

This Professional Services Agreement (“Agreement”), is entered into by and between the City of Waukesha (“Client”) and EPLEX, LLC (DBA as e-Plan Exam) (“Consultant”). The Client and the Consultant shall be jointly referred to as the “Parties”.

#### RECITALS

WHEREAS, the Client is seeking the Consultant to perform services listed in Exhibit A – Plan Review Services and Fee Schedule, (“Services”);

NOW THEREFOR, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Client and Consultant agree as follows:

#### 1. SCOPE OF SERVICES

Consultant will provide Services to the Client using qualified professionals. Consultant will perform Plan Examination services in accordance with the Adopted Building Codes that is enforced by the State of Wisconsin as well as the Authority Having Jurisdiction’s municipal building code in accordance with Services. Consultant will perform work at a level of competency in accordance with industry standards applicable in the State and Municipality for which the Services are proposed. Consultant makes no warranty nor guarantee that the Municipality as the Authority Having Jurisdiction shall under any and all circumstances accept the review of the Consultant as final in nature. It shall be up to the sole discretion of the Municipality as the Authority Having Jurisdiction as to what they will require or accept for the ability to have any project commence. This includes any potential additional documentation, approvals, permits, bonds, compliance with local zoning, historical review, architectural review board requirements, and/or additional other requirements not herein specified but otherwise required by the Municipality as the Authority Having Jurisdiction prior to commencement of Construction Work by the constituent making application to allow for construction within the municipality (“Applicant”). Consultant is not obligated to perform services beyond what is required by this agreement.

#### 2. CHANGES TO SCOPE OF SERVICES

Any Changes to Services that are mutually agreed upon between the Client and Consultant shall be made in writing which shall specifically designate any changes in compensation for the Services and be made as a signed and fully executed amendment to the Agreement.

#### 3. FEE STRUCTURE

In consideration of the Consultant providing services, the Client shall pay the Consultant for the services performed in accordance with Exhibit A – List of Plan Review Services and Fee Schedule.

#### 4. INVOICE & PAYMENT STRUCTURE

When fees are collected and deposited by the Client: Consultant will invoice the Client on a monthly basis and provide all supporting documentation. All payments are due to Consultant within forty-five (45) days of invoice date. The Client may request additional information before approving the invoice. When additional information is requested, the Client will Identify specific disputed item(s) and give specific reasons for any request. If additional information is requested, Client will submit payment within forty-five (45) days of resolution of the inquire/dispute.

When fees are Collected by the Consultant: Consultant will invoice the Client on a monthly basis and provide all supporting documentation. All payments are due to Consultant or Client as

appropriate within forty-five (45) days of invoice date. The Client may request additional information before approving the invoice. When additional information is requested, the Client will identify specific disputed item(s) and give specific reasons for any request. If additional information is requested, the appropriate party will submit payment to the other party within forty-five (45) days of resolution of the inquire/dispute.

5. TERM

This Agreement shall be effective on the latest date on which the Agreement is fully executed by both Parties ("Effective Date"). The Initial term of this Agreement shall commence on the Effective Date and be twelve (12) months. If neither party objects in writing at the conclusion of this term, this Agreement shall remain in full effect until amended by both parties or agreement is Terminated as outlined in this Agreement.

6. TERMINATION

Either party may terminate this Agreement, or any part of this Agreement upon thirty (30) days written notice, with or without cause at any time. In case of such termination, Consultant shall be entitled to receive payment for work completed up to and including the termination and within thirty (30) days after the termination.

All projects that have had plans submitted, or re-submitted, for review but are not completed at the time of termination may be returned without comments with appropriate refund in initial fees rendered based on services provided. In the event that either condition as set forth in paragraph 4 are met, fees shall be invoiced for as specified in this document.

7. CLIENT OBLICATIONS

The Client shall take necessary measures to follow procedures as set forth from the State of Wisconsin To seek approval to obtain Delegated Municipality or Appointed Agent Status. Consultant will assist in this process to the maximum extent possible however it shall be the primary responsibility of the Client to obtain final authorization to proceed.

