



Date: 06/24/2026

**PROPOSAL & LETTER AGREEMENT - REV. 2**

To: Nick Akins  
Maintenance Superintendent  
Alpena County  
(989) 354-6016  
akinsn@alpenacounty.org

From: Andrew Farron, P.E.  
Mechanical Engineering Project Manager  
Spicer Group  
(231) 499-9400  
andrew.farron@spicergroup.com

Project: MDOT Building HVAC Improvements

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Nick,

Spicer Group was hired to determine the causes of the ongoing comfort issues at Alpena County's MDOT Building, located at 1540 Airport Rd. in Alpena, MI. We highlighted (5) observations and associated remedies in our report, and this proposal is to provide the necessary design, bidding, and construction administration consulting services for implementing these recommendations.

**PROJECT TEAM & EXPERIENCE**

**Strong Partnership**

Spicer Group, Inc. is a full-service consulting firm established in 1944, and employs 300+ staff members specializing in engineering, surveying, architectural, and community planning services. We specialize in municipal projects including new construction, renovation and commissioning.

**Spicer Group Team**

Andrew Farron, P.E. is a licensed Mechanical Engineer and Project Manager with 16 years of experience. Aaron Wosek is a Senior Mechanical Engineer & AMEP Practice Lead with 28 years of experience. Darrick Huff, P.E. is a licensed Electrical Engineer and Principal in Charge with 32 years of experience.

**PROJECT UNDERSTANDING AND SCOPE OF WORK**

Alpena County has ongoing comfort issues with the facility currently being leased by MDOT. The building is served by (1) constant volume 15-ton rooftop unit (RTU) with (6) zones controlled by variable volume & temperature (VVT) boxes without reheat. A bypass damper between the supply and return ductwork is utilized to maintain minimum airflow across the unit. New temperature controls were installed in 2023, however the discomfort has persisted.

Spicer Group has completed an independent analysis of the HVAC system and provided a detailed report of our observations with recommendations. Per Michigan Mechanical Code, a licensed engineer will be required to implement the recommendations made in the report, which includes the following:

1. **Replace RTU-1** – Replace the existing rooftop unit with a new 15 ton unit equal to the Trane Horizon. Include ECM blower motor, modulating gas heat, digital scroll compressor, economizer with barometric relief, and an 18” uninsulated curb. Modify exterior ductwork as required and reinsulate with VentureClad casing or equivalent.
2. **Recalculate and rebalance fresh air** – Reducing the fresh air will reduce utility bills, increase humidity in the winter and decrease humidity in the summer. Since the usage of this building has changed since construction, a licensed engineer shall recalculate the fresh air requirements per Michigan Mechanical Code and a Test and Balance (TAB) contractor shall adjust the outdoor air damper accordingly.
3. **Relocate the bypass damper and modify ductwork** – Installing the bypass damper within properly sized ductwork between the supply and return main ductwork will prevent many of the issues observed. The return duct will no longer be positively pressurized, pushing unwanted conditioned air into the SE offices and lab. Also, the (5) VAV boxes and (4) uncontrolled supply registers will no longer need to operate as bypasses since the damper and rooftop unit will properly communicate to provide the required minimum airflow. A licensed engineer shall size and route the new bypass ductwork and confirm the existing damper and actuator are sufficient for the new operational requirements and can be relocated and reused.
4. **Recalculate and rebalance zone boxes** – As mentioned above, a functioning bypass damper and modulating unit will allow the zone boxes to be closed much further than what is currently allowed. This will provide significantly greater temperature control and comfort to each space. These minimum positions must provide the necessary ventilation air per Michigan Mechanical Code and are to be specified by a licensed engineer and set by a TAB contractor.
5. **Select and install (2) additional zone boxes and thermostats -**
  - a. Install a new VAV box and reconnect to the existing ductwork that serves Kitchen/Break Room 102 and Mechanical/Electrical 105. Install a new thermostat that controls this VAV box in the Kitchen/Break Room 102.
  - b. Install a new VAV box and reconnect to the existing ductwork that serves Men’s Toilet 108 and Women’s Toilet 109. Install a new temperature sensor that controls this VAV box in Women’s Toilet 109.

