


# CONSENT AGENDA STAFF REPORT

ITEM CONSIDERED: Item D

SUBJECT: Authorize a \$33,600 Contract with Allstate Consultants LLC, for Structural Evaluations of Seven Dangerous Structures Located in the Capitol Avenue Area

DATE CONSIDERED: May 2, 2022

DEPARTMENT DIRECTOR(S): 

CITY ADMINISTRATOR: 

This item will authorize a contract with Allstate Consultants LLC for \$33,600 for the structural evaluation of seven dangerous structures located in the Capitol Avenue area. Funding for the evaluations will come from CAP Ave Demos & Acquisitions Fund 10-185-550095.

**CITY OF JEFFERSON  
CONTRACT FOR PROFESSIONAL SERVICES**

**THIS CONTRACT**, made and entered into the date last executed by a party as indicated below, by and between the City of Jefferson, a municipal corporation of the State of Missouri, hereinafter referred to as “City”, and Allstate Consultants, L.L.C., hereinafter referred to as “Contractor”.

**WITNESSETH:**

THAT WHEREAS, the City desires to engage the Contractor to render certain services for structural engineering services for seven (7) properties, hereinafter described in Exhibit A.

WHEREAS, Contractor has made certain representations and statements to the City with respect to the provision of such services and the City has accepted said proposal to enter into a contract with the Contractor for the performance of services by the Contractor.

NOW THEREFORE, for the considerations herein expressed, it is agreed by and between the City and the Contractor as follows:

**1. Scope of Services.**

Contractor agrees to provide all supervision, labor, tools, equipment, materials and supplies for structural engineering services for seven (7) properties, as set forth in Exhibit A. In the event of a conflict between this agreement and any attached exhibits, the provisions of this agreement shall govern and prevail.

**2. Payment.**

The City hereby agrees to pay Contractor for the work done pursuant to this contract according to the payment schedule set forth in the contract documents upon acceptance of said work by an Agent of the City of Jefferson, and in accordance with the rates and/or amounts stated in the bid of Contractor dated April 19, 2022, which are by reference made a part hereof. No partial payment to Contractor shall operate as approval or acceptance of work done or materials furnished hereunder. No change in compensation shall be made unless there is a substantial and significant difference between the work originally contemplated by this agreement and the work actually required. The total amount for services rendered under this contract shall not exceed Thirty-Three Thousand Six Hundred Dollars and Zero Cents (\$33,600.00).

**3. Term.**

This contract shall commence on the date last executed by a party as indicated below. The Contractor shall perform such as set forth in Exhibit A, within ten (10) weeks of the date last executed by a party as indicated below.

**4. Additional Services.**

The City may add to Contractor services or delete therefrom activities of a similar nature to those set forth in Exhibit A, provided that the total cost of such work does not exceed the total cost allowance as specified in paragraph 2 hereof. The Contractor shall undertake such changed activities only upon the direction of the City. All such directives and changes shall be in written form and approved by the City and shall be accepted and countersigned by the Contractor or its agreed representatives.

**5. Personnel to be Provided.**

The Contractor represents that Contractor has or will secure at its expense all personnel required to perform the services called for under this contract by the Contractor. Such personnel shall not be employees of or have any contractual relationship with the City except as employees of the Contractor. All of the services required hereunder will be performed by the Contractor or under the Contractor’s direct supervision and all

personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services. None of the work or services covered by this contract shall be subcontracted except as provided in Exhibit A without the written approval of the City.

**6. Contractor's Responsibility for Subcontractors.**

It is further agreed that Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Contractor by all the terms herein set forth, insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as the City may exercise over Contractor under any provisions of this contract. Nothing contained in this contract shall create any contractual relations between any subcontractor and the City or between any subcontractors.

**7. Independent Contractor.**

The Contractor is an independent contractor and nothing herein shall constitute or designate the Contractor or any of its employees as agents or employees of the City.

**8. Benefits not Available.**

The Contractor shall not be entitled to any of the benefits established for the employees of the City and shall not be covered by the Workmen's Compensation Program of the City.

**9. Nondiscrimination.**

The Contractor agrees in the performance of the contract not to discriminate on the grounds or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age or political affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

**10. Illegal Immigration.**

Prior to commencement of the work:

- a. Contractor shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.
- b. Contractor shall sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.
- c. If Contractor is a sole proprietorship, partnership, or limited partnership, Contractor shall provide proof of citizenship or lawful presence of the owner.

