January 27, 2026

Mr. Luis Montestruque, Ph.D.
HydroDigital, LLC
P.O. Box 1243
South Bend, IN 46624
Luis.montestruque@HydroDigital.com; tim.ruggaber@hydrodigital.com

RE: Professional Services Agreement

Dear Mr. Montestruque:

At its January 27, 2026 meeting, the Board of Public Works approved the above referenced agreement for the operation and maintenance of sensor and telemetry for the Smart Sewer System, Project No. 121-081in the amount of $499,576.

Please find enclosed the agreement. Kindly sign and return it to hhorvath@southbendin.gov and retain a copy for your records.

If you have any further questions, please call this office at (574) 235-9251.

Sincerely,

/s/ Hillary Horvath

Hillary Horvath, Clerk

MASTER AGREEMENT

This Master Agreement (this "Agreement") is entered into as of <u>January 27,</u> 2026"Effective Date"), by and between HydroDigital, LLC, with an address at PO Box 1243, South Bend, IN 46624 ("Company"), and the City of South Bend, Indiana, an Indiana municipal corporation, having an address at 215 S. Dr. Martin Luther King, Jr. Blvd. South Bend, Indiana 46601 ("Client"). Company and Client are hereinafter sometimes referred to as the "Parties" and individually as a "Party". IN CONSIDERATION OF the promises and mutual covenants and agreements in this Agreement, the Parties agree as follows:

1. **Services**

1.1 **Scopes of Work**. Company will provide the Services and Equipment ("Deliverables") as specified in one or more Scopes of Work (each, a "Scope of Work" or "SOW") executed by Company and Client. "Services" means all Deliverables that are not Equipment. "Equipment" means all the physical components of the Deliverables specified in the SOW. Company and Client will execute an individual Scope of Work for each project agreed to by the Parties. Each Scope of Work that forms part of this Agreement, will reference this Agreement and is subject to the terms and conditions of this Agreement. Each SOW shall use the form in Exhibit A. The terms and conditions of this Agreement control over any conflicting terms in any Scope of Work, except to the extent the Scope of Work contains language that expressly and explicitly states that it supersedes a particular provision or provisions of this Agreement. Nothing in this Agreement obligates, or is intended to obligate, Company or any Client to any Scopes of Work.

1.2 **Service and System Control**. Except as otherwise expressly provided in this Agreement, Client has and will retain sole control over the operation, maintenance and management of, and all access to, and use of, the Client Systems. "Client Systems" means the Client's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems) and networks, whether operated directly by Client or through the use of third-party services. Client has and will retain sole responsibility for all access to and use of the Company Deliverables by any Person including any: (i) information, instructions or materials (ii) results obtained from any use of the Company Deliverables; and (iii) conclusions, decisions or actions based on such use. "Person" means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association or other entity.

1.3 **Changes**. Company reserves the right, in its sole discretion, to make any changes to the Company Deliverables that it deems necessary or useful to: (a) maintain or enhance (i) the quality or delivery of Company's Deliverables to Client, (ii) the competitive strength of or market for Company's Deliverables or (iii) the Company Deliverables' cost efficiency or performance; or (b) to comply with applicable Law. Without limiting the foregoing, either party may, at any time during the Term, request in writing changes to the Company Services. No requested changes will be effective unless and until memorialized in a written change order signed by both parties.

1.4 **Suspension or Termination of Company Services**. Company may, directly or indirectly, and by use of an Company Disabling Device or any other lawful means, suspend, terminate or otherwise deny Client's, any Authorized User's or any other Person's access to or use of all or any part of the Company Deliverables, without incurring any resulting obligation or liability, if: (a)

Company receives a judicial or other governmental demand or order, subpoena or law enforcement request that expressly or by reasonable implication requires Company to do so; or (b) Company believes, in its sole discretion, that: (i) Client or any Authorized User has failed to comply with, any material term of this Agreement, or accessed or used the Company Services beyond the scope of the rights granted or for a purpose not authorized under this Agreement or in any manner that does not comply with any instruction or requirement of the Specifications; (ii) Client or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading or unlawful activities relating to or in connection with any of the Company Services; or (iii) this Agreement expires or is terminated. This Section 1.4 does not limit any of Company's other rights or remedies, whether at law, in equity or under this Agreement. ("Authorized User" means each of the individuals authorized to use the Company Services pursuant to Section 2.1 and other terms and conditions of this Agreement as identified in each SOW.)

1.5   **Acceptance**. When Company notifies Client that it has completed a Deliverable, Client may, elect to test or evaluate the related Deliverable(s) to determine whether they comply in all material respects with the requirements of this Agreement and the SOW (the "Acceptance Criteria"). Client will have fourteen (14) days after receipt of the Deliverable to complete its review and testing. Upon completion of Client's review and testing, Client shall notify Company whether it has accepted such Deliverable(s) ("Accept"), or whether it has identified material discrepancies with the Acceptance Criteria ("Reject"). If Client does not Reject a Deliverable within 14 days after receipt, the Deliverable will be deemed accepted. If Client Rejects a Deliverable, Client shall provide a written description of its reason(s) for rejection. On receipt of that description, Company will review the Rejection and will use commercially reasonable efforts to correct any material non-conformity within the Acceptance Criteria and provide the Client with a revised Deliverable within thirty (30) days. The testing and evaluation process will then resume as set forth above. If the Deliverable(s), as revised, still do not comply with the Acceptance Criteria, Client may either (a) require Company to repeat the correction and modification process as set forth above at no additional cost or charge to Client, (b) reject the Deliverable(s) in whole or in part, or (c) terminate the relevant SOW(s). This Section states the sole remedy of Client for a Deliverable failing to meet the Acceptance Criteria.

