



EXHIBIT A

CHRISTOPHER B. BURKE ENGINEERING, LTD.

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February 15, 2024

City of Crest Hill
20600 City Center Boulevard
Crest Hill, IL 60403

Attention: Ron Wiedeman, PE – City Engineer

Subject: Professional Engineering Services Proposal for Final Design
Hillcrest Water Main Replacement
Crest Hill, Illinois

Dear Mr. Wiedeman:

Christopher B. Burke Engineering, Ltd. (CBBEL) is pleased to provide this proposal for professional design engineering services for the Hillcrest Water Main Replacement Project in the City of Crest Hill. Included in this proposal are our Understanding of the Assignment, Scope of Work and Estimated Fee.

UNDERSTANDING OF THE ASSIGNMENT

The scope of this proposal includes final engineering design of approximately 3,000 feet of new water main around the Hillcrest Shopping Center site, including new valve vaults, fire hydrants, service connections (domestic and fire protection), and pavement/landscape restoration.

A portion of this project was preliminarily designed by CBBEL in 2020, and the City now desires to make revisions to the design based on current-day conditions, design additional main segments and connections, secure necessary easements, and finalize bid documents for the project.

The scope of this proposal includes existing conditions verification, supplemental topographic survey, design revisions, design of additional main segments and connections, preparation of easement exhibits, preparation of bid plans, specifications, and Engineer's Opinion of Probable Cost, and bidding assistance.

SCHEDULE

This proposal assumes that the design of this project will be awarded in March 2024. Engineering design will be completed by the end of November 2024 with the intent that the project can be issued for bid in early 2025.

SCOPE OF WORK

Task 1 – Existing Conditions Verification: CBBEL will review the topographic survey completed in 2020 against observed current-day existing conditions within the project limits to identify areas that have been improved or otherwise modified. CBBEL will perform a “boots-on-the-ground” assessment of the existing conditions, document observed discrepancies, and notify the City of any concerns. This task does not include supplemental topographic survey.

Task 2 – Supplemental Topographic Survey: To update the topographic survey previously completed by CBBEL based on the findings of the existing conditions verification and the location of a planned water main connection along the east side of Larkin Avenue, we will obtain supplemental topographic survey. Recovery of original horizontal and vertical control from the initial survey will be completed along performing additional topographic survey to pick up areas beyond the limits of the original survey work and/or areas that have been improved/modified subsequent to the prior survey. The supplemental topographic survey information will be combined with the previously completed topographic survey to provide a comprehensive, seamless, and current existing conditions base map for the design documents.

We have budgeted two (2) days of field work by one (1) two-man survey crew and office drafting for this task.

Task 3 – Final Plans, Specifications and Estimate (100%): CBBEL will revise the previously-prepared plans, specifications, and estimate for the project based on a recent discussion with the City and in general conformance with the modified water main layout dated 6/7/2021 that was developed based on the water system modeling work completed by Strand Associates. This task includes minor coordination with Strand Associates to confirm the required main sizes and connection locations.

CBBEL will finalize bid documents, and the requested number of copies of plans and specifications will be submitted to the City. A final estimate of cost and estimate of required working days will also be submitted.

CBBEL will provide final electronic drawings and specifications to be issued to prospective bidders via the QuestCDN website.

Task 4 – Utility Coordination: Based on existing utility information obtained and drafted in 2020 and the plans prepared in Task 2, CBBEL will provide plans to the utility companies to verify their facilities, ensure utility locations are reflected accurately on our design plans, and identify any potential conflicts. CBBEL will revise the existing utility CAD base map

as necessary to reflect current day conditions as provided by utility companies. CBBEL will identify potential conflicts and coordinate any relocations if necessary.

Task 5 – Easement Exhibits: CBBEL will engage Geotech, Inc. to prepare easement exhibits to support the City's acquisition of easements from the Hillcrest Shopping Center property and from the property on the east side of Larkin Avenue to facilitate construction of proposed water main pipes, appurtenances, and connections. With respect to the Hillcrest Shopping Center site, we understand that a blanket temporary access easement already exists to allow for project construction, and therefore only permanent public utility easements are included in this task.

