



CONSULTING ENGINEERS
SITE DEVELOPMENT ENGINEERS
LAND SURVEYORS

9575 W. Higgins Road, Suite 700, Rosemont, Illinois 60018
Phone: (847) 696-4060 Fax: (847) 696-4065



June 4, 2015

VIA EMAIL

Ms. Karie Frilling
Director of Development Services
Village of Orland Park
14700 Ravinia Avenue
Orland Park, IL 60462

Phone: (708) 403-5300
Email: kfrilling@orlandpark.il.us

**RE: ADDENDUM NO. 1 to 08/12/14 PROPOSAL
JEFFERSON AVENUE EXTENSION AT MAIN STREET TRIANGLE
ORLAND PARK, ILLINOIS
SPACECO Project No.4278.07**

Dear Karie:

In response to your request, SPACECO, Inc. is pleased to provide you with this Addendum for additional professional engineering services related to the Jefferson Avenue extension between 142nd Street and 143rd Street at the Main Street Triangle redevelopment in Orland Park, Illinois.

Since our proposal of August 12, 2014 was written, the scope of the work has increased and now includes the following additional design work:

- Coordination of Jefferson Avenue Roadway Geometry with UCMC
- B Street between Ravinia Avenue and Jefferson Avenue
- Widening of 142nd Street between Jefferson and LaGrange Road
- Parking Deck south of B Street and north of 143rd Street
- Redesign of the overall OPT street lighting circuitry
- UCMC parking lot and pad delivery of their building site
- Coordination with the Environmental Consultant on Site Remediation Issues
- Utility Easement vacation and dedication plats
- Public Bidding of All Improvements

SCOPE OF ADDITIONAL SERVICES

TASK 1.0 – COORDINATION OF JEFFERSON AVENUE GEOMETRY: We will coordinate between the UCMC team and Village staff the geometry of Jefferson Avenue. This includes preparing exhibits, truck turn exhibits, and other plans to coordinate the UCMC site plan with the desired roadway layout. We will also work to coordinate the parking deck and B Street layout with the Jefferson Avenue and UCMC site plans.

TASK 2.0 - FINAL ENGINEERING OF ROADWAY IMPROVEMENTS (B STREET, 142nd STREET WIDENING, AND PARKING GARAGE AREA): This task will consist of the preparation of the design documents for submittal to the municipality and permit applications to the regulatory agencies that govern the work.

Preparation of Plan Drawings: The plan drawings will include the final design drawings, technical specifications, and other documentation for the final design of on-site engineering improvements. The plans will be in English units of measurement. This work will include; plan notes, typical sections, alignment & ties, plan & profile sheets, cross-sections, geometric plan, water distribution, water service, sanitary sewers, sanitary sewer service, storm sewers, paving for roadways/parking areas, grading, erosion control, details, pavement marking/signing, and earthwork calculations. Our design of underground utilities will be up to five feet from the outside of the building wall for service connections.

Construction specifications will be shown on the drawings for storm sewer, sanitary sewer, watermain, pavement, and grading. We will reference the "Standard Specifications for Road and Bridge Construction" adopted January 1, 2007 by the Illinois Department of Transportation, and the latest edition of the "Standard Specifications for Water and Sewer Main Construction in Illinois". SPACECO, Inc.'s preparation of the specifications shall not be construed to relieve the Contractor in any way from his sole responsibility for the quality and workmanship of the work and for strict compliance with the permitted plans and specifications.

We will coordinate with the gas, phone, and electric companies to determine what facilities they anticipate bringing into the site and include their design plans into the roadway improvement plans.

Permit Applications: We will prepare permit applications for water and sewer for submittal to the appropriate authorities. We will submit an initial application to the Illinois Environmental Protection Agency for a Notice of Intent (NOI) for mass-grading purposes. Permit application fees are not included in our fee. This does not warrant that such approval shall be obtained.

TASK 3.0 - FINAL ENGINEERING FOR UCMC PARKING LOT: This task will consist of the preparation of the design documents for submittal to the municipality and permit applications to the regulatory agencies that govern the work

Preparation of Plan Drawings: The plan drawings will include the final design drawings, technical specifications, and other documentation for the final design of on-site engineering improvements. The plans will be in English units of measurement. This work will include; plan notes, typical sections, geometric plan, water service, sanitary sewer service, storm sewers, paving for parking areas, grading, erosion control, details, pavement marking/signing, and earthwork calculations. Our design of underground utilities will be up to five feet from the outside of the building wall for service connections.