If in the event the State of Wisconsin Denies application for Delegated Municipality or Appointed Agent Status to the Client, this Agreement shall continue to exist until such time Delegated Municipality or Appointed Agent Status is granted.

The Client shall timely provide all data, information, plans, specifications, municipal forms, structural calculations, and all other documentation required by Consultant to perform services in an electronic pdf file format or paper submission.

8. PERFORMANCE STANDARDS

Consultant shall use that degree of care, skill, and professionalism ordinarily exercised under similar circumstances by members of the same profession practicing or performing the substantially same or similar services with respect to the category of services begin performed. Consultant represents to the Client that it retains and will only utilize employees that possess the skills, knowledge and ability to competently, timely, and professionally perform the Services in accordance with this Agreement.

9. IDEMNIFICATION

To the fullest extent permitted by law, Consultant shall be indemnified and held harmless from any and all claims, demands, suits, costs (including reasonable legal costs), expenses, and liabilities by reason of personal injury, including bodily injury or death and/or property damage to the extent that any such injury, loss or damage is caused by the negligence or breach of duty of Consultant or any officer, employee, representative, or agent of Consultant. If either party becomes aware of any incident likely to give rise to a claim under the above indemnities, it shall notify the other and both parties shall cooperate fully in investigating the incident.

It is up to the sole discretion of the municipality to choose whether to accept, utilize or deny use of any or all documentation provided supplied by Consultant.

#### 10. ASSIGNMENT

Consultant is permitted to subcontract portions of services to be provided with or without notice. Consultant shall remain responsible for any and all of subcontractor's performance. Subcontractors shall be subject to the same performance, certification and professionalism criteria as expected of the Consultant. Performance clauses shall be included in agreements with all subcontractors to assure quality levels and agreed upon schedules are met.

A listing of all personnel utilized in the completion of services, regardless if they are subcontractors or not, shall be provided upon completion by Consultant including applicable license information for personnel and scope of work reviewed by subcontractor.

#### 11. INSURANCE

- A. Consultant agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by the Consultant pursuant to this Agreement. Such insurance shall be in addition to any other insurance requirements imposed by law.
- B. At a minimum, the Consultant shall procure and maintain the minimum insurance coverage's listed below. Such coverage's shall be procured and maintained with forms and insurers acceptable to the Client. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
- C. At a minimum, the Consultant shall procure and maintain the minimum insurance coverages listed below for the scope of services Consultant Subcontracts to other parties. These insureds shall be covered by Consultant's insurance as named insureds for the sole purpose and scope of services rendered for this Agreement.
- D. Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000.00) each occurrence and one million dollars (\$1,000,000.00) general aggregate. The policy shall be applicable to all premises and operations of Consultant. The policy shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts) blanket contractual independent Consultant's products and completed operations.
- E. Professional liability insurance with minimum limits of one million dollars (\$1,000,000) each claim and one million dollars (\$1,000,000) general aggregate.
- F. Prior to commencement of the Services, Consultant shall submit endorsements of insurance acceptable to the Client.

#### 12. INDEPENDENT CONTRACTOR

The Consultant is an independent contractor, and neither the Consultant, nor any employee or agent thereof, shall be deemed for any reason to be an employee or agent of the Municipality or Client. As the Consultant is an independent contractor, the Client nor Municipality shall have liability or responsibility for any direct payment of any salaries, wages, payroll taxes, or any and all other forms or types of compensation or benefits to any personnel performing services for the Municipality under this Agreement. The Consultant shall be solely responsible for all compensation, benefits, insurance, and employment-related rights of any person providing Services hereunder during the course of or arising or accruing as a result of any employment, whether past or present, with the Consultant, as well as all legal costs including attorney's fees incurred in the defense of any conflict or legal action resulting from such employment or related to the corporate amenities of such employment.

13. THIRD PARTY RELIANCE

This Agreement is intended for the mutual benefit of the parties hereto and no third-party rights are intended or implied except the Applicants whose plans or property are being reviewed.

