

**AGREEMENT BETWEEN
OLD GLADE ANTIQUE TRACTOR ASSOCIATION, INC. AND
TOWN OF ABINGDON FOR
NONPROFESSIONAL SERVICES**

This Agreement entered into on the 2ND day of April, 2019, by and between Old Glade Antique Tractor Association, Inc. ("OGATA"), and Town of Abingdon, a political subdivision of the Commonwealth of Virginia, having its administrative office at 133 West Main Street, Abingdon, Virginia, 24210, and hereafter called "the Client".

WITNESSETH:

WHEREAS, the parties have entered into a certain Lease for property 910 Hillman Highway, Abingdon, Virginia and being that property shown as Tax Map No. 106-A-2A, consisting of 4.642 acres more or less, and OGATA has permission from James D. Moore, Jr., Family Limited Partnership to use and have access to property being a portion of Tax Map No. 106-A-2, consisting of 8.6 acres more or less ("Property");

WHEREAS, the Client desires to retain the services of OGATA to perform nonprofessional services defined by the Code of Virginia;

WHEREAS, OGATA desires to provide the Client with such services as authorized by the Client, and represents that it is organized and authorized to conduct business within the Commonwealth of Virginia;

WHEREAS, the Client by vote of its Town Council authorized the Client to enter into such agreement;

NOW, THEREFORE, for and in consideration of the promises, the mutual benefits to the parties from entering into this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows.

SECTION 1. STATEMENT/SCOPE OF WORK.

- A. OGATA will provide services to Client as set forth in the attached Scope of Services ("Scope of Services"/"Services") attached hereto as Exhibit A and a part hereof.
- B. OGATA and its Subcontractors, and their respective employees, are and shall remain independent contractors in performing the Services under this Agreement.
- D. Services shall be performed and completed by OGATA within the time frames set forth in the Scope of Services time being of the essence of this provision.

SECTION 2. COMPENSATION, METHOD OF PAYMENT, TIME OF PERFORMANCE AND TERMINATION.

- A. **Compensation.** Client shall compensate OGATA for the Services performed based upon the terms described within the Scope of Services.
- B. **Payment to OGATA.** Client shall pay OGATA for the Services performed as set forth in the Payment Schedule included in the Scope of Services. If no Payment Schedule is so included, Client shall make payment within thirty (30) days after receipt of a bill for services from OGATA.
- C. **Term.** This Agreement shall commence on April 1, 2019, and shall continue for a period of one (1) year, and may be extended for a period of time upon mutual agreement by both parties pursuant to Section 6 of this Agreement, but shall remain subject to termination for convenience at any time pursuant to Section 2(D) or for non-appropriation of funding by Client.
- D. **Termination for Convenience.** Either the Client or OGATA may terminate this Agreement at any time, by giving written notice to the other party of such termination and specifying the effective date thereof, but with a minimum of ninety (90) calendar days of such termination.
- (1) In the event of termination, whether for convenience, non-appropriation or default, all finished and unfinished documents and other materials produced by OGATA specifically for the Client shall be delivered to and become the property of the Client.
 - (2) In the event of termination, OGATA shall be paid for the Services performed prior to the effective date of termination. Upon request, OGATA will provide the Client with documentation of the Services performed prior to the effective date of termination.
- E. **Termination for Default [Breach or Cause].** The Client or OGATA may terminate this Agreement for default for failure to comply with the terms of this Agreement or for reasonable cause by giving a written notice to the other party of such termination specifying the effective date thereof. The notice shall set forth the nature of the default of the Agreement.
- (1) In the event of termination by the Client, OGATA shall be paid for Services performed up to the effective date of termination in accordance with the manner of payment set forth in the Agreement. If it is later determined that OGATA had an excusable reason for not performing such as natural disasters or other events which are beyond the control of OGATA, the Parties may, but shall not be required to, agree for OGATA to continue to provide the Services.

- (2) After receipt of written notice from the Client setting forth the nature of said breach or default, OGATA may request, and the Client may, but shall not be required to, agree to provide OGATA time to remedy any breach or default to the satisfaction of Client. If the Client does not agree to allow OGATA to remedy the default, OGATA shall immediately cease providing Services.

SECTION 3. RESPONSIBILITIES OF OGATA.

- A. OGATA agrees to use the records and information gathered or otherwise used pursuant to this Agreement only for the advancement of the interests of Client, and as further provided in Section 5(D) of this Agreement.
- B. OGATA will provide all services under this Agreement in a manner consistent with applicable laws, professional standards and its best efforts.
- C. OGATA shall comply with Client's standards for acceptable workplace conduct and safety, and shall all times conduct themselves in a professional manner.
- D. OGATA shall maintain at least One Million Dollars of commercial general liability insurance to cover their actions or omissions, and Workers' Compensation insurance in the statutory amount to cover work-related injuries to their employees. Upon request, OGATA shall promptly provide the Client with evidence of such insurance.