In addition to stamped engineered drawings, Spicer will advertise and oversee bidding, contract awarding, construction administration and final punch list.

#### **SCOPE OF PROFESSIONAL SERVICES:**

The following are the design/consulting scopes of this Proposal. If it is determined during the design process that these expectations are incorrect, Spicer Group will discuss options with Alpena County and amend this Letter Agreement accordingly.

#### **1. Final Design Services**

- A. Regenerate the existing architectural and mechanical plans in AutoCAD format.
- B. Generate mechanical & electrical construction drawings implementing the above recommendations in AutoCAD.
- C. Provide mechanical & electrical book specifications in 6-digit CSI format to properly define scope of work.
- D. Submit stamped PDF drawings for mechanical & electrical plan review (if required).
- E. Provide ‘front end’ bidding documents as required to publicly bid this project.

**2. Bidding Support**

- A. Advertise for contractor bids via Quest
- B. (1) site visit to conduct pre-bid meeting on site.
- C. Respond to RFIs, issue addendums as needed.
- D. Review bids, provide letter of recommendation to County.
- E. Draft AIA contract for County and contractor to execute.

**3. Construction Administration**

- A. Review contractor pay applications.
- B. Respond to RFIs, issue bulletins as needed.
- C. Review shop drawing submittals prior to equipment being ordered.
- D. (2) site visit to complete on-site punch list inspection and review closeout documents prior to releasing retainage.

**Additional Services Not Currently Included:**

Services not specifically listed in our scope of services are excluded from this proposed letter agreement which includes:

- A. Scope of work related to architectural, structural, civil or survey (likely not required).
- B. Additional site visits beyond the (3) defined in the above scope.
- C. Construction management (contracting, oversight & scheduling of contractors).

**Information Requested of Alpena County:**

Our deliverables and fees are based on the following information being provided by the owner:

- A. Continued remote access to the building management system.
- B. AutoCAD floor plan backgrounds (in .dwg format), if available.

**Reimbursable Expenses:**

- A. Mechanical/electrical plan review fees (if required).

**PROPOSAL SUMMARY FEE**

|                                                    |                             |
|----------------------------------------------------|-----------------------------|
| <b>1. Mechanical &amp; Electrical Final Design</b> | Lump Sum of <b>\$15,900</b> |
| <b>2. Bidding Support</b>                          | Lump Sum of <b>\$5,200</b>  |
| <b>3. Construction Administration</b>              | Lump Sum of <b>\$7,600</b>  |

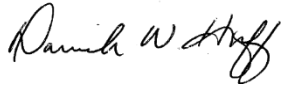
**Total Fee:**..... Lump Sum of **\$28,700**

Spicer Group Inc. General Conditions are attached and included as part of this agreement. Any changes to this agreement require written amendment by Spicer Group and written approval by an authorized signer. This proposal is valid for 30 days. If this proposal meets with your approval, please sign and date on the line below. Please return one executed copy to Spicer Group.

We appreciate your consideration of Spicer Group and look forward to working on this project to continue to grow our long-term consulting relationship with Alpena County.

*Alpena County – MDOT Building  
HVAC Improvements Proposal  
June 24, 2026  
Page 4 of 4*

Sincerely,



**Darrick W. Huff, P.E.**  
Principal  
**SPICER GROUP, INC**



**Andrew Farron, P.E.**  
Project Manager  
**SPICER GROUP, INC**

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Above proposal accepted and approved  
by Owner.

By: \_\_\_\_\_  
**Sign Authorized Name**

By: \_\_\_\_\_  
**Print Authorized Name**

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

## GENERAL CONDITIONS FOR PROFESSIONAL SERVICES

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### SECTION 1 - GENERAL

**1.1 The Agreement.** This Agreement is made by and between SPICER GROUP, INC. (hereinafter referred to as "PROFESSIONAL") and the client who accepted the attached proposal (hereinafter referred to as "CLIENT"). The Agreement between the parties consists of these General Conditions for Professional Services, as well as the attached proposal, and any exhibits or attachments noted in the proposal. Together, these items shall constitute the entire Agreement between the parties and supersedes any prior negotiations, correspondence, or agreements either written or oral. Any changes to this Agreement must be mutually agreed to in writing between the parties. CLIENT represents that it has full authority to enter into this Agreement and that the representative signing this Agreement for CLIENT has full authority to do so. CLIENT further represents that it has all right, title and interest to the project to which the services under this Agreement are being provided.