1.6   **Subcontractors**. Company may from time to time in its discretion engage third parties to perform Company Services (each party, a "Subcontractor").   All fees associated with a Subcontractor shall be paid for by Company.

2.   **Authorization and Client Restrictions**.

2.1   **Authorization**. Subject to and conditioned on Client's payment of the Fees (as defined in Section 6.1) and compliance and performance in accordance with all other terms and conditions of this Agreement, Company hereby authorizes Client to access and use, the Company Deliverables as Company may supply or make available to Client solely for the Permitted Use by and through Authorized Users in accordance with the conditions and limitations set forth in this Agreement. This authorization is non-exclusive and non-transferable.

2.2   **Reservation of Rights**. Nothing in this Agreement grants any right, title or interest in or to (including any license under) any Intellectual Property Rights in or relating to, the Company

Deliverables or Third Party Materials, whether expressly, by implication, estoppel or otherwise. "Intellectual Property Rights" means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world. All rights, title and interest in and to the Company Deliverables and the Third Party Materials are and will remain with Company and the respective rights holders in the Third Party Materials.

2.3   **Authorization Limitations and Restrictions**. Client shall not, and shall not permit any other Person to, access or use the Company Deliverables except as expressly permitted by this Agreement and, in the case of Third-Party Materials, the applicable third-party license agreement. For purposes of clarity and without limiting the generality of the foregoing, Client shall not, except as this Agreement expressly permits:

(a)   copy, modify or create derivative works or improvements of the Company Deliverables;

(b)   rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available any Company Deliverables to any Person, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud or other technology or service;

(c)   reverse engineer, disassemble, decompile, decode, adapt or otherwise attempt to derive or gain access to the source code of the Company Deliverables, in whole or in part;

(d)   bypass or breach any security device or protection used by the Company Deliverables or access or use the Company Deliverables other than by an Authorized User through the use of his or her own then valid Access Credentials ("Access Credentials" means any user name, identification number, password, license or security key, security token, PIN or other security code, method, technology or device used, alone or in combination, to verify and individual's identity and authorization to access and use the Company Services.)

(e)   input, upload, transmit or otherwise provide to or through the Company Services or Company System, any information or materials that are unlawful or injurious, or contain, transmit or activate any Harmful Code; ("Company System" means the information technology infrastructure used by or on behalf of Company in performing the Company Services including all computers, software, hardware, databases, electronic systems (including database management systems) and networks, whether operated directly by Company or through the use of third-party services. "Harmful Code" means any software, hardware or other technology, device or means, including any virus, worm, malware or other malicious computer code, the purpose or effect of which is to (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner any (i) computer, software, firmware, hardware, system or network or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality or use of any data Processed thereby, or (b) prevent Client or any Authorized User from accessing or using the Company Services or Company System as intended by this Agreement. Harmful Code does not include any Company Disabling Device.

(f)   damage, destroy, disrupt, disable, impair, interfere with or otherwise impede or harm in any manner the Company Services, Company System or Company's provision of Company Services to any third party, in whole or in part;

(g)   remove, delete, alter or obscure any trademarks, Specifications, Documentation, warranties or disclaimers, or any copyright, trademark, patent or other intellectual property or proprietary rights notices from any Company Deliverables, including any copy thereof;

(h)   access or use the Company Deliverables in any manner or for any purpose that infringes, misappropriates or otherwise violates any Intellectual Property Right or other right of any third party (including by any unauthorized access to, misappropriation, use, alteration, destruction or disclosure of the data of any other Company client), or that violates any applicable Law;

(i)   access or use the Company Deliverables for purposes of competitive analysis of the Company Deliverables, the development, provision or use of a competing software service or product or any other purpose that is to the Company's detriment or commercial disadvantage;

(j)   access or use the Company Deliverables in, or in association with, the design, construction, maintenance, operation of any hazardous environments, systems or applications, any safety response systems or other safety-critical applications, or any other use or application in which the use or failure of the Company Deliverables could lead to personal injury or severe physical or property damage; or

(k)   otherwise access or use the Company Deliverables beyond the scope of the authorization granted under Section 2.1.

3.   **Client Obligations.**

3.1   **Client Systems and Cooperation.** Client shall at all times during the Term: (a) set up, maintain and operate in good repair and in accordance with the Specifications all Client Systems on or through which the Company Services are accessed or used; (b) provide Company Personnel with such access to Client's premises and Client Systems as is necessary for Company to perform the Company Services in accordance with the Specifications; and (c) provide all cooperation and assistance as Company may reasonably request to enable Company to exercise its rights and perform its obligations under and in connection with this Agreement. "Client Systems" means the Client's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems) and networks, whether operated directly by Client or through the use of third-party services.