SECTION 4. RESPONSIBILITIES OF THE CLIENT.

- A. Without charge to OGATA, Client agrees to provide all policies, information, communications, records, data, information and forms which are available to the Client and needed by OGATA in order to perform the Services.
- B. At the Client's discretion, the Client may provide to OGATA the items described in Paragraph 3 of the Scope of Services.
- C. OGATA and its Subcontractors and their respective employees are Independent Contractors (IC), pursuant to Section 1(C) and maintain insurance as set forth in Section 3(E) herein.

The client shall avail OGATA, its subcontractors and their respective employees, of all legal & equitable defenses that may arise out of their performance of duties on behalf of the client.
- D. The Client shall communicate any concerns about OGATA staff or Subcontractor performance to OGATA representative set forth in Section 5, unless otherwise specifically set forth within the Scope of Services.

SECTION 5. ADMINISTRATION OF THE AGREEMENT.

- A. All notices and communications with respect to the terms of this Agreement and the performance of the Services shall be through the Party Representatives. The Party Representatives are:

Client's representative shall be:

Title

(276) 628-3167

Phone Number

email

OGATA's representative shall be:

- B. ***Incorporated Provisions.*** This Agreement shall be performed in accordance with the applicable, required contractual provisions set forth in the Client's purchasing or procurement regulations, and the Virginia Public Procurement Act, Virginia Code §§ 2.2-4300, *et seq.*, in effect at the time of this Agreement, pertaining to non-discrimination § 2.2-4310 and - 4311, compliance with immigration laws § 2.2-4311.1, drug-free workplace § 2.2-4312, which provisions are incorporated herein by reference.
- C. ***Contractual.*** Disputes with respect to this Agreement shall be governed by Virginia Code § 2.2-4363 or similar provision in Client's purchasing or procurement ordinances or regulations.
- D. ***Ownership and Status of Documents.***
 - (1) All documents prepared by OGATA specifically for the Client shall become the property of the Client upon completion of Services, or the earlier termination of this Agreement. OGATA shall have the right to retain appropriate copies of all such documents for its records upon client' approval, and to reuse any template documents which it prepared for the Client. All materials, including without limitation, documents, drawings, drafts, notes, designs, computer media, electronic files and lists, including all additions to, deletions from, alterations of, and revisions in the foregoing (together the "Materials"), which are furnished to OGATA by Client or which are development in

Non-Professional Services Agreement

the process of performing the Services, or embody or relate to the Services, the Client Information or the Innovations (as defined below), are the property of Client, and shall be returned by OGATA to Client promptly at Client's request together with any copies thereof, and in any event promptly upon expiration or termination of this Agreement for any reason.

- (2) All documents prepared by OGATA specifically for the Client shall become the property of the Client upon completion of Services, or the earlier termination of this Agreement. OGATA shall have the right to retain appropriate copies of all such documents for its records, and to reuse any template documents which it prepared for the Client.
- (3) Records provided to OGATA by the Client and records prepared by OGATA specifically for the Client shall be kept confidential by OGATA until released or approved for release by the Client. OGATA will cooperate with the Client in complying with the requirements of Virginia Code § 2.2-4342 and any requirements of the Virginia Freedom of Information Act applicable to such records.
- (4) OGATA shall maintain financial records, supporting documents, statistical records, and other records pertinent to this Agreement for three (3) years from the date of final payment, and make those records available to the Client upon written request.

SECTION 6. CHANGES TO AGREEMENT.

- A. Any modification or change to this Agreement must be set forth in a written Addendum to this Agreement and signed by authorized representatives of both parties.
- B. The parties hereto may, from time to time, propose changes in the attached Scope of services or in OGATA's performance requirements. Such changes must be mutually agreed upon by the parties in writing, signed by the authorized representatives of both parties.

SECTION 7. MISCELLANEOUS PROVISIONS.

- A. Protection of Confidential Information. OGATA agrees that at all times during or subsequent to the performance of the Services, OGATA will keep confidential and not divulge, communicate, or use Client's Information, except for OGATA's own use during the Term of this Agreement to the extent necessary to perform the Services. OGATA further agrees not to cause the transmission, removal or transport of tangible embodiments of, or electronic files containing, Client's Information from Client's principal place of business, without prior written approval of Client.
- B. Liability. The Client shall not be liable for injury or death occurring to OGATA or any of its employees or other assistants in the course of performing this Agreement unless the harm or death is caused by the Client's gross negligence.