**1.2 Ownership of Instruments of Service.** All reports, plans, specifications, computer files, field data, notes and other documents and instruments prepared by PROFESSIONAL are instruments of service and shall remain the property of PROFESSIONAL. PROFESSIONAL shall retain all common law, statutory and other reserved rights, including the copyrights thereto.

**1.3 Covenant not to Hire.** CLIENT agrees that during the term of this Agreement and for a period of one (1) year thereafter that it will not hire for its own employment any person employed by PROFESSIONAL.

**1.4 Standard of Care.** Services performed by PROFESSIONAL under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in the same locality under the same or similar conditions. PROFESSIONAL provides no warranty, guarantee or other representation, express, implied or otherwise, in connection with this Agreement, or in any report, opinion, document or other deliverable or instruments of service.

**1.5 Defects in Service.** CLIENT and CLIENT's personnel, contractors and subcontractors shall, upon discovery, promptly notify PROFESSIONAL in writing of any defects or deficiencies in PROFESSIONAL's services, in order that PROFESSIONAL may take measures which in PROFESSIONAL's opinion will minimize the consequences of such defect or deficiency in service. PROFESSIONAL shall not be responsible for additional costs due to delay in reporting defects in service.

**1.6 Reimbursable Expenses.** Reimbursable expenses mean the actual expenses incurred by PROFESSIONAL or PROFESSIONAL's independent professional associates or consultants, directly or indirectly in connection with the project, such as expenses for; transportation and subsistence incidental thereto; obtaining bids or proposals from contractor(s); providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representatives and their assistants; toll telephone calls and courier services; reproduction of reports, drawings, specifications, bidding documents, and similar project-related items; and, if authorized in advance by CLIENT, overtime requiring higher than regular rates.

**1.7 Standard Hourly Rates.** The standard hourly rates used as a basis for payment mean those rates in effect at the time that the service is performed, for all PROFESSIONAL's personnel engaged directly on the project, including, but not limited to, architects, engineers, Spicer Group, Inc.

surveyors, designers, planners, drafters, specification writers, estimators, other technical and business personnel. The Standard Hourly Rates include salaries and wages, direct and indirect payroll costs and fringe benefits. The Standard Hourly Rates of personnel of PROFESSIONAL will be adjusted periodically to reflect changes in personnel and in PROFESSIONAL's overall compensation procedures and practices.

**1.8 Limitation of Liability.** In recognition of the relative risks and benefits of the project to both PROFESSIONAL and CLIENT, the risks have been allocated such that the CLIENT agrees, to the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, that the total liability, in the aggregate, of PROFESSIONAL and PROFESSIONAL's officers, directors, partners, employees and subconsultants, and any of them, to the CLIENT and anyone claiming by or through the CLIENT, for any and all claims, losses, costs or damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees, costs and expenses, shall not exceed \$28,700 or the total compensation received by PROFESSIONAL under this Agreement, 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.

**1.9 Indemnification.** PROFESSIONAL agrees, to the fullest extent permitted by law, to indemnify and hold harmless the CLIENT, its officers, directors and employees from and against damages or liabilities, to the extent caused by the PROFESSIONAL's negligent performance of professional services under this Agreement including that of its subconsultants or anyone for whom the PROFESSIONAL is legally liable.

CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the PROFESSIONAL, its officers, directors, employees and subconsultants from and against damages or liabilities, to the extent caused by CLIENT's negligent acts, errors or omissions in connection with the project as well as the acts, errors or omissions of its contractors, subcontractors or consultants or anyone for whom CLIENT is legally liable.

