

## ASSIGNMENT, ASSUMPTION, AND CONSENT AGREEMENT

**This Assignment, Assumption, and Consent Agreement** (“Assignment”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2022 by and between Lokits Contracting, LLC, a Kentucky limited liability company, with its principal office located at 2480 Woodfield Circle, Lexington, Kentucky 40515 (“Assignor”), and Herrick Company, Inc., a Kentucky corporation, with its principal office located at 2176 Waddy Road, Lawrenceburg, Kentucky 40342 (“Assignee”), and is consented to by Lexington-Fayette Urban County Government, an urban-county government pursuant to KRS Chapter 67A, located at 200 East Main Street, Lexington, Kentucky 40507 (“LFUCG” and referred to collectively with Assignor and Assignee as the “Parties”).

**WHEREAS**, Assignor entered into an Agreement dated March 2, 2022 (“Construction Agreement”) with LFUCG whereby the Contractor has agreed to replace LFUCG’s Hartland 3 Pump Station in accordance with LFUCG Bid No. 129-2021;

**WHEREAS**, since the time Assignor issued the bid that resulted in Assignor being awarded the Construction Agreement by LFUCG, Assignee has commenced the process of acquiring Assignor and/or Assignor’s assets;

**WHEREAS**, Supplementary Conditions are identified in the Construction Agreement as constituting Contract Documents and are therefore made a part of the Construction Agreement;

**WHEREAS**, in Section 15.05 of the Supplementary Conditions, which are a part of the Construction Agreement, Assignor is granted a right to assign its interests and obligations under the Construction Agreement with the consent of LFUCG;

**WHEREAS**, because of the contemplated transaction between Assignor and Assignee, it is necessary for the Construction Agreement to be assigned from Assignor to Assignee and it is necessary for LFUCG to consent to such assignment; and

**WHEREAS**, Assignor desires to assign the Construction Agreement to Assignee, Assignee desires to accept such assignment from Assignor and to thereby be bound by the terms of the Construction Agreement, and LFUCG consents to the Assignment.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. All capitalized terms used but not defined in this Assignment shall have the meanings set forth in the Construction Agreement.
2. Subject to the terms and conditions hereof, effective as of the date of the Construction Agreement: (a) Assignor hereby assigns to Assignee all of the rights, title, and interests of Assignor arising under the Construction Agreement and the Contract Documents, and (b) Assignee hereby accepts the foregoing Assignment and assumes all of the obligations and liabilities of the Assignor arising under the Construction Agreement and the Contract Documents, whether accruing before or after the date of this Assignment. Assignor warrants that it has not breached the terms of the Construction Agreement or the Contract Documents and that

it is in full compliance with all terms and conditions of the Construction Agreement and Contract Documents at the time of this Assignment's execution. Assignee agrees to be bound by all risk management, insurance, and indemnification provisions in the Construction Agreement and Contract Documents.

3. LFUCG consents to the Assignment from Assignor to Assignee; provided, however that notwithstanding the Assignment set forth herein, Assignor remains liable to LFUCG for all obligations and agreements of Assignee under the Construction Agreement and the Contract Documents, and in order to induce LFUCG to consent to this Assignment, Assignor guarantees to LFUCG the full and complete performance by Assignee under and pursuant to the Construction Agreement and Contract Documents. It is understood and agreed that LFUCG retains all rights for any breach of the assigned Construction Agreement that may have occurred prior to the date of this Assignment and, by consenting to this Assignment, LFUCG does not agree to waive any claims, liabilities, or other matters that it may have notwithstanding the Assignment.

4. This Assignment shall be binding upon the respective successors, representatives and assigns of Assignor, Assignee, and LFUCG.

**IN WITNESS WHEREOF**, the Parties have executed this Assignment as their free act and voluntary deed, as of the date set forth above.

**Assignor:**

Lokits Contracting, LLC, a Kentucky limited liability company

By: 

Title: CEO/Manager

**Assignee:**

Herrick Company, Inc., a Kentucky corporation

By: Donna S Herrick

Title: CEO

**ACKNOWLEDGEMENT OF, AND CONSENT TO,  
THIS ASSIGNMENT AGREEMENT:**

Lexington-Fayette Urban County Government, an urban-county government pursuant to KRS Chapter 67A

By: \_\_\_\_\_

Title: \_\_\_\_\_