3.2   **Effect of Client Failure or Delay**. Company is not responsible or liable for any delay or failure of performance caused in whole or in part by Client's delay in performing, or failure to perform, any of its obligations under this Agreement (each, a "Client Failure").

3.3   **Corrective Action and Notice**. If Client becomes aware of any actual or threatened activity prohibited by Section 2.3, Client shall, and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Company Services and Company Materials and permanently erasing from their systems and destroying any data to which any of them have gained unauthorized access); and (b) notify Company of any such actual or threatened activity.

4.   **Scheduled Downtime**. Company will use commercially reasonable efforts to give Client at least 24 hours prior notice of all scheduled outages of the Company Services ("Scheduled Downtime").

5. **Security**.

5.1 **Company System and Security Obligations.** Company will employ security measures in accordance with Company's data privacy and security policy as amended from time to time, ("Privacy and Security Policy").

5.2 **Data Breach Procedures**. Company maintains a data breach plan in accordance with the criteria set forth in Company's Privacy and Security Policy and shall implement the procedures required under such data breach plan on the occurrence of a "Data Breach" (as defined in such plan).

5.3 **Access and Security**. Client shall employ all physical, administrative and technical controls, screening and security procedures and other safeguards necessary to securely administer the distribution and use of all Access Credentials and protect against any unauthorized access to or use of the Company Deliverables.

6. **Fees; Payment Terms**.

6.1 **Fees**. Client shall pay Company the fees ("Fees") in accordance with applicable SOW.

6.2 **Reimbursable Expenses**. Client shall reimburse Company for out-of-pocket expenses incurred by Company in connection with performing the Company Services ("Reimbursable Expenses"). For significant costs, greater than $2,000, the Company shall get prior approval from the Client before incurring the expense.

6.3 **Taxes**. All Fees and other amounts payable by Client under this Agreement are exclusive of taxes and similar assessments. Client is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental or regulatory authority on any amounts payable by Client hereunder, other than any taxes imposed on Company's income.

6.4 **Payment**. Client shall pay all Fees and Reimbursable Expenses on or prior to the due date set forth applicable SOW. Client shall make all payments hereunder in US dollars by ACH or other immediately available funds. Client shall make payments to the address or account specified in SOW or such other address or account as Company may specify in writing from time to time.

6.5 **No Deductions or Setoffs**. All undisputed amounts payable to Company under this Agreement shall be paid by Client to Company in full without any setoff, recoupment, counterclaim, deduction, debit or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable Law).

7. **Intellectual Proprietary Rights**. Company is and shall remain the owner of all Intellectual Property Rights Client will not acquire any proprietary rights in Company's equipment, systems, software, technology, inventions (whether or not patentable), patents, patent applications, documentation, specifications, designs, data, databases, methods, processes or know-how

("Company's Proprietary Technology"). Any modifications or improvements to Company's Proprietary Technology made during the performance of the Services will be the sole and exclusive property of Company. Client agrees not to reverse engineer any of Company's equipment, systems or software. Nothing in this Agreement grants any right, title or interest in or to (including any license under) any Intellectual Property Rights in or relating to, the Company Deliverables or Third Party Materials, whether expressly, by implication, estoppel or otherwise. All rights, title and interest in and to the Company Deliverables and the Third Party Materials are and will remain with Company and the respective rights holders in the Third Party Materials.

8.   **Client Data**. Client is the exclusive owner of Client Data and is responsible for all information provided by or on behalf of Client to Company for the purposes of Company providing the Services. Client grants Company and its Subcontractors a royalty-free, non-exclusive, irrevocable right to access, store, and use Client Data to (1) provide the Services; (2) analyze and improve the Services; (3) analyze, improve, or develop any equipment or software; or (4) for any other internal use. "Client Data" means, other than Resultant Data, information, data and other content, in any form or medium, that is collected, downloaded or otherwise received, directly or indirectly from Client or an Authorized User by or through the Company Services. "Resultant Data" means information, data and other content that is derived by or through the Company Services from Processing Client Data and is sufficiently different from such Client Data that such Client Data cannot be reverse engineered or otherwise identified from the inspection, analysis or further Processing of such information, data or content.

9.   **Confidentiality**. Client and Company agrees for themselves, their employees, and their agents to keep in strictest confidence all information either identified by the other as secret or confidential, or which, from the circumstances, in good faith ought to be treated as secret or confidential. Confidential information includes, by way of example and without limitation, information relating to Company's products, processes, price lists, technical information, or other business information which Company may identify in its performance of this Agreement (collectively, "Confidential Information"). The parties will not publish, communicate, divulge, or disclose to unauthorized persons any such Confidential Information without prior written consent of the other party. All right, title, and interest in and to all Confidential Information disclosed hereunder remain the property of the disclosing party. The parties acknowledge that any unauthorized disclosure or misappropriation of any of the Confidential Information will cause the other party irreparable harm, the amount of which may be difficult to ascertain; therefore, the disclosing party is entitled to seek specific performance, an order restraining and enjoining any further disclosure or breach, and any other relief it deems appropriate. The parties expressly waive the defense that a remedy in damages will be adequate and any requirement in an action for specific performance or injunction for the posting of a bond. The confidentiality obligations set forth in this Section shall survive the termination of this Agreement.

