



September 2, 2026

Trinidad Engineering Proposal #: 134-01-26 Rev 0

Ms. Jennifer Rand

Town Administrator

Town of West Tisbury

1059 State Road

West Tisbury, MA 02575

RE: 134-01-26 Rev 0

HVAC, Electrical, and Architectural – West Tisbury Police Station – HVAC Retrofit

Dear Ms Rand,

Trinidad Engineering, Inc. (Trinidad Engineering) is pleased to provide this proposal for HVAC, Electrical, and Architectural services to the Town of West Tisbury (Client) for the retrofit of the existing HVAC system at the building located at 454 State Road, West Tisbury, MA. This proposal is based on information contained in the email correspondence and meetings through 9-2-2026.

This project includes 30% schematic design (SD), 60 % design development (DD), and a final construction document set (CD). Meetings, changes, construction administration, and other activities are described under the scope of services.

A schedule for deliverables will be established upon receipt of a signed contract..

Scope of Service

Trinidad Engineering proposes providing the following scope of services:

+ Item 1 - 30 % SD set.

Purpose: To establish conceptual design direction and major system decisions.

Characteristics:

- High-level, conceptual layouts.
- General equipment locations (e.g., air handling units, electrical rooms).
- Single-line diagrams for ductwork/plumbing routing.
- Load calculations may be preliminary.
- Focuses on what systems will be used (e.g., VRF, boiler/chiller plant).
- Coordination between architectural and structural disciplines begins.
- Often used for early budgeting or owner review.

Deliverables might include:

- HVAC zoning plans.
- Preliminary equipment schedules.
- Narrative descriptions of system intent.

+ Item 2 – 60 % DD set and cost estimate

Purpose: To define the systems in more detail and coordinate between disciplines.

Characteristics:

- More detailed than SD.
- Exact equipment sizing and selections begin.
- Duct and pipe routing refined, especially in tight ceiling spaces.
- Panel schedules, lighting layouts, plumbing fixture locations shown.
- Integration with architectural and structural elements increases.
- Code compliance and coordination become a priority.
- Cost Estimate Included

Deliverables might include:

- Refined floor plans with ductwork and piping.
- Updated riser diagrams.
- Equipment schedules with model numbers and capacities.
- Preliminary control diagrams or sequences.
- Load calculations
- Plumbing isometrics and fixture unit counts.

+ Item 3 – Final CD set and cost estimate.

Purpose: To create a complete, stamped, buildable set of documents for permitting, bidding, and construction.

Characteristics:

- Fully coordinated across all disciplines (architectural, structural, MEP).
- Detailed sizing and routing of all mechanical and electrical systems.
- All code references, notes, and specifications finalized.
- Ready for permit submission and contractor pricing.
- Includes installation details, dimensions, elevations.
- Cost Estimate Included

Deliverables might include:

- Final floor plans with complete HVAC, fire protection, and plumbing systems.
- Control sequences and diagrams.
- Detailed equipment schedules.
- Specifications (Divisions 21–23 for MP/FP).
- One-line diagrams.

+ Item 4 – Site visits and Virtual Meetings are as follows; see additional site visits in pricing.

Who		Qty	Type
Project Manager / HVAC			
1.	30 % SD As-Built Field Visit	2	Onsite
2.	30 % SD Review	1	Virtual
3.	60 % DD Review	1	Virtual
4.	90 % CD Review	1	Virtual
5.	Site visits during construction	3	Onsite

Electrical

1.	30 % SD As-Built Field Visit	1	Onsite
2.	30 % SD Review	1	Virtual
3.	60 % DD Review	1	Virtual
4.	90 % CD Review	1	Virtual
5.	Site visits during construction	2	Onsite

Architectural

1.	30 % SD As-Built Field Visit	1	Onsite
2.	30 % SD Review	1	Virtual
3.	60 % DD Review	1	Virtual
4.	90% CD Review	1	Virtual
5.	Site visits during construction	3	Onsite

