

**CONSULTANT AGREEMENT
BETWEEN TISCHLERBISE, INC. AND
THE TOWN OF EAST GREENWICH, RHODE ISLAND**

THIS AGREEMENT, entered into this _____ day of _____, 2017, by and between the Town of East Greenwich, hereinafter called the "**Town**", and TischlerBise, Inc., hereinafter called the "Consultant".

WHEREAS the **Town** is in need of certain services; and

WHEREAS the Consultant has expertise in impact fee preparation and related activities.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS HEREIN CONTAINED, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party to the other, it is hereby agreed as follows:

1. The Consultant shall provide those services to the **Town** as more particularly identified in the attached Exhibit "A".
2. In performing the services identified in the attached Exhibit "A", the consultant shall perform all steps necessary to the full and effective performance of the tasks specifically referenced in Exhibit "A".
3. Consultant shall provide sufficient qualified personnel to perform all services as required herein, including but not limited to inspections and preparation of reports, as reasonably requested by representatives of the **Town**.
4. (A) The term of this agreement shall be from the date of execution of the Agreement, and shall terminate upon the completion of Tasks 1-7 specified in Exhibit "A".

(B) Notwithstanding the foregoing, this Agreement may be terminated by the **Town** upon ten (10) days written notice, with or without cause. If this Agreement is terminated, the Consultant shall be paid for services performed to the date of Consultant's receipt of such termination notice.

5. Any notices to be given by either party to the other must be in writing, and personally delivered or mailed by prepaid postage and certified mail, at the following address:

Town: Gayle Corrigan, Town Manager, 125 Main Street, East Greenwich, Rhode Island, 02818.

Consultant: Carson Bise, AICP, President, TischlerBise, Inc., 4701 Sangamore Road, Suite S240, Bethesda, MD 20816.

6. This Agreement is non-assignable by the Consultant and its subcontractors.
7. The **Town** shall pay to Consultant the amounts indicated in Exhibit "B" for Tasks 1-7. Invoices will be issued by the Consultant to the **Town** on a percentage completion basis. Payment will be made by the **Town** within 30 days of receipt of invoice.
8. This Agreement shall be construed under the laws of Rhode Island.

9. This Agreement and Exhibits "A" and "B" represent the entire and integrated Agreement between the **Town** and the Consultant and supersede all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the **Town** and the Consultant. Written and signed amendments shall automatically become part of the Agreement, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

10. In the event any provision of the Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provisions, terms, conditions, or covenant shall not be construed by the other party as a subsequent breach of the same by the other party.

11. The Consultant hereby agrees to indemnify and hold harmless the **Town**, its departments and divisions, its employees and agents, from any and all claims, liabilities, expenses or lawsuits caused by the Consultant's breach of contract or the negligent performance by Consultant (or by any person acting for the Consultant or for whom the Consultant is responsible).

12. The consultant shall secure and maintain during the life of this Agreement, insurance coverage which shall include comprehensive general and automobile liability in the amount of at least \$1,000,000.00 coverage with an insurer acceptable to the **Town**. Consultant shall also maintain errors and omissions insurance in the amount of at least \$250,000.00 for the duration of the contract and a period of two years after completion of the contract. Consultant shall provide the **Town** with proof of such insurance in a form acceptable to **Town** upon request.

13. No oral orders, objection, claim, or notice by any party to the other shall affect or modify any of the terms or obligations contained in the Agreement, and none of the provisions of this Agreement shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing. No evidence of modification or waiver other than evidence of any such written notice, waiver, or modifications shall be introduced in any proceeding.

IN WITNESS WHEREOF, the parties have caused the Agreement to be signed by their duly authorized representatives as of the _____ day of _____, 2017.

TOWN:

Gayle Corrigan, Town Manager
Town of East Greenwich

CONSULTANT:

Carson Bise, AICP, President
TischlerBise, Inc.