10.   **Term and Termination**. This Agreement shall commence on the Effective Date and shall remain in effect until terminated as provided herein.

10.1   **Termination by Client**. Client may terminate this Agreement and any and all then-effective Scopes of Work for any reason and at any time, by providing Company with 30 days' prior notice. In addition, Client may terminate the Scopes of Work to which it is a party for any

reason and at any time, by providing Company with 30 days' prior written notice. On receipt of a notice of termination, Company shall, to the extent commercially practicable, promptly terminate any of its obligations to receive undelivered or unfulfilled goods and services from third parties relating to the applicable Services.

10.2   **Termination by Company.** Company may terminate this Agreement on written notice for any reason and at any time only so long as no SOW is then in effect, or no Services are otherwise being performed hereunder.

10.3   **Termination for Cause**. Client and Company each have the right to immediately terminate this Agreement in the event that the other party breaches any term or condition hereof and such breach is not cured within 30 days following written notice thereof from the complaining party. Client and Company each have the right to immediately terminate this Agreement in the event that the other Party becomes insolvent, has voluntary or involuntary bankruptcy proceedings filed by or against it, or makes an assignment for the benefit of creditors.

10.4   **Effect of Termination**. In the event of the termination of this Agreement, Company shall return to Client, within fourteen (14) business days after termination, all Deliverables (finished or otherwise), equipment, instruments, documents, materials, and tangible property of Client. All Confidential Information shall be returned to Client or destroyed as directed by Client. Company is entitled to that portion of the Fees attributable to Services actually performed and Deliverables actually delivered, as well as its actual, documented, reasonable expenses incurred, prior to the effective date of termination in accordance with the applicable SOW Exhibit that could not be cancelled or terminated as required above. Company shall refund to Client, within 30 days after the effective date of termination, all pre-paid or advanced amounts provided to Company relating to Services not yet performed as of the date of termination.

11.   **Representations and Warranties; Standard of Care; Insurance.**

11.1   **Mutual Representations and Warranties**. Each party represents and warrants to the other party that:

(a)   it is duly organized, validly existing and in good standing as a legal entity under the Laws of the jurisdiction of its incorporation, organization or formation;

(b)   it has the full right, power and authority to enter into and perform its obligations and grant the rights, licenses, consents and authorizations it grants or is required to grant under this Agreement;

(c)   the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such party; and

(d)   when executed and delivered by both parties, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.

11.2   **Additional Client Representations, Warranties and Covenants**. Client represents, warrants and covenants to Company that Client owns or otherwise has and will have the necessary rights and consents in and relating to the Client Data so that, as received by Company and Processed in accordance with this Agreement, they do not and will not infringe, misappropriate or otherwise violate any Intellectual Property Rights, or any privacy or other rights of any third party or violate any applicable Law.

11.3   **DISCLAIMER OF WARRANTIES**. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN SECTION 11.1 AND SECTION 11.2, ALL COMPANY DELIVERABLES ARE PROVIDED "AS IS" AND COMPANY HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, AND COMPANY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, COMPANY MAKES NO WARRANTY OF ANY KIND THAT THE COMPANY DELIVERABLES, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CLIENT'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD PARTY MATERIALS IS STRICTLY BETWEEN CLIENT AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF THE THIRD-PARTY MATERIALS.

11.4   **Standard of Care**.

(a)   The standard of care for all Company Deliverables performed or furnished by Company under this Agreement will be the care and skill ordinarily used by members of the profession practicing under similar circumstances at the same time and in the same locality. Subject to the foregoing standard of care, Company and its agents and consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

(b)   Company shall not at any time supervise, direct, control, or have authority over any of Client's work, nor shall Company have authority over or be responsible for the means, methods, techniques, sequences, or procedures of any construction selected or used by any contractor retained by the Client, or the safety precautions and programs incident thereto, for security or safety at the location of the provision of any Company Services, nor for any failure of a contractor to comply with laws and regulations applicable to such contractor's furnishing and performing of its work.

(c)   Company neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Client and such contractor.   Company is not responsible for variations between actual construction bids or costs and Company's opinions or estimates regarding construction costs.

(d)   Company shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Company's own employees and subcontractors) or otherwise furnishing or performing any construction work; or for any decision made regarding the construction contract requirements, or

any application, interpretation, or clarification of the construction contract other than those made by Company.

11.5   **Insurance**. Contractor shall procure and maintain in effect throughout the duration of this Agreement insurance coverage not less than the types and amounts specified in this section.

(a)   Commercial General Liability Insurance with limits of $1,000,000 per occurrence and $2,000,000 aggregate, written on an "occurrence" basis.

(b)   Commercial Automobile Liability Insurance with a limit of $1,000,000 written on an "occurrence" basis

(c)   Professional Liability Insurance with limits per claim and annual aggregate of $2,000,000.

12.   **Indemnification**.