**11. Notice to Proceed.**

The services of the Contractor shall commence upon execution of this Agreement, and shall be undertaken and completed in accordance with the schedule contained in Exhibit A.

**12. Termination.**

If, through any cause, the Contractor shall fail to fulfill in timely and proper manner its obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the City shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective day of such termination. The City reserves the right to terminate this contract for convenience by giving at least fourteen (14) days prior written notice to Contractor, without prejudice to any other rights

or remedies of the City, provide Contractor shall be entitled to payment for all work completed by Contractor through the date of termination. The Contractor may with cause terminate this contract upon 30 days prior written notice. In either such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Contractor under this contract shall, at the option of the City, become its property, and the compensation for any satisfactory work completed on such documents and other materials shall be determined. Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of contract by the Contractor.

**13. Waiver of Breach.**

Failure to insist upon strict compliance with any of the terms covenants or conditions herein shall not be deemed a waiver of any such terms, covenants or conditions, nor shall any failure at one or more times be deemed a waiver or relinquishment at any other time or times by any right under the terms, covenants or conditions herein.

**14. Authorship and Enforcement.**

Parties agree that the production of this document was the joint effort of both parties and that the contract should not be construed as having been drafted by either party. In the event that the City successfully enforces the terms of this contract through litigation, the City shall be entitled to receive, in addition to any other relief, its reasonable attorney's fees, expenses and costs.

**15. Severability.**

If any section, subsection, sentence, or clause of this contract shall be adjudged illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect the legality, validity, or enforceability of the contract as a whole, or of any section, subsection, sentence, clause, or attachment not so adjudged.

**16. Assignment.**

The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement, though City will attempt to so notify any such assignee.

**17. Existing Data.**

All information, data and reports as are existing, available and necessary for the carrying out of the work, shall be furnished to the Contractor without charge by the City, and the City shall cooperate with the Contractor in every reasonable way in carrying out the scope of services. The Contractor shall not be liable for the accuracy of the information furnished by the City.

**18. Confidentiality.**

Any reports, data or similar information given to or prepared or assembled by the Contractor under this contract which the City requests to be kept as confidential shall not be made available to any individual or organization by the Contractor without prior written approval of the City.

**19. Indemnity.**

To the fullest extent permitted by law, the Contractor will defend, indemnify and hold harmless the City, its elected and appointed officials, employees, and agents from and against any and all claims, damages,

losses, and expenses including attorneys' fees arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom and (2) is caused in whole or in part by any negligent act or omission of contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.

**20. Insurance.**

Contractor shall provide, at its sole expense, and maintain during the term of this agreement commercial general liability insurance with a reputable, qualified, and financially sound company licensed to do business in the State of Missouri, and unless otherwise approved by the City, with a rating by Best of not less than "A," that shall protect the Contractor, the City, and the City's officials, officers, and employees from claims which may arise from operations under this agreement, whether such operations are by the Contractor, its officers, directors, employees and agents, or any subcontractors of Contractor. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from all Contractor operations, products, services or use of automobiles, or construction equipment at a limit of \$500,000 Each Occurrence, \$3,000,000 Annual Aggregate; provided that nothing herein shall be deemed a waiver of the City's sovereign immunity. An endorsement shall be provided which states that the City is named as an additional insured and stating that the policy shall not be cancelled or materially modified so as to be out of compliance with the requirements of this section, or not renewed without 30 days advance written notice of such event being given to the City.

**21. Documents.**

Reproducible copies of tracings and maps prepared or obtained under the terms of this contract shall be delivered upon request to and become the property of the City upon termination or completion of work. Copies of basic survey notes and sketches, charts, computations and other data prepared or obtained under this contract shall be made available, upon request, to the City without restrictions or limitations on their use. When such copies are requested, the City agrees to pay the Contractor its costs of copying and delivering same.

**22. Books and Records.**

The Contractor and all subcontractors shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred in connection with this contract, and shall make such materials available at their respective offices at all reasonable times during the contract and for a period of three (3) years following completion of the contract.

**23. Nonsolicitation.**

The Contractor warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this contract, and that they have not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the City shall have the right to annul this contract without liability, or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

**24. Delays.**

That the Contractor shall not be liable for delays resulting from causes beyond the reasonable control of the Contractor; that the Contractor has made no warranties, expressed or implied, which are not expressly set forth in this contract; and that under no circumstances will the Contractor be liable for indirect or consequential damages.