Construction specifications will be shown on the drawings for storm sewer, sanitary sewer, watermain, pavement, and grading. We will reference the "Standard Specifications for Road and Bridge Construction" adopted January 1, 2012 by the Illinois Department of Transportation, and the latest edition of the "Standard Specifications for Water and Sewer Main Construction in Illinois". SPACECO, Inc.'s preparation of the specifications shall not be construed to relieve the Contractor in any way from his sole responsibility for the quality and workmanship of the work and for strict compliance with the permitted plans and specifications.

Soil Erosion and Sediment Control Plan: We will prepare a Soil Erosion and Sediment Control Plan for inclusion into the Final Engineering Plans. We will also file with the Illinois Environmental Protection Agency (IEPA) a National Pollutant Discharge Elimination Systems (NPDES) Notice of Intent (NOI) form for the grading activities. The plan will include the appropriate notes, details, and specifications that are the anticipated minimum initial controls and measures that will be required during the duration of construction activities until the site is stabilized and the Notice of Termination (NOT) form is filed. This plan is an integral component of the Storm Water Pollution Prevention Plan (SWPPP) that the IEPA requires as part of the NPDES NOI filing. We assume that the Client is familiar with the requirements of the IEPA NPDES and SWPPP programs and that you will be undertaking the required reporting, monitoring, and maintenance aspects of the programs. If requested, SPACECO, Inc. can provide the required reporting and monitoring work under a separate agreement of services.

SPACECO is not responsible for implementation of the Storm Water Pollution Prevention Plan (SWPPP), including maintenance and/or repair of soil erosion and sediment control measures, for compliance with the General NPDES Permit for Storm Water Discharges from Construction Site Activities.

Opinion of Probable Construction Cost: Based upon the information contained in the final design documents, we shall prepare one opinion of probable construction cost for the site improvements.

Permit Applications: We will prepare permit applications for water and sewer for submittal to the appropriate authorities. We will submit an initial application to the Illinois Environmental Protection Agency for a Notice of Intent (NOI) for mass-grading purposes. Permit application fees are not included in our fee. This does not warrant that such approval shall be obtained.

MWRD Permitting: This task will consist of the application for submittal to the MWRD for the new sanitary sewer service connection. Permit application fees are not included in our fee. This does not warrant that such approval shall be obtained. During the permit review process, follow-up information, submittals, and documentation are anticipated.

TASK 4.0 – LIGHTING/ELECTRICAL DESIGN: We will prepare roadway lighting and electrical plans for B Street including the design of any plaza lighting in front of the parking garage. Fountain electrical and lighting design is not included. We will also prepare photometric and site electrical plans for the UCMC parking lot. We will coordinate with the UCMC architect the style of fixture and pole and connection points to the building. The lighting and electrical plans will be submitted to the necessary reviewing agencies for approval.

TASK 5.0 – STREETScape AND LANDSCAPE ARCHITECTURE: SPACECO, Inc. will subcontract with Kimley Horn, Inc. to provide Streetscape, Landscape Architecture, and Irrigation design work. The Streetscape principles and design concepts utilized throughout the Main Street Triangle development will be used in the development of the plans. Their work shall be performed in accordance with their proposal dated June 3, 2015.

TASK 6.0 – ENVIRONMENTAL COORDINATION: We will coordinate with the Environmental Consultant the site remediation issues and incorporate into the plans the required soil capping designs to meet the IEPA requirements for NFR issuance.

TASK 7.0 – UTILITY EASEMENT PLATS: We will prepare plats to dedicate and vacate easement within the properties. We will coordinate review of these plats with the utility companies and work with the Village to get these plats signed and recorded.

TASK 8.0- ADDITIONAL BID DOCUMENT PREPARATION: We will prepare bid documents for the additional design work in accordance with the standards provided by the Village. The documents will include a summary of the work and quantity sheets.