- C. **Hold Harmless.** OGATA hereby indemnifies and holds harmless the Client, its subsidiaries, and affiliates, and their officers and employees, from any damages, claims, liabilities, and costs, including reasonable attorney's fees, or losses of any kind or nature whatsoever ("Loss") which may in any way arise from the Services performed by OGATA hereunder, the work of employees of OGATA while performing the Services of OGATA hereunder, or any breach or alleged breach by OGATA of this Agreement, including the warranties set forth herein. The Client shall retain control over the defense of, and any resolution or settlement relating to, such Loss. OGATA will cooperate with the Client and provide reasonable assistance in defending any such claim.
- D. **Taxes.** The Client shall not be liable for taxes, Worker's Compensation, unemployment insurance, employers' liability, employer's FICA, social security, withholding tax, or other taxes or withholding for or on behalf of OGATA or any other person consulted or employed by OGATA in performing Services under this Agreement. All such costs shall be OGATA's responsibility.

SECTION 8. JURISDICTION AND VENUE.

- A. This Agreement has been and shall be construed as having been made and delivered in the Commonwealth of Virginia and shall be governed by laws of the Commonwealth of Virginia, both as to interpretation and performance.
- B. Any action of law, suit of equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in a court of competent jurisdiction in the County of Washington, Virginia.

SECTION 9. SEVERABILITY.

If, for any reason, any part, term, or provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, void or unenforceable, the remaining parts, terms, and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be illegal, invalid, void, or unenforceable.

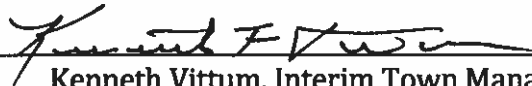
Non-Professional Services Agreement

{{ SIGNATURE PAGES TO FOLLOW }}

Non-Professional Services Agreement

IN WITNESS WHEREOF the parties hereto have caused this AGREEMENT to be executed the day and year first hereinabove written.

THE TOWN OF ABINGDON,
a Virginia municipal corporation

By: 
Kenneth Vittum, Interim Town Manager

APPROVED AS TO FORM:

Town Attorney

Non-Professional Services Agreement

**OLD GLADE ANTIQUE TRACTOR
ASSOCIATION, INC.**

By: 

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT A
WORK ORDER 1: SCOPE OF SERVICES FOR
TOWN OF ABINGDON, VIRGINIA

OGATA will provide to the Client certain services and conduct certain events, related to the 910 Hillman Highway, Abingdon, Virginia and being that property shown as Tax Map No. 106-A-2A, consisting of 4.642 acres more or less and property being a portion of Tax Map No. 106-A-2, consisting of 8.6 acres more or less ("Property"), as indicated in this Work Order.

1. OGATA Specific Services: Subject to the restrictions of this Agreement and any other budgetary restrictions of the Client, Client will pay \$10,000 annually to OGATA to perform the following general services, events and tasks, with the approximate price per category of the total annual \$10,000 as follows:

- A. Events onsite during Fiscal Year = \$1,500
 - a. Sustain Abingdon Garden Day (onsite presence)
 - b. Fairview Car Show
 - c. FFA Day
- B. Tractor Show = \$2,000
 - a. Conduct 3-day tractor show
 - b. Event costs
- C. Preparation of Land = \$1,500
 - a. Till land for demonstration crops
 - b. Till land for Sustain Abingdon Community Garden
- D. Planting and Harvesting = \$1,500
 - a. Seeds and fertilizer
 - b. Planting of crops for community donations
 - c. Planting of crops as demonstration gardens
 - d. Planting of Heirloom Gardens
 - e. Harvest Crops as required
- E. Equipment = \$1,500
 - a. Fuel Costs
 - b. Use of equipment for planting and harvesting
 - c. Demonstration of antique equipment for public and events
- F. Maintenance/repairs = \$2,000
 - a. Moore Property

1. As between the Town and OGATA, OGATA shall be fully responsible for the maintenance of the property being a portion of Tax Map No. 106-A-2, consisting of 8.6 acres more or less, owned by James D. Moore, Jr., Family Limited Partnership. The Town shall have no obligation to maintain the property. Maintenance shall include but not be limited to, mowing, clearing, trimming, raking and otherwise maintaining the grounds in good condition, as well as keeping the property clear and unobstructed and that no trash, or other debris shall be allowed to accumulate there.

