

**NORTH BEACH WATER DISTRICT
PACIFIC COUNTY, WASHINGTON**

RESOLUTION 17-2015

A RESOLUTION OF THE NORTH BEACH WATER DISTRICT OF PACIFIC COUNTY, WASHINGTON, APPROVING A CONTRACT WITH GIBBS AND OLSON FOR PROFESSIONAL ENGINEERING SERVICES RELATED TO THE 250TH PLACE & BIRCH PLACE BOOSTER STATION PROJECT.

WHEREAS, the Board of Commissioners (Board), approved the 2015 Updated Water System Plan (Plan) submitted to the Department of Health for review and approval on Monday, May 4, 2015; and

WHEREAS, the Plan includes a policy for "Design and Performance Standards and Sizing Criteria" (Policy) in Chapter 7 that includes minimum fire flow standard of 500 gallons per minute at 20 pounds per square inch for single family residential and 750 gallons per minute at 20 pounds per square inch for multi-family residential, commercial, industrial; and

WHEREAS, WAC 246-293-640 requires new and expanding water systems with 1000 or more water service connections to provide fire flow capacity of 500 gpm sustainable for 30 minutes in residential areas and 750 gallons per minute sustainable for 60 minutes in commercial and multifamily areas and to have a maximum fire hydrant spacing of one every 900-feet; and

WHEREAS, WAC 246-290-230(6) requires a public water system designed to provide fire flow to maintain a minimum of 20 pounds per square inch system pressure under fire flow conditions during maximum day demand; and

WHEREAS, in 2014, Gray and Osborne, Inc., performed a Hydraulic Capacity Analysis on the distribution system and determined that limited specific areas within the distribution system are not in compliance with the District's Policy, WAC 246-293-640, and WAC 246-290-230(6); and

WHEREAS, the Plan includes "Fire Flow", in Chapter 3, as one of the system's deficiencies in Sunset Sands; and

WHEREAS, the Plan includes a booster station project, in Chapter 8, to remove the fire flow deficiency in Sunset Sands; and

WHEREAS, notwithstanding the fire flow deficiency condition has existed for decades prior to the District assuming ownership of the water system, the Board, subject to internal and external constraints, desires to take all reasonable steps to expedite the correction of the fire flow deficiency condition in Sunset Sands; now therefore

BE IT RESOLVED, by the Board of Commissioners of North Beach Water District, Pacific County, Washington, as follows:

Section 1 To approve the Contract for Professional Services with Gibbs and Olson attached hereto and incorporated herein as EXHIBIT "A".

Section 2 To authorize the general manager to execute and manage said contract so that all work is completed and all deliverables are received according to schedules and within the budgeted costs contained within the Contract.

Adopted by the Board of Commissioners of North Beach Water District, Pacific County, Washington at its regular meeting held on the 17th day of August, 2015

Brian Sheldon, Commissioner
Position #1

Gwen Brake, Commissioner
Position #2

Glenn Ripley, Commissioner
Position #3

08/11/2015

EXHIBIT "A"



GIBBS & OLSON
CIVIL ENGINEERS • LAND SURVEYORS

August 10, 2015

Mr. William Neal
General Manager
North Beach Water District
PO Box 618
25902 Vernon Avenue
Ocean Park, WA 98640

RE: Agreement for Engineering Services – Birch Place Booster Station

Dear Mr. Neal:

We are pleased to submit this Agreement for Engineering Services to assist the North Beach Water District in implementing your Birch Place Booster Station project. This Letter Agreement together with Exhibits A, B and C comprise our proposed Agreement for engineering services for this project.

AGREEMENT

RELATIONSHIP

For the purposes of this contract, the Client shall be the North Beach Water District (NBWD), Ocean Park, WA and the Engineer shall be Gibbs & Olson, Inc., Longview, Washington. Engineer's services are intended for the Client's sole use and benefit and solely for the Client's use on this Project and shall not create any third party rights. Except as agreed in writing, Engineer's services and work products shall not be used by or relied upon by any other person or entity.

