



7 Skyline Drive, Hawthorne, NY 10532
Tel: (914) 592-4040 www.pderesults.com

November 27, 2018

Janine M. King.
Village Manager
Village of Croton-on-Hudson
1 Van Wyck Street
Croton-on-Hudson, New York 10520
jking@crotononhudson-ny.gov

Re: Traffic Engineering Services Proposal for Upper Village
 Village of Croton-on-Hudson, NY

Dear Village Manager King:

In conjunction with your request, Provident Design Engineering, PLLC (Provident), is pleased to submit this Proposal for Traffic Engineering Services as they relate to the tasks required to prepare a Traffic Study for a review of the Upper Village including the “Dummy” Signal at the intersection of Old Post Road South and Grand Street in the Village of Croton-on-Hudson.

As you are aware, Provident is currently working for the Village in the redesign of the parking and circulation at the Train Station Parking Lot in conjunction with the relocation of the DPW Facility. Provident, formerly TRC Engineers/Raymond Keyes Associates, is a full service Traffic and Civil Engineering firm consist of several Professional Engineers and two Certified Professional Traffic Operations Engineers. We have significant experience in analyzing areas like the Upper Village and have performed similar studies on behalf of various municipalities including the Village of Briarcliff Manor, Village of Sleepy Hollow, Village of Scarsdale, the City of New Rochelle, the City of Rye, and the Village of Mamaroneck, among many others. Later in this Proposal is a partial list of some of the local municipalities that Provident has provided Engineering Services to.

The Study will focus on the operation of the intersection for both vehicles and pedestrians, including the impacts of different types of intersection traffic control. The following Scope of Services is based upon our review of your request and our knowledge of the existing intersection. The Traffic Study will be prepared for submission to the Village as the intersection is under Village jurisdiction. The Partner from Provident who will be

responsible for managing the project is a former longtime Village resident and thus has a solid understanding of the Upper Village as well as the history of the Dummy Signal.



The following is the Scope of Services proposed to complete the Traffic Study:

SCOPE OF SERVICES

TASK 1 – TRAFFIC STUDY

1. Provident will perform a physical examination of the intersection, its environs and the area roadway network and observe traffic patterns and pedestrian conditions under existing conditions during the peak periods in the Upper Village. Provident will hold discussions with Village officials including the Police Department regarding the operation of the intersection.
2. Provident will perform traffic counts for a 1-2 hour period during the weekday AM and PM peak commuting periods at the intersection of Old Post Road and Grand

Street as well as one typical hour on a Saturday and one typical hour on a Sunday. The actual count times will be discussed with the Village. The traffic counts will include both vehicular traffic counts and pedestrian traffic counts.

3. Provident will perform intersection capacity analyses analyzing the intersection as both a signalized intersection as well as an unsignalized intersection. Other potential traffic conditions such as a roundabout will also be analyzed.
4. Provident will analyze the crosswalks in the area and include in the Traffic Study any recommendations for installation or removal of crosswalks. Provident will indicate if the presence of on-demand pedestrian signals is warranted.
5. Provident will develop appropriate concepts and provide various alternatives for the intersection including the geometry and traffic control, as applicable, keeping the historical nature of the intersection under consideration.
6. Provident will prepare the Traffic Study which will be suitable for submission to the Village. This Study will include a written text of the study describing the study methodology and findings as well as a discussion of the advantages and disadvantages of the different methods of vehicular and pedestrian traffic control along with our recommendations. Appropriate graphics including possibly a conceptual improvement plan will also be contained in the Study.

TASK 2 – HEARINGS/MEETINGS/CONFERENCE CALLS

Provident will prepare for and attend meetings/Public Hearings and conference calls with the Village officials (including to review historical data) and the public, as requested. For purposes of this Proposal, three Staff meetings and one Public Hearing Presentation to the Village Board are included.