- + Item 5 – Shop Drawing reviews will be limited to two reviews per product. Multiple submissions on the same product might be subject to additional fees. RFI are also included here and an estimate of about 20 hours per discipline is included in this budget.
- + Item 6 – Closeout Affidavits
- + Item 7 – At least 4 -8 weeks of design is anticipated for each project submission.
- + Item 8 – For any change orders, a fee will be established, and a separate, owner-signed change order will be implemented before commencing work on the change order.
- + Item 9 – Design is based on all previous communications and meeting notes. CAD files are assumed to be reasonably accurate to field conditions. It is assumed that Architectural and Electrical conditions can be verified by a one-day field visit and that HVAC will be able to be documented with up to two days' field visit. This assumption is based on accurate as-built CAD and PDF files. If CAD files are corrupted or not usable for some reason we will contact the town and work out a solution which could be to have a third party convert PDF or paper drawings to CAD files.
- + Item 10 – The design will follow the assumptions and direction given in the RFQ, where we will be designing a hybrid water and outdoor refrigerant heat pump system to replace the existing VRF system. The assumption will be that we will be reusing the existing ductwork and replacing end devices.
- + Item 11 – It is assumed we will get the front-end town specification for general conditions and bidding requirements. We will mark that up accordingly for this project.
- + Item 12 – A cost estimate is included at the 60% and closeout of the drawings buy a third party professional estimator. This includes a Virtual/ Remote meeting(s), 1 kick off meeting, 1 submitted estimate review, 1 resubmission of estimate based on review.
- + Item 13 – If needed, additional site visits by Trinidad Engineering can be provided at the rate of \$ 230 per hour. An estimate is listed in the pricing section for 5 additional visits.

Exclusions

The following services and scope items are not included in our scope of work or fee.

1. Commissioning
2. Significant changes after the DD review process.
3. Flow or other testing

4. Review by other engineering disciplines, for example, structural, etc.
5. As-built drawings are the responsibility of the contractor.
6. Third-party inspections, permitting fees, and any other charges
7. Any other items not specifically listed in this Proposal.

Additional Services

Any other work requested by Client outside of the Scope of Services specified shall be considered an “Additional Service” and will be conducted on a mutually-agreed-upon basis. When such work is requested, Trinidad Engineering will submit an estimate of the cost to the Client for approval prior to commencing work.

Additional work may include, but is not limited to:

1. Narratives, drawing reviews, meetings, and general consulting in addition to that specified in the Scope of Services
2. Site visits more than the ones cited above.
3. LEED/Green Systems equipment cuts, calculations, paperwork or certification of the building
4. Any rebate applications or work involved in getting rebates
5. Any work involved with state or town paperwork for energy compliance.
6. Significant changes after design development.
7. Any changes after stamped drawings are submitted.
8. Reproduction of design documents
9. Commissioning
10. Value engineering changes
11. Acoustical engineering.
12. Revisions to previously accepted deliverables when such revisions are (a) required by changes in Laws or regulations enacted after the effective date of this Proposal, (b) at the Client's request, or (c) are due to any other causes beyond Trinidad Engineering's control.

All services not specifically described in the Proposal are excluded from Trinidad Engineering's Scope of Services.

Client Responsibilities

This proposal is based upon the Client performing the following activities:

1. Provide Client's requirements for Project timing, communication with Client's designated project representative, and invoicing.
2. Coordinate mutually agreeable locations, times, and dates for meetings.
3. In addition to this contract, acceptance of the terms of this proposal's Exhibit A, and all attached assumptions by plumbing and fire protection subcontractors

Professional Fees

The proposed Scope of Services will be provided by Trinidad Engineering for a fixed fee as follows, as shown below, excluding necessary expenses to perform our Scope of Services. Payments past 45 days may result in a temporary pause in engineering until payments are received.

Items 1 through 13:

Phase	Type	Amount
30 % - 60 % SD & DD Elec/HVAC/Arch	Lump Sum	\$ 73,000.00
100 % CD Elec/HVAC/Arch	Lump Sum	\$ 49,000.00
Shop Drawings/ RFI	Lump Sum	\$ 17,000.00
Construction Administration (Site Visits)	Lump Sum	\$ 14,000.00
Estimate Add Site Visits Trinidad Engineering	Hourly	\$ 9,000.00
Estimated Mileage / Meals / Expenses	As incurred + 10 %	\$ 5,000.00
Affidavits (Close out)		\$ 0.00
Total		\$167,000.00