PROJECT DESCRIPTION

The project scope includes services to provide final plans, specifications and engineering estimates (PS&E) and construction technical support for implementation of the Sunset Sands Booster Station. The project will improve system hydraulics (flow & pressure) to the southeast section of the distribution system. The scope of work includes the design and installation of a series of booster pumps, in pitless booster stations to provide adequate domestic and fire flow to the targeted area of the distribution system. The detailed scope of work is presented in the attached Exhibit A – Scope of Work.

BUDGET

The estimated budget for the identified scope of work is presented in Exhibit B. Engineer is proposing to complete the identified scope of work for a fee of \$45,450.00 computed per item F in Exhibit C – General Conditions and will bill monthly for services and project expenses. Engineer will not exceed the identified budget for the identified scope of work without prior authorization from the Client.

PO BOX 400, LONGVIEW WA 98632 | 360.425.0991 Tel | 360.423.3162 Fax
www.gibbs-olson.com

08/11/2015

Mr. William Neal
North Beach Water District
August 10, 2015
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SCHEDULE


The proposed project schedule milestones are presented below. It is anticipated the project will be complete and ready for closeout in August 2016.

The anticipated project timeline is as follows:

- Field Hydraulic Analysis - September 2015
- Survey, Project Report & Easement Acquisition - October 2015
- Preparation of PS&E - November/December 2015
- Bid Advertise & Award Equipment Purchase February through March 2016
- Bid Advertise & Award Electrical March through May 2016
- Construction Support - June through August 2016
- Close Out - August 2016

We are proposing that this letter, together with attached Exhibits A, B and C, be our complete Agreement for engineering services for this project. If you have any questions or would like to discuss this further please feel free to give us a call. If, however, this is agreeable we would appreciate receiving a signed and dated copy for our file and we will begin work upon receipt of a Notice to Proceed.

Sincerely,
GIBBS & OLSON, INC.

By 
Richard A. Gushman, President

ACCEPTED AND AUTHORIZED THIS _____ DAY OF _____, 2015.

NORTH BEACH WATER DISTRICT

By _____

Title _____

Date _____

- Attachments:
- Exhibit A - Scope of Work
 - Exhibit B - Budget
 - Exhibit C - General Conditions

**EXHIBIT A
SCOPE OF WORK
NORTH BEACH WATER DISTRICT
SUNSET SANDS BOOSTER STATION**

PROJECT DESCRIPTION

The project scope includes services to provide final plans, specifications and engineering estimates (PS&E) and construction technical support for implementation of the Sunset Sands Booster Station. The project will improve system hydraulics (flow & pressure) to the southeast section of the distribution system. The scope of work includes the design and installation of a series of booster pumps, in pitless booster stations to provide adequate domestic and fire flow to the targeted area of the distribution system.

DESIGN PHASE ENGINEERING SERVICES

During the Preliminary Design Phase, the Engineer shall:

- a) Consult with the Client to verify the general scope extent, character and schedule for the project.
- b) Conduct pressure testing and hydraulic analysis of the distribution system in the Sunset Sands Community. Field testing will include placement of pressure recorders in specific locations within the project area to compare actual field conditions to previous model results by others. A simple hydraulic model of the project area using EPA Net software will be created to evaluate the field data obtained. The results of the field testing and modeling will be presented in a technical memo and included in the project report.
- c) Prepare a project report for pump station upgrades meeting the requirements of WAC 246-290-110. The report will identify all pertinent design criteria as outlined in the Washington State Department of Health (DOH) Water System Design Manual. Preliminary design will be based on a pitless booster station with above ground control cabinet. The report will present the final pump configuration and design considerations. The likely pump configuration is a 3 pump system capable of providing Maximum Day Demand (MDD) plus the minimum residential fire flow of 500 gpm. The pump control system will be based on a Goulds Aquivar multi pump system configuration. The controls will be capable of various pump protection scenarios, including the situation where no flow is observed upon pump call. The draft project report, including pump station schematics, will be submitted to the Client for review. The final pre-design report will be submitted to DOH for approval. Up to three (3) hard copies of the final project report will be provided.
- d) Apply for three phase 480 volt electrical service from PUD #2 of Pacific County as soon as final pump configuration is determined.
- e) Assist with completion of easement documents for the pump station site. Processing and recording of the easement documents shall be completed by the Client.