KEY STAFF

An overview of the key staff employed by PDE that will be assigned to the project is presented below:

Charles (Carlito) Holt, P.E., PTOE

Mr. Holt is a former longtime Croton-on-Hudson resident, is a Senior Project Manager and Partner in the firm. Mr. Holt has conducted and reviewed numerous traffic and environmental impact studies for small and large scale development proposals throughout the metropolitan area as well as for various government agencies including municipalities, counties and states, including preparation of intersection plans. He will oversee the Traffic Engineering efforts to ensure that resources are used appropriately to provide timely, high-

quality project input and deliverables on the Project. With over 19 years of experience for both the public and private sectors, his expertise is in engineering fields with work descriptions that include intersection improvements, pedestrian improvements, traffic calming, master plans, area-wide studies, corridor studies, Environmental Impact Statements (EIS), individual traffic impact studies and parking studies. Mr. Holt has represented numerous municipal boards and is currently conducting Traffic reviews for the Town of Cortlandt. Mr. Holt is a Professional Engineer in multiple states as well as being a Certified Professional Traffic Operations Engineer.

Mr. Holt will serve as the Provident point of contact and will attend the meetings and the site visits.

Brian E. Dempsey, P.E., PTOE

Mr. Dempsey has been employed by Provident since 1986. He is a Partner at the firm and currently serves as a Senior Project Manager in the Traffic Engineering Division. Mr. Dempsey has over 32 years of experience at Provident as a Senior Project Manager and Traffic Engineer on a variety of development and infrastructure improvement projects and has represented numerous municipalities (including the Village of Croton-on-Hudson), as well as Counties and States. Mr. Dempsey has been the longtime Chairman of the City of Rye Traffic and Pedestrian Safety Committee and thus has significant experience working with the various municipal agencies and boards as well as the public. Mr. Dempsey is experienced in a variety of Traffic Engineering services encompassing Traffic Engineering Studies, Traffic Planning Studies, Traffic Signal Design, Traffic Calming Studies, Parking Studies and Environmental Impact Statements as well as providing construction services. He is a licensed Professional Engineer in six states and is a certified Professional Traffic Operations Engineer. Mr. Dempsey serves on various Institute of Transportation Engineers (ITE) Committees and has made presentations on Traffic and Pedestrian Safety at regional and International ITE Conferences as well as been involved in various ITE publications, including one that received the Best Publication of the Year Award. Mr. Dempsey has also presented to other organizations such as the Westchester Municipal Planning Federation and has recently been appointed as a member of the Westchester County Traffic Safety Board.

Ralph P. Peragine, P.E.

Mr. Peragine has over 35 years of experience and progressive responsibility in civil engineering consulting at Provident. He is a registered Professional Engineer in the State of New York (and other states) and currently serves in the capacity of Senior Project Manager in charge of the Civil/Highway Engineering Group. Mr. Peragine has represented numerous municipal boards. His qualifications include extensive hands-on planning, field investigation and construction management, construction administration, construction inspection,

environmental impact studies, design, highway plans, traffic signal design, permitting, utilities, drainage, grading, cost estimating, and project management. Mr. Peragine background includes extensive service to both public and private-sector clients and he is a recent Past-President of the Westchester/Putnam Professional Engineering Society.

PROFESSIONAL REFERENCES

Three Professional References are provided for Provident on the attached Form #2.

The following is a list of some of the local municipalities Provident has provided Engineering Services for, in addition to the Village of Croton-on-Hudson:

- Town of New Castle
- Village of Briarcliff Manor
- City of New Rochelle
- City of White Plains
- Town of Cortlandt
- City of Rye
- Village of Rye Brook
- Village of Mamaroneck
- Village of Larchmont
- Village of Scarsdale
- Village of Tarrytown
- Town/Village of Harrison
- Town of Eastchester
- City of Mount Vernon
- Town of Pelham
- Village of Port Chester
- City of Yonkers
- Village of Sleepy Hollow
- Village of Buchanan
- Village of Dobbs Ferry
- Village of Port Chester
- Town of Somers
- Town of Greenburgh
- Town of Yorktown
- Town of Lewisboro
- Town of Ossining

FEE SCHEDULE

Provident will complete the above Tasks for a Lump Sum Fee of \$5,900, as illustrated on the attached Table.