Task 6 – IEPA Water Main Construction Permitting: CBBEL will prepare and submit an IEPA Water Main Construction permit application for all water main improvements associated with the project. CBBEL will revise plans and specifications based on comments received by IEPA.

Task 7 – IDOT Permitting: Because US Route 30 and Larkin Avenue are State routes and a limited amount of work is planned within the State ROW, a Utility Permit from IDOT is anticipated to be required for construction. We will prepare and provide IDOT with the engineering plans for permitting. Depending on IDOT requests, additional plan revisions, exhibits and coordination may be necessary.

Task 8 – Storm Water Pollution Prevention Plan (SWPPP): CBBEL will prepare and submit a Notice of Intent (NOI) to the IEPA for the project site. In addition, CBBEL will prepare a SWPPP for the project in accordance with Part IV of the General NPDES Permit No. ILR10. Please note that completion of this task will require input from the project engineer and signed certification statements from all contractors, subcontractors, and the operator as identified in the SWPPP. This task also covers the submittal of an electronic copy of the SWPPP to the IEPA. As required by the NPDES Phase II Storm Water Construction General Permit (ILR10), an up-to-date copy of the SWPPP must be maintained on the project site during construction activities.

Task 9 – Bidding Assistance: CBBEL will perform the following Bidding Assistance services:

- Advertisement – CBBEL will prepare the bid advertisement (to be published by City), distribute plans and specifications to all bidders, and hold a bid opening and pre-bid meeting (if required).
- Preparation of Addenda – CBBEL will field bidder questions and requests for clarification. Based on these questions and request, CBBEL will prepare addenda as necessary to respond to the questions presented. Addenda will be issued to the City for distribution to the bidders.
- Bid Evaluation Assistance – CBBEL will attend the bid opening and evaluate the bids and bidders to determine if the bids were submitted in accordance with the contract documents and if the bidders are qualified to perform the work.
- Award Recommendation – Base upon the Bid Evaluation, CBBEL will provide a recommendation to the City for award of the construction contracts including a spreadsheet tabulation of all bids received and opened.

- Contract Administration – CBBEL will assist the City in preparation of contracts and execution of the contracts and review of contract-related documents provided by the successful bidder.

Task 10 – Project Coordination, Meetings, and Management: CBBEL will coordinate with the City throughout the design and permitting of the project. In addition to phone conversations and written and electronic coordination, it is anticipated that up to three (3) project coordination meetings will be held with City Staff.

CBBEL will prepare agendas, presentations and meeting exhibits as requested by the City. Following attendance at each meeting, CBBEL will prepare meeting summaries.

This proposal assumes that no public involvement will be required during the final design of this project.

ESTIMATE OF FEE

We have determined the following fees for each of the tasks described in this proposal.

<u>Task</u>	<u>Fee</u>
Task 1 – Existing Conditions Verification	\$ 4,630
Task 2 – Supplemental Topographic Survey	\$ 8,920
Task 3 – Final Plans, Specifications and Estimate (100%)	\$ 34,900
Task 4 – Utility Coordination	\$ 6,120
Task 5 – Easement Exhibits	\$ 9,700
Task 6 – IEPA Permitting	\$ 2,040
Task 7 – IDOT Permitting	\$ 2,040
Task 8 – Stormwater Pollution Prevention Plan	\$ 4,560
Task 9 – Bidding Assistance	\$ 4,905
Task 10 – Project Coordination and Meetings	\$ 9,200
Direct Costs	\$ 400

TOTAL NOT-TO-EXCEED FEE: \$ 87,415

We will bill you at the hourly rates specified on the attached Schedule of Charges. We will establish our contract in accordance with the attached previously agreed to General Terms and Conditions. Direct costs for blueprints, photocopying, mailing, overnight delivery, messenger services and report compilation are not included in the Fee Estimate. These General Terms and Conditions are expressly incorporated into and are an integral part of this contract for professional services. It should be emphasized that any requested additional services that are not included in the preceding Fee Estimate will be billed at the attached hourly rates.