EXHIBIT A

TASK 1: PROJECT INITIATION / DATA ACQUISITION

During this task, we will meet with Town staff to establish lines of communication, review and discuss project goals and expectations related to the project, review (and revise if necessary) the project schedule, request data and documentation related to new proposed development, and discuss staff's role in the project. The objectives of this initial discussion are outlined below:

- Obtain and review current demographics and other land use information for the Town
- Review and refine work plan and schedule
- Discuss current and previous work efforts related to this topic
- Assess additional information needs and required staff support
- Identify and collect data and documents relevant to the analysis
- Identify any major relevant policy issues

Meetings:

One (1) on-site visit to meet with Town project management team.

Deliverables:

1) Revisions to project schedule, if necessary. 2) Data request memorandum.

TASK 2: PREPARE LAND USE ASSUMPTIONS AND DEVELOPMENT PROJECTIONS

The purpose of this task is to review and understand the current demographics of the Town as they relate to growth and development and determine the likely development future for the Town in terms on new population, housing units, employment, and nonresidential building area over the next 10-20 years. Information from the Town, as well other regional/State sources may serve as the basis for preparing projections of residential and nonresidential development for consideration by staff and the stakeholder group. TischlerBise will prepare a plan that includes projections of changes in land uses, densities, intensities, and population for a specific service area. A map of the area(s) to which the land use assumptions apply will also be included in this task.

Meetings:

Discussions with the Town Planner's Office and other relevant staff will be held as part of Task 1, as well as conference calls as needed.

Deliverables:

TischlerBise will prepare a draft technical memorandum discussing the recommended land use factors and projections. After review and sign-off by the Town, a final memorandum will be issued, which will become part of the final Impact Fee Report.

TASK 3: DETERMINE CAPITAL FACILITY NEEDS AND SERVICE LEVELS

This Task as well as Tasks 4-6 may vary somewhat depending on the methodology applied to a particular impact fee category. The impact fee study for each facility type would be presented in separate chapters in the impact fee report.

Identify Facilities/Costs Eligible for Impact Fee Funding. As an essential part of the nexus analysis, TischlerBise will evaluate the impact of development on the need for additional facilities, by type, and identify costs eligible for impact fee funding. Elements of the analysis include:

- Review facility plans, fixed asset inventories, and other documents establishing the relationship between development and facility needs by type.
- Identify planned facilities, vehicles, equipment, and other capital components eligible for impact fee funding.
- Prepare forecast of relevant capital facility needs.
- Adjust costs as needed to reflect other funding sources.

As part of calculating the fee, the Town may include the construction contract price; the cost of acquiring land, improvements, materials, and fixtures; the cost for planning, surveying, and engineering fees for services provided for and directly related to the construction system improvement; and debt service charges, if the Town might use impact fees as a revenue stream to pay the principal and interest on bonds, notes or other obligations issued to finance the cost of system improvements. All of these components will be considered in developing an equitable allocation of costs.

Identify Appropriate Level of Service (LOS) Standards. We will review needs analyses and LOS for each facility type. Activities related to this Task include:

- Apply defined service standards to data on future development to identify the impacts of development on facility and other capital needs. This will include discussions with staff of the existing versus adopted LOS, as appropriate.
- Ascertain and evaluate the actual demand factors (measures of impact) that generate the need for each type of facility to be addressed in the study.
- Identify actual existing service levels for each facility type. This is typically expressed in the number of demand units served.
- Define service standards to be used in the impact fee analysis.
- Determine appropriate geographic service areas for each fee category (if applicable).

Meetings:

Two (2) meetings with Town staff to discuss capital facility needs and levels-of-service.

Deliverables:

Memoranda as appropriate. Results integrated into Draft/Final Impact Fee Report.

TASK 4: EVALUATE DIFFERENT ALLOCATION METHODOLOGIES

The purpose of this Task is to determine the methodology most appropriate for each impact fee category. As noted previously, the three basic methodologies that can be applied in the calculation of impact fees are the plan-based, incremental expansion, and cost-recovery approaches. Selection of the particular methodology for each component of the impact fee category will depend on which is most beneficial for the Town. In a number of

cases, we will prepare the impact fees for a particular infrastructure category using several methodologies and will discuss the trade-offs with the Town. This allows the utilization of a combination of methodologies within one fee category. For instance, a plan-based approach may be appropriate for a new building while an incremental approach may be appropriate for support vehicles and equipment. By testing all possible methodologies, the Town is assured that the maximum supportable impact fee will be developed. Policy discussions will then be held at the staff level regarding the trade-offs associated with each allocation method prior to proceeding to the next Task as well as trade-offs regarding implementation as impact fees.