During the Design Phase, the Engineer shall prepare final construction contract documents to show the general scope, extent and character of the work to be furnished and performed by the Client and Contractor(s).

- a) Prepare for review and approval by Client, its legal counsel and other advisors contract agreement forms, general conditions and supplementary conditions, and bid forms,

invitations to bid and instructions to bidders, and assist in the preparation of other related documents.

- b) Prepare a booster pump procurement specification for use by the Client to pre-purchase the pump equipment. The procurement specification shall include bid forms, purchase agreement, general conditions and special provisions.
- c) Prepare construction drawings showing site layout and details. Construction drawings are anticipated to consist of a site plan sheet and a detail sheet with pump station profiles.
- d) Prepare design-build specifications for pump station electrical and control systems suitable for obtaining bids from electrical contractors.
- e) Design Phase Deliverables include the following:
 - 1. Electronic copies of Draft (90% complete) reports and contract documents for review and comment by Client.
 - 2. Three (3) copies of Final (100% complete) contract documents.
- f) Provide technical criteria, written descriptions and data to the Client for filing applications for permits with or obtaining approvals of such governmental authorities having jurisdiction to approve the design and/or construction of the project, and assist Client in consultations with appropriate authorities. Final plans and specifications along with the project report will be submitted by Engineer to DOH for review and approval. Plans and specifications will be submitted to Pacific County for a General Permit for Construction and Road Right-of-Way Permit.

Engineer shall provide project administration consisting of the following:

- a) General project administration and data collection.
- b) Monthly narrative progress reports during design as requested. Consult with the Client to verify the general scope extent, character and schedule for the project.

ADDITIONAL SERVICES OF ENGINEER DURING DESIGN

The Client wishes the Engineer to perform the following Additional Services:

- a) Furnish field topographic survey of the pump station site for preparation of drawings. Engineer shall establish a location near the site for use by the Client as an elevation bench mark.

BIDDING PHASE ENGINEERING SERVICES

During the Bidding Phase, the Engineer shall:

- a) Assist in advertising for and obtaining bids for equipment purchase and electrical construction; and maintain a record of prospective bidders to whom Bidding Documents have been issued.
- b) Receive questions from Contractor's and prepare appropriate answers.
- c) Issue addenda as appropriate to interpret, clarify, amend, or expand the Bidding Documents.
- d) Prepare bid tabulation sheets and assist the Client in evaluating bids or proposals and in assembling and awarding contracts for construction.
- e) The Engineer will make arrangements to post electronic bidding documents through an on-line bidding service.

CONSTRUCTION PHASE ENGINEERING SERVICES

Engineer shall provide the following construction phase services to within the limits as established in the estimated time budget:

- a) Shop Drawings. Engineer shall review and take appropriate action in respect of Shop Drawings, samples and other data, which Contractor(s) are required to submit for compliance with the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto. Engineer shall evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor(s).
- b) Interpret and Clarify Contract Documents. Consult with and advise the Client on interpretations and clarifications for Contract Documents and in connection therewith provide technical assistance for Client preparation of work directive changes and change orders. Engineer shall not act as the Client's representative unless specifically requested in writing or in an amendment to this agreement.
- c) Substantial Completion Inspection. Engineer shall conduct an inspection with Client and Contractor to assist Client in determining if the construction work is substantially complete and provide, in writing, a recommended "punch list" of items that should be completed prior to the Client issuing final payment and acceptance. Engineer shall not, during such visit or as a result of such observations of Contractor(s)' work in progress, supervise, direct or have control over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor(s), for safety precautions and programs incident to the work of the Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes, or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, Engineer can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.
- d) Limitations of Responsibility. Engineer shall not be responsible for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except Engineer's own employees and agents) at the site or otherwise furnishing or performing any of the Contractor(s)' work; however, nothing contained in paragraphs "a" through "c" above, shall be construed to release Engineer from liability for failure to properly perform duties and responsibilities assumed by Engineer in this Agreement.
- e) Client shall provide the services of a Resident Project Representative (RPR) at the site to provide observation of work. Client shall document as-constructed conditions based on information and photos obtained during the RPR's observations. The Engineer may be consulted on an as needed basis to interpret and clarify contract document requirements and determine if such work is proceeding in accordance with the Contract Documents based on Client's report to Engineer. Client shall keep the Engineer informed of the progress of the work.
- f) Client shall determine the amounts owing to the Contractor(s), based on requirements of contract documents, observations and review, that the work has progressed to the point described in Contractor pay requests.
- g) Client shall receive and review maintenance and operation instructions, schedules,

