



May 25, 2023

Board of Supervisors  
North Annville Township  
1020 North Route 934  
Annville, PA 17003

**Professional Services Agreement No. 1**  
**Professional Engineering Services**  
Clear Spring Road Traffic Study  
North Annville Township, Lebanon County, PA  
Professional Services Agreement No.: PL01-1527

Dear Supervisors:

On behalf of ELA Group, Inc. (ELA) and CS Davidson, Inc. (CSD), we are pleased to submit this Professional Services Agreement (PSA). We are excited to be part of the design team for the Clear Spring Road Traffic Study. ELA encourages a highly participatory design process aimed at efficient, responsible, and informed design/decision-making, ensuring close communications with the design team. ELA's team includes landscape architects, civil engineers, and transportation engineers, who work closely with each other to ensure an efficient, thorough, and successful project.

Pursuant to the Request for Proposals (RFP), ELA proposes to provide the following professional services for the above-referenced project as identified in the Scope of Basic Services below.

**Project Understanding:**

In preparation of this PSA, we have taken the following matters into consideration:

- The RFP for the Clear Spring Road Traffic Study and email correspondence with you concerning the anticipated scope.
- The ELA Proposal for the Clear Spring Road Traffic Study dated April 28, 2023.
- Previous discussions with you regarding the objectives of the study and the desired scope elements.
- A site visit by ELA Group to view the existing road and roadside conditions.
- Our knowledge from working on previous projects in the area.
- ELA is highly experienced with zoning, land development planning, stormwater design/calculations and erosion and sedimentation control design/calculations. ELA is familiar with the Lebanon County Planning Department staff from interactions on previous projects within other municipalities within Lebanon County.

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- ELA is experienced with PennDOT's permitting procedures and plan review processes related to new driveways onto state road, intersection improvements involving state roads, traffic signal design, and various types of traffic and engineering studies.

Based upon the foregoing information, our PSA has been prepared to include two (2) service categories for the work of ELA Group, Inc. These service categories include Basic Services and Additional Services. First, Basic Services are those required based on our experience and knowledge of your project. Second, Additional Services are an outline of services specifically excluded, but which can be performed when requested. We have also provided a list of Services Specifically Excluded, services that must be provided by others.

The Scope of Basic Services outlined below is based on our team's prior experience with similar projects within PennDOT District 8-0, and specifically in Lebanon County, our past experience with the various review agencies, as well as experience with planning/design and processing of other projects of similar scope and nature.

### **Scope of Basic Services:**

1. **Data Collection:** ELA/CSD will perform the following services:
  - A. Collect weekday 12-hour (6am-6pm) turning movement count data at the following intersections:
    - 1) Clear Spring Road and Syner Road
    - 2) Clear Spring Road and Quarry Access Drive (south of RR bridge)
  - B. Collect 24-hour traffic volume/classification/speed data at two locations along Clear Spring Road (one south of the RR bridge and one north of the RR bridge) for a period of one week.
  - C. Create a base plan of the study corridor using Lebanon County GIS data and field measurements. ELA will perform field measurements of lane widths and shoulder widths at various locations along Clear Spring Road. Field measurements will also be taken to locate all visible utilities, as well as structure, driveways, and any other roadside features that could be impacted by roadway widening.
  - D. Collect pavement core samples at four locations (with 3 cores at each location) along Clear Spring Road and analyze the samples to determine the existing pavement composition. Traffic control will be required for the collection of the pavement samples. The cost of the traffic control is not included in this Scope of Basic Services. ELA will coordinate with a traffic control provider; however, it is assumed that the traffic control provider will contract directly with North Annville Township.
  - E. Perform field inspections of two culverts under Clear Spring Road.
  - F. Collect crash data from PennDOT and the local police department for all crashes occurring along the study corridor over the past 5 years.
  - G. Contact Lebanon County to determine if there is any other planned development in the vicinity that could contribute additional traffic to Clear Spring Road.

- H. Collect bridge inspection data from North Annville Township and/or the township's bridge inspector for both the bridge over the railroad and the bridge over Quittapahilla Creek.