FEES

	<u>Amount</u>
Task 1.0 – Coordination of Jefferson Avenue Geometry	Hourly, Budget \$5,000
Task 2.0 - Final Engineering of Roadway Improvements B Street	
Final Geometry	Hourly, Budget \$1,500
Final Engineering (300 L.F.)	Hourly, Budget \$12,500
142 nd Street Widening	
Final Geometry	Hourly, Budget \$1,500
Final Engineering	Hourly, Budget \$5,000
Parking Garage Area	
Final Geometry	Hourly, Budget \$1,500
Final Engineering	Hourly, Budget \$8,000
Task 3.0 – Final Engineering for UCMC Parking Lot	
Final Geometry	Hourly, Budget \$2,000
Final Engineering	Hourly, Budget \$18,500
MWRD Permitting	Hourly, Budget \$1,500
Task 4.0 – Street Lighting/Electrical Design (Christopher B. Burke Eng. Ltd.)	
B Street and Additional Roadway Lighting	
Coordination	Hourly, Budget \$18,000
UCMC Parking Lot	Hourly, Budget \$13,500
Task 5.0 - Streetscape and Landscape Architecture (Kimley Horn, Inc.)	
Additional Jefferson Avenue Work	Hourly, Budget \$23,400
B Street	Hourly, Budget \$18,400
UCMC Parking Lot	Hourly, Budget \$9,800
Parking Garage Area	Hourly, Budget \$12,700
Task 6.0 – Environmental Coordination	Hourly, Budget \$3,000
Task 7.0 – Utility Easement Plats	Hourly, Budget \$5,000
Task 8.0 – Additional Bid Document Preparation	Hourly, Budget \$5,000
Additional Reimbursable Expenses	Cost+10%, Budget \$6,000

Total Addendum Budget \$171,800

All Work shall be billed in accordance with our hourly rates not to exceed the Total Addendum Budget unless otherwise authorized by the Village of Orland Park.

If this Addendum meets with your approval, please sign and return to us for our files.

Sincerely,

SPACECO, Inc.



Michael Mondus, P.E.
Executive Vice President

c: R. Stawik, B. Loftus - SPACECO, Inc.
File Copy

ACCEPTED FOR: _____

BY: _____

TITLE: _____

DATE: _____

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June 3, 2015

Michael Mondus, P.E.
Spaceco, Inc.
9575 W. Higgins Road
Suite 700
Rosemont, IL 60018

Re: Agreement for Professional Consulting Services
Landscape Architecture

Dear Michael:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "the Consultant") is pleased to submit this Agreement (the "Agreement") to Spaceco, Inc. ("the Client") for professional consulting services for the proposed improvements required for the Jefferson Avenue, B Street, Parking Garage and University of Chicago Medical Center (UCMC) Parking Lot in Orland Park, Illinois.

Project Understanding

Kimley-Horn understands that the Village of Orland Park is improving and expanding the roadway network within the "triangle" parcel bordered by 143rd Street to the south, LaGrange Road to the east and the railroad to the north and west. Our services shall include Schematic Design, Design Development and Construction documents for the hardscape and landscape improvements proposed for Jefferson Avenue, B Street (which connects Jefferson Avenue to Ravinia Avenue), the proposed parking garage at the northeast corner of Jefferson Avenue and 143rd Street, and the UCMC parking lot.

It is understood the project will require local municipal approval.

Scope of Services

Task 1 – Schematic Design

Utilizing existing site survey and proposed site plan base information, Kimley-Horn will prepare Schematic Design streetscape concepts that are integrated with the surrounding uses. Design elements shall include but is not limited to raised intersections, permeable pavers, landscaping, site furnishings, monumentation and other identifiers being used to strengthen the brand of the Orland Park community.

Deliverables include:

- A. Up to three (3) schematic design streetscape plans for both Jefferson Avenue and B Street.
- B. Specialty hardscape design at key intersections, building/parking structure entries, street corners and tree grates.
- C. Gateway, column, monumentation elevations
- D. Conceptual building foundation, parking lot and streetscape landscape plan
- E. Preliminary cost opinion

Task 2 – Design Development

Following Village review of the Schematic Design, Kimley-Horn will advance the landscape and hardscape (layout) plans to include the locations, size, species, and quantity of plant material. Hardscape material, planters, and furnishings shall be designated as a part of this phase of work.