Payments

- + Invoices will be submitted on a monthly basis using Trinidad Engineering's standard invoice format. For Fixed Price engagements, invoices will be submitted based on a percent of completion or fixed amount by task. For Time and Materials engagements, invoices will be submitted based on hours expended and agreed-upon bill rates plus any expenses. Any deviation from the Trinidad Engineering standard invoice format and submission process (including the use of customized billing formats and Client portals for invoice submission) will result in a service fee of 1.5% over and above the agreed-upon fee. Suspension of services shall not waive Consultant's right to payment for work performed to date or incurred costs. Client's payment obligation to Consultant is not contingent on payment from any third party.
- + Payment is due 30 days after receipt by the Client or as agreed to per the Master Service Agreement (MSA). For any invoices remaining unpaid after the agreed upon due date, Trinidad Engineering reserves the right to pursue all available remedies, including, without limitation, charging a service fee of 1.5% per month, suspension of services, court costs, collection costs, reasonable attorneys' fees, expert fees, and all other costs allowed by law, which may be incurred by Trinidad Engineering in pursuit of unpaid invoices.
- + All payments, including construction administration invoices, must be received in full prior to the release of final construction affidavits.
- + Stamped CD set will be released after payment in full is received.

Terms + Conditions

If any terms set out in this Proposal conflict with the terms set out in Exhibit A, Standard Terms + Conditions, the order of precedence shall be as follows:

1. Terms as per the Proposal
2. Exhibit A, Standard Terms + Conditions

Refer to Exhibit A (attached) for full Standard Terms + Conditions.

Miscellaneous

This proposal is valid for ninety (90) days. All information contained in this proposal is considered proprietary and should not be shared without receiving written permission from Trinidad Engineering. Authorization to proceed with the Services by Client shall constitute Client's acceptance to the Terms and Conditions attached hereto.

Trinidad Engineering appreciates the opportunity to assist WJA Development. If you have any questions, please contact me at 508-333-2845 or mttrinidad@trinidadengineering.com.

Sincerely,

Trinidad Engineering, Inc.

A handwritten signature in dark ink, appearing to read "Michael A. Trinidad". The signature is fluid and cursive, with the first name "Michael" being more legible than the last name "Trinidad".

Michael A Trinidad, P.E.,
President

Acknowledgement + Signature

Trinidad Engineering, Inc.:

Client:



SIGNATURE

Michael A Trinidad

PRINTED NAME, CREDENTIALS

President

TITLE

September 2, 2026

DATE

SIGNATURE

PRINTED NAME, CREDENTIALS

TITLE

DATE

Privacy Statement

Trinidad Engineering, Inc. respects the privacy of its clients and their employees and does not sell, rent or loan any personal data collected. If you have any questions concerning the Trinidad Engineering, Inc. privacy program, please contact us at info@trinidadengineering.com

Trinidad Engineering, Inc. Remittance Information

Payment Terms: 30 days

Via check and postal delivery:

Trinidad Engineering, Inc.
144 North Road
Suite 2100
Sudbury, MA 01776

ACH Information:

DCU
865 Donald Lynch Blvd.
Marlborough, MA 01752

Account Title:	Trinidad Engineering, Inc.
Account Number:	Will Provide
ACH/EFT Routing Number:	211391825

If you have questions, please contact:

mtrinidad@trinidadengineering.com

Exhibit A – Terms & Conditions

1. **AGREEMENT** – Trinidad Engineering, Inc. (hereinafter "Consultant") shall provide the scope of services (the "Services") described in Consultant's Proposal attached hereto (the "Proposal") for and on behalf of the Client in connection with the project as defined therein (the "Project"). These Standard Terms and Conditions are incorporated into the Proposal, and the Proposal and these Standard Terms and Conditions together shall be referred to as the "Agreement." Authorization to proceed with the Services by Client shall constitute Client's acceptance to the terms of the Agreement.

2. **PERFORMANCE** - Consultant shall perform its Services in a manner consistent with the level of care and skill ordinarily exercised by members of Consultant's profession currently practicing in the same locality under similar conditions and with reasonable diligence and expediency consistent with sound professional practices ("Standard of Care™"). No other warranty, representation or covenant, either express or implied, is intended to be made with respect to the Services and the same are specifically disclaimed. Consultant shall endeavor to meet all reasonably imposed deadlines for performance of the Services. Client shall inform Consultant of all pertinent deadlines and dates in order to allow Consultant to effectively and efficiently perform the Services and shall provide Consultant with reasonable notice and time to complete any "Deliverables™", as defined in Section 18 below. Any Deliverables requested of the Consultant by Client on an expedited time schedule may be subject to increased fees as determined by Consultant. Client and Consultant are aware that many factors outside the Consultant's control may affect the Consultant's ability to complete the Services.