2. **Analysis:** ELA/CSD will perform the following services:

- A. Use the traffic count data and the projected development traffic volumes contained in the Traffic Impact Study (TIS) for Clear Springs Industrial Park to estimate the anticipated future traffic volumes on Clear Spring Road in both the near term (5-year projection) and long term (20-year projection) future. The TIS contains the projected traffic volumes for the Clear Springs Industrial Park, as well as projected traffic volumes for the Eagle Point Logistics Center and the Hershey's warehouse.
- B. Use the projected future volumes to determine the recommended travel lane and shoulder widths based upon PennDOT criteria.
- C. Use the base map and AutoTurn software to evaluate the impact of trailer off-tracking for WB-67 tractor trailers traveling through each of the horizontal curves to determine if additional lane and/or shoulder widening is necessary.
- D. Analyze the crash data to determine if there are any existing crash trends related to crash type, crash location, types of vehicles involved, etc.
- E. Use the projected future traffic volumes and the results of the pavement core analysis to determine if the existing pavement section is adequate to accommodate the anticipated traffic demand.
- F. Use projected future traffic volumes and the results of the structure inspections to determine if the existing structures along Clear Spring Road are adequate to accommodate the anticipated future loading.
- G. Evaluate whether any truck restrictions are justified based upon vehicle size or weight in relation to the roadway characteristics. Neither the completion of a truck restriction study form nor the evaluation of the off-site impacts of restricting truck traffic on Clear Spring Road are included in the Scope of Basic Services. Should North Annville Township decide to consider pursuing a truck restriction on Clear Spring Road, ELA will provide a proposal for the completion of these Additional Services.
- H. Evaluate whether any weight restrictions are justified based upon the current conditions of the 4 structures (two bridges and two culverts) along Clear Spring Road.

3. **Phased Masterplan:** ELA/CSD will perform the following services:

- A. Evaluate each of the results of all analyses performed to develop a comprehensive list of recommended improvements. It is likely that options for improving the structures can be provided (lower cost vs. higher cost).

- B. Prioritize improvements and categorize them as either Immediate, Short-Term, or Long-Term priorities.
  - C. Use the GIS mapping and/or aerial imagery to conceptually illustrate each of the improvements.
  - D. Identify potential impacts to utilities and existing structures. ELA will also identify private driveway impacts, as well as other potential private property impacts.
4. **Construction Cost Estimates:** ELA/CSD will perform the following services:
- A. Prepare construction cost estimates for each of the recommended improvements using available PennDOT item costs and our experience with recently constructed projects.
  - B. Prepare estimates for design and permitting of each of the recommended improvements.
5. **Final Report:** ELA/CSD will perform the following services:
- A. Prepare a detailed report that documents all of the data collected, analysis performed, and improvements recommended, including recommended priorities and timeframes for completion. The data and results will be provided in a text format, as well as tables and graphics, to clearly and concisely convey the necessary information.
  - B. Meet with North Annville Township to review the results of the study.
  - C. Revise report based upon feedback from North Annville Township and prepare a final report for submission. The report will be provided in a .pdf format and a hardcopy format, with the number of hardcopies to be determined by the Township.

**Additional Services:**

The following services or other unanticipated services may become required. These will be performed when authorized in writing and an agreed upon fee adjustment has been approved by the Owner.

- 1. Any specific service noted in the above Scope of Basic Services as being considered an Additional Service.
- 2. Any service that is not specifically listed under Scope of Basic Services above.
- 3. Any traffic counts or analysis beyond that specified above.
- 4. Preparation of Right-of-Way drawings, exhibits, or release agreements for obtaining additional right-of-way on public roadways.
- 5. Coordination of additional Survey work beyond that described in the Scope of Basic Services.

6. Completion of a truck restriction study form or evaluation of off-site impacts related to a truck restriction.
7. Performing safe load calculations on existing culverts (would likely only be required if design plans are available).

**Specific Services Excluded:**

The Scope of Basic Services and related costs described in this Professional Services Agreement do not include the following:

1. Improvement guarantee, operation and maintenance agreements, and legal agreements. These are to be provided by the Owner's legal counsel.
2. Review, application, inspection, and recording fees as may be incurred by review agencies. These are to be provided by the Owner.
3. Reimbursable expenses. We encourage you to budget approximately 5% of our fee estimate to these costs.

**Compensation:**

Professional Services will be provided as outlined in this Agreement in accordance with the ELA Group, Inc. Terms and Conditions for Consulting and Design, a copy of which is attached and included as part of this Professional Services Agreement. All work will be performed on a time and expense basis. Based on our understanding of the work involved and our understanding of the project, we estimate our fees for the Scope of Basic Services to be a total of \$37,500, with a Not-to-Exceed Cost of \$42,000.

All invoices will be rendered every four (4) weeks using our standard hourly rates for the professional staff that performed the work, including expenses, reimbursable expenses, and subconsulting fees incurred during the period. A copy of our current applicable rate schedule is enclosed. The rate schedule may be altered at the end of each calendar year to reflect our cost of doing business in the coming year.

If it appears during the completion of the services that the total cost may exceed this estimate, we will notify the Owner in writing prior to the cost exceeding the above estimate and indicate the reasons for the increase. No work will be performed beyond the estimate without Owner approval. Any services performed in addition to those mentioned in the Scope of Basic Services will be billed as an Additional Service and will be delineated as such on the applicable invoice.