**25. Amendments.**

This contract may not be modified, changed or altered by any oral promise or statement by whosoever made; nor shall any modification of it be binding upon the City until such written modification shall have been approved in writing by an authorized officer of the City. Contractor acknowledges that the City may not be responsible for paying for changes or modifications that were not properly authorized.

**26. Governing Law.**

The contract shall be governed by the laws of the State of Missouri. The courts of the State of Missouri shall have jurisdiction over any dispute which arises under this contract, and each of the parties shall submit and hereby consents to such courts exercise of jurisdiction. In any successful action by the City to enforce this contract, the City shall be entitled to recover its attorney's fees and expenses incurred in such action.

**27. Notices.**

All notices required or permitted hereinunder and required to be in writing may be given by first class mail addressed to the following addresses. The date and delivery of any notice shall be the date falling on the second full day after the day of its mailing.

If to the City:  
City of Jefferson  
Department of Law  
320 East McCarty Street  
Jefferson City, Missouri, 65101

If to the Contractor:  
Allstate Consultants  
Attn: Dave Weber, PE, SE  
3312 LeMone Industrial Blvd  
Columbia, MO 65201

**CITY OF JEFFERSON, MISSOURI**

**ALLSTATE CONSULTANTS, L.L.C.**

\_\_\_\_\_  
Carrie Tergin, Mayor  
Date: \_\_\_\_\_

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

ATTEST:

ATTEST:

\_\_\_\_\_  
City Clerk

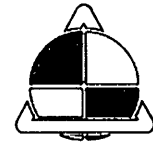
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Title:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

# Exhibit A

*Engineering Our Community*



**ALLSTATE  
CONSULTANTS**

April 19, 2022

Mr. David Helmick - Housing Property Supervisor  
City of Jefferson  
320 E. McCarty Street  
Jefferson City, MO 65101

Re: Jefferson City Dangerous Buildings – Proposal

Locations – Seven Total:

109 Adams St. Jefferson City, MO 65101  
113 Adams St. Jefferson City, MO 65101  
401 E Capitol Ave. Jefferson City, MO 65101  
407 E Capitol Ave. Jefferson City, MO 65101  
409 E Capitol Ave. Jefferson City, MO 65101  
410 E Capitol Ave., Jefferson City, MO 65101  
415 Commercial Way, Jefferson City, MO 65101

Dear Mr. Helmick:

We would like to propose a cost for structural engineering services for the aforementioned project. All of the work completed by our firm on this project will be billed on an hourly basis. Please see the attached Addendum A for our Standard Terms and Conditions as well as our hourly rates.

The following are understood items of project scope.

1. A walk-through structural evaluation of each of the buildings will be conducted. The evaluations will identify items of concern that are visually observed and will determine the overall condition of the buildings.
2. The walk-through structural evaluation of the buildings will involve one site visit (per building) by a licensed Professional Engineer with primary experience in structural engineering. The engineer will be accompanied by an assistant. These site visits may include the acquisition of pictures and limited measurements. Unless specifically noted, no invasive methods will be used or calculations made in evaluating the structures.
3. Our firm will determine if the structures are dangerous and other potential hazards that may exist due to the condition of the buildings.
4. Our firm will provide an estimated cost to repair the structures verses the actual value of the structures.
5. Our firm will provide a report identifying the issues that were observed during the walk-through evaluation. The report is intended to address structural issues with the buildings. The report should not be interpreted as a general, comprehensive evaluation of the structure(s) as a whole.
6. The estimated start date would be approximately two weeks after acceptance of this proposal. The anticipated project completion date would be approximately eight weeks after beginning the project.

*Estimated fee for Individual Building Reports (each)*.....\$4,000.00

*Not-to-Exceed fee for all Reports (7 buildings)*.....\$33,600.00

The walk-through evaluations do not include system calculations, design, or repair options. A supplemental proposal for additional engineering services can be submitted following our initial evaluation. See Addendum B for exemplar report that our firm completed for the City of Jefferson dated October 14, 2020.

Please let me know if you need any more information. We look forward to beginning work after your acceptance of this proposal.

Respectfully,  
Allstate Consultants LLC



Dave Weber, PE, SE  
Principal/Engineer

\_\_\_\_\_  
Mr. Dave Helmick  
City of Jefferson

Date



## ADDENDUM A – STANDARD TERMS AND CONDITIONS

**Scope of Service:** The Client (you) and the Consultant (Allstate Consultants LLC) have agreed to a list of services the Consultant will provide to the Client as set forth in this agreement. If agreed to in writing by the Client and the Consultant, the Consultant shall provide Additional Services. Additional Services are not included as part of the Scope of Services and shall be paid for by the Client in addition to payment for the services included. Payment for Additional Services will be made by the Client, in accordance with the Consultant's prevailing fee schedule, as provided below. Any services not set forth in this agreement are specifically excluded and Consultant assumes no responsibility for those services. Directing the Consultant to proceed with services is an acceptance of this proposal.