Deliverables include:

- A. Design Development Landscape Plan - 50% complete
- B. Design Development Hardscape Plan (Layout) - 50% complete
- C. Site furnishing design and selection
- D. Development of construction details (fencing, columns, planters, monumentation, etc.)
- E. Refined cost opinion

Task 3 – Construction Documents

Following the Design Development phase, Kimley-Horn will prepare documentation necessary for Village of Orland Park permits. All revisions based on comments from Village staff shall be addressed as a part of this phase of work. Construction documents shall be prepared to be competitively bid and constructed.

Deliverables include:

- A. 95% Construction Document/Permit Plans and Technical Specifications for client/project team review
- B. 100% Construction Document/Permit Plans & Technical Specifications
- C. Final cost opinion
- D. One (1) project team/client meeting are anticipated in this task.

Task 4 – Irrigation Design

Irrigation Design Construction Documents shall be prepared for Jefferson Avenue, B Street, the Parking Garage, and UCMC parking lot landscaping. Irrigation plans shall be compliant with Village of Orland Park requirements and shall incorporate water efficient irrigation design principles.

Deliverables include:

- A. Irrigation Plans - 50% complete
- B. Irrigation Plans - 100% complete
- C. Irrigation cost opinion
- D. Irrigation technical specifications



Task 5 – Structural Design

All monuments, columns, freestanding walls, and other gateway features and structures will require structural design by a registered structural engineer. Construction details shall be prepared for each structural element to be accurately bid and constructed.

Task 6 - Meeting Phase

Kimley-Horn will attend up to ten (10) meetings with the design team and Village of Orland Park and up to four (4) conference calls with the project team. Additional meetings will be considered an Additional Service.

Additional Services

Any services not specifically provided for herein, as well as changes in the scope of proposed services and revisions requested by the Client after substantial completion of the proposed services, will be considered Additional Services and will be performed at our hourly rates. Potential services not addressed in this Agreement, but which may be required include, but are not limited to:

1. Construction Administration
2. Bid Support
3. Preliminary and Final Engineering Design Services
4. Fountain Design Services
5. Lighting Design
6. Environmental Engineering Services
7. Geotechnical Engineering Services
8. Storm Water Management Design
9. Operation and Maintenance Plan for Proposed BMP's
10. Easement Documents and/or Coordination
11. Platting, Construction Staking or Survey Services beyond those mentioned above
12. Dry Utility Design
13. Sanitary Pump Station or Water Booster Pump Design
14. SWPPP Monitoring and/or Observation Logs
15. Off-site Improvements beyond those mentioned above
16. State Department of Transportation coordination beyond those mentioned above
17. Traffic and/or Parking Study
18. Pad Certification Assistance
19. Pump Station or Retaining Wall Design
20. Any services not specifically mentioned in the Scope of Services above



Information Provided By Client

Kimley-Horn shall be entitled to rely on the completeness and accuracy of all information provided by the Client. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:

1. Relevant surveys, studies, reports, or data in the Client's possession
2. Site Plan and all building plans (in AutoCAD format)
3. Geotechnical investigation for excavation, backfilling, foundation, groundwater analysis, infiltration rate analysis and pavement design.
4. Boundary of property to be purchased with current Title Commitment
5. Complete site design requirements for the proposed tenant
6. Full access to the site
7. Executed copy of this Agreement

Fees and Invoicing

Tasks identified in the table below as "Lump Sum" shall be completed for the sum of the lump sum fees listed below. The "Hourly" tasks, as indicated in the table, will be completed on an hourly basis, using our hourly rates in effect at the time the services are provided with the initial maximum budget estimates shown below. In addition, other direct expenses and reimbursable expenses will be billed at 1.15 times actual cost. Kimley-Horn will keep the Client apprised of the budget status on hourly tasks with monthly invoices so that appropriate decisions can be made by the Client with regard to scope, schedule, and budget.