3. **FORCE MAJEURE** - Client agrees that Consultant is not responsible for damages arising directly or indirectly from any delays or other causes beyond Consultant's control. For purposes of this Agreement, such causes include, but are not limited to: strikes or other labor disputes; unusual delay in deliveries; unavoidable casualties; severe weather disruptions or other natural disasters; fires, riots, war or other emergencies or acts of God; pandemics or epidemics, including, but not limited to, related costs and delays and impacts; failure of any government agency to act in a timely manner; delay or other failure of performance by Client or Client's contractors or consultants, discovery of any hazardous substances or differing site conditions, or any causes referenced in Section 5 below. The time schedule and Consultant's compensation shall be equitably adjusted to compensate for any of these causes.

4. **INDEPENDENT CONTRACTOR** - Client is engaging Consultant as an independent contractor, and not as an agent, employee, director or partner of Client. The parties agree that this Agreement does not establish a joint venture, employment, or agency relationship. Nothing contained in this Agreement or any action by Consultant shall be construed to impose a fiduciary duty on Consultant or

create a fiduciary relationship between Consultant and Client or between Consultant and any third party.

5. **LIMITATIONS ON RESPONSIBILITY** - Consultant shall not be responsible for the acts or omissions of Client, Client's other consultants, contractors, subcontractors, their agents or employees, or other persons performing work or services on the Project. Consultant shall neither have control over nor be in charge of, nor be responsible for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with work by any other person on any Project site. Consultant shall not be responsible for Client's or other employers' implementation of or compliance with its, their or others' safety programs, or for initiating, maintaining, monitoring or supervising the implementation of such programs or the procedures and precautions associated therewith, or for the coordination of any of the above, nor shall Consultant be responsible for the adequacy or completeness of any of the above safety programs, procedures or precautions.

6. **APPLICABLE LAWS** - Consistent with Consultant's Standard of Care, Consultant's Services shall endeavor to comply with all applicable laws, rules, codes, regulations and orders of applicable governmental or public authority having jurisdiction over the Project in force at the time of Consultant's performance of the Services.

7. **TERMINATION / SUSPENSION OF SERVICES**

a. **For Convenience.** This Agreement may be terminated by either party upon not less than fourteen (14) days' written notice for such party's convenience and without cause. In the event that Client requests termination of the Services prior to completion of the Services, such notice shall state the reason(s) for termination. Consultant reserves the right to complete such records as are necessary to place its files in order and, where considered necessary by Consultant to protect its professional reputation, to complete a report on the Services performed to the date of termination. If the Project is cancelled prior to completion or suspended by Client for more than sixty (60) days, client shall pay and reimburse Consultant for services rendered and costs incurred up to and including the date of termination. If the payment terms are based upon a fixed fee price, then Consultant shall be paid on a pro rata basis in proportion to the contract price based on the level of effort expended up to and including the date of termination, as invoiced by Consultant.

b. **For Cause.** This Agreement may be terminated by either party upon not less than seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. In addition, if Client fails to make payments when due or otherwise is in breach of this Agreement, Consultant may, at its option, suspend performance of Services upon five (5) calendar days' notice to Client. Consultant shall have no liability whatsoever to Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by Client. Upon payment in full by Client after a suspension, Consultant shall resume Services under this Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension. If Client

still fails to make payment or otherwise cure the breach following a suspension of Services, Consultant may terminate this Agreement upon an additional seven (7) days' notice

8. PAYMENT

a. No deductions shall be made from Consultant's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the work other than those for which Consultant has been adjudged to be liable. If the Client objects to any portion of an invoice, the Client shall so notify the Consultant in writing within fifteen (15) calendar days of receipt of the invoice. Failure to notify Consultant within the specified period will constitute a waiver of any claim with respect to the content or accuracy of the invoice, as well as constitute acceptance of the Services provided. The Client shall identify in writing the specific cause of the disagreement and the amount in dispute with supporting documentation and shall pay that portion of the invoice not in dispute in accordance with the other payment terms of this Agreement. Any dispute over invoiced amounts due that is not resolved within twenty-five (25) calendar days after presentation of invoice by direct negotiation between the parties shall be resolved thereafter in accordance with the Dispute Resolution provision of this Agreement.