Please sign and return one copy of this agreement as an indication of acceptance and notice to proceed. Please feel free to contact us anytime.

Sincerely,

A handwritten signature in green ink, appearing to read 'MK', with a long horizontal flourish extending to the right.

Michael E. Kerr, PE
President

Encl. Crest Hill Schedule of Charges
Crest Hill General Terms and Conditions

THIS PROPOSAL, SCHEDULE OF CHARGES AND GENERAL TERMS AND
CONDITIONS ACCEPTED FOR CITY OF CREST HILL:

BY: _____
TITLE: _____
DATE: _____

**CHRISTOPHER B. BURKE ENGINEERING, LTD.
STANDARD CHARGES FOR PROFESSIONAL SERVICES
EFFECTIVE JANUARY 1, 2024 THROUGH DECEMBER 31, 2024**

<u>Personnel</u>	<u>Charges (\$/Hr)</u>
Engineer VI	275
Engineer V	235
Engineer IV	200
Engineer III	175
Engineer I/II	155
Survey V	240
Survey IV	220
Survey III	200
Survey II	160
Survey I	135
Engineering Technician V	215
Engineering Technician IV	190
Engineering Technician III	140
Engineering Technician I/II	125
CAD Manager	210
CAD II	155
GIS Specialist III	175
Landscape Architect	200
Landscape Designer III	155
Landscape Designer I/II	120
Environmental Resource Specialist V	235
Environmental Resource Specialist IV	190
Environmental Resource Specialist III	150
Environmental Resource Specialist I/II	125
Environmental Resource Technician	140
Business Operations Department	160
Engineering Intern	75
<u>Direct Costs</u>	
Outside Copies, Blueprints, Messenger, Delivery Services, Mileage	Cost + 12%

These rates are in effect until December 31, 2024, at which time they will be subject to change.

CHRISTOPHER B. BURKE ENGINEERING, LTD.
GENERAL TERMS AND CONDITIONS WITH THE CITY OF CREST HILL

1. Relationship Between Engineer and Client: Christopher B. Burke Engineering, Ltd. (Engineer) shall serve as Client's professional engineer consultant in those phases of the Project to which this Agreement applies. This relationship is that of a buyer and seller of professional services and as such the Engineer is an independent contractor in the performance of this Agreement and it is understood that the parties have not entered into any joint venture or partnership with the other. The Engineer shall not be considered to be the agent of the Client. Nothing contained in this Agreement shall create a contractual relationship with a cause of action in favor of a third party against either the Client or Engineer.
Furthermore, causes of action between the parties to this Agreement pertaining to acts of failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of substantial completion.
2. Responsibility of the Engineer: Engineer will strive to perform services under this Agreement in accordance with generally accepted and currently recognized engineering practices and principles, and in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document, or otherwise.
Notwithstanding anything to the contrary which may be contained in this Agreement or any other material incorporated herein by reference, or in any Agreement between the Client and any other party concerning the Project, the Engineer shall not have control or be in charge of and shall not be responsible for the means, methods, techniques, sequences or procedures of construction, or the safety, safety precautions or programs of the Client, the construction contractor, other contractors or subcontractors performing any of the work or providing any of the services on the Project. Nor shall the Engineer be responsible for the acts or omissions of the Client, or for the failure of the Client, any architect, engineer, consultant, contractor or subcontractor to carry out their respective responsibilities in accordance with the Project documents, this Agreement or any other agreement concerning the Project. Any provision which purports to amend this provision shall be without effect unless it contains a reference that the content of this condition is expressly amended for the purposes described in such amendment and is signed by the Engineer.
3. Changes: Client reserves the right by written change order or amendment to make changes in requirements, amount of work, or engineering time schedule adjustments, and Engineer and Client shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes, if commercially possible.
4. Suspension of Services: Client may, at any time, by written order to Engineer (Suspension of Services Order) require Engineer to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order, Engineer shall

immediately comply with its terms and take all reasonable steps to minimize the costs associated with the services affected by such order.