Neither CLIENT nor PROFESSIONAL shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

**1.10 Severability.** Any term or provision of this Agreement found to be invalid under any applicable statute or rule of law shall be deemed omitted and the remainder of this Agreement shall remain in full force and effect.

**1.11 Survival.** Notwithstanding completion or termination of this Agreement for any reason, all rights, duties and obligations of the parties to this Agreement shall survive such completion or termination and remain in full force and effect until fulfilled.

**1.12 Assignment.** Neither party to this Agreement shall transfer, sublet or assign any rights 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 PROFESSIONAL shall not be considered an assignment for purposes of this Agreement.

**1.13 Betterment.** In no event will the PROFESSIONAL be responsible for any cost or expense that provides betterment, upgrades,

or added value to the project, regardless of whether PROFESSIONAL or PROFESSIONAL's officers, directors, partners, employees or subconsultants is determined to have caused or contributed to such cost or expense.

**1.14 Mediation.** Any claims or disputes made during design, construction or after completion of the project between the CLIENT and PROFESSIONAL shall be submitted to non-binding mediation. CLIENT and PROFESSIONAL agree to include a similar mediation agreement with all contractors, subcontractors, consultants, suppliers and fabricators, thereby providing mediation as the primary method for dispute resolution between all parties. Unless otherwise agreed in writing, the mediation shall be governed by the current Construction Industry Mediation Rules of the American Arbitration Association ("AAA"). Mediation shall be a condition precedent to the initiation of any other dispute resolution process, including court actions.

**1.15 Changed Conditions.** If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to PROFESSIONAL are revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, PROFESSIONAL may request an appropriate adjustment of this Agreement. PROFESSIONAL shall notify CLIENT of the changed conditions necessitating an adjustment, and PROFESSIONAL and CLIENT shall promptly and in good faith enter into discussions for an appropriate adjustment of this Agreement to address the changed conditions.

**1.16 Hazardous Materials.** Both parties acknowledge that PROFESSIONAL's scope of services does not include any services related to the presence of any hazardous or toxic materials. As such, under no circumstance shall PROFESSIONAL have any responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the project site or any adjacent area that may affect the project.

**1.17 Governing Law & Jurisdiction.** CLIENT and PROFESSIONAL agree that this Agreement and any legal actions concerning its validity, interpretation and performance shall be governed by the laws of the state where the work is performed.

## SECTION 2 – FINANCIAL & USE OF DOCUMENTS

**2.1 Billing and Payment Terms.** *Payment Due:* Invoices shall be submitted by PROFESSIONAL (monthly) payment is due upon presentation and shall be considered past due if not paid within thirty (30) calendar days of the due date. *Interest:* If payment in full is not received by PROFESSIONAL within thirty (30) calendar days of the due date, invoices shall bear interest at one-and one-half (1.5) percent of the PAST DUE amount per month, which shall be calculated from the invoice due date. Payment thereafter shall first be applied to accrued interest and then to the unpaid principal.

**2.2 Suspension of Services.** If CLIENT fails to make payments when due or otherwise is in breach of this Agreement, PROFESSIONAL may elect to suspend performance of service upon ten (10) calendar days notice to CLIENT. PROFESSIONAL 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, PROFESSIONAL shall resume services under this Agreement, and the time scheduled and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expenses necessary for PROFESSIONAL to resume performance.

**2.3 Termination of Services.** If CLIENT fails to make payment to PROFESSIONAL in accordance with the payment terms herein, this Spicer Group, Inc.

shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by PROFESSIONAL upon ten (10) calendar days' notice to CLIENT. PROFESSIONAL shall be paid in full for all services performed and expenses incurred through the date of termination upon presentment of PROFESSIONAL's final invoice. CLIENT shall have no right to withhold, back-charge or set-off against any amounts owed to PROFESSIONAL, regardless of whether the invoice or amount owed is for a monthly, suspension or termination related invoice.

**2.4 Collection of Costs.** In the event legal action is necessary to enforce the payment terms of this Agreement, PROFESSIONAL shall be entitled to collect from CLIENT any sums due, plus reasonable attorneys' fees, court costs and other expenses incurred by PROFESSIONAL in connection therewith and, in addition, the reasonable value of PROFESSIONAL's time and expenses spent in connection with such collection action, according to PROFESSIONAL's hourly fee schedule.