b. Reimbursable Expenses include the actual expenses incurred directly or indirectly in connection with the Services, such as those for: travel, including transportation and associated expenses, printing and reproduction of Project related documents including reports, specifications, drawings, Project administration documents and correspondence; filing and permit fees; renderings, models, and mock-ups required for the Services; all state and local taxes (except U.S. , state, local income taxes or payroll taxes), delivery and courier services; and Project materials including photographic film and processing. Except as otherwise specified, reimbursable expenses will be billed at cost plus 15%. If requested as part of the billing information, detail of charges showing the date, amount and type of each charge will be included as a part of the invoice. Copies of time sheets and expense reports will not be provided since they may also contain confidential information related to other clients.

9. **ADDITIONAL SERVICES** - Additional Services of Consultant, not specifically included as part of the Scope of Services defined in the attached Proposal, shall be mutually agreed upon in writing by Client and Consultant prior to commencement of such Additional Services. The Consultant shall be entitled to an increase in compensation or time or both for performance of the Services where any changes are required or made to the scope of the Services to the extent that such changes do not arise from the negligence of the Consultant. The Consultant shall not be required to perform any Services related to a change unless the parties have agreed on the amount of or the basis for calculating the time and compensation associated with such change.

10. **INFORMATION PROVIDED BY CLIENT** - On Consultant's request, Client shall furnish services of other consultants, information, and reports as reasonably necessary for the performance of Consultant's Services. The services, information, and reports requested shall be

furnished at no expense to Consultant. Consultant shall be entitled to rely upon, but shall not be responsible for, the accuracy, completeness, and timeliness of services, information, and reports furnished by Client and Client's consultants.

11. INDEMNIFICATION

a. Consultant agrees to indemnify and hold Client harmless from and against all claims, liabilities, suits, demands, losses, costs and expenses (including reasonable attorneys' fees and costs of defense) ("Claims"), to the extent such Claims are determined by a court of competent jurisdiction or arbitrator to have been caused by the negligent acts, errors or omissions or willful misconduct of Consultant. This obligation shall not apply to the extent said Claims arise out of, pertain to, or relate to the negligence of Client or Client's other agents, other servants, or other independent contractors, including the contractor, subcontractors of contractor or other consultants, or others who are directly responsible to Client, or for defects in design or construction furnished by those persons.

b. Client agrees to indemnify and hold Consultant harmless from and against all claims, liabilities, suits, demands, losses, costs and expenses (including reasonable attorneys' fees and costs of defense), to the extent they are determined by a court of competent jurisdiction or arbitrator to have been caused by the negligent acts, errors or omissions or willful misconduct of Client.

c. Neither party shall have an upfront duty to defend the other in connection with the indemnification obligations above.

12. INSURANCE

a. Consultant shall provide Certificates of Insurance and maintain, for the duration of this Agreement, the following insurance coverage

Workers' Compensation	Statutory Amount
General Liability	\$1,000,000 per occurrence
Employer's Liability	\$1,000,000 per occurrence
Professional Liability (E&O)	\$1,000,000 per claim/aggregate

b. Client shall be responsible for purchasing and maintaining its own liability and property insurance.

c. Client and Consultant waive all rights against each other for loss, damage and/or liability to the extent covered by the insurance policies required to be maintained hereunder.

13. **SOLE REMEDY** - It is intended and agreed by the parties to this Agreement that Client's obligations and Consultant's Services in connection with the Project shall not subject Client's or Consultant's individual shareholders, employees, officers or directors to any personal legal exposure for the risks associated with this Project; and therefore any claim, demand or suit shall be directed and/or asserted only against the business entities that are the parties to this Agreement, which shall be the sole remedy for any dispute hereunder.