Engineer will not be obligated to provide the same personnel employed prior to suspension, when the services are resumed, in the event that the period of suspension is greater than thirty (30) days.

5. Termination: This Agreement may be terminated by either party upon thirty (30) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. This Agreement may be terminated by Client, under the same terms, whenever Client shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by Engineer either before or after the termination date shall be reimbursed by Client.
6. Documents Delivered to Client: Drawings, specifications, reports, and any other Project Documents prepared by Engineer in connection with any or all of the services furnished hereunder shall be delivered to the Client for the use of the Client. Engineer shall have the right to retain originals of all Project Documents and drawings for its files. Furthermore, it is understood and agreed that the Project Documents such as, but not limited to reports, calculations, drawings, and specifications prepared for the Project, whether in hard copy or machine-readable form, are instruments of professional service intended for one-time use in the construction of this Project. These Project Documents are and shall remain the property of the Engineer. The Client may retain copies, including copies stored on magnetic tape or disk, for information and reference in connection with the occupancy and use of the Project.

When and if record drawings are to be provided by the Engineer, Client understands that information used in the preparation of record drawings is provided by others and Engineer is not responsible for accuracy, completeness, nor sufficiency of such information. Client also understands that the level of detail illustrated by record drawings will generally be the same as the level of detail illustrated by the design drawing used for project construction. If additional detail is requested by the Client to be included on the record drawings, then the Client understands and agrees that the Engineer will be due additional compensation for additional services.

The Engineer ~~also~~ reserves the right to retain hard copy originals of all Project Documentation delivered to the Client in machine readable form, which originals shall be referred to and shall govern in the event of any inconsistency between the two.

The Client understands that the automated conversion of information and data from the system and format used by the Engineer to an alternate system or format cannot be accomplished without the introduction of inexactitudes, anomalies, and errors. In the event Project Documentation provided to the Client in machine readable form is so converted, the Client agrees to assume all risks associated therewith and, to the fullest extent permitted by law, to hold harmless and indemnify the Engineer from and

against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising therefrom or in connection therewith.

The Client recognizes that changes or modifications to the Engineer's instruments of professional service introduced by anyone other than the Engineer may result in adverse consequences which the Engineer can neither predict nor control. Therefore, and in consideration of the Engineer's agreement to deliver its instruments of professional service in machine readable form, the Client agrees, to the fullest extent permitted by law, to hold harmless and indemnify the Engineer from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising out of or in any way connected with the modification, misinterpretation, misuse, or reuse by others of the machine readable information and data provided by the Engineer under this Agreement. The foregoing indemnification applies, without limitation, to any use of the Project Documentation on other projects, for additions to this Project, or for completion of this Project by others, excepting only such use as may be authorized, in writing, by the Engineer.

7. Reuse of Documents: All Project Documents including but not limited to reports, opinions of probable costs, drawings and specifications furnished by Engineer pursuant to this Agreement are intended for use on the Project only. They cannot be used by Client or others on extensions of the Project or any other project. Any reuse, without specific written verification or adaptation by Engineer, shall be at Client's sole risk, and Client shall indemnify and hold harmless Engineer from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting therefrom.

The Engineer shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Engineer's promotional and professional materials. The Engineer's materials shall not include the Client's confidential and proprietary information if the Client has previously advised the Engineer in writing of the specific information considered by the Client to be confidential and proprietary. For the purposes of this Agreement, the parties acknowledge that such information shall be confidential and proprietary and shall not be used by Engineer for any purpose without Client's written consent.