The work efforts described will be billed monthly in accordance with our standard Schedule of Engineering Fees and Charges and General Conditions, copies attached. The reimbursable expenses such as printing, travel, mailing, etc. are included in the Lump Sum Fee. As described above, for purposes of this Proposal, three Staff meetings and one Public Hearing Presentation with the Village Board are included.

If additional tasks are required, including those based upon the Village requests for additional analyses or modifications to the Study, additional traffic counts, sight distance measurements, detailed signal warrant study, accident analysis, detailed design drawings, attendance at additional Meetings/Hearings, preparation of additional follow-up with the Village, or detailed cost estimates, a separate Work Order will be prepared, for your Authorization.

PROJECT SCHEDULE

Provident is prepared to begin work on this project immediately upon authorization. The first step would be to have a meeting with Staff and a field visit. The traffic counts will be performed during the early part of the process, pending weather conditions and school being open. A second Staff meeting will be held to discuss the preliminary findings followed by the third Staff meeting. The Study would be completed approximately three weeks following the initial Staff meeting and the Public Hearing would then be held.

INSURANCE

Provident will provide the required insurance. The Certificate of Insurance is attached.

INDEMNIFICATION and HOLD HARMLESS AGREEMENT

Attached is the Indemnification and Hold Harmless Agreement.

CERTIFICATE OF NON-COLLUSION

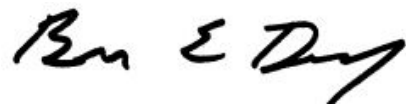
Attached is the Certificate of Non-Collusion.

AUTHORIZATION

Provident looks forward to the opportunity to provide Traffic Engineering Services on this project. Authorization to proceed is provided by returning one signed copy of this Proposal. Should you wish to discuss any aspect of this Proposal, please do not hesitate to call.

Very truly yours,

Provident Design Engineering, PLLC



Brian E. Dempsey, P.E., PTOE
Senior Project Manager

Encs.

ACCEPTED: **VILLAGE OF CROTON-on-HUDSON**

BY: _____

TITLE: _____

DATE: _____

Traffic Engineering Services

ITEM NO.	DESCRIPTION	UNIT OF MEASURE	UNIT PRICE	TOTAL PRICE (IN NUMERALS)
1	Traffic Study as described in scope of work.	Ea.	5900 dollars And 00 cents \$ per lump sum	\$ 5900
Total				\$ 5900

Total in words: \$ Five Thousand, Nine Hundred dollars and Zero cents

Name of Proposer Provident Design Engineering, PLLC

Signature of Proposer 

Title of Signatory Partner/Senior Project Manager

FORM #2 – PROFESSIONAL REFERENCES

All references listed will be contacted.

Incomplete or outdated information can result in rejection of proposal.

PRINT ALL INFORMATION.

RETURN WITH PROPOSAL SUBMISSION

Company Name Provident Design Engineering, PLLC Company Contact Name Brian Dempsey

REFERENCES

The Village of Croton-on-Hudson requires that your company list **three (3) professional references** that have recently contracted with your firm for traffic engineering services.

NAME / COMPANY: Town of Cortlandt
ADDRESS: Dept. of Technical Services 1 Heady Street Corlandt Manor, NY 10567
PHONE: 914-734-1060 CONTACT: Michael Preziosi, P.E.
EMAIL: michaelp@townofcortlandt.com

NAME / COMPANY: Village of Briarcliff Manor
ADDRESS: Engineering Department 1111 Pleasantville Road Briarcliff Manor, NY 10510
PHONE: 914-944-2770 CONTACT: David Turiano, P.E.
EMAIL: DTuriano@briarcliffmanor.org

NAME / COMPANY: Village of Sleepy Hollow
ADDRESS: Village Administrator 28 Beekman Avenue Sleepy Hollow, NY
PHONE: 914-366-5105 CONTACT: Anthony Giaccio
EMAIL: agiaccio@sleepyhollowny.org

Village of Croton-on-Hudson
1 VanWyck Street
Croton-on-Hudson, NY 10520

INSURANCE REQUIRED BY CONSULTANTS

Insurance

A Consultant working for the Village of Croton-on-Hudson must provide the following:

- 1) Commercial General Liability (CGL) coverage with limits of Insurance of not less than \$1,000,000 each occurrence and \$3,000,000 annual aggregate and including a waiver of subrogation.
- 2) Automobile Liability
 - a) Business Auto Liability with limits of at least \$1,000,000 each accident.
 - b) Business Auto coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.
 - c) Village of Croton-on-Hudson and their agents, officers, directors and employees shall be included as an additional insured
 - d) Also needs to include waiver of subrogation.
- 3) Workers' Compensation and Employers' Liability and N.Y.S. Disability Statutory Workers' Compensation, Employers' Liability and N.Y.S. Disability Benefits Insurance for all employees. Workers Compensation must include a waiver of subrogation.

Note: ACORD form is not acceptable proof of workers compensation coverage; must provide C- 105.2 and Disability to be provided on DB-120.1

- 4) Professional Liability – each occurrence \$2,000,000. and \$2,000,000. annual aggregate. The professional insurance shall cover the professional services rendered to the Village of Croton-on-Hudson by the consultant.
- 5) Consultant acknowledges that failure to obtain such insurance on behalf of the Village of Croton-on-Hudson constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to the Village of Croton-on-Hudson. The consultant is to provide the Village of Croton-on-Hudson with a certificate of insurance, evidencing the above requirements have been met, prior to the commencement of work or use of facilities. The failure of the Village of Croton-on-Hudson to object to the contents of the certificate or absence of same shall not be deemed a waiver of any and all rights held by the Village of Croton-on-Hudson.

Note: The Village of Croton-on-Hudson and their agents, officers, directors and employees must be listed as additional insured with the exception of the Professional Liability, Workers Compensation and Disability policies and list the specific project. The coverage must be underwritten by an Insurance Company with at least 'A 7' Best rating as defined by A.M. Best. Coverage for the additional insured shall apply as Primary and Non-Contributing Insurance before any other insurance or self-insurance, include any deductible, maintained by, or provided to, the additional insured's.

CERTIFICATE OF INSURANCE

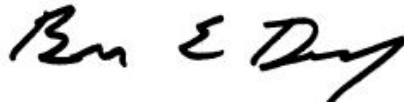
Brian Dempsey of Provident Design Engineering, PLLC hereby certifies that documentation of insurance coverage meeting the requirements of the contract documents as stated above will be submitted to the Village of Croton-on-Hudson within 10 days of the date of the Notice of Award.

Attest:

Brian Dempsey

Provident Design Engineering, PLLC

Contractor Name (print or type)



Signature

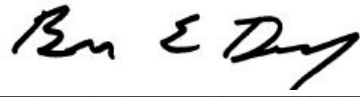
Village of Croton-on-Hudson

Indemnification and Hold Harmless Agreement

The Contractor shall protect, defend, indemnify, save and hold harmless, and exempt the Village of Croton-on-Hudson, its officers, agents, servants and employees from and against any and all suits, liability suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees, professional fees, losses, penalties, settlements, judgments, charges or other expenses or liabilities in connection with or arising directly or indirectly out of this Contract and/or performance hereof and/or work done in performance of this Contract, resulting from or relating to injury to persons, damage to property, death, or actual violation of any statutes, ordinance, administrative order, law rule or regulations, but only to the extent resulting from the negligent acts, errors or omissions of Contractor or it's officers, agents, servants or employees. The Contractor further agrees to investigate, handle, respond to, provide defense for, defend, and indemnify such any claims, etc., at its sole cost and expense and agrees to bear all the other costs and expenses related thereof. The Village reserves the right to retain counsel of its choice at its own expense, or in the alternative, approve counsel obtained by the Contractor at the Contractor's expense.