guarantees, bonds and certificates of inspection, tests and approvals which are to be assembled by Contractor(s) as specified in the construction documents.

- h) Contractor shall provide construction staking, special testing and record drawings as specified in the construction documents unless responsibilities are otherwise assumed by Client in writing.

Exhibit B - Estimated Budget

Sunset Sands Booster Station
 Gibbs and Olson, Inc.
 August 10, 2015

Project Tasks	Principal	Engr VI	Engr V	CADD Support	Land Surveyor	2-Man Survey Crew	2-Man GPS Survey	Admin Assist	Expenses			Total Cost
									Travel	Repro	Misc	
Project Report Phase												
Field Work/Evaluation	0	16	2	0	0	0	0	0	\$100	\$0	\$40	\$2,952
Pre-Design Report/DOH Approval	1	24	6	8	0	0	0	2	\$0	\$80	\$0	\$5,795
Assist w/ Easement Documents	0	2	2	4	4	0	0	1	\$0	\$0	\$0	\$1,521
Project Report Services Subtotal	1	42	10	12	4	0	0	3	100	80	40	\$10,268
Design and Bid Phase												
Basic Design Services												
Prepare Drawings	0	12	16	32	0	0	0	0	\$0	\$100	\$0	\$7,276
Prepare Specifications	0	24	12	0	0	0	0	1	\$0	\$20	\$0	\$5,581
Prepare Contract Documents	0	8	4	0	0	0	0	1	\$0	\$20	\$0	\$1,917
Prepare Opinions of Cost	0	4	0	0	0	0	0	0	\$0	\$0	\$0	\$632
Project Administration	0	4	6	0	0	0	0	2	\$0	\$20	\$0	\$1,659
Basic Design Services Subtotal	0	52	38	32	0	0	0	4	\$0	\$160	\$0	\$17,065
Additional Services												
Design Survey (Coordination)	0	2	0	2	2	3	3	0	\$120	\$0	\$25	\$1,909
Additional Services Subtotal	0	2	0	2	2	3	3	0	\$120	\$0	\$25	\$1,909
Bid Ad and Award Phase Services												
Issue Bid Documents (electronic)	0	2	2	0	0	0	0	1	\$60	\$60	\$75	\$885
Bid Inquiries/ Addenda	0	8	0	0	0	0	0	0	\$0	\$0	\$0	\$1,264
Bid Opening, Bid Tab and Award	0	8	0	0	0	0	0	1	\$0	\$0	\$0	\$1,329
Bid Phase Services Subtotal	0	18	2	0	0	0	0	2	60	60	75	\$3,478
Total Design and Bid Phase Services	0	72	40	34	2	3	3	6	180	220	100	\$22,452
Construction Phase												
Basic Services During Construction (assumes 15-week construction period)												
Project Administration	1	4	4	0	0	0	0	0	\$0	\$0	\$0	\$1,417
Visits to Site by Engineer	0	8	8	0	0	0	0	0	\$100	\$0	\$0	\$2,556
Shop Drawing Review	0	4	8	0	0	0	0	0	\$0	\$0	\$0	\$1,808
Substantial Completion	0	4	8	0	0	0	0	0	\$100	\$0	\$0	\$1,908
Record Drawings	0	2	2	4	0	0	0	0	\$0	\$0	\$0	\$990
Project Closeout	0	2	2	0	0	0	0	1	\$0	\$0	\$679	\$679
Basic Construction Services Subtotal	1	24	32	4	0	0	0	1	\$200	\$0	\$0	\$9,358
Additional Services During Construction												
Construction Electrical Support (Start-up)	0	16	4	0	0	0	0	0	\$100	\$0	\$100	\$3,372
Additional Services Subtotal	0	16	4	0	0	0	0	0	\$100	\$0	\$100	\$3,372
Total Construction Phase Services	1	40	36	4	0	0	0	1	\$300	\$0	\$100	\$12,730
TOTAL CONTRACT AMOUNT	2	154	86	50	6	3	3	10	\$580	\$300	\$240	\$45,450