14. LIMITATION OF LIABILITY

a. **THE CLIENT AND CONSULTANT HAVE DISCUSSED THE RISKS AND BENEFITS OF THE**

PROJECT AND THE COMPENSATION TO BE PAID TO CONSULTANT. TO THE MAXIMUM EXTENT PERMITTED BY LAW, CLIENT EXPRESSLY AGREES, FOR ITSELF AND ANYONE CLAIMING BY, THROUGH OR UNDER IT, THAT THE LIABILITY OF CONSULTANT, ITS SUBSIDIARIES, AFFILIATES AND SUBCONTRACTORS, INCLUDING THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SUCCESSORS AND ASSIGNS FOR ANY AND ALL CAUSES OF ACTION WHATSOEVER, INCLUDING WITHOUT LIMITATION, TORT, CONTRACT, STRICT LIABILITY, INDEMNITY OR OTHERWISE, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT OR CONSULTANT'S PROFESSIONAL SERVICES, SHALL NOT EXCEED THE LESSER OF ONE TIMES (1X) THE FEE PAID TO CONSULTANT OR CONSULTANT'S PROFESSIONAL LIABILITY INSURANCE COVERAGE. NEITHER CONSULTANT NOR THE CLIENT WILL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE, LOSS OF USE OR OTHER OPPORTUNITY, LOSS OF GOODWILL OR OTHER CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, OR PUNITIVE DAMAGES. Client acknowledges that (i) without the inclusion of this limitation of liability provision, Consultant would not have performed the Services; (ii) it has had the opportunity to negotiate the terms of this limitation of liability as part of an "arm's-length transaction"; (iii) the limitation amount may differ from the amount of professional liability insurance required of Consultant under this Agreement; and (iv) the limitation of liability provision is merely a limitation, and not an exculpation, of Consultant's liability.

15. **NO THIRD-PARTY BENEFICIARIES** - Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either Client or Consultant.

16. **ASSIGNMENT** - This Agreement shall be binding upon Client and Consultant and their respective successors, assigns, and legal representatives. Neither party shall transfer or assign any rights or obligations under or interest in this Agreement without the prior written consent of the other party; provided, however, that Consultant may assign its rights and obligations under this Agreement without the consent of Client if such assignment is to a subsidiary, affiliate or successor in connection with a "Change of Control" and provided that such assignee shall expressly assume the obligations under this Agreement. As used in this section, a "Change of Control" shall mean (i) a merger, consolidation or similar transaction providing for the acquisition of the direct or indirect ownership of more than fifty percent (50%) of a party's interests in the company, or (ii) the sale of all or substantially all of a party's assets.

17. **CONFIDENTIALITY** - In the event Consultant or Client receives Confidential Information (as defined below) from the other party, whether disclosed in writing or verbally, the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services solely and exclusively for the Project, or (3) its consultants whose contracts include similar restrictions on the use of confidential information. As used herein, "Confidential Information" shall mean information relating to the other party or its business

and which is specifically designated by the disclosing party as "confidential". These provisions shall not apply to information in whatever form that is in the public domain, was previously known to and/or generated by Consultant, nor shall it restrict Consultant from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency or other legitimate authority, or if disclosure is reasonably necessary for Consultant to defend itself from any legal action or claim.

18. **OWNERSHIP OF INTELLECTUAL PROPERTY AND DELIVERABLES**

a. All rights to patents, trademarks, copyrights, and trade secrets (hereafter, "Intellectual Property") owned by Consultant, as well as any modifications, updates or enhancements made to such Intellectual Property during the performance of the Services, shall remain the exclusive property of Consultant throughout the world in perpetuity, and except as necessary for the license to use and reproduce the Deliverables set forth in 18.c. below, Consultant does not grant Client any right or license to such Intellectual Property.

b. All concepts, drawings, plans, designs, reports, field data, field notes, calculations, processes, graphic representations, electronic media, estimates, records, memoranda and all other documents, information, products and works prepared by or on behalf of Consultant, its employees, sub-consultants or sub-contractors for or related to the Services, (collectively, "Deliverables"), including all Intellectual Property therein and thereto, shall remain the property of Consultant. Consultant shall be deemed the sole and exclusive author and owner of the Deliverables and shall retain all common law, statutory and other reserved rights, including copyrights, throughout the world in perpetuity.

c. Upon execution of this Agreement, Consultant grants to Client a nonexclusive, limited and revocable license to use and reproduce the Deliverables solely for purposes of designing, administering, using and maintaining the Project, provided Client shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. Client agrees that all Deliverables furnished to the Client or its agents, which are not paid for in a timely manner, will be returned upon demand and will not be used by Client for any purpose whatsoever.

d. Except for the license granted above, no other license or right shall be deemed granted or implied. Client shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of Consultant.