Meetings:

One (1) meeting with Town staff and Town Council to discuss issues related to allocation methodologies

Deliverables:

“Storyboard” Presentation of Impact Fee Options.

TASK 5: DETERMINE NEED FOR “CREDITS” TO BE APPLIED AGAINST CAPITAL COSTS

A consideration of “credits” is integral to the development of a legally valid impact fee methodology. There is considerable confusion among those who are not immersed in impact fee law about the definition of a credit and why it may be required.

There are two types of “credits” that are included in the calculation of impact fees, each with specific, distinct characteristics. The first is a credit due to possible double payment situations. This could occur when a property owner will make future contributions toward the capital costs of a public facility covered by an impact fee. The second is a credit toward the payment of an impact fee for the required dedication of public sites and improvements provided by the developer and for which the impact fee is imposed. Both types of credits will be considered and addressed in the impact fee study.

Deliverables:

Memoranda as appropriate. See Task 7.

TASK 6: CONDUCT FUNDING AND CASH FLOW ANALYSIS

In order to prepare a meaningful capital funding strategy, it is important to not only understand the gross revenues, but also the capital facility costs and any deficits. In this case, some consideration should be given to anticipated funding sources. This calculation will allow the Town to better understand the various revenue sources possible and the amount that would be needed if the impact fees were discounted.

The initial cash flow analysis will indicate whether additional funds might be needed or if the funding strategy might need to be changed to have new growth pay its fair share of new capital facilities. This could also affect the total credits calculated in the previous Task. Therefore, it is likely that a number of iterations will be conducted in order to refine the cash flow analysis reflecting the capital improvement needs.

Deliverables:

See Task 7.

TASK 7: PREPARE IMPACT FEE REPORT, PUBLIC PRESENTATIONS

TischlerBise will prepare a draft report for the Town's review. The report will summarize the need for all relevant categories of impact fees in the Town of East Greenwich and the relevant methodologies employed in the calculation. It will also document all assumptions and cost factors. The report will include at a minimum the following information:

- Executive summary
- A detailed description of the methodologies used during the study
- A detailed description of all LOS standards and cost factors used and accompanying rationale
- A detailed schedule of all proposed fees listed by land use type and activity
- Other information which adequately explains and justifies the resulting recommended fee schedule
- Cash flow analysis
- Implementation and administration procedures

Following the Town's review of the draft report, we will make mutually agreed upon changes to the impact fee report and issues a final version.

TischlerBise's report(s) will have flow diagrams clearly indicating the methodology and approach, a series of tables for each activity showing all of the data assumptions and figures, and a narrative explaining all of the data assumptions, sources and the methodologies. The report will be a stand-alone document clearly understood by all interested parties. Because of the firm's extensive experience in calculating impact fees and preparing such reports, we have developed a very succinct written product that leaves a well-understood paper trail.

Meetings:

One (1) meeting/presentation to present the Impact Fee Study with the Town Council.

Deliverables:

Draft and final reports and presentation materials for meetings.

EXHIBIT B

PROPOSED FEE SCHEDULE FOR EAST GREENWICH, RHODE ISLAND				
Project Team Member:	Bise	Bove	Total	
Job Title:	Project Manager	Project Analyst	Hours	Cost
Hourly Rate*	\$200	\$175		
Task 1: Project Initiation / Data Acquisition	16	0	16	\$3,200
Task 2: Prepare Land Use Assumptions and Development Projections	8	16	24	\$4,400
Task 3: Determine Capital Facility Needs and Service Levels	16	40	56	\$10,200
Task 4: Evaluate Different Allocation Methodologies	8	32	40	\$7,200
Task 5: Determine Need for "Credits" to be Applied	1	4	5	\$900
Task 6: Conduct Funding and Cash Flow Analysis	1	4	5	\$900
Task 7: Prepare Impact Fee Report, Public Presentations	24	48	72	\$13,200
Subtotal:	74	144	218	\$40,000

* Hourly rates are inclusive of all costs.