence for this Agreement.

O. **Headings.** The headings of the various paragraphs and sections of this Agreement are for convenience and reference only and shall not be deemed to modify or restrict the terms or provisions hereof.

P. **Construction.** This Agreement shall not be construed more strictly against the Town merely by virtue of the fact that the same has been prepared by the Town or its counsel, it being recognized that all Parties have contributed substantially and materially to the preparation of this Agreement and each of the Parties waives any claim contesting the existence and the adequacy of the consideration given by any of the other Parties hereto in entering into this Agreement.

Q. **No Joint Venture.** Nothing contained in this Agreement shall be deemed to create a partnership, joint venture, or agency relationship of any nature between Firm and the Town. The Town remains in control of its operations and management decisions.

R. **Authority.** The execution, delivery, and performance of this Agreement are within the powers of the undersigned parties, have been duly authorized, and are not in contravention of any law, rule or regulation, or any judgment, decree, writ, injunction, order or award of any arbitrator, court, or governmental authority, or the terms of any organizational documents, law, regulation or undertaking to which any Party may be a party or by which they may be bound.

S. **Consent.** The Parties acknowledge that they have thoroughly read and reviewed the terms and provisions of this Agreement and are familiar with the same and acknowledge that the terms and provisions contained herein are clearly understood by them and have been fully consented to by them and that they had the full benefit and advice of counsel of their own selection, or the opportunity to obtain the benefit and advice of counsel of their own selection, in regard to understanding the terms, meaning and effect of this Agreement and that this Agreement has been entered into by them freely, voluntarily, with full knowledge, and without duress and that in executing this Agreement the Parties are relying on no other representations, either written or oral, express or implied, made to them by any other Party hereto.

T. **Assignment.** No assignment of this Agreement nor of any interest therein shall be binding upon either Party hereto without the prior written consent of the other Party.

U. **Safety.** Firm shall be responsible for implementing its own safety program and shall be responsible for the safety of its employees, contractors and agents. Firm's safety program shall comply with all local, state, and federal laws and regulations.

V. **Taxpayer Identification Number.** Firm shall provide the Town with completed Form W-9 Request for Taxpayer Identification Number at the time of execution of this Agreement.

W. **Attorneys' Fees.** Firm shall be liable to the Town for reasonable attorneys' fees incurred by Town in connection with the collection or attempt to collect any damages arising from the negligent or wrongful act or omission of Firm or from Firm's failure to fulfill any provisions or responsibility provided herein.

X. **E-Verify Program.** Firm represents that it is enrolled in the E-Verify Program (the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s.401(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603) and that it verifies the work eligibility of its newly hired employees through the E-Verify Program. Firm understands that it will not be required to verify the work status of its newly hired employees through the E-Verify Program if such program ceases to exist. Firm does not employ any "unauthorized aliens" as that term is defined in 8 U.S.C. § 1324a(h)(3). Firm will complete and return the Town's E-Verify Affidavit contemporaneously with the execution of this Agreement.

Y. **Iran Certification.** Firm represents that it is not engaged in investment activities in Iran. Pursuant to Ind. Code § 5-22-16.5-8, a Firm is considered to be engaging in investment activities with Iran if: 1) it has provided good or services of Twenty Million Dollars (\$20,000,000.00) or more in value in the energy sector of Iran, including oil or liquefied natural gas tankers or produces used to construct or maintain pipelines used to transport oil or liquefied natural gas; or 2) has extended Twenty Million Dollars (\$20,000,000.00) or more in credit to

another party, for forty-five (45) days or more, if that other party will use the credit to provide goods or services in the energy sector in Iran and is, at the time credit is extended, is identified on the list developed by the State of Indiana of parties it has determined to be engaged in investment activities in Iran. Firm is not listed on the list published and/or endorsed by the State of Indiana pursuant to Ind. Code § 5-22-16.5-9 as a company engaged in investment activities with Iran.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be made and entered into effective as of the date above written.

**“Firm”**


**ADS Consulting LLC dba Stone Municipal Group**

By:   
Adam Stone

Dated: 9/12/2024


**“Town”**

**TOWN OF WHITELAND, INDIANA**

By:   
Carmen Young, Director of Administration

Dated: 9/12/2024

Attest:

By:   
Melissa A. Fraser, Clerk-Treasurer

As authorized by the Whiteland Town Council at a public meeting on September 10, 2024.

**EXHIBIT A**

**Description of the Firm's Services to be Provided**

[See Attached]



**STATEMENT OF WORK**  
**Between Town of Whiteland ("Town")**  
**and Stone Municipal Group ("SMG")**

September 12, 2024

To Ms. Carmen Young.

Thank you for the opportunity to assist the Town of Whiteland ("Town") team with the comprehensive financial and accounting advice related to Town, Utilities, and RDC. To assist the Town of Whiteland's team, we would suggest the following scope of services:

- ***Redevelopment Commission Support***
- ***Town-Wide Financial Support and Training***
- ***Utilities Consulting and Support***

The Town is seeking a more wholistic experience with regard to financial planning and support across boards, commissions, departments, and utilities. Our proposed services will provide that "one-stop-shop" experience for the Town and its leaders when seeking advice on financial matters or having financial documents prepared and compliance items tracked. New services will include:

- On-Call Accountant
- Compliance Calendar
- Quarterly Financials
- Budget Development Support
- Reconciliation Support
- Gateway Support
- CY Spend Forecast
- Policy & Procedures Manual
- Staff Direction and Review
- Investment Guidance
- Rate Sufficiency Report
- Bond Arbitrage Reporting
- Regulatory AFR Filings
- PER Assistance and Process Improvements

Other items included in the comprehensive package will include:

- Continuous rate monitoring for the Town's utilities including rate studies
- An Asset Management plan consistently monitored
- A rolling five-year financial forecast to assist with budgeting
- Finance staff one-on-one meetings and training
- GAAP financial statements

**Management Representative**

- Carmen Young, Town Director of Administration

**Fee Structure**

Compensation for the above services will be a flat monthly fee of \$9,000.

The Town can cancel this agreement at any time with a 30 day notice.

**Project Authorization**

If you are in agreement with the proposed approach, fees, and expenses outlined herein, please sign and date below and return one copy at your earliest convenience via email.

Thank you for the opportunity to work with you and your team on this important project.

Best regards,

***Adam D. Stone, CPA***

Municipal Advisor, Principal  
Stone Municipal Group

I hereby accept the terms and conditions of the aforementioned project provided to the Town of Whiteland, Indiana and Stone Municipal Group.

*Carmen Young*  
Signature of Acceptance

9/12/2024  
Date of Acceptance

Carmen Young  
Printed Name

Director of Administration  
Title