**EXHIBIT C
GENERAL CONDITIONS**

A. STANDARD OF PRACTICE

Services performed by the Engineer under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality and under similar conditions at the time the services are performed. No other representation, expressed or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document or otherwise.

B. MAINTENANCE OF PROFESSIONAL STANDARDS AND ETHICS

The Client recognizes that the Engineer's services in all cases must be rendered in accordance with prevailing professional standards and ethics, as well as certain laws or regulations that apply specifically to the Engineer. If a situation emerges that causes the Engineer to believe compliance with the Client's wishes could result in the Engineer violating an applicable provision or aspect of professional standards or ethics, laws or regulations, the Engineer shall so advise the Client, and the Client and the Engineer shall immediately enter into discussions to arrive at a mutually satisfactory solution. Failing achievement of a solution, either party may terminate this Agreement in accordance with termination provisions stated herein.

C. ASSIGNMENT

The Engineer shall not assign this Agreement in whole or in part nor subcontract any portion of the work to be performed hereunder, except that the Engineer may use the services of persons and entities not in his or her employ, when it is appropriate and customary to do so. Such persons and entities include, but are not necessarily limited to, specialized consultants, and testing laboratories. The Engineer's use of others for additional services shall not be unreasonably restricted by the Client provided the Engineer notifies the Client in advance.

D. INSURANCE

The Engineer maintains: 1) worker's compensation and employer's liability insurance of a form and in an amount as required by state law; 2) comprehensive general liability and automotive liability insurance; and 3) professional liability insurance to cover negligent errors or omissions for which the Engineer becomes legally obligated to pay. Certificates of Insurance (COI) shall be provided to the Client upon request. The Client will be named as an additional insured if required on the comprehensive general liability and automotive liability insurance COI.

E. INDEMNIFICATION

The Engineer agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, directors and employees (collectively, Client) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Engineer's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the Engineer is legally liable.

The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Engineer, its officers, directors, employees and subconsultants (collectively, Engineer) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Client's negligent acts in connection with the Project and the acts of its contractors, subcontractors or consultants or anyone for whom the Client is legally liable.

Neither the Client nor the Engineer shall be obligated to indemnify or defend the other party in any manner whatsoever for the other party's own negligence.

F. BILLING AND PAYMENT

1. BUDGET FOR SERVICES

The budget estimate included in this proposal is only for those services identified within the attached scope of work. The budget and proposed scope of work are based on information currently available to the Engineer. If conditions change, unforeseen circumstances are encountered, or work efforts are redirected, the budget estimate may require modification. Similarly, if the work efforts are completed quicker than the time estimated or direct expenses are less than estimated, the Engineer will bill the Client only for the time or expense encountered.

Monthly billings will be submitted on a time and materials basis but will not exceed the estimated budget without the Client's prior authorization. For projects that extend beyond the calendar year in which the contract was signed, the billing rates are subject to adjustment in January of each year.