**2.5 Delays.** The CLIENT agrees that PROFESSIONAL is not responsible for damages arising directly or indirectly from any delays for causes beyond PROFESSIONAL's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters; fires, riots, war or other emergencies or acts of God; failure of any government agency to act in timely manner; failure of performance by CLIENT or CLIENT's contractors or consultants; or discovery of any hazardous substances or differing site conditions.

In addition, if the delays resulting from any such causes increase the cost or time required by PROFESSIONAL to perform its services in an orderly and efficient manner, PROFESSIONAL shall be entitled to an equitable adjustment to its schedule and/or compensation.

**2.6 Delivery and Use of Electronic Files.** In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by the PROFESSIONAL, CLIENT agrees that all such electronic files are instruments of service of PROFESSIONAL, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights.

CLIENT agrees not to reuse these electronic files, in whole or in part, for any purpose other than for the project. CLIENT agrees not to transfer these electronic files to others without the prior written consent of PROFESSIONAL. CLIENT further agrees to waive all claims against PROFESSIONAL resulting in any way from any unauthorized changes to or reuse of the electronic files for any other project by anyone other than PROFESSIONAL.

CLIENT and PROFESSIONAL agree that any electronic files furnished by either party shall conform to the original specifications. Any changes to the original electronic specifications by either CLIENT or PROFESSIONAL are subject to review and acceptance by the other party. Additional services by PROFESSIONAL made necessary by changes to the electronic file specifications shall entitle PROFESSIONAL to additional compensation.

Electronic files furnished by either party shall be subject to an acceptance period of fourteen (14) days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files.

CLIENT is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by PROFESSIONAL and electronic files, the signed or sealed hard-copy construction documents shall govern.

In addition, CLIENT agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless PROFESSIONAL, its officers, directors, employees and subconsultants from and against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made to the electronic file by anyone other than PROFESSIONAL or from any reuse of the electronic files without the prior written consent of PROFESSIONAL.

Under no circumstances shall delivery of electronic files for use by CLIENT be deemed a sale by PROFESSIONAL, and PROFESSIONAL makes no warranties, either expressed or implied, of merchantability and/or fitness for any particular purpose. In no event shall PROFESSIONAL be liable for indirect or consequential damages as a result of CLIENT's use or reuse of the electronic files.

**2.7 Opinions of Probable Construction Costs.** In providing opinions of probable construction cost, CLIENT understands that PROFESSIONAL has no control over the cost or availability of labor, equipment or materials, or over market conditions or the contractor's method of pricing, and that PROFESSIONAL's opinions of probable construction costs are made on the basis of PROFESSIONAL's judgment and experience. PROFESSIONAL makes no warranty, express or implied that the bids or the negotiated cost of any construction work will not vary from PROFESSIONAL's opinion of probable construction costs.

### SECTION 3 – PROJECT PERFORMANCE

**3.1 Design Without Construction Administration.** Unless Authorized, it is understood and agreed that PROFESSIONAL's Basic Services under this Agreement do not include project observation or review of the contractor's performance or any other construction phase services, and that such services will be arranged by CLIENT. CLIENT assumes all responsibility for interpretation of the Contract Documents and for construction observation, and CLIENT waives any claims against PROFESSIONAL that may be in any way connected thereto.

**3.2 Record Drawings.** If authorized by the Agreement, upon completion of the construction work, PROFESSIONAL shall compile for and deliver to CLIENT a reproducible set of Record Documents based upon the marked-up record drawings, addenda, change orders and other data furnished by the contractor. These Record Documents will show significant changes made during construction. Because these Record Documents are based on unverified information provided by other parties, which PROFESSIONAL is entitled to rely upon, PROFESSIONAL cannot and does not warrant or make any other representation as to the accuracy of the Record Documents.