**Fee:** A *Fixed fee*, if stated, shall constitute the total compensation due.  
A *Percentage fee*, if stated, shall be calculated on the basis of the total cost of the work designed and specified by the Consultant.  
An *Estimated fee*, if stated, will be calculated on an hourly basis, and the estimate shall not be exceeded by more than twenty percent without written approval of the Client.  
A *Not-To-Exceed fee*, if stated, will be calculated on an hourly basis, and will not be exceeded without prior written approval of the Client.  
An *Hourly fee*, if stated, will be based on the actual hours expended on the project and will be calculated on an hourly basis.  
**Hourly Rate:** Where the fee is to be calculated on an hourly basis, the rates shall be as follows:

PRINCIPAL.....	\$190.00
ENGINEER III.....	\$160.00
ENGINEER II.....	\$150.00
ENGINEER I.....	\$130.00
WATER QUALITY SCIENTIST III.....	\$150.00
WATER QUALITY SCIENTIST II.....	\$120.00
WATER QUALITY SCIENTIST I.....	\$80.00
PROJECT SCIENTIST III.....	\$145.00
INVESTIGATIVE ENGINEER III.....	\$235.00
INVESTIGATIVE ENGINEER II.....	\$210.00
INVESTIGATIVE ENGINEER I.....	\$180.00
TECHNICIAN VI/SURVEYOR III.....	\$140.00
TECHNICIAN V/SURVEYOR II.....	\$130.00
TECHNICIAN IV/SURVEYOR I/SENIOR PROJECT MANAGER.....	\$115.00
TECHNICIAN III/PROJECT MANAGER I.....	\$95.00
TECHNICIAN II.....	\$80.00
TECHNICIAN I.....	\$60.00
TECHNICIAN.....	\$40.00
CREW (1 MAN).....	\$140.00
CREW (2 MEN).....	\$170.00
CREW (3 MEN).....	\$195.00
INVESTIGATOR IV.....	\$140.00
INVESTIGATOR III.....	\$125.00
INVESTIGATOR II.....	\$100.00
INVESTIGATOR I.....	\$80.00
EXPERT TESTIMONY II.....	\$380.00
EXPERT TESTIMONY I.....	\$250.00
DRILL RIG CREW (2 MEN).....	\$173.00
DRILL RIG CREW WITH GROUTER (2MEN).....	\$194.00
GPS RECEIVERS (PER UNIT).....	\$175.00/day
TRAFFIC COUNTERS (PER UNIT).....	\$195.00/day
ATV (PER UNIT).....	\$140.00/day
MILEAGE.....	IRS Rate
EXPENSES (Lodging, Meals, Printing, Research, & etc.).....	Actual Cost

**Annual Rate Increase:** Rates may be adjusted annually or periodically. Adjusted rates will be incorporated and billed into applicable agreements and contracts.

**Reimbursable Expenses:** The Client shall reimburse the Consultant for direct expenses incurred during performance of the service, including printing charges, taxes, mileage, public transportation cost, tolls, permit fees, equipment rentals, meals, lodging, and other miscellaneous expenses.

**Billing/Payments:** Statements for the Consultant's services shall typically be submitted on a monthly basis and at the completion of the project. Statements shall be due upon receipt and payable within 30 days after their date. Payments shall not be contingent upon any other payments to the Client by others. If not paid within 30 days, the Consultant may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate the performance of all services. Payments to the Consultant shall not be withheld, postponed or made contingent on the construction, completion or success of the project. No withholdings, deductions or offsets shall be made from the Consultant's compensation for any reason.

**Retainer:** A retainer or advance deposit may be required for the amount stated in this Agreement. If required, the Client shall pay the Consultants prior to our commencement of services. The client has agreed to pay our monthly invoices on a current basis and the retainer shall be applied to the outstanding balance upon the conclusion of our services or, at our option, to satisfy delinquent monthly statements. We reserve the right to request further reasonable deposits if the initial payment is used to satisfy prior invoices. Any unused portion of the deposit will be refunded at the conclusion of the services.

**Termination of Services:** The Agreement may be terminated by the Client or the Consultant after seven days written notice should the other fail to perform its obligation hereunder. In the event of termination, the Client shall pay the Consultant for all services rendered to the date of termination, all reimbursable expenses, and termination expenses.