Consultant/Company Name: Provident Design Engineering, PLLC

Title: Partner/Senior Project Manager

Name: Brian Dempsey Signature: 

Date: November 26, 2018

Nature/Scope of Work Being Performed: Traffic Engineering Consultant

Please sign, date and return to:

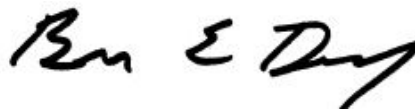
**Village of Croton-on-Hudson
Village Clerk's Office
1 Van Wyck Street
Croton-on-Hudson, NY 10520**

CERTIFICATE OF NON-COLLUSION

- A. By submission of this proposal, each proposer and each person signing on behalf of any proposer certifies and, in the case of a joint proposal, each party thereto certifies as to his own organization under penalty of perjury, that to the best of his knowledge and belief:
1. The prices in this proposal have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, or as to any matter relating to such prices with any other proposer or with any competitor;
 2. Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed either directly or indirectly to any other proposer or to any competitor prior to opening, and;
 3. No attempt has been made or will be made by the proposer to induce any other person, partnership, or corporation to submit a proposal for the purpose of restricting competition.
- B. A proposal shall not be considered for award nor shall any award be made where A.1, 2, and 3 above have not been complied with provided, however, that if in any case the proposer cannot make the foregoing certification, he shall so state and shall furnish with the proposal a signed statement which sets forth in detail the reasons therefor. Where A.1, 2, and 3 above have not been complied with, or a signed statement furnished, the proposal shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the Village of Croton-on-Hudson, or his designee, determines that such disclosure was not made for the purpose of restricting competition.
- C. The fact that the proposer: (a) has published price lists, rates, or tariffs covering items being procured; (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items; or (c) has sold the same items to other customers at the same prices being bid; does not constitute, without more, a disclosure within the meaning of A.2 above.

November 26, 2018

Date



Signature

Partner/Senior Project Manager

Title



7 Skyline Drive, Hawthorne, NY 10532
Tel: (914) 592-4040 www.pderesults.com

PROVIDENT DESIGN ENGINEERING, PLLC
2018 SCHEDULE OF MUNICIPAL ENGINEERING FEES AND CHARGES

SCHEDULE

Payroll Based Projects and Labor Fees, as stated in the Agreement shall be defined as follows:

PAYROLL BASIS - Services shall be charged at the following hourly rates:	<u>Hourly Rate</u>
Principal	\$195.00
Project Director.....	\$190.00
Senior Project Manager	\$185.00
Project Manager	\$175.00
Senior Project Engineer.....	\$170.00
Project Engineer	\$160.00
Assistant Project Engineer.....	\$145.00
Chief Inspector	\$130.00
Engineer	\$115.00
Field Inspector	\$110.00
Senior Technician	\$90.00
Technician	\$75.00
Technical Support Staff	\$65.00

FORENSIC AND TESTIMONY SERVICES - Forensic Services for litigation, including court appearances, deposition, arbitration and similar representation, shall be billed as follows:

\$275 per hour for Principal/Manager providing Services, and above Technical Staff at shown hourly rate with an added 10% premium for Support Staff services related to same.

DEFINITION

The above hourly rates include payroll costs, overhead and profit. Rates are subject to change based upon Annual Salary Adjustments.

REIMBURSABLES

In addition to the above Fees, project- related Direct Expenses shall be reimbursed at cost including the following:

- Reproduction of Drawings & Specifications, and Prints.
- Purchase of plans and documents.
- Communications, postage/express mail, and special delivery services.
- Permit and Application Fees.
- Fees paid to special consultants/vendors/contractors with prior written approval of the Client.
- All Travel and subsistence expenses.
- Field Traffic Counters (Manual and Automatic).

TAXES

All Services and Charges may be subject to one or several States' Sale or Use taxes. These will be added when applicable.

SUPPLEMENTAL SERVICES/CHANGE ORDERS

Any work not described in the Scope of Services for this Agreement will be considered additional and performed only upon authorization of a Supplemental Agreement of said services and associated fees and schedules. These services can include, but are not limited to the following:

- Changes in Scope of Services following start of said Services.
- Re-work/re-design due to late receipt of information for which Client is responsible.
- Re-work/re-design and/or new work/new design as a result of changes in the project during performance of the work.
- Costs incurred as a result of project delays.
- Additional attendance at meetings and/or construction observations not defined in the Agreement.
- Supplemental, additional, and/or Special Services as defined in the Agreement.
- Other services not covered in the approved scope of work.