12.1   **Client**. Company hereby agrees to defend, indemnify, and hold harmless Client and its officers, directors, shareholders, customers, employees, successors, and assigns from and against any and all liabilities, losses, damages, and expenses (including legal expenses) of any kind or character arising from third-party claims or allegations asserted against any of the indemnified parties and legal proceedings instituted in respect of (a) willful misconduct or grossly negligent acts or omissions on the part of Company or its employees; (b) Company's breach of any representation, warranty, or obligation hereunder; or (c) violation of any third party's intellectual property rights arising in connection with this Agreement; except Company shall have no obligation to indemnify as described above to the extent Client has an obligation to indemnify Company for any such claim pursuant to Section 12.2 below.

12.2   **Company**. Client hereby agrees to defend, indemnify, and hold harmless Company and its officers, directors, shareholders, customers, employees, successors, and assigns from and against any and all liabilities, losses, damages, and expenses (including legal expenses) of any kind or character arising from third-party claims or allegations asserted against any of the indemnified parties and legal proceedings instituted in respect of (a) willful misconduct or grossly negligent acts or omissions on the part of Client or its employees; (b) Client's breach of any representation, warranty, or obligation hereunder; or (c) violation of any third party's intellectual property rights arising in connection with this Company's use of Client's material as permitted by, and in accordance with, this Agreement; except Client shall have no obligation to indemnify as described above to the extent Company has an obligation to indemnify Client for any such claim pursuant to Section 12 above.

12.3   **Each Party**. Each party's obligations as an indemnitor shall be conditioned on the indemnitee promptly notifying the indemnitor of any claim, and reasonably cooperating in the

handling thereof, provided that each indemnitee shall have the right to participate in the defense of any claim at its own cost and expense.

13. **Limitation of Liability**.

13.1 **Liability**. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT.

13.2 **Cap on Monetary Limit**. NEITHER PARTY'S LIABILITY TO THE OTHER PARTY FOR ANY DAMAGES OF ANY KIND SHALL EXCEED THE FEES PAID OR PAYABLE BY CLIENT IN THE 12-MONTH PERIOD PRIOR TO THE DATE THE CIRCUMSTANCE GIVING RISE TO THE CLAIM FIRST AROSE

14. **Force Majeure**.

14.1 **No Breach or Default**. In no event will Company be liable or responsible to Client, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by any circumstances beyond Company's reasonable control (a "Force Majeure Event"), including acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, pandemic, embargoes or blockades in effect on or after the date of this Agreement, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of Law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation. Either party may terminate this Agreement if a Force Majeure Event continues substantially uninterrupted for a period of 30 days or more.

14.2 **Affected Party Obligations**. In the event of any failure or delay caused by a Force Majeure Event, Company shall give prompt written notice to Client stating the period of time the occurrence is expected to continue and use commercially reasonable efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

15. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

16. **Notices**. All notices, demands, or other communication desired to be given under this Agreement shall be in writing and delivered personally or mailed by certified mail, postage prepaid, addressed to the Parties at the addresses set forth above.

17. **Successors, Assigns, and Beneficiaries**

17.1 **Successors**. Client and Company are hereby bound and the successors, executors, administrators, and legal representatives of Client and Company (and to the extent permitted by Paragraph 17.2 the assigns of Client and Company) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

17.2 **Assignments**. Neither Client nor Company may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

17.3 **Beneficiaries**. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Client or Company to any contractor, subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and Company and not for the benefit of any other party.

18. **Total Agreement**. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Client and Company and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument signed by both Parties. A Party's failure to enforce any of the provisions of this Agreement at any time should not be construed to be a waiver of those provisions, or in any way affect the validity of this Agreement.

19. **Severability**. If any provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

20. **Disputes; Applicable Law**. This Agreement and all SOWs is to be governed by the law of the state or jurisdiction in which the Project is located

21. **Counterparts**. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, portable document format (PDF), e-mail or other reasonable means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

22.   **Equitable Relief.** Each party acknowledges and agrees that a breach or threatened breach by such party of any of its obligations under Section 9 or, in the case of Client, Section 2.3, or Section 3.3, would cause the other party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other party will be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise

23.   **Safety and Security Regulations**. Company is responsible for initiating, maintaining, and supervising all health and safety precautions and programs in conjunction with the Services. Company shall take all reasonable precautions in the area where Services are performed to protect health and safety of persons (including employees of Company and Client) and to protect the property of Company, Client, and others against damage, contamination, loss, or theft. Company shall comply with all laws and regulations now in effect or which hereinafter may be applicable relating to health, safety, and environment, including all applicable health and safety laws in each of the jurisdictions in which Services are to be provided, and with all health, safety, and environmental rules, regulations, and procedures at Client's facilities. Compliance with such requirements shall represent the minimum standard required of Company and shall be provided at no additional cost to Client. Company is responsible for examining all requirements and determining whether additional or more stringent health, safety, and security provisions are required for the Services to be performed hereunder. Nothing contained in this Section shall affect Company's status as an independent contractor. Company shall ensure that the provisions of this Section are made binding on all subcontractors.

24.   **Remedies**. No right or remedy under this Agreement conferred on, or reserved to, either party is intended to be exclusive of any other right or remedy, and every right and remedy is cumulative and in addition to any other right or remedy under this Agreement, at law, or in equity.