14. OWNERSHIP OF DOCUMENTS

The Client shall retain ownership of all work product and deliverables created by Consultant pursuant to this Agreement. All records, documents, notes, data and other materials required for or resulting for the performance of the Services hereunder shall not be used by the Consultant for any purpose other than the performance of the Services hereunder without the express prior written consent of the Client. All such records, documents, notes, data and other materials shall become the exclusive property of the Client when the Consultant has been compensated for the same as set forth herein, and the Client shall thereafter retain sole and exclusive rights to receive and use such materials in such manner and for such purposes as determined by it. If this Agreement expires or is terminated for any reason, all records, documents, notes, data, and other materials maintained or stored in Consultant's secure proprietary software pertaining to the Client will be exported into a XLS, CSV, DOC, or PDF file and become property of the Client.

The Municipality or the Authority Having Jurisdiction, where the project is located shall have the right to request access to any documents, papers and records that the Consultant has related to this project for the purposes of Audit or examination, other than Consultant's financial records and contractual records, and may make excerpts and transcriptions of the same.

15. SERVERABILITY

If any part of this Agreement shall be held to be invalid for any reason, the remainder of this Agreement shall be valid to the fullest extent permitted by law.

16. DISCRIMINATION & ADA COMPLIANCE

Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability, national origin, or any other protected class. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Law.

Consultant shall comply with the appropriate provision of the Americans with Disabilities Act (the "ADA"), as enacted and as from time to time amended, and any other applicable federal and State of Wisconsin Law or regulations.

17. PROHIBITION AGAINST EMPLOYING ILLEGAL ALIENS

Consultant shall not knowingly employ or contract with an illegal alien to perform work under Agreement and will verify immigration status to confirm employment eligibility. Consultant shall not enter into an agreement with a subcontractor that fails to certify to the Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Consultant is prohibited from using the program or the Department program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

18. NOTICES

Any Notice under this Agreement shall be in writing and shall be deemed sufficient when directly present or sent pre-paid, first class United States Mail, addressed as follows:

If to the Client:	If to the Consultant:
Jennifer Andrews 201 Delafield St Waukesha, WI 53188	Edward James Lisinski 3364 S 119 <sup>th</sup> St West Allis, WI 53227

19. DISPUTE RESOLUTION

In the event a dispute arises out of or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation, before resorting to litigation.

20. GOVERNING LAW

This Agreement shall be construed under and governed by the Laws of the State of Wisconsin and all services to be provided will be provided in accordance with applicable federal, local state, and local municipal law. This Agreement constitutes the complete, entire and final agreement of the parties hereto with respect to the subject matter hereof, and shall supersede and all previous communications, representations, whether oral or written, with respect to the subject matter hereof.

21. COUNTERPARTS

This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. For the purposes of executing this Agreement, scanned signatures shall be as valid as the original.

This Agreement, along with attached exhibits, constitutes the complete, entire and final agreement of the parties hereto with respect to the subject matter hereof, and shall supersede any and all previous communications, representations, whether oral or written, with respect to the subject matter hereof. Invalidation of any of the provisions of this Agreement or any

paragraph, sentence, clause, phrase, or word herein or in the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.

IN WITNESS HEREOF, the undersigned have caused this Agreement to be executed in their respective names on the dates hereinafter enumerated.

Client: \_\_\_\_\_  
Authorized Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Consultant: \_\_\_\_\_  
Authorized Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

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# Exhibit A – Plan Review Services

## 1. PLAN REVIEW SERVICES

Plans review is limited to structural, building, mechanical, Fire Alarm, Fire Sprinkler, and plumbing trade/discipline.

Each discipline will be reviewed by a Plans Examiner holding certifications as required by the local jurisdiction and/or licensed Architect and/or Professional Engineer holding licensure in the State of Wisconsin.