Client shall not use, reuse or adapt the Deliverables in connection with extensions of the Project or for any other project, unless Client obtains the prior written agreement of Consultant. Any unauthorized use, reuse or modifications of the Deliverables shall be at Client's sole risk and without liability to Consultant, and Client agrees to defend, indemnify and hold harmless Consultant from all claims and damages arising out of or purported to arise out of the unauthorized use, reuse, or modification of the Deliverables.

19. **CERTIFICATE OF MERIT REQUIREMENT** - The Client shall make no claim for professional negligence, either directly or by way of a cross complaint against the Consultant unless the Client has first provided the Consultant with a written certification executed by an independent consultant currently practicing in the same discipline as the Consultant

and licensed in the state where the Project is located. This certification shall: a) contain the name and license number of the certifier; b) specify the acts or omissions that the certifier contends are not in conformance with the Standard of Care for a consultant performing professional services under similar circumstances; and c) state in detail the basis for the certifier's opinion that such acts or omissions do not conform to the Standard of Care. This certificate shall be provided to the Consultant not less than thirty (30) calendar days prior to the presentation of any claim or the institution of any arbitration or judicial proceeding. This Certificate of Merit clause will take precedence over any existing state law in force at the time of the claim or demand for arbitration.

20. **GOVERNING LAW, VENUE, AND JURISDICTION** - This Agreement shall be governed by the laws of the State of Massachusetts, and the state and federal courts in the State of Massachusetts shall be the exclusive venue for any and all dispute resolution proceedings unless the parties mutually agree otherwise in writing. Client consents to personal jurisdiction of the state and federal courts in the State of Massachusetts.

21. **DISPUTE RESOLUTION** - The parties agree to first try in good faith to settle between themselves any dispute arising out of or related to this Agreement ("Dispute"). In the event a Dispute between the parties is not resolved within thirty (30) days by direct discussions between the parties, the parties agree to submit the Dispute to non-binding mediation conducted by the American Arbitration Association or such other mediation service upon which the parties agree. In the event the parties are not able to resolve the Dispute by mediation, either party may elect to have the pending Dispute resolved by arbitration in accordance with the procedural rules of the American Arbitration Association as presently published and existing. Unless otherwise agreed, the arbitration proceeding shall take place in the state where the project is located. The cost and expenses of the arbitrator(s) shall be shared equally by the parties. Each party shall be responsible for its own costs and expenses in presenting the Dispute for arbitration. The parties agree to be bound by the decision of the arbitrator(s) and the award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. **TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY HEREBY WAIVES ALL RIGHTS TO A TRIAL BY JURY IN ANY DISPUTE.** In any event, the maximum amount recoverable by Client will not exceed the amount or include the types of damages waived in the Limitation of Liability provision above.

22. **OPINIONS OF COST** - When included in Consultant's scope of Services, opinions or estimates of probable construction cost are prepared on the basis of Consultant's experience and qualifications and represent Consultant's judgment as a professional generally familiar with the industry. However, since Consultant has no control over the cost of labor, materials, equipment or services furnished by others, over contractor's methods of determining prices, or over competitive bidding or market conditions, Consultant cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from Client's budget or from Consultant's opinions or estimates of probable construction cost.

23. ENVIRONMENTAL CONDITIONS, FIRES & ACTS OF TERRORISM

a. For purposes of this section, "Environmental Conditions" means the presence at the Project site of hazardous wastes, hazardous substances, asbestos, asbestos-containing materials ("ACM"), suspected asbestos-containing materials ("SACM"), polychlorinated biphenyls, lead, lead-based paint, urea-formaldehyde-containing materials, mold, biohazards, biological agents, radioactive materials, or any other hazardous or toxic substances as defined by any federal, state, or local statute, regulation, code, or ordinance. Client acknowledges that Consultant shall have no responsibilities or duties relating to the identification, discovery, presence, handling, removal, abatement or disposal of, or exposure (including exposure assessment or control) of persons to, Environmental Conditions in any format the Project site, including any ACM or SACM located at or transported from the Project. Client acknowledges that it accepts responsibility for notifying the appropriate state and local Environmental Protection Agency and the United States Environmental Protection Agency for any ACM or SACM delineation, demolition, construction or repair work. Client further acknowledges that it accepts responsibility for any inspection required by the National Emissions Standards for Hazardous Air Pollutants ("NESHAP"), or any related state-delegated authority.