2. REIMBURSABLE EXPENSES

Expenses incurred in connection with project tasks such as out-of-town subsistence, long distance telephone, reproduction costs and similar, will be invoiced at direct cost plus Ten (10%) percent. Mileage will be invoiced at the current IRS rate per mile.

3. SERVICES BY OTHERS

If this project requires the specialized services of consultants and other technical companies, then such services will be utilized only with the Client's written approval, with the cost of such services included at the invoice cost plus Ten (10%) percent.

4. INVOICES

The Engineer will submit invoices to Client on a monthly basis and a final bill upon completion of services. Payment is due upon receipt of the invoice unless otherwise agreed, and is past due Thirty (30) days from invoice date. Client agrees that the invoice balance is correct unless we are notified in writing within Fourteen (14) days of date of invoice. A service charge of 12% per annum (1% per month) will be added on all unpaid balances over Sixty (60) days old. If payment becomes delinquent, no further services will be performed until the account is brought current or until satisfactory written payment arrangements have been made. In the event of a disputed or contested billing, only that portion so contested will be withheld from payment, and the undisputed portion will be paid. The Client will exercise reasonableness in contesting any bill or portion thereof. No interest will accrue on any contested portion of the billing until it is mutually resolved.

G. CHANGES IN THE AGREEMENT

If during the course of performance of this Agreement, the Client requests additional services to be performed, or if conditions or circumstances are discovered which were not contemplated by the Engineer at the commencement of this Agreement, then the Engineer shall notify the Client in writing of the additional services to be performed or the newly discovered conditions or circumstances. The Client and Engineer shall renegotiate in good faith, the budget, schedule and other applicable conditions of this Agreement. Unless otherwise agreed to, the Client and Engineer shall have Thirty (30) days after the notice to reach agreement on the amended terms and conditions.

H. RIGHT OF ENTRY

The Client shall provide for right of entry to the project site. Such right of entry shall be for the Engineer and others, and necessary equipment in order for the Engineer to fulfill the scope of services indicated in this Agreement. While the Engineer will take all reasonable precautions to minimize damage to the property, the Client understands that in the normal course of work some damage may occur, the correction of which is not part of this Agreement.

I. OPINION OF CONSTRUCTION COST

The Engineer shall submit to the Client an opinion of the probable cost required to construct work recommended, designed, or specified by the Engineer. The Engineer is not a construction cost estimator or construction contractor, nor should the Engineer's rendering an opinion of probable construction costs be considered equivalent to the nature and extent of service a construction cost estimator or construction contractor would provide. The Engineer's opinion will be based solely upon his or her own experience with construction. This requires the Engineer to make a number of

assumptions as to actual conditions that will be encountered on site; the specific decisions of other design professionals engaged; the means and methods of construction the contractor will employ; the cost and extent of labor, equipment and materials the contractor will employ; contractor's techniques in determining prices and market conditions at the time, and other factors over which the Engineer has no control. Given the assumptions which must be made, the Engineer cannot guarantee the accuracy of his or her opinion of cost, and, in recognition of that fact, the Client waives any claim against the Engineer relative to the accuracy of the Engineer's opinion of probable construction cost.

J. DOCUMENTS

All reports, field data, field notes, test data, calculations, Drawings, specifications, estimates, computer files, and other documents prepared by the Engineer are instruments of service and shall remain the property of the Engineer. The Engineer agrees not to release any project documents to third parties without prior Client authorization unless the Engineer is required to do so by any applicable law, regulation, ordinance, or court order. The Engineer will retain all pertinent documents for a period of at least three years from the date of final invoice, during which time the records will be made available to Client at all reasonable times. Client shall assume all responsibility for use of the Engineer's instruments of service on other projects and for the completion of the Engineer's services on this project by others and shall release, defend, indemnify and hold Engineer harmless from all claims, demands or damages arising there from. The Client agrees that all work furnished to the Client, but which is not paid for per the terms of this Agreement, shall be returned upon demand and will not be used by the Client for any purpose whatsoever.