8. Standard of Practice: The Engineer will strive to conduct services under this agreement in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions as of the date of this Agreement.
9. Compliance With Laws: The Engineer will strive to exercise usual and customary professional care in his/her efforts to comply with those laws, codes, ordinance and regulations which are in effect as of the date of this Agreement.
10. Indemnification: Engineer shall indemnify and hold harmless Client from loss or expense, including reasonable attorney's fees for claims for personal injury (including

death) or property damage to the extent caused by the sole negligent act, error or omission of Engineer.

Client shall indemnify and hold harmless Engineer under this Agreement, from loss or expense, including reasonable attorney's fees, for claims for personal injuries (including death) or property damage arising out of the sole negligent act, error or omission of Client.

In the event of joint or concurrent negligence of Engineer and Client, each shall bear that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligence (including that of third parties), which caused the personal injury or property damage.

Engineer shall not be liable for special, incidental or consequential damages, including, but not limited to loss of profits, revenue, use of capital, claims of customers, cost of purchased or replacement power, or for any other loss of any nature, whether based on contract, tort, negligence, strict liability or otherwise, by reasons of the services rendered under this Agreement.

11. Opinions of Probable Cost: Since Engineer has no control over the cost of labor, materials or equipment, or over the Contractor(s) method of determining process, or over competitive bidding or market conditions, his/her opinions of probable Project Construction Cost provided for herein are to be made on the basis of his/her experience and qualifications and represent his/her judgement as a design professional familiar with the construction industry, but Engineer cannot and does not guarantee that proposal, bids or the Construction Cost will not vary from opinions of probable construction cost prepared by him/her. If prior to the Bidding or Negotiating Phase, Client wishes greater accuracy as to the Construction Cost, the Client shall employ an independent cost estimator Consultant for the purpose of obtaining a second construction cost opinion independent from Engineer.
12. Governing Law & Dispute Resolutions: This Agreement shall be governed by and construed in accordance with Articles previously set forth by (Item 9 of) this Agreement, together with the laws of the **State of Illinois**.

The validity, construction and interpretation of this Agreement shall be governed by the laws of the State of Illinois without regard to the conflict of law provisions. The parties hereto irrevocably agree that all actions or proceedings in any way, manner or respect arising out of or from or related to this Agreement shall be only litigated in the Circuit Court, Twelfth Judicial Circuit, Will County, Illinois. Each party hereby consents and submits to personal jurisdiction in the State of Illinois and waives any right such party may have to transfer the venue of any such action or proceeding.

13. Successors and Assigns: The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns: provided, however, that neither party shall assign this Agreement in whole or in part without the prior written approval of the other.
14. Waiver of Contract Breach: The waiver of one party of any breach of this Agreement or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof, shall be limited to the particular instance, shall not operate or be deemed to waive any future breaches of this Agreement and shall not be construed to be a waiver of any provision, except for the particular instance.
15. Entire Understanding of Agreement: This Agreement represents and incorporates the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. Client and the Engineer hereby agree that any purchase orders, invoices, confirmations, acknowledgments, or other similar documents executed or delivered with respect to the subject matter hereof that conflict with the terms of the Agreement shall be null, void and without effect to the extent they conflict with the terms of this Agreement.
16. Amendment: This Agreement shall not be subject to amendment unless another instrument is duly executed by duly authorized representatives of each of the parties and entitled "Amendment of Agreement".
17. Severability of Invalid Provisions: If any provision of the Agreement shall be held to contravene or to be invalid under the laws of any particular state, county or jurisdiction where used, such contravention shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular provisions held to be invalid in the particular state, country or jurisdiction and the rights or obligations of the parties hereto shall be construed and enforced accordingly.
18. Force Majeure: Neither Client nor Engineer shall be liable for any fault or delay caused by any contingency beyond their control including but not limited to acts of God, wars, strikes, walkouts, fires, natural calamities, or demands or requirements of governmental agencies.
19. Subcontracts: Engineer may subcontract portions of the work, but each subcontractor must be approved by Client in writing.
20. Access and Permits: Client shall arrange for Engineer to enter upon public and private property and obtain all necessary approvals and permits required from all governmental authorities having jurisdiction over the Project. Client shall pay costs (including Engineer's employee salaries, overhead and fee) incident to any effort by

Engineer toward assisting Client in such access, permits or approvals, if Engineer perform such services.