Task	Task Description	Fee	Fee Type
	Jefferson Avenue		
1a	Schematic Design	\$4,800	Lump Sum
2a	Design Development	\$5,800	Lump Sum
3a	Construction Documents	\$5,200	Lump Sum
4a	Irrigation Design	\$3,800	Lump Sum
5a	Structural Design	\$9,000	Lump Sum
6a	Meeting Phase	\$5,700	Lump Sum
	Subtotal	\$34,300**	
	B Street		
1b	Schematic Design	\$3,000	Lump Sum
2b	Design Development	\$3,600	Lump Sum
3b	Construction Documents	\$3,300	Lump Sum
4b	Irrigation Design	\$2,300	Lump Sum
5b	Structural Design	\$2,600	Lump Sum
6b	Meeting Phase	\$3,600	Lump Sum

Task	Task Description	Fee	Fee Type
	Subtotal	\$18,400	
	<i>UCMC Parking Lot</i>		
1c	Schematic Design	\$1,800	Lump Sum
2c	Design Development	\$2,200	Lump Sum
3c	Construction Documents	\$2,100	Lump Sum
4c	Irrigation Design	\$1,500	Lump Sum
5c	Structural Design	N/A	Lump Sum
6c	Meeting Phase	\$2,200	Lump Sum
	Subtotal	\$9,800	
	<i>Parking Garage Landscape/Hardscape</i>		
1d	Schematic Design	\$2,400	Lump Sum
2d	Design Development	\$2,900	Lump Sum
3d	Construction Documents	\$2,600	Lump Sum
4d	Irrigation Design	\$1,900	Lump Sum
5d	Structural Design	N/A	Lump Sum
6d	Meeting Phase	\$2,900	Lump Sum
	Subtotal	\$12,700	
	Estimated Total (w/o expenses)	\$75,200	

****Note:** \$10,900 remaining from the previous Jefferson Avenue landscape and irrigation contract is included in the \$34,300 fee estimated for the revised scope of work. The additional amount proposed is \$23,400 for the Jefferson Avenue improvements.

An estimated additional reimbursable expenses budget of approximately **\$3,800** will be used to cover travel, printing and reproduction, courier and overnight delivery services, etc. Kimley-Horn will keep the Client updated, via monthly invoices, on the expenses incurred and the possible need for additional expense budget. Fees will be invoiced monthly based on the percentage completed for each of the major lump sum elements plus reimbursable expenses or for services actually accomplished under the cost-plus elements. Invoicing will be due and payable within 30 days.



Closure

In addition to the matters set forth herein, our agreement shall include, and shall be subject to the Standard Provisions attached hereto and hereby incorporated herein. As used in the Standard Provisions, the term "the Consultant" refers to Kimley-Horn and Associates, Inc. The term "the Client" shall refer to Spaceco, Inc.

If you concur in the foregoing and wish to direct us to proceed with the aforementioned services, please execute of this letter Agreement in the space provided, and return a copy to us with the aforementioned retainer. Execution of this Agreement formalizes our working arrangement.

We appreciate the opportunity to provide these services to you.

Sincerely,

Kimley-Horn and Associates, Inc.

Keith E. Demchinski, PLA, LEED AP

Dean M. Antony, P.E.
Vice President

Attachments: Standard Provisions

Agreed to this _____ day of _____, 2015

Spaceco, Inc.

By: _____

Printed Name and Title: _____



**KIMLEY-HORN AND ASSOCIATES, INC.
STANDARD PROVISIONS**

(1) **Consultant's Scope of Services and Additional Services.** The Consultant's undertaking to perform professional services extends only to the services specifically described in this Agreement. However, if requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.

(2) **Client's Responsibilities.** In addition to other responsibilities described herein or imposed by law, the Client shall:

- (a) Designate in writing a person to act as its representative with respect to this Agreement, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
- (b) Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project including all numerical criteria that are to be met and all standards of development, design, or construction.
- (c) Provide to the Consultant all previous studies, plans, or other documents in Client's possession pertaining to the project and all new data reasonably necessary in the Consultant's opinion, such as site survey and engineering data, environmental impact assessments or statements, upon all of which the Consultant may rely.
- (d) Arrange for access to the site and other private or public property as required for the Consultant to provide its services.
- (e) Review all documents or oral reports presented by the Consultant and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the Consultant.
- (f) Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary for completion of the Consultant's services.
- (g) Cause to be provided such independent accounting, legal, insurance, cost estimating and overall feasibility services as the Client may require.
- (h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the scope, timing, or payment of the Consultant's services or any defect or noncompliance in any aspect of the project.
- (i) Bear all costs incidental to the responsibilities of the Client.