K. DISPUTES

In the event of a dispute arising under this Agreement and if the dispute cannot be settled through direct discussions, the parties agree to first attempt to settle the dispute by non-binding mediation before recourse to a judicial forum. If the dispute is settled by litigation, the substantially prevailing party shall be awarded its reasonable costs incurred, including staff time at current billing rates, court costs, expert witness fees, attorney's fees upon trial, or appeal, collection or lien fees, late payment charges and interest, and other claim related expenses. Venue for any litigation shall be the Superior Court of the County in which the project is located.

L. TERMINATION

The Client may terminate this Agreement by giving the Engineer Thirty (30) days written notice. The Client or the Engineer may terminate this Agreement for reasons identified elsewhere in the Agreement or for other reasons which may arise.

Either party may terminate this Agreement if either party fails substantially to perform through no fault of the other and does not commence correction of such nonperformance within Five (5) workdays of written notice and diligently complete the correction thereafter. If corrective action is not taken within Five (5) workdays, termination will become effective Fourteen (14) calendar days after receipt of the termination notice.

Irrespective of which party shall effect termination or the cause therefore, or if the Client suspends work on the project for more than three (3) months, the Client shall within Thirty (30) calendar days of termination or suspension remunerate the Engineer for services rendered and costs incurred, in accordance with the Engineer's prevailing fee schedule and expense reimbursement policy. Services shall include those rendered up to the time of termination or suspension, as well as those associated with termination or suspension itself, such as demobilizing, modifying schedules, reassigning personnel, and so on. Costs shall include those incurred up to the time of termination or suspension, as well as those associated with termination or suspension and post-termination or suspension activities.

M. GOVERNING LAW

Unless otherwise provided in an addendum, the laws of the state in which the project takes place will govern the validity of this Agreement, its interpretation and performance, and remedies for contract breach or any other claims related to the Agreement.

N. SEVERABILITY

The Client and the Engineer have entered into this Agreement of their own free will, to communicate to one another mutual understandings and responsibilities. Any element of this Agreement later held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force. However, the Client and the Engineer will in good faith attempt to replace an invalid or unenforceable provision with one that is valid and enforceable, and which comes as close as possible to expressing or achieving the intent of the original provision.

O. INTEGRATION

This Agreement, including attachments incorporated herein by reference, comprises a final and complete repository of understandings between the Client and the Engineer. It supersedes all prior or contemporaneous communications, representations, or agreements, whether oral or written, relating to the subject matter of this Agreement. Each party has advised the other to read this document thoroughly before accepting it to help assure it accurately conveys meanings and intents. Acceptance of this Agreement as provided for signifies that each party has read the document thoroughly and has had any questions or concerns completely explained by independent counsel and is satisfied. The Client and the Engineer agree that modifications to this Agreement shall not be binding unless made in writing and signed by an authorized representative of each party.

P. AGREEMENT DOCUMENTS

Letter Agreement signed by Client and Engineer
Exhibit A – Scope of Work
Exhibit B – Budget
Exhibit C – General Conditions

Q. LIMITATION OF LIABILITY:

Client agrees to require Engineer be named as an additional insured for all insurance policies carried by contractors, subcontractors and suppliers on which Client has been or will be named as an additional insured. Regardless of the presence or absence of coverage, Engineer shall not be liable for loss or damage occasioned by delays beyond Engineer's control, or for loss of earnings, loss of use or other incidental or consequential damages suffered by Client or others, however caused. Engineer's liability hereunder, whether in tort or in contract, for any cause of action shall be limited as follows: (a) for insured liabilities arising out of Engineer's negligence, to the lesser of 1) the amount of insurance then available to fund any settlement, award or verdict or 2) to one hundred percent (100%) of Engineer's fee; (b) for uninsured liabilities, to one hundred percent (100%) of the fee earned by Engineer under this Agreement.

R. LIMITATION OF ACTIONS:

All causes of action between the parties to this Agreement pertaining to any acts or failures to act shall be deemed to have accrued and the applicable statute of limitations starts to run no later than the last performance of professional services performed by Engineer under this Agreement, including any steps or phases provided.