21. Designation of Authorized Representative: Each party (to this Agreement) shall designate one or more persons to act with authority in its behalf in respect to appropriate aspects of the Project. The persons designated shall review and respond promptly to all communications received from the other party.
22. Notices: Any notice or designation required to be given to either party hereto shall be in writing, and unless receipt of such notice is expressly required by the terms hereof shall be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed, and addressed to the party to whom such notice is directed at such party's place of business or such other address as either party shall hereafter furnish to the other party by written notice as herein provided.
23. Client's Responsibilities: The Client agrees to provide full information regarding requirements for and about the Project, including a program which shall set forth the Client's objectives, schedule, constraints, criteria, special equipment, systems and site requirements.

The Client agrees to furnish and pay for all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services which the Client may require to verify the Contractor's Application for Payment or to ascertain how or for what purpose the Contractor has used the money paid by or on behalf of the Client.

The Client agrees to require the Contractor, to the fullest extent permitted by law, to indemnify, hold harmless, and defend the Engineer, its consultants, and the employees and agents of any of them from and against any and all claims, suits, demands, liabilities, losses, damages, and costs ("Losses"), including but not limited to costs of defense, arising in whole or in part out of the negligence of the Contractor, its subcontractors, the officers, employees, agents, and subcontractors of any of them, or anyone for whose acts any of them may be liable, regardless of whether or not such Losses are caused in part by a party indemnified hereunder. Specifically excluded from the foregoing are Losses arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications, and the giving of or failure to give directions by the Engineer, its consultants, and the agents and employees of any of them, provided such giving or failure to give is the primary cause of Loss. The Client also agrees to require the Contractor to provide to the Engineer the required certificate of insurance.

The Client further agrees to require the Contractor to name the Engineer, its agents and consultants on the Contractor's policy or policies of comprehensive or commercial general liability insurance. Such insurance shall include products and completed

operations and contractual liability coverages, shall be primary and noncontributing with any insurance maintained by the Engineer or its agents and consultants, and shall provide that the Engineer be given thirty days, unqualified written notice prior to any cancellation thereof.

When Contract Documents prepared under the Scope of Services of this contract require insurance(s) to be provided, obtained and/or otherwise maintained by the Contractor, the Client agrees to be wholly responsible for setting forth any and all such insurance requirements. Furthermore, any document provided for Client review by the Engineer under this Contract related to such insurance(s) shall be considered as sample insurance requirements and not the recommendation of the Engineer. Client agrees to have their own risk management department review any and all insurance requirements for adequacy and to determine specific types of insurance(s) required for the project. Client further agrees that decisions concerning types and amounts of insurance are specific to the project and shall be the product of the Client. As such, any and all insurance requirements made part of Contract Documents prepared by the Engineer are not to be considered the Engineer's recommendation, and the Client shall make the final decision regarding insurance requirements.

25. Information Provided by Others: The Engineer shall indicate to the Client the information needed for rendering of the services of this Agreement. The Client shall provide to the Engineer such information as is available to the Client and the Client's consultants and contractors, and the Engineer shall be entitled to rely upon the accuracy and completeness thereof. The Client recognizes that it is impossible for the Engineer to assure the accuracy, completeness and sufficiency of such information, either because it is impossible to verify, or because of errors or omissions which may have occurred in assembling the information the Client is providing. Accordingly, the Client agrees, to the fullest extent permitted by law, to indemnify and hold the Engineer and the Engineer's subconsultants harmless from any claim, liability or cost (including reasonable attorneys' fees and cost of defense) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the Client to the Engineer.
26. Payment: Client shall be invoiced once each month for work performed during the preceding period. Payment shall be made by the Client according to the terms and provisions of the Illinois Prompt Payment Act, Engineer will provide to the Client a detailed statement of tasks performed by it and reimbursement for expenses, if any. The maximum interest rate under this Section shall be the amount set forth in the Act.