**Authorization**

In order to authorize the work outlined in this Professional Services Agreement and in accordance with the attached Terms and Conditions, please sign the authorization statement below and return one signed copy to our office. The other copy is for your files.

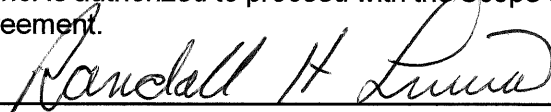
Again, ELA Group, Inc. is pleased to have the opportunity of submitting this Professional Services Agreement. Should you have any questions, please call me.

Sincerely,  
**ELA GROUP, INC.**



Mark L. Henise, P.E., PTOE  
Director of Transportation Engineering

ELA Group, Inc. is authorized to proceed with the Scope of Basic Services as outlined in this Professional Services Agreement.

By: 

Title: Board Chairman Date: 6-12-2023

MLH/mlh

C:\Users\mlhenise\ACCDocs\ELA Group\PL01-1527 Clear Spring Rd Traffic Study\Project Files\Project Documents\Proposal\Cost Proposal.docx



**HOURLY BILLING RATE SCHEDULE  
FOR 2023 CONSULTING SERVICES**

<b>STAFF TYPE</b>	<b>HOURLY BILLING RATE</b>
<b>ELA GROUP, INC. – ENGINEERS AND LANDSCAPE ARCHITECTS</b>	
President	\$ 180.00
Division Director/Principal/Vice President	\$ 135.00 - \$ 190.00
Senior Project Manager/Engineer	\$ 130.00 - \$ 170.00
Project Manager	\$ 120.00 - \$ 140.00
Project Engineer/Landscape Architect Designer	\$ 75.00 - \$ 135.00
CAD Manager	\$ 120.00
Senior CAD Designer	\$ 100.00 - \$ 120.00
CAD Designer	\$ 80.00 - \$ 100.00
GIS	\$ 140.00
Administration	\$ 60.00 - \$ 85.00
<b>ELA SPORT – ATHLETIC FACILITY PLANNING</b>	
Principal-In-Charge: ELA Sport	\$ 175.00
Senior Project Manager	\$ 170.00 - \$ 180.00
Project Manager	\$ 90.00 - \$ 145.00
Senior Designer	\$ 110.00 - \$ 130.00
Design Technician	\$ 75.00 - \$ 90.00
<b>ELA TECHNOLOGIES – ELECTRONIC DATA MANAGEMENT</b>	
Tech Support	\$ 80.00 - \$ 110.00
Scanning (Document Imaging)	\$ 65.00

**REIMBURSABLE EXPENSES**

Reimbursable expenses are at cost including, but not limited to the following:

- Mileage
- Travel Expenses, including Meals
- Prints
- Copies
- Postage
- Outside Consultants
- Testing Services
- Equipment Rental
- Traffic Counter Rental
- Application/Recording Fees
- Permit and/or Other Fees
- Other Project Related Expenses

ELA Group Inc/ELA Sport adjusts the fee schedule annually to reflect the cost of doing business for the coming year. This fee schedule is effective December 17, 2022 through December 15, 2023. For projects in progress that extend past the dates of the fee schedule attached to executed contracts, rates will be adjusted on the invoices and may adjust the amount of the project contracted fee.

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**ELA GROUP, INC.**  
**TERMS AND CONDITIONS**  
**FOR CONSULTING AND DESIGN**

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**1. GENERAL PROVISIONS**

- 1.1 CONTRACT DOCUMENTS:** The Terms and Conditions set forth herein are incorporated by reference in the Proposal for the performance of services described as the "Project" in the Proposal.
- 1.2 AGREEMENT:** The Agreement between ELA Group, Inc. ("ELA") and the CLIENT ("the Agreement") consists solely of these Terms and Conditions and the Proposal to which they are attached. In the event that ELA and the CLIENT have not executed the Agreement, the CLIENT's authorization to ELA to proceed with the performance of the services set forth in the Proposal shall constitute acceptance of these Terms and Conditions.
- Specific terms set forth in the Proposal shall take precedence over these Terms and Conditions to the extent they are inconsistent or contradictory.
- 1.3 STANDARD OF CARE:** ELA shall endeavor to perform the services under this Agreement with the care and skill ordinarily used by members of ELA's profession practicing under similar conditions at the same time and in the same locality.
- Estimates of cost, approvals, recommendations, opinions and decisions by ELA are made on the basis of ELA's experience, qualifications and professional judgment. ELA makes no other warranty or guarantee, express or implied.
- 1.4 TIMING OF PROPOSAL:** ELA agrees that the Agreement shall remain open and may be accepted by the CLIENT for thirty (30) days from the date of the Agreement. Acceptance of the Agreement after the end of the 30-day period shall be valid only if ELA elects, in writing, to reaffirm the Agreement and waives its right to reevaluate and resubmit the Agreement.
- 1.5 SUBCONSULTANTS:** ELA has the right to employ or retain such independent consultants, associates and subcontractors as it may deem appropriate to assist it in the performance of the services required.
- 1.6 OTHER WORK:** If the CLIENT requests ELA to provide services on other projects before a written agreement is consummated for the other project, the terms and conditions of this Agreement shall apply thereto.