**Access to Site:** Unless otherwise stated, the Consultant will have access to the site for activities necessary for the performance of the services. The Consultant will take precautions to minimize damage due to these activities but have not included in the fee the cost of restoration of any resulting damage.

**Code Compliance:** The Consultant shall exercise usual and customary professional care in its efforts to comply with applicable laws, codes and regulations in effect as of the date of this agreement. Design changes made necessary by newly enacted laws, codes and regulations after this date shall entitle the Consultant to a reasonable adjustment in the schedule and additional compensation in accordance with the Scope of Service provisions of this Agreement.

**Assignment:** Neither party to this Agreement shall transfer, sublet or assign any rights or duties under or interest in this Agreement, including but not limited to monies that are due or monies that may be due, without the prior written consent of the other party. Subcontracting to subconsultants, normally contemplated by the Consultant as a generally accepted business practice, shall not be considered an assignment for purposes of this Agreement.

**Certification/Guarantee & Warranty:** The Consultant shall not be required to sign any documents, no matter by whom requested, that would result in the Consultant's having to certify, guarantee or warrant the existence of conditions whose existence the Consultant cannot ascertain. The Client also agrees not to make resolution of any dispute with the Consultant or payment of any amount due to the Consultant in any way contingent upon the Consultant's signing any such certification.

**Consequential Damages:** Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor the Consultant, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement.

**Construction Observation:** The Consultant may visit the site at intervals appropriate to the stage of construction, or as otherwise agreed to in writing by the Client and the Consultant, in order to observe the progress and quality of the Work completed by the Contractor. The Consultant shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work.

**Dispute Resolution:** In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the Client and the Consultant agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to nonbinding mediation. If the dispute or any issues remain unresolved after good faith mediation by both parties, the parties agree to attempt resolution by submitting the matter to a court of competent jurisdiction.

**Applicable Laws:** Unless otherwise specified, this agreement shall be governed by the laws of the State of Missouri.

**Presence of Hazardous Materials:** The Client agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, partners, employees and subconsultants (collectively, Consultant) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability, regulatory or any other cause of action, except for the sole negligence or willful misconduct of the Consultant.

**Indemnification:** The Consultant 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 Consultant's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the Consultant is legally liable. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) 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.

**Information Provided by Others:** The Client shall furnish, at the Client's expense, all information, requirements, reports, data, surveys, existing plans/specifications, existing geotechnical reports, and instructions required by this Agreement. The Consultant may use such information in performing its services and is entitled to rely upon the accuracy and completeness thereof. The Consultant shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the Client and/or the Client's consultants and contractors.

**Limitation of Liability:** In recognition of the relative risks and benefits of the Project to both the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of the Consultant and Consultants officers, directors, partners, employees, shareholders, owners and subconsultants for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of the Consultant and Consultants officers, directors, partners, employees, shareholders, owners and subconsultants shall not exceed \$100,000.00, or the Consultant's total fee for services rendered on this Project, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

**Standard of Care:** In providing services under this Agreement, the Consultant shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality. The Consultant makes no warranty, either express or implied, as to the professional services rendered under this Agreement.

**Ownership of Instruments of Service:** The Client acknowledges the Consultant's construction documents, including electronic files, as the work papers of the Consultant and the Consultant's instruments of professional service. Nevertheless, upon completion of the services and payment in full of all monies due to the Consultant, the Client shall receive ownership of the final construction documents prepared under this Agreement. The Client shall not reuse or make any modification to the construction documents without the prior written authorization of the Consultant. The Client agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from or allegedly arising from or in any way related to or connected with the unauthorized reuse or modification of the construction documents by the Client or any person or entity that acquires or obtains the construction documents from or through the Client without the written authorization of the Consultant.

**Timeliness of Performance:** The Client and Consultant are aware that many factors outside the Consultant's control may affect the time to complete the services to be provided under this Agreement. The Consultant will perform these services with reasonable diligence and expediency consistent with sound professional practices.

**Unauthorized Changes to Plans:** In the event the Client, the Client's contractors or subcontractors, or anyone for whom the Client is legally liable makes or permits to be made any changes to any reports, plans, specifications or other construction documents, including electronic files, prepared by the Consultant without obtaining the Consultant's prior written consent, the Client shall assume full responsibility for the results of such changes. Therefore the Client agrees to waive any claim against the Consultant and to release the Consultant from any liability arising directly or indirectly from such changes.