[SIGNATURE PAGE FOLLOWS]
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Company, LLC

By_____

Name: Luis Montestruque
Title: Manager

_____

By_____

Name: Timothy Ruggaber
Title: Chief Delivery Officer

CITY OF SOUTH BEND, INDIANA
BOARD OF PUBLIC WORKS

_____
Elizabeth A. Maradik, President

_____
Joseph R. Molnar, Vice President

_____
Murray L. Miller, Member

_____
Breana N. Micou, Member

_____
Abigail E. Magas, Member

_____
Attest: Hillary R. Horvath, Clerk

Date: _____
January 27, 2026

Exhibit A
Scope of Work

This Scope of Work is entered into between the City of South Bend, IN ("Client") and Hydrodigital, LLC ("Company") pursuant to the Master Agreement ("Agreement") between the Parties dated xx, xx, xxxx.

Date

Scope of Work for *Title of Project*

Objective
Description of Objective

Rationale
Description of Rationale

Statement of Work
List of Tasks and their descriptions

Deliverables
Deliverables with schedule and acceptance criteria

Budget
Detail of budget including per timeframe, per milestone etc, as well as invoicing terms and schedule

Assumptions (if any)

Additional Terms and Conditions (if any)

Exhibits (if any)

December 12, 2025

Scope of Work

This Scope of Work is entered into between the City of South Bend, IN ("Client") and Hydrodigital, LLC ("Company") pursuant to the Master Agreement ("Agreement") between the Parties dated xx, xx, xxxx.

Objective

Provide a comprehensive, performance-based solution to maintain the CSOnet sensor network for the City of South Bend.

Rationale

- The principals of HydroDigital, Luis Montestruque, Tim Ruggaber, and Carrie Malli, all of whom reside in the City of South Bend, worked on the CSOnet system since its pilot phase in 2004, through its full deployment in 2010, and have supported the City on its upkeep ever since.
- Our team has intimate knowledge of all aspects of the CSOnet from sensor network to its control system including the operation of the sewer system.
- HydroDigital and its sister company D3 Water are vested in the success of South Bend's CSOnet and propose the use of a performance based contract.
- Jeremy Slater and Tom Navel, from D3 Water, have worked on the maintenance of the telemetry units and sensors respectively for over 10 years.

Statement of Work

Task 1. Sensor Network Maintenance
This task has as objective the implementation of a comprehensive maintenance solution that includes:

- Maintenance of level sensors and telemetry units with a per unit, per month, 95% uptime performance guarantee according to the following schedule:

Target Percent Uptime	Maintenance Fee Multiplier
Greater or equal than 95%	1.0
Between 85% and 95%	0.8
Between 75% and 85%	0.6
Between 65% and 75%	0.5
Less than 65%	0.0

- Monthly uptime is calculated based on 5-minute valid data, where valid is defined as:
  - Sensor data is available in the system (data to appear in the system according to its reporting time).
  - Sensor data has not flatlined (over 12 consecutive values are identical).

- o Sensor data responds to rainfall events and returns to normal conditions after a rainfall event.
- o Sensor data does not show outliers.
- Data uptime reports (including QA/QC) and maintenance reports will be made available to the City monthly.
- In addition to the performance guarantee, HydroDigital will have a response time of 24 hours for all critical sites (all CSO and interceptor locations) upon issues of uptime. Fixing the issue will be subject to parts availability if needed to restore the site.
- Maintenance includes telemetry and sensor preventative maintenance to ensure high quality data.
- Includes battery replacements as required by the site to maintain uptime.
- Includes telemetry equipment replacements when damage is due to installation issues. Excludes damage due to City or 3rd party actions, Acts of God (e.g. flooding) or normal wear and tear of the equipment. Equipment not covered by this task and requested by the City will be billed to the City separately.
- Site or maintenance visits and activities will be scheduled by HydroDigital based on system performance. Site or maintenance visits requested by the City are not included in this task.
- Assumes system calibration as specified in previous quote or similar work is performed to restore the sensor network to operating conditions.

Task 2. Data Hosting
This task's objective is the hosting of the CSOnet sensor data:
- Existing telemetry units will be redirected to send data to the HydroDigital platform with improved functionality and feature set as original CSOnet system (better or equal) including but not limited to:
  - o Ability to visualize time series data from several sensors and Digital Twin
  - o Visualization of forecasted data.
  - o Hosting of Digital Twin (Hydraulic Model).
  - o Comparison of Digital Twin data versus sensor data.
  - o Ability to add maintenance notes to time series data.
- The HydroDigital platform will be configured to provide data to the City as currently set up with the original CSOnet or similar.
- MRO reports will be included along with the generation of Digital Twin hindcast data to support the reports.

Task 3. System Reconfiguration
This task's objective is the updating of the sensor network to match the evolving needs of the City. This task includes:
- Removal and decommissioning of 15 monitoring locations.
- Re-positioning of 3 CSO trunkline flow meters (at CSOs 018, 022, and 031) far enough upstream of the regulator to prevent interference with the velocity sensor. If a level sensor is not present at the CSO regulator, a new level sensor will be added. As this updated configuration will require confined space entry at two different points, they will now count as separate monitoring sites. The reconfiguration of the remaining trunkline flow meters (at CSOs 025, 026, 027, 028, 035, and 044) will be done at a later time.
- Either add a new flow meter or convert an existing depth sensor to a flow meter in the interceptor near CSO 037, CSO 031, RC1, and CSO 001.
- Add a new depth sensor at the downstream regulator at CSO 001 and a new flow meter in the CSO 060 outfall.
- Redesign and refitting of the River Crossing 5 upstream flow meter, which currently levels off at 4 ft., even when upstream and downstream sensors are well in excess of this (assuming use of spare sensors from 2025).