b. In no event shall Consultant be held liable or otherwise responsible for preventing any financial or physical damage, resulting from acts of terrorism or fires ensuing therefrom, including, but not limited to, chronic or acute injuries relating thereto (or arising out of), subsequent remedial activities undertaken relating thereto, or any other event or consequence thereof, associated countermeasures pursued or implemented by any federal, state, or local government representatives, or any of their contractors, or subcontractors, or any other public or private party in any way connected with addressing or dealing with anything covered by the Scope of Services, including, without limitation, acts of terrorism and fires ensuing therefrom.

24. **RESPONSIBILITY FOR CODE COMPLIANCE** - Where the Services include the provision of code compliance consulting services, Consultant, in exercising its professional judgment consistent with the Standard of Care, will endeavor to perform the Services in accordance with applicable federal, state and local laws, statutes, ordinances, rules, regulations, orders and codes relating to the design, construction, use and/or occupancy of the Project (collectively "Governmental Requirements") in effect as of the date of completion of the Services. Such Governmental Requirements may include, for example, fire protection, life safety, building occupancy, accessibility or the Americans with Disabilities Act, as applicable to the Services. Client acknowledges and agrees that interpretation of Governmental Requirements by the authority or official having jurisdiction ("AHJ") may vary and may be subject to change even after completion of the Services. In performing the Services, Consultant shall be entitled to rely on initial interpretations provided by the AHJ. If, after completion of the Services, any modification or amendment to the construction documents (or other related documents) is required because of a subsequent interpretation of the Governmental Requirements by the AHJ, Consultant shall not be liable for any consequences resulting

therefrom; provided, however that Consultant shall make the required modification or amendment as an additional service and shall be entitled to compensation for such additional service at the hourly rates set forth in the Proposal, or as otherwise agreed by the parties in writing.

25. **ETHICS AND CONFLICTS OF INTEREST** - Both parties shall perform their obligations with integrity, including but not limited to:

- a. Conflicts of interest shall be avoided or disclosed promptly to the other party.
- b. Neither party has conducted or shall engage in any transaction or dealing with any prohibited person in violation of the U.S. Patriot Act or any OFAC rule or regulation.
- c. Both parties shall comply with all regulations of the Foreign Corrupt Practices Act ("FCPA"), other applicable United States laws, and other applicable foreign laws (including, but not limited to the OECD Convention on Combating Bribery of Foreign Public Officials) relating to the soliciting and performing work in foreign countries.
- d. Neither party shall receive any contingent fees or gratuities to and from the other party, including their agents, officers, employees and sub consultants or others to secure preferential treatment.

26. **ANTI-RAIDING PROVISION** - During the duration of the Services for the project provided for under this proposal agreement, and for a period of one (1) year after the completion of or termination of such Services, the Client shall not solicit, offer employment to, otherwise attempt to hire, or assist in the hiring of any employee or officer of the Consultant or any of its Affiliates who worked on the project; (ii) encourage, induce, assist or assist others in inducing any such person to terminate his or her employment with the Consultant or any of its Affiliates; or (iii) in any way interfere with the relationship between the Consultant or any of its Affiliates and their employees.

27. **EQUAL EMPLOYMENT** - Consultant believes in the principles of equal employment opportunities and encourages a diverse workplace. Consultant does not discriminate in

employment against any individual on the basis of race, sex, age, religion, disability, sexual orientation, national origin, ancestry, citizenship status, veteran status, Vietnam-era status, or any other protected status. Both parties shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans. Both parties shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

8. **ENTIRE AGREEMENT** - This Agreement and corresponding Proposal represents the entire and integrated agreement between Client and Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. No cancellation, modification, amendment, deletion, addition, waiver or other change in this Agreement shall have effect unless specifically set forth in writing and signed by both parties. All obligations between the parties, including any limitations upon liabilities, shall survive the completion of the Services and any earlier termination of the Services or this Agreement. If any term, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, such term, condition or provision will be ineffective only to the extent of such invalidity and the remaining provisions of this Agreement shall not be affected but shall instead remain valid and fully enforceable.

29. **SEVERABILITY** - The parties herein acknowledge and agree that in case any provision in this Agreement is held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

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