



**AGREEMENT BETWEEN
COUNSELOR'S CLOSE COMMUNITY
COMPANY AND
MASSIE CONSTRUCTION & LAND MANAGEMENT
LLC.,**

MASSIE CONSTRUCTION & LAND MANAGEMENT, LLC, herein after referred to as the "Contractor" and COUNSELOR'S CLOSE COMMUNITY COMPANY, hereinafter referred to as the "HOA," do hereby enter into an Agreement for the following services, according to the following terms, conditions, specifications, and purposes:

I. CONTRACTOR QUALIFICATIONS

- A. The Contractor hereby affirms that it is in the business of providing Construction and Land Management services to include erosion control as an independent contractor, that it has the necessary equipment, staff, and resources to perform such services; further, that it is familiar with and does and will conduct its services in full compliance with all Federal, State, and local regulations as regards to occupational health and safety, insurance and tax laws, and is authorized to do business in the Commonwealth of Virginia.
- B. The Contractor affirms that it carries workmen's compensation coverage for its employees, and public liability insurance in the general aggregate amount of \$2,000,000 and in the amount of \$1,000,000 for each occurrence. A certificate of insurance listing the HOA as Additional Insured must be on file with the Association prior to work on the project. The Contractor agrees to notify the HOA immediately in the event of any occurrence of accident harming either life, limb, or property caused by its actions. The above-mentioned insurance is to remain in force throughout the duration of this Agreement.

II. CONTRACTOR RESPONSIBILITIES

A. Labor and Material

- Contractor agrees to furnish all labor, machinery, equipment, etc., which are necessary to perform the Road Marking services in accordance with the specifications in Exhibit One of this Agreement which are incorporated by reference herein. All machines and materials shall be of such types and quality as to do the job without damage to any and all property. Any damages to HOA property will be corrected by Contractor to its original condition at the Contractor's expense. All personnel are to be properly trained, licensed, certified (if necessary), and conduct work in a professional manner. The Contractor shall have a competent supervisor in charge of its employees at all times.

B. Additional Contractor Responsibilities

- Contractor agrees to adhere to the specifications as outlined in Exhibit One, proposal named 2024-023 Kimberly Mills (Williamsburg) Counselors Close Drainage & Site Improvements **Area #2 and Rev#1** dated **7-15-24**, in performing work required, using the best expertise and initiative. Massie Construction & Land Management, LLC., shall, at their cost and expense, maintain during the term of this Agreement, amounts of insurance agreed to by both contracting parties and as set forth above in Section One. A certificate or copy the insurance contract and proof of workman's compensation coverage shall be delivered by Contractor to the Management Agent Town Management prior to startup of work.
- If for any reason the Contractor becomes aware that its insurance coverage has lapsed or will be or has been canceled, they shall immediately notify the Management Agent and the HOA. Notwithstanding any provision herein to the contrary, lapse or cancellation of insurance shall be grounds for immediate cancellation of this Agreement.
- The Contractor shall provide the Management Agent, upon request, whether oral or written, all information requested concerning insurance coverage within 72 hours of the request and additional certificates of insurance, if requested during the term of this Agreement.

C. Non-Assignment

- This Agreement is intended to be an agreement solely between the above-named parties and is not assignable without the express written consent of the HOA.

D. Services

- The services required are set forth in Exhibit One, Proposal named 2024-023 Kimberly Mills (Williamsburg) Counselors Close Drainage & Site Improvements Area #2 Rev #1, dated 7-15-24 for the sum of \$86,706.46, which is attached to this Agreement. The attached proposal in its entirety is part of this agreement. Such services are to be performed within industry best practice and workmanlike manner. No change orders or alteration without written authorization from the HOA.

III. CHARGES AND PAYMENTS

A. Satisfactory Delivery of Services

- In return for the satisfactory delivery of services by the Contractor in accordance with this Agreement, the HOA agrees to pay the Contractor upon receipt of invoices pursuant to the payment schedules as stated in Exhibit One of this Agreement.

B. Retainage

- In lieu of a bond, the parties agree that the HOA will hold back 5% of each invoice until the Contract has been completed and all punch list items have been completed and accepted. At that time, after upon written confirmation by the Contractor that all suppliers and subcontractors have been paid in full, the HOA shall pay the 5% hold back within 10 days of receipt of the above written confirmation.