INVOICING/PAYMENT OF FEES

Invoices will be submitted monthly based on work performed until project completion. Fixed Fee Projects will be invoiced based on Percentage Completion plus Direct Expenses/Reimbursables. Payroll Basis Projects will be invoiced based on actual hours performed by personnel classification plus Direct Expenses/Reimbursables. Payment shall be due within thirty (30) days of date of the Invoice. The amount due and owing shall bear interest after thirty (30) days from the date of the Statement at the rate of one and one half (1.5) percent per month.

TERMS AND CONDITIONS**1.0 SERVICES**

Provident Design Engineering, PLLC. ("Consultant") will provide engineering and other professional services on behalf of Client as provided in the Scope of Work. Client is defined in the attached Proposal or Scope of Work, incorporated herein by reference. Unless otherwise stated, Consultant's Proposal to perform the Scope of Work expires sixty (60) days from its date and may be modified or withdrawn by Consultant prior to receipt of Client's acceptance. The offer and acceptance of any services or goods covered by the Proposal is conditioned upon these terms and conditions. Any additional or different terms and conditions proposed by Client are objected to and will not be binding upon Consultant unless specifically agreed to in writing by Consultant. An order or statement of intent to purchase Consultant's services, or any direction to proceed with, or acquiescence in the commencement of work shall constitute consent to these terms and conditions.

2.0 COMPENSATION

- 2.1 Consultant will invoice for its services based on the method of compensation in the proposal for labor and direct expenses. Prices or rates quoted do not include state or local taxes where applicable. Direct expenses include reimbursable expenses, which are charges incurred for travel, transportation, temporary lodging, meals, telephone calls, fax, postage, courier service, photographic, photocopying and other fees and costs reasonably incurred in connection with the services.
- 2.2 Unless otherwise stated in the Proposal, Consultant will submit invoices for services related to the Scope of Work on a monthly basis, and Client will make payment within thirty (30) days of receipt of Consultant's invoices. If Client objects to any portion of an invoice, the Client will notify Consultant within fifteen (15) days from the date of receipt of the invoice and will pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion of the invoice.
- 2.3 If Client fails to make any payment due to Consultant within thirty (30) days after receipt of an invoice, then the amount due Consultant will increase at the rate of 1.5 percent per month after the 30th day. If a retainer has been required and the Client has not paid the invoice within thirty (30) days, Consultant shall be entitled to draw upon the retainer to satisfy the past due invoice. In addition, Consultant may, after giving seven (7) days' written notice to Client, suspend its services and any deliverables until Consultant has been paid in full for all amounts outstanding more than thirty (30) days. In the event that Consultant must resort to legal action to enforce collection of payments due, Client agrees to pay attorneys' fees and any other costs resulting from such action.

3.0 CLIENT'S RESPONSIBILITIES

- 3.1 Client will designate in writing the person or persons with authority to act in Client's behalf on all matters concerning the work to be performed by Consultant for Client.
- 3.2 Client will furnish to Consultant all existing studies, reports, data and other information available to Client which may be necessary for performance of the work, authorize Consultant to obtain additional data as required, and furnish the services of others, where necessary, for the performance of the work. Consultant will be entitled to use and rely upon all such information and services.
- 3.3 Unless otherwise stated in the Proposal, Client shall be responsible to provide Consultant with access to the work site or property to perform the work.

4.0 PERFORMANCE OF SERVICE

- 4.1 Consultant's services will be performed in conformance with the Scope of Work set forth in the attached proposal.
- 4.2 Additional services will be performed and completed in conformance with any supplemental proposals or scopes of work approved in writing by the Client.

- 4.3 Consultant's services for the Scope of Work will be considered complete at the earlier of (i) the date when Consultant's report is accepted by the Client, or (ii) thirty (30) days after the date when Consultant's report is submitted for final acceptance, if Consultant is not notified in writing within such 30-day period of a material defect in such report.