- b. Grounds
 - c. Structures
 - d. Regular presence maintained on the grounds
- G. If this Agreement will be renewed for another term, then OGATA shall submit any proposed changes in services or prices to the Client on or before January 1 for the Client's consideration in the Client's discretion. Any changes must be approved in writing by the Client.
- H. The Client does not make any representations or authorize any access upon the property being a portion of Tax Map No. 106-A-2, consisting of 8.6 acres more or less, owned by James D. Moore, Jr., Family Limited Partnership. Any use of that property by OGATA or others must be obtained from James D. Moore, Jr., Family Limited Partnership.

2. **OGATA General Services:**

OGATA further agrees to:

- A. Work with Client on approved building repairs and construction on the Property.
- B. Work with Client on the Master Plan to develop and maintain the Property.
- C. Open Fairview Homestead in conjunction with the Fairview Farm and Homestead Foundation, Inc., as needed for events and special occasions

3. **Client Obligations:**

Client agrees to:

- A. Allow OGATA use of the Bunn House for meetings and events.
- B. Provide tents, tables, chairs, trash cans, portable restroom, cones and other items necessary for conducting events and activities.

4. **Contract restrictions:**

- A. Failure of OGATA to provide services as specified will result in reduction of funding, which payment may be prorated in the Client's discretion based on the approximate price listed in paragraph 1.
- B. Any construction on the Property must be approved and procured in accordance with State law and Town ordinances.

We are in agreement with the services and basis for fee determination in this Scope of Services and hereby grant OGATA notice to proceed for the work herein specified.



Ken Vittum, Interim Town Manager

4-2-19



CERTIFICATE OF INSURANCE

DATE ISSUED (MM/DD/YY)
4/2/19

— THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY —

Home Office • 100 Erie Insurance Place • Erie, Pennsylvania 16530 • 814.870.2000
Toll free 1.800.458.0811 • Fax 814.870.3126 • www.erieinsurance.com

NAME AND ADDRESS OF AGENCY CHILHOWIE INSURANCE AGENCY INC 316 MAIN ST CHILHOWIE, VA 24319 (276)646-5055	AGENT'S NO. DD2061	COMPANIES AFFORDING COVERAGE Co.: C ERIE INSURANCE COMPANY Co.: D ERIE INSURANCE PROPERTY & CASUALTY COMPANY Co.: E ERIE INSURANCE EXCHANGE (Not Applicable) Erie Indemnity Co., Attorney-in-Fact In NY Co.: F ERIE INSURANCE COMPANY OF NEW YORK Co.: G FLAGSHIP CITY INSURANCE COMPANY			
NAME AND ADDRESS OF NAMED INSURED Old Glade Antique Tractor 1001 Windsor Ave Bristol, TN 37620		This certificate is issued for information purposes only and confers no rights on the certificate holder. It does not affirmatively or negatively amend, extend, or otherwise alter the terms, exclusions and conditions of insurance coverage contained in the policy(ies) indicated below. The terms and conditions of the policy(ies) govern the insurance coverage as applied to any given situation. Limits shown may have been reduced by claims paid. This certificate of insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer and the certificate holder.			
This is to certify that policies, as indicated by the Policy Number below, are in force for the Named Insured at the time that the Certificate is being issued.					
CO. Adp. YR. Issd.	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
E	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	Q34 0500684	10/5/18	10/5/19	EACH OCCURRENCE \$ 1,000,000 FIRE DAMAGE (Any One Fire) \$ MED EXP (Any One Person) \$ 5,000 PERSONAL & ADV. INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS-COMP/OP AGG \$ 2,000,000
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> "ANY AUTO" (OWNED, HIRED, NON-OWNED) <input type="checkbox"/> OWNED <input type="checkbox"/> HIRED <input type="checkbox"/> NON-OWNED <input type="checkbox"/> GARAGE				BODILY INJURY (EACH PERSON) \$ BODILY INJURY (EACH ACCIDENT) \$ PROPERTY DAMAGE \$ BODILY INJURY AND PROPERTY DAMAGE COMBINED \$
	<input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> OCCURRENCE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	<input type="checkbox"/> WORKERS COMPENSATION & EMPLOYERS LIABILITY				STATUTORY BODILY INJURY BY ACCIDENT \$ EACH ACCIDENT DISEASE \$ POLICY LIMIT DISEASE \$ EACH EMPLOYEE
	<input type="checkbox"/> OTHER				
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS					

CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

NAME AND ADDRESS OF CERTIFICATE HOLDER Town of Abingdon P.O. Box 789 Abingdon, VA 24212	AUTHORIZED REPRESENTATIVE
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