**3.3 Contingency Fund.** CLIENT and PROFESSIONAL agree that certain increased cost and changes may be required because of possible errors, omissions, ambiguities or inconsistencies in the drawings and specifications prepared by PROFESSIONAL and, therefore, that the final construction cost of the project may exceed the estimated construction cost and/or the cost of the work in any construction contract. CLIENT agrees to set aside a minimum reserve in the amount of not less than 10 percent of the project construction costs as a contingency to be used, as required, to pay for any such increased costs and changes. CLIENT further agrees to make no claim directly or through any other party against PROFESSIONAL or its subconsultants with respect to any increased costs within the contingency because of such Spicer Group, Inc.

changes or because of any claims made by the contractor relating to such changes.

**3.4 Lenders' Requirements.** PROFESSIONAL shall not be required to execute any documents subsequent to the signing of this Agreement that in any way might, in the sole judgment of PROFESSIONAL, increase PROFESSIONAL's contractual or legal obligations or risks, or adversely affect the availability or cost of its professional or general liability insurance.

**3.5 Client Requested Substitutions.** Upon request by CLIENT, PROFESSIONAL shall evaluate and make recommendations regarding substitutions of materials, products or equipment proposed by CLIENT's consultants or contractors. PROFESSIONAL shall be compensated for these services, as well as any services required to modify and coordinate the construction documents prepared by PROFESSIONAL with those of PROFESSIONAL's subconsultants and CLIENT's consultants, as additional services. PROFESSIONAL also shall be entitled to an adjustment in schedule caused by this additional effort.

**3.6 Certifications, Guarantees and Warranties.** PROFESSIONAL shall not be required to sign any documents, no matter by whom requested, that would result in PROFESSIONAL having to certify, guarantee or warrant the existence of conditions whose existence the PROFESSIONAL cannot ascertain. CLIENT also agrees not to make resolution of any dispute with PROFESSIONAL or payment of any amount due to PROFESSIONAL in any way contingent upon PROFESSIONAL's signing any such certification.

**3.7 Underground Improvements.** If requested, PROFESSIONAL and/or its subconsultants will provide services to conduct research that, in its professional opinion, is necessary and will prepare a plan indicating the locations for subsurface penetrations with respect to assumed locations of existing underground improvements. Such services by PROFESSIONAL and/or its subconsultant will be performed in a manner consistent with PROFESSIONAL'S professional standard of care. CLIENT understands and recognizes, however, that such research may not identify all underground improvements and that the information upon which PROFESSIONAL reasonably relies may contain errors or may be incomplete. Therefore, CLIENT agrees, to the fullest extent permitted by law, to waive all claims and causes of action against the Consultant and anyone for whom the Consultant may be legally liable for damages to underground improvements resulting from subsurface penetrations in locations established by PROFESSIONAL that are based on properly filed and available records of said underground improvements.

**3.9 Permits and Approvals.** PROFESSIONAL shall assist CLIENT in applying for those permits and approvals normally required by law for projects similar to the one for which PROFESSIONAL's services are being engaged. This assistance shall consist of completing and submitting forms to the appropriate regulatory agencies having jurisdiction over the construction documents, and other services normally provided by PROFESSIONAL and included in the scope of services of this Agreement.

**3.10 Jobsite Safety.** Neither the professional activities of PROFESSIONAL, nor the presence of PROFESSIONAL or its employees and subconsultants at a construction/project site, shall relieve the contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the construction work in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. PROFESSIONAL and its personnel have no

authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. CLIENT agrees that the contractor shall be solely responsible for jobsite safety and warrants that this intent shall be carried out in CLIENT's contract with the contractor. CLIENT also agrees that its contract with the contractor shall provide that CLIENT, PROFESSIONAL, and PROFESSIONAL's subconsultants shall be indemnified by the contractor and shall be made additional insureds under the contractor's policies of general liability insurance.