- 4.4 If any time period within or date by which any of Consultant's services are to be performed is exceeded for reasons outside of Consultant's reasonable control, all rates, measures and amounts of compensation and the time for completion of performance shall be subject to equitable adjustment.

5.0 CONFIDENTIALITY

Consultant will hold confidential all information obtained from Client which is not otherwise previously known to Consultant, unless such information comes into the public domain through no fault of Consultant, is furnished to Consultant by a third party who is under no confidentiality obligation, or is independently developed by Consultant.

6.0 STANDARD OF CARE

In performing services, Consultant agrees to exercise professional judgment, made on the basis of the information available to Consultant, and to use the same standard of care and skill ordinarily exercised in similar circumstances by consultants performing comparable services in the region. This standard of care shall be judged as of the time and place the services are rendered, and not according to later standards. Reasonable people may disagree on matters involving professional judgment and accordingly, a difference of opinion on a question of professional judgment shall not excuse Client from paying for services rendered or result in liability to Consultant.

7.0 INSURANCE

- 7.1 Consultant will procure and maintain insurance as required by law. At a minimum, Consultant will have the following coverage:
 - (a) Worker's compensation and occupational disease insurance in statutory amounts.
 - (b) Employer's liability insurance in the amount of \$1,000,000.
 - (c) Automotive liability in the amount of \$1,000,000.
 - (d) Commercial General Liability insurance for bodily injury, death or loss of or damage to property of third persons in the amount of \$1,000,000 per occurrence, \$2,000,000 in the aggregate.
 - (e) Professional errors and omissions insurance in the amount of \$1,000,000.

8.0 INDEMNITY

- 8.1 Each Party assumes full responsibility for any claims, suits, accidents, injuries (including death) or damages to the person or property of any third party resulting from its own negligent acts, reckless behavior or willful misconduct or those of any of its employees, representatives, contractors, consultants or agents in connection with the services rendered, and, to the extent of its proportionate responsibility, will indemnify and save harmless the other Party, its employees, representatives, contractors, consultants and agents from and against any claims, costs, liabilities or expenses arising out of such negligent acts, reckless behavior or willful misconduct.
- 8.2 Notwithstanding the foregoing, in the event that Consultant performs intrusive ground work as part of the Scope of Work, Client shall indemnify Consultant from and against any and all claims, costs, liabilities or expenses, including reasonable attorneys' fees, resulting from, or arising out of, damages to subsurface or underground utilities or structures, including but not limited to, gas, telephone, electric, water or sewer utilities whose locations were not designated or identified to Consultant prior to the commencement of any subsurface investigation or cleanup, including but not limited to, excavation, drilling, boring or probing required to be conducted by Consultant as part of site investigation, characterization or remediation work.

9.0 ALLOCATION OF RESPONSIBILITY

9.1 Consultant shall be liable to Client only for direct damages to the extent caused by Consultant's negligence or willful misconduct in the performance of its services. Consultant shall not be liable for indirect, consequential, special or exemplary damages, or for damages caused by Client's failure to perform its obligations. To the fullest extent permitted by law, the total liability in the aggregate of Consultant and its employees, subcontractors or suppliers to Client and anyone claiming by, through or under Client on all claims of any kind (excluding claims for death or bodily injury) arising out of or in any way related to Consultant's services, or from any cause or causes whatsoever, including but not limited to negligence, errors, omissions, strict liability, indemnity or breach of contract, shall not exceed the total compensation received by Consultant under this agreement.

9.2 If Consultant furnishes Client with advice or assistance concerning any products, systems or services which is not required under the Scope of Work or any other contract among the parties, the furnishing of such advice or assistance will not subject Consultant to any liability whether in contract, indemnity, warranty, tort (including negligence), strict liability or otherwise.

10.0 OWNERSHIP OF DOCUMENTS

10.1 All notes, memoranda, drawings, designs, specifications and reports prepared by Consultant shall become Client's upon completion of the payment to Consultant as provided herein. Consultant may make and retain copies of all such documents for its file.