(3) **Period of Services.** Unless otherwise stated herein, the Consultant will begin work timely after receipt of a properly executed copy of this Agreement and any required retainer amount. This Agreement is made in anticipation of conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months (cumulatively), Consultant's compensation shall be renegotiated.

(4) **Method of Payment.** Compensation shall be paid to the Consultant in accordance with the following provisions:

- (a) Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 30 days of receipt. The Client shall also pay any applicable sales tax. Interest will be added to accounts not paid within 30 days at 4% over the prime rate of U.S. Bank N.A. If the Client fails to make any payment due to the Consultant under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid in full and may commence proceedings, including filing liens, to secure its right to payment under this Agreement.
- (b) If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.

(c) If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due within 30 days of receipt.

(d) If the Consultant initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at the Consultant's normal hourly billing rates, of the time devoted to such proceedings by its employees.

(e) The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.

(5) **Use of Documents.** All documents, including but not limited to drawings, specifications, reports, and data or programs stored electronically, prepared by the Consultant are related exclusively to the services described in this Agreement, and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use, partial use or reuse by the Client or others on extensions of this project or on any other project. Any modifications made by the Client to any of the Consultant's documents or reuse of the documents without written authorization or adaptation by the Consultant will be at the Client's sole risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting from such reuse. The Consultant's electronic files and source code developed in the development of application code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client, and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern. Because data stored in electronic media format can deteriorate or be modified without the Consultant's authorization, the Client has 60 days to perform acceptance tests, after which it shall be deemed to have accepted the data.

(6) **Opinions of Cost.** Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

(7) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, or upon thirty days' written notice for the convenience of the terminating party. If any change occurs in the ownership of the Client, the Consultant shall have the right to immediately terminate this Agreement. In the event of any termination, the Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination. If the Consultant's compensation is a fixed fee, the amount payable for services will be a proportional amount of the total fee based on the ratio of the amount of the services performed, as reasonably determined by the Consultant, to the total amount of services which were to have been performed.

(8) **Insurance.** The Consultant carries Workers' Compensation insurance, professional liability insurance, and



general liability/and automobile insurance. Upon request and prior to commencing its services hereunder, Consultant shall provide Client with an executed copy of Consultant's proof of liability insurance.

(9) **Standard of Care.** The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's undertaking herein or its performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.

(10) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent of the law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of the Consultant and the Consultant's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of, resulting from or in any way related to the services under this Agreement from any cause or causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Consultant or the Consultant's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by the Consultant under this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. Under no circumstances shall the Consultant be liable for extra costs or other consequences due to changed conditions, or for costs related to the failure of contractors to perform work in accordance with the plans and specifications. This Section 10 is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section 10 shall require the Client to indemnify the Consultant.

(11) **Mutual Waiver of Consequential Damages/and Indemnification.** In no event shall either party be liable to the other for any punitive or indirect damages. Each party shall indemnify, defend and hold the other party harmless from their negligent and intentional acts causing damages, injuries, or losses to the other party or third party.

(12) **Certifications.** The Consultant shall not be required to execute certifications or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.

(13) **Dispute Resolution.** All claims by the Client arising out of this Agreement or its breach shall be submitted first to nonbinding mediation in accordance with the Mediation Procedures of a mediator mutually selected by the parties as a condition precedent to litigation. Any mediation or civil action by Client/or Consultant must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

(14) **Hazardous Substances and Conditions.** In no event shall Consultant be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to professional analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant shall notify the Client of hazardous substances or conditions not contemplated in the scope of services of which the Consultant actually becomes aware. Upon such notice by the Consultant, the Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.

(15) **Construction Phase Services.**

(a) If the Consultant's services include the preparation of documents to be used for construction and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any

way connected thereto.

(b) If the Consultant provides construction phase services, the Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.

(c) The Consultant is not responsible for any duties assigned to the design professional in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and for its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.

(16) No Third-Party Beneficiaries; Assignment and Subcontracting. This Agreement gives no rights or benefits to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and the Consultant. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant except to an assignee which is controlled by Client and takes title to the subject property. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services and insurance identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.

(17) Confidentiality. The Client consents to the use and dissemination by the Consultant of photographs of the project and to the use by the Consultant of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material.

(18) Miscellaneous Provisions. This Agreement is to be governed by the law of the State of Illinois. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Provided, however, that any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.