C. Invoices

- Invoices shall be presented for payment in accordance with the payment schedules in Exhibit One of this agreement.

IV. DURATION OF AGREEMENT

A. Schedule

- This Agreement shall benefit both parties to the Agreement and shall be in effect from date of signing through completion and acceptance which is expected to be prior to November 28, 2024.

V. CONTRACT ADMINISTRATION

A. Unsatisfactory Labor or Materials

- Notwithstanding termination provisions contained above in Section IV of the Agreement, if in the HOA opinion the Contractor's performance is unsatisfactory either in terms of materials or labor, the HOA reserves the right to withhold all or partial payment after notification to the Contractor of the deficiencies and allowing the Contractor ten (10) days to correct same. In the event of withholding of payment, an administration charge of ten percent (10%) prorata withholding will be deducted from the payment withheld should the Contractor not correct deficiencies within the ten (10) day period. The administration charge is not reimbursable to the Contractor, even after correction of the same.

B. Inspections

- Inspections of work will be made by Contractor's senior representative, representative of The Structures Group, Inc., and any other inspector that the HOA may deem desirable.
- The HOA's inspector shall always have access to the workplace, the project will be scheduled with at least two weeks' notice to the HOA and be completed within a reasonable, mutually agreed upon date, weather permitting.

VI. INDEMNIFICATION

A. Indemnify and Hold Harmless

- Contractor shall indemnify and defend and hold harmless the HOA, its members, guests and invitees and the

Management Agent resulting from the Contractor's negligence or actions of its employees, from and against all claims, liabilities, damages, losses and expenses (including reasonable attorney's fees) of every kind and character resulting from or relating to or arising out of (a) the inaccuracy, nonfulfillment or breach of any representation, warranty, covenant or agreement made by Contractor herein, or (b) claims, causes of action or actions of third parties that result from or relate to or arise out of the services managed by Contractor. Conduct of, or obligations incurred by, or on behalf of, the Contractor.

VII. NOTICE PROVISION

A. Notice

- In the event notice is required in connection with this Agreement, said notice shall be deemed given when delivered personally in writing or when mailed postage prepaid certified return receipt requested as follows:

For the Contractor: Scott L. Massie
Massie Construction & Land Management, LLC.
PO Box 242
Barhamsville, Va. 23011
Phone: (757) 771-2806

For the HOA: Kimberly Mills
Community Manager, CMCA, AMS
Town Management, LLC.
PO Box 5010
Williamsburg, Va. 23188
Phone: (757) 565-6200

VIII. ENTIRE AGREEMENT

A. Proof of Insurance

- The parties agree that this Agreement with Exhibit One, named 2024-023 Kimberly Mills (Williamsburg) Counselors Close Drainage & Site Improvements **Area #2 Rev #1** that is dated **7-15-24** for the sum of **\$86,706.46** and the Contractor's proofs of insurance which shall be provided to the Management Agent (Town Management) prior to work on project beginning on property, is the entire Agreement between the parties and that any change to the provisions of the Agreement must be made in writing and signed by both parties.

XI. INTERPRETATION

A. Laws of the Commonwealth of Virginia

- The Laws of the Commonwealth of Virginia shall govern the interpretation and all matters relating to this contract.

XII. EXHIBITS

A. Massie Construction & Land Management LLC Proposal

- The Massie Construction & Land Management LLC Proposal named 2024-023 Kimberly Mills (Williamsburg) Counselors Close Drainage & Site Improvements **Area #2 Rev #1** dated **7-15-24** is part of this contract in its entirety.
- The Massie Construction & Land Management LLC Proposal Binder submitted on 7-15-24 is also part of this contract in its entirety.

In witness whereof, Counselors Close Community Company, has caused its name to be *signed* by its authorized agent, all pursuant to due and proper authority duly heretofore had and MASSIE CONSTRUCTION & LAND MANAGEMENT, LLC., which is Contractor, has caused its name to be signed by its Owner, all pursuant to due and proper authority, all as of the date first written above.

COUNSELOR'S CLOSE COMMUNITY COMPANY:

Richard Herrmn, President

Print Name: Richard Herrmann, President


Sign Name: Richard Herrmann, President


7/15/24

Date

MASSIE CONSTRUCTION & LAND MANAGEMENT, LLC.:

Scott L. Massie, Owner

Print Name: Scott L. Massie, Owner


Sign Name: Scott L. Massie, Owner

7/16/24

Date