- ✓ Disciplines are defined as follows:
  - Building (architectural / structural)
  - Mechanical (HVAC)
  - Plumbing
  - Fire (Sprinkler, Fire Alarm, etc.)
- ✓ Post final comprehensive conditional plan approval – required if requested by Jurisdiction of Authority
  - Delegated Component Submittal(s)
  - Shop Drawings

## 2. PLAN REVIEW FEE:

- Plan Review Fees shall be based upon the below fee schedule to be adopted by the Municipality.
- Plan Review Fees will be split with the Municipality
  - 90% to Retained by Consultant / 10% Retained by Municipality
  - Out of Consultant's Fees retained, Consultant shall be responsible to for fees due to the State of Wisconsin as applicable for plan reviews performed as specified in Wisconsin Administrative Code SPS 302.
- Hourly rate for services beyond what is specified in this Agreement shall be rendered at \$100.00 per hour. This shall only be assessed when prior written consent is provided by the Client to the Consultant and agreed to by the Consultant.

<b>COMMERCIAL PLAN REVIEW FEE SCHEDULE – BUILDING/HVAC/FIRE ALARM/FIRE SUPPRESSION</b>				
1. New construction, additions, alterations and parking lots fees are computed per this table.				
2. New construction and additions are calculated based on total gross floor area of the structure.				
3. A separate plan review fee is charged for each type of plan review.				
<b>Area (Square Feet)</b>	<b>Building Plans</b>	<b>HVAC Plans</b>	<b>Fire Alarm System Plans</b>	<b>Fire Suppression System Plans</b>
Less than 2,500	\$250	\$150	\$30	\$30
2,500 - 5,000	\$300	\$200	\$60	\$60
5,001 - 10,000	\$500	\$300	\$100	\$100
10,001 - 20,000	\$700	\$400	\$150	\$150
20,001 - 30,000	\$1,100	\$500	\$200	\$200
30,001 - 40,000	\$1,400	\$800	\$350	\$350
40,001 - 50,000	\$1,900	\$1,100	\$500	\$500
50,001 - 75,000	\$2,600	\$1,400	\$700	\$700
75,001 - 100,000	\$3,300	\$2,000	\$1,000	\$1,000
100,001 - 200,000	\$5,400	\$2,600	\$1,200	\$1,200
200,001 - 300,000	\$9,500	\$6,100	\$3,000	\$3,000
300,001 - 400,000	\$14,000	\$8,800	\$4,400	\$4,400
400,001 - 500,000	\$16,700	\$10,800	\$5,600	\$5,600
Over 500,000	\$18,000	\$12,100	\$6,400	\$6,400
Note:	1. A Plan Entry Fee of \$100.00 shall be submitted with each submittal of plans in addition to the plan review and inspection fees.			
	2. At the Sole discretion of the Supervisor of Building Inspection and Plans Examiner; Fees may be modified, reduced or waived based on scope of services, project type, or other relevant factors.			
Determination of Area	The area of a floor is the area bounded by the exterior surface of the building walls or the outside face of columns where there is no wall. Area includes all floor levels such as subbasements, basements, ground floors, mezzanines, balconies, lofts, all stories, and all roofed areas including porches and garages, except for cantilevered canopies on the building wall. Use the roof area for free standing canopies.			
Structural Plans and other Component Submittals	When submitted separately from the general building plans, the review fee for structural plans, precast concrete, laminate wood, beams, cladding elements, other facade features or other structural elements, the review fee is \$250.00 per plan with an additional \$100.00 plan entry fee per each plan set.			
Accessory Buildings	The plan review fee for accessory buildings less than 500 square feet shall be \$125.00 with the plan entry fee waived.			
Early Start	The plan review fee for permission to start construction shall be \$75.00 for all structures less than 2,500 sf. All other structures shall be \$150.00. The square footage shall be computed as the first floor of the building or structure.			
Plan Examination Extensions	The fee for the extension of an approved plan review shall be 50% of the original plan review fee, not to exceed \$3,000.00.			