10.2 All documents including drawings and specifications prepared by Consultant pursuant to the Scope of Work are instruments of service with respect to this project. Such documents are not intended or represented to be suitable for reuse by Client or by any other party on subsequent extensions or phases of this project or site or on any other project or site without the written consent of both Client and Consultant.

10.3 Any reuse without written approval or adaptation by Consultant for the specific purpose intended will be at the Client's sole risk and without liability or legal exposure to Consultant; and Client shall indemnify, defend and hold harmless Consultant from all claims, damages, losses and expenses arising out of such reuse. Any such reuse requested by Client will entitle Consultant to further compensation at rates to be agreed upon by Client and Consultant.

10.4 Consultant shall retain the Technical project file for a period of five (5) years from the date of the last invoice issued by Consultant for the Scope of Work under the attached Proposal. Client shall notify Consultant at the completion of work if Client requires this file to be transferred to Client or another entity, or retained by Consultant for a longer period of time. In the absence of any written instructions to the contrary from Client, Consultant shall have the right to discard any and all files, records or documents of any type related to the Scope of Work after the five (5)-year period. During this five (5)-year period, any requests for document recovery or reproduction will be assessed a fee in accordance with Consultant's Schedule of Fees.

11.0 INDEPENDENT CONTRACTOR

Consultant is an independent contractor and shall not be regarded as an employee or agent of the Client.

12.0 COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

Consultant shall observe all applicable provisions of the federal, state and local laws and regulations, including those relating to equal opportunity employment.

13.0 SAFETY

13.1 Client shall be obligated to inform Consultant and its employees of any applicable site safety procedures and regulations known to Client as well as any special safety concerns or dangerous conditions at the site. Consultant and its employees will be obligated to adhere to such procedures and regulations once notice has been given.

13.2 Unless specifically provided in the Scope of Work, Consultant shall not have any responsibility for overall job safety at the site. If in Consultant's reasonable opinion, its field personnel are unable to access required locations or perform required services in conformance with applicable safety standards, Consultant may immediately suspend performance until such safety standards can be attained. If within a reasonable time site operations or conditions are not brought into compliance with such safety standards, Consultant may in its discretion terminate its performance in accordance with Section 15.0, in which event Client shall pay for services and termination expenses as provided herein.

14.0 NOTICE

All notices to either party by the other shall be deemed to have been sufficiently given when made in writing and delivered in person, by facsimile, email, certified mail or courier to the address of the respective party or to such other address as such party may designate.

15.0 TERMINATION

The performance of work may be terminated or suspended by either party, in whole or in part. Such termination shall be effected by delivery of seven (7) days prior written notice specifying the extent to which performance of work is terminated and the date upon which such action shall become effective. In the event work is terminated or suspended by Client (or by Consultant as provided herein) prior to the completion of services contemplated hereunder, Consultant shall be paid for (i) the services rendered to the date of termination or suspension; (ii) demobilization costs; (iii) costs incurred with respect to non-cancellable commitments; and (iv) reasonable services provided to effectuate a professional and timely project termination or suspension.

16.0 SEVERABILITY

If any term, covenant, condition or provision of these Terms and Conditions is found by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of these Terms and Conditions shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.

17.0 WAIVER

Any waiver by either party or any provision or condition of these Terms and Conditions shall not be construed or deemed to be a waiver of a subsequent breach of the same provision or condition, unless such waiver is so expressed in writing and signed by the party to be bound.

18.0 GOVERNING LAW

These Terms and Conditions will be governed by and construed and interpreted in accordance with the laws of the State of New Jersey.

19.0 CAPTIONS

The captions of these Terms and Conditions are intended solely for the convenience of reference and shall not define, limit or affect in any way the provisions, terms and conditions hereof or their interpretation.

20.0 ENTIRE AGREEMENT

These Terms and Conditions, and the Scope of Work, represent the entire understanding and agreement between the parties and supersede any and all prior agreements, whether written or oral, and may be amended or modified only by a written amendment signed by both parties. Client is obligated to satisfy itself as to legal provisions and insurance coverage in these terms and conditions and failure to advise Consultant to the contrary shall constitute acceptance of these terms.

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