Task 4. As Needed Professional Services Support

This task is a catch all for additional activities related to the HydroDigital Platform requested by the City and billed as time and materials. Activities that may be requested through this task are:

- Additional training of staff.
- Development of custom analyses or interfaces in the platform.
- Other support as requested.

This work will be performed under the HydroDigital's Master Service Agreement (MSA) with the City.

Task 5. As Needed Network Update Services Support

This task is a catch all for additional activities related to the CSOnet monitoring system as requested by the City and billed as time and materials. Activities that may be requested through this task are:

- Installation, removal and relocation of sensors and telemetry units.
- Review and modification of control logic.
- New equipment required by new site installations or to repair sites due to circumstances excluded in Task 1.
- Additional site or maintenance visits not covered by Task 1.

Deliverables

Task 1:
- Monthly report with data up time (including data QA/QC).
- Monthly report with maintenance activities.

Task 2:
- Access to HydroDigital platform with data made available through Task 1.
- Access to MRO report functionality.
- Data integration with City SCADA.
- Technical support as needed.

Task 3:
- Report of the sensor configuration changes made to the network.

Task 4:
- Activities and reports as needed.

Task 5:
- Activities and reports as needed.

Schedule: The proposed services under this Scope of Work are for the period of January 1, 2026 – December 31, 2026.

Budget

Item	Unit cost	Number of units	Fee
Task 1. Sensor Network Maintenance	$382/site/month	94 sites for 12 months	**$430,896**
Task 2. Data Hosting	$2,975/month	12 months	**$35,700**
Task 3. System Reconfiguration	$32,980	1	**$32,980**
Task 4. As Needed Professional Services Support	NA	NA	**To be covered in MSA**
Task 5. As Needed Network Update Services Support	NA	NA	**TBD**
TOTAL			**$499,576**

Invoicing: Monthly invoices will be generated according to the formula outlined in Statement of Work, Task 1. All invoices issued under this Scope of Work are payable within thirty (30) days from the date of receipt by the Client.

Additional Terms and Conditions:

Unauthorized Modifications: In the event that the Client or any third party (not authorized by HydroDigital) tampers with, modifies, services, or attempts to repair the site, network, or systems covered under this agreement, the Client shall be liable for the full amount due under this agreement, regardless of any calculated uptime or service disruptions that may occur. If third-party intervention or unauthorized service occurs, the Client agrees to pay 100% of the agreed-upon fees, including but not limited to, any additional maintenance required to bring the system back into the control of HydroDigital. The monthly payment is due in full, irrespective of any issues caused by the third party's actions until HydroDigital in its sole discretion confirms that the site is operating under its uptime performance guarantee.

Access to Site: Client agrees to provide HydroDigital with unrestricted access to the site,

systems, and any necessary resources to perform the services outlined in this agreement.
If access to the site, systems, or any necessary resources is denied, delayed, or otherwise unavailable through no fault of HydroDigital, the Client shall remain fully responsible for payment. This includes the full amount due under this agreement, regardless of any impact on uptime or Deliverables.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Company, LLC

By _____

Name: Luis Montestruque
Title: Manager

CITY OF SOUTH BEND, INDIANA
BOARD OF PUBLIC WORKS

_____
Elizabeth A. Maradik, President

_____
Murray L. Miller, Member

_____
Abigail E. Magas, Member

_____
Joseph R. Molnar, Vice President

_____
Breana N. Micou, Member

_____
Attest: Hillary R. Horvath, Clerk

Date: ___January 27, 2026___

Schedule 1. List of Site Locations

CSOnet Name	Site	Critical? (Y/N)
G.SA.31.1	Becks Lake	N
TBD (New)	CSO 001 DS Regulator	Y
G.1.1	CSO 01	Y
G.3a.2	CSO 02	Y
G.3a.1a	CSO 03	Y
G.3b.1	CSO 04	Y
G.SA.29.1	CSO 06	Y
I.8.4	CSO 07	Y
I.8.5	CSO 08	Y
G.10.2	CSO 10	Y
G.11.2	CSO 11A East	Y
G.11.2	CSO 11A West	Y
G.11.2	CSO 11B	Y
I.13.1	CSO 14	Y
G.30.2	CSO 18	Y
G.30.3	CSO 19	Y
G.SA.15.3	CSO 21	Y
G.15.1a	CSO 22	Y
I.8.2	CSO 25	Y
I.9.2	CSO 26	Y
G.10.1	CSO 27	Y
G.10.1	CSO 28	Y
G.11.1	CSO 29	Y
G.30.4	CSO 31	Y
G.24.1	CSO 33	Y
G.24.2	CSO 35	Y
G.24.3	CSO 36	Y
G.36.1a	CSO 37	Y
I.21.2	CSO 38	Y
G.21.1	CSO 39	Y
G.21.2	CSO 40	Y
G.20.3	CSO 41	Y
G.20.2	CSO 42	Y
G.1.2	CSO 44	Y
G.15.2	CSO 48	Y
G.30.1	CSO 49	Y
G.23.2	CSO 60	Y
TBD (New)	CSO 60 OF	Y
I.SA.SB.17	Erskine Pond	N
G.19.1b	Fairfax Basin	N
I.SA.SB.19	Falcon St	N
G.36.1	Int at CSO 37	Y
I.SA.13.3	Int at RC#3	Y
TBD (New)	Int by CSO 01	Y
I.3a.1	Int by CSO 02	Y
G.3a.1c	Int by CSO 03	Y
I.3b.1	Int by CSO 04	Y
I.9.3	Int by CSO 26	Y
G.10.1	Int by CSO 27/28	Y
I.11.1	Int by CSO 29	Y
I.30.1	Int by CSO 31	Y
G.24.1a	Int by CSO 33	Y