**3.11 Construction Observation.** PROFESSIONAL shall visit the site, if requested and authorized, at intervals appropriate to the stage of construction, or as otherwise agreed to in writing by CLIENT and PROFESSIONAL, to generally observe the construction work and answer any questions that CLIENT may have. However, PROFESSIONAL shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the construction work, or to determine whether the construction work is being constructed in accordance with the contract documents. If CLIENT desires PROFESSIONAL to perform more frequent or comprehensive observations of the construction work, this Agreement shall be amended to specifically state the additional scope of service, along with the additional compensation to be paid to PROFESSIONAL for performing such service.

PROFESSIONAL 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 construction work. These are solely the obligation and responsibility of the contractor.

PROFESSIONAL shall not be responsible for any acts or omissions of the contractor, subcontractor, any entity performing any portions of the construction work, or any agents or employees of any of them. PROFESSIONAL shall not be responsible for the contractor's failure to perform its work in accordance with the contract documents, the construction documents, or any applicable laws, codes, rules or regulations.

**3.12 Verification of Existing Conditions.** Inasmuch as the remodeling and/or rehabilitation of existing structures requires that certain assumptions be made by PROFESSIONAL regarding existing conditions, and because some of these assumptions may not be verifiable without CLIENT expending substantial sums of money or destroying otherwise adequate or serviceable portions of the structure, CLIENT agrees to bear all costs, losses and expenses, including the cost of any necessary additional services of PROFESSIONAL, arising from the discovery of concealed or unknown conditions in any existing structures that are part of the project and PROFESSIONAL'S scope of service.

**3.13 Construction Layout.** If requested by CLIENT, or other authorized party, as detailed in the scope of services or as an additional service to this Agreement, PROFESSIONAL shall provide construction layout stakes sufficient for construction purposes. The stakes will reflect pertinent information from the construction bidding and contract documents. The stakes shall be set in place one time by PROFESSIONAL, staged and scheduled as requested by the contractor. After the stakes are set, it shall be the contractor's exclusive responsibility to protect the stakes from damage or removal. Once the stake is set, if the stake becomes unusable due to the contractor's negligence it shall be reset by PROFESSIONAL at the direction of CLIENT. The cost for resetting the stakes shall be paid to PROFESSIONAL by CLIENT.

**3.14 Right of Entry.** If applicable to the scope of services, CLIENT shall provide for PROFESSIONAL's right to enter from time to time property owned or controlled by CLIENT and/or other(s) in order for PROFESSIONAL to fulfill the scope of services indicated hereunder. CLIENT understands that use of testing or other equipment may unavoidably cause some damage, the correction of which is not the responsibility of PROFESSIONAL.

**3.15 Buried Utilities.** If applicable to the scope of services, CLIENT will furnish to PROFESSIONAL information identifying the type and location of utility lines and other man-made objects beneath the site's surface. PROFESSIONAL will take reasonable precautions to avoid damaging these man-made objects and will, prior to penetrating the site's surface furnish to CLIENT a plan indicating the locations intended for these penetrations with respect to what PROFESSIONAL has been told are the locations of utilities and other man-made objects beneath the site's surface. CLIENT will approve the location of these penetrations prior to their being made and will authorize PROFESSIONAL to proceed.

**3.16 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 the CLIENT or PROFESSIONAL. PROFESSIONAL'S services under this Agreement are being performed solely for CLIENT'S benefit, and no other party or entity shall have any claim against PROFESSIONAL because of this Agreement or the performance or nonperformance of services hereunder.

**3.17 Waiver of Consequential Damages.** CLIENT and PROFESSIONAL waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination or suspension of this Agreement.

**3.18 Contractor Submittals.** If requested, PROFESSIONAL shall review contractor's submittals such as shop drawings, product data and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the plan and specifications issued by PROFESSIONAL. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the contractor's responsibility. PROFESSIONAL's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by PROFESSIONAL, of any construction means, methods, techniques, sequences or procedures. PROFESSIONAL's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**3.19 Project Information.** PROFESSIONAL shall be entitled to rely on the accuracy and completeness of services and information furnished by CLIENT, including services and information provided by other design professionals or consultants directly to CLIENT. These services and information include, but are not limited to, surveys, tests, reports, diagrams, drawings and legal information.

## SECTION 4 – MODIFICATIONS TO THE GENERAL CONDITIONS

### 4.1 None