Resubmittals & revisions to approved plans	When deemed by the reviewer to be a minor revision from previously reviewed and/or approved plans, the review fee shall be \$75.00. Any significant changes or alterations beyond minor amendments as determined by the Plans Examiner and Building Inspection Department may result in additional charges as appropriate.
Submittal of plans after construction	Where plans are submitted after construction, the standard late submittal fee of \$250.00 will be assessed per each review type that occurred after construction. This is in addition to any other plan entry fee's, structural components and base fee's applied to a project.
Expedited Priority Plan Review	The fee for a priority plan review, which expedites completion of the plan review in less than the normal processing time when the plan is considered ready for review, shall be 200% of the fees specified in these provisions.

<b>COMMERCIAL PLAN REVIEW FEE SCHEDULE – PLUMBING</b>				
1. New construction, alterations and remodeling fees are computed per the following table				
2. New construction fee is calculated based on square footage of the area				
3. Alterations and remodeling fee is based on the number of plumbing fixtures.				
Area (Square Feet)	Plumbing Plans New Construction		Number of Fixtures	Plumbing Plans Alteration/Remodeling
Less than 3,000	\$300		<15	\$200
3,001 - 4,000	\$400		16-25	\$300
4,001 - 5,000	\$550		26-35	\$450
5,001 – 6,000	\$650		36-50	\$550
6,001 – 7,500	\$700		51-75	\$800
7,501 – 10,000	\$850		76-100	\$900
10,001 – 15,000	\$900		101-125	\$1,050
15,001 – 20,000	\$950		126-150	\$1,150
20,001 – 30,000	\$1,100		>151	\$1,150
30,001 – 40,000	\$1,250		Plus \$160 for each additional 25 fixtures	
40,001 – 50,000	\$1,550			
50,001 – 75,000	\$2,100			
Over 75,000	\$2,500			
Plus \$0.0072 per each additional sq. ft. over 75,000 sq. ft.				
Note:	1. A Plan Entry Fee of \$100.00 shall be submitted with each submittal of plans in addition to the plan review and inspection fees.			
	2. At the discretion of the plans examiner; a Plan Entry Fee may be waived.			
Determination of Area	The area of a floor is the area bounded by the exterior surface of the building walls or the outside face of columns where there is no wall. Area includes all floor levels such as subbasements, basements, ground floors, mezzanines, balconies, lofts, all stories, and all roofed areas including porches and garages, except for cantilevered canopies on the building wall. Use the roof area for free standing canopies.			

Resubmittals & revisions to approved plans	When deemed by the reviewer to be a minor revision from previously reviewed and/or approved plans, the review fee shall be \$75.00. Any significant changes or alterations beyond minor amendments as determined by the Plans Examiner and Building Inspection Department may result in additional charges as appropriate.
Submittal of plans after construction	Where plans are submitted after construction, the standard late submittal fee of \$250.00 will be assessed per each review type that occurred after construction. This is in addition to any other plan entry fee's, structural components and base fee's applied to a project.
Expedited Priority Plan Review	The fee for a priority plan review, which expedites completion of the plan review in less than the normal processing time when the plan is considered ready for review, shall be 200% of the fees specified in these provisions.

PLAN REVIEW FEE – includes the following services:

- ✓ One optional remote code consultation meeting after conclusion of the first review
- ✓ Consultation via phone during duration of project regarding reviews performed
- ✓ Three (3) reviews of all disciplines to verify that all comments have been addressed
  - Subsequent reviews may result in resubmittal plan examination fees to be assessed.
- ✓ Changes to plans after conditional approval is granted may result in resubmittal plan examination fees to be assessed.

3. TIME OF PERFORMANCE

Plan review turnaround time shall be fifteen (15) business days after full receipt by Consultant of all required documents as required by the Department of Safety and professional services as well as the City of Waukesha municipal code.

4. CONSULTANT CONTACT

Consultant will provide a qualified professional to oversee this project. They are available by phone and email using the contact information listed below.

Plan Review Management Contact  
 David Adam Mattox, P.E.  
 414-736-4721  
[Owner@eplanexam.com](mailto:Owner@eplanexam.com)

Plan Review Management Contact  
 Edward Lisinski, P.E.  
 414-412-6096  
[owner@eplanexam.com](mailto:owner@eplanexam.com)