Collection Costs. In the event legal action is necessary to enforce the payment provisions of this Agreement, the Engineer shall be entitled to collect from the Client any judgement or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by the Engineer in connection therewith.

Suspension of Services. If the Client fails to make payments when due or otherwise is in breach of this Agreement, the Engineer may suspend performance of services upon five (5) calendar days' notice to the Client. The Engineer shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client.

27. When construction observation tasks are part of the service to be performed by the Engineer under this Agreement, the Client will include the following clause in the construction contract documents and Client agrees not to modify or delete it:

Kotecki Waiver. Contractor (and any subcontractor into whose subcontract this clause is incorporated) agrees to assume the entire liability for all personal injury claims suffered by its own employees, including without limitation claims under the **Illinois** Structural Work Act, asserted by persons allegedly injured on the Project; waives any limitation of liability defense based upon the Worker's Compensation Act, court interpretations of said Act or otherwise; and to the fullest extent permitted by law, agrees to indemnify and hold harmless and defend Owner and Engineer and their agents, employees and consultants (the "Indemnitees") from and against all such loss, expense, damage or injury, including reasonable attorneys' fees, that the Indemnitees may sustain as a result of such claims, except to the extent that **Illinois** law prohibits indemnity for the Indemnitees' own negligence. The Owner and Engineer are designated and recognized as explicit third-party beneficiaries of the Kotecki Waiver within the general contract and all subcontracts entered into in furtherance of the general contract.

28. Job Site Safety/Supervision & Construction Observation: The Engineer shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences of procedures, or for safety precautions and programs in connection with the Work since they are solely the Contractor's rights and responsibilities. The Client agrees that the Contractor shall supervise and direct the work efficiently with his/her best skill and attention; and that the Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction and safety at the job site. The Client agrees and warrants that this intent shall be carried out in the Client's contract with the Contractor. The Client further agrees that the Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work; and that the Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees on the subject site and all other persons who may be affected thereby. The Engineer shall have no authority to stop the work of the Contractor or the work of any subcontractor on the project.

When construction observation services are included in the Scope of Services, the Engineer shall visit the site at intervals appropriate to the stage of the Contractor's operation, or as otherwise agreed to by the Client and the Engineer to: 1) become generally familiar with and to keep the Client informed about the progress and quality of the Work; 2) to strive to bring to the Client's attention defects and deficiencies in the Work and; 3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Engineer shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. If the Client desires more extensive project observation, the Client shall request that such services be provided by the Engineer as Additional and Supplemental Construction Observation Services in accordance with the terms of this Agreement.

The Engineer shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. The Engineer does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

When municipal review services are included in the Scope of Services, the Engineer (acting on behalf of the municipality), when acting in good faith in the discharge of its duties, shall not thereby render itself liable personally and is, to the maximum extent permitted by law, relieved from all liability for any damage that may accrue to persons or property by reason of any act or omission in the discharge of its duties. Any suit brought against the Engineer which involve the acts or omissions performed by it in the enforcement of any provisions of the Client's rules, regulation and/or ordinance shall be defended by the Client until final termination of the proceedings. The Engineer shall be entitled to all defenses and municipal immunities that are, or would be, available to the Client.

29. Hazardous Materials/Pollutants: Unless otherwise provided by this Agreement, the Engineer and Engineer's consultants shall have no responsibility for the discovery, presence, handling, removal, or disposal of or exposure of persons to hazardous materials/pollutants in any form at the Project site, including but not limited to mold/mildew, asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic/hazardous/pollutant type substances.

Furthermore, Client understands that the presence of mold/mildew and the like are results of prolonged or repeated exposure to moisture and the lack of corrective action. Client also understands that corrective action is a operation, maintenance and repair activity for which the Engineer is not responsible.