I.24.1	Int by CSO 35	Y
G.21.3	Int by CSO 38	Y
G.21.1a	Int by CSO 39	Y
G.20.3	Int by CSO 41	Y
I.20.1	Int by CSO 42	Y
I.1.1	Int by CSO 44	Y
I.30.2	Int by CSO 49	Y
I.36.1	Int DS of CSO 37	Y
I.8.1	Int DS of RC#4	Y
I.8.2a	Int US of CSO 25	Y
G.18.1	Ireland Miami Basin	N
I.SA.SB.16	Kenmore	N
I.4.4	Kennedy Park Basin	N
G.19.1d	Kensington Basin 4 21" OF	N
G.19.1c	Kensington Basin 4 21" Sanitary	N
I.SA.SB.4	Oliver Plow Basin	N
I.15.1-2	RC#1 Int at Primary	Y
I.15.1-2	RC#1 Int at Secondary	Y
G.15.2	RC#1 Primary	N
G.13.1	RC#3 PS	N
I.8.7	RC#4 at Leeper	N
I.SA.SB.31	RC#5 DS	Y
I.SA.SB.32	RC#5 US	Y
I.SA.SB.30	RC#6 DS	N
G.21.1	River Stage at CSO 39	N
I.SA.SB.15	River Stage at East Race	N
I.4.3	TMP 03-2	N
I.SA.6.1	TMP 03-3	N
I20G104963.SA	TMP 04-1	N
I.SA.34.1	TMP 06-4	N
I20G157641.SA	TMP 06-5	N
I.SA.SB.33	TMP 06-6	N
I.8.6	TMP 08-11A/B	N
G.11.2	TMP 11-2	N
I.SA.SB.1	TMP 18-3	N
I.SA.SB.2	TMP 18-4	N
I.SA.SB.27	TMP 18-6	N
I.SA.SB.29	TMP 18-7	N

Schedule 2. As Needed Activities as set forth in Task 3

Title	
Description	
Deliverables	
Schedule	
Budget	

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Company, LLC

By_____

Name:
Title:

_____

By_____
Name:
Title:

BOARD OF PUBLIC WORKS
AGENDA ITEM REVIEW REQUEST FORM

Date: 1/20/2026

Name: Kieran Fahey   Department of Public Works – Engineering Division

BPW Date: Jan 20th, 2026   Phone Extension: 5993

Required Prior to Submittal to Board		
BPW Attorney	X	Attorney Name
Dept. Attorney	☐	Attorney Name **Michael Schmidt**
Purchasing	☐	

Check the Appropriate Item Type – *Required for All Submissions*

☒ Professional Services Agreement	☐ Contract	☐ Proposal
☐ Open Market Contract	☐ Amendment/Addendum	☐ Special Purchase, QPA
☐ Bid Opening	☐ Bid Award	☐ Req. to Advertise ☐ Title Sheet
☐ Quote Opening	☐ Quote Award	☐ Reject Bids/Quotes
☐ Proposal Opening	☐ C/O & PCA No. _____	☐ PCA
☐ Chg. Order, No. _____	☐ Traffic Control	☐ Resolution
☐ Other: _____		☐ Ease./Encroach

Required Information

Company or Vendor Name	HydroDigital LLC
New Vendor	☐ Yes ☐ If Yes, Approved by Purchasing ☒ No
MBE/WBE Contractor	☐ MBE Completed E-Verify Form Attached ☐ Yes ☐ WBE ☐ No
Project Name	Smart Sewer System
Project Number	121-081
Funding Source	Waste Water Other Contractual Service
Account No.	641-06-605-514-439001
Amount	$499,576
Terms of Contract	Operate and maintain sensors and telemetry for the Smart Sewer system
Special Contract Provisions	
Purpose/Description	Operate and maintain sensors and telemetry for the Smart Sewer system

For Change Orders Only

Amount of	☐ Increase	$	
	☐ Decrease	($)	
Previous Amount		$	
Current Percent of Change:	Increase	%	
	Decrease	(%)	
New Amount		$	
Total Percent of Change:	Increase	%	
	Decrease	(%)	
Time Extension Amount:			
New Completion Date:			