**2. CLIENT COOPERATION**

- 2.1 INFORMATION:** The CLIENT shall cooperate with ELA at all times to enable ELA to complete the Project. The CLIENT shall provide ELA with all information pertinent to the project reasonably requested by ELA to enable it to complete the Project.
- 2.2 ACCESS:** CLIENT shall provide access to the site of the Project at all reasonable times to enable ELA to complete the Project at no cost to ELA.
- 2.3 HAZARDOUS SUBSTANCES:** The CLIENT represents and warrants to ELA that it has and will comply with all obligations imposed by applicable law upon the generation, storage or disposal of hazardous substances and/or waste and that it will promptly notify ELA of any notices concerning such matters. The CLIENT agrees to hold harmless, indemnify and defend ELA from and against any and all damages and liabilities and expenses arising out of or in any way connected with the presence, discharge, exposure, release, or escape of hazardous substances, or wastes of any kind, to the extent permitted by law.
- 2.4 SAFETY RESPONSIBILITY:** ELA is not responsible for any safety precautions or programs of the CLIENT or any contractors working on the Project except for ELA's own employees.

**3. USE OF ELA'S DOCUMENTS**

- 3.1 USE OF DOCUMENTS:** All documents, including drawings and specifications, prepared by ELA pursuant to this Agreement, are instruments of ELA's service for use solely with respect to this Project. They are not intended or represented to be suitable

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for reuse on extensions of the Project or on any other project. Any reuse without written verification or adoption by ELA for the specific purpose intended is at the CLIENT's sole risk and will not impose liability upon ELA.

- 3.2 COPYRIGHT:** ELA shall be deemed the author of the documents prepared for this Project and shall retain all common law, statutory and other reserved rights, including the copyright. Notwithstanding the foregoing, upon CLIENT'S payment in full of all invoices rendered by ELA, plans and surveys prepared for this Project shall be the property of CLIENT, but shall be used by CLIENT solely in connection with this Project. If plans are used for completion of or for additions to this Project by others without ELA's involvement: (1) any seal of ELA's architects or engineers shall be removed from the plans or a statement placed on such documents that ELA is not involved; and (2) CLIENT shall engage another engineer or architect as applicable to review the plans and take full responsibility for suitability for use. The ownership rights of CLIENT shall not under any circumstances preclude ELA's use of designs or components of the documents for other purposes or projects.

#### 4. LIMITATION OF LIABILITY/INDEMNIFICATION

- 4.1 INDEMNIFICATION:** The CLIENT shall indemnify and hold harmless ELA, its officers, directors, shareholders, or agents, employees, consultants and subcontractors from and against any and all liabilities, damages, or expenses in connection with (1) any personal injury or property damage arising out of any negligent acts or omissions by the CLIENT, its officers, directors, agents, employees and contractors, or (2) the CLIENT's breach of this agreement. The CLIENT further agrees to indemnify and hold harmless ELA for any and all fees and expenses incurred, to the extent caused by the CLIENT's negligence, in enforcing or defending ELA's right under this Agreement or the performance of its duties under this Agreement.

ELA may settle any claim for which it has a right of indemnification against CLIENT without CLIENT's consent. ELA shall not be required to prove its liability or the reasonableness of the settlement to obtain indemnification from the CLIENT.

- 4.2 LIMITATION OF LIABILITY:** ELA shall not be liable to CLIENT unless CLIENT establishes ELA breached the Agreement by failing to render services in accordance with the applicable professional standard of care. CLIENT hereby waives its right to pursue any other cause of action of any nature whatsoever against ELA including, but not limited to, negligence, strict liability, and breach of warranty. Notwithstanding anything to the contrary, under no circumstances shall ELA be liable to CLIENT for consequential, incidental, special, or punitive damages. To the fullest extent permitted by law, ELA's total liability to CLIENT shall not exceed the greater of the total compensation received by ELA under this Agreement, or the amount of any deductible plus the amount ELA's insurers pay in settlement or satisfaction of CLIENT'S claims under ELA's professional insurance policy, subject to all limits and conditions of such insurance. ELA shall not be obligated to challenge an insurer's determination as to whether or not to provide coverage to ELA in any given situation or as to the amount of coverage it will provide to ELA in any given situation.
- 4.3 INSURANCE:** ELA presently carries professional liability insurance coverage with an annual aggregate limit of liability of \$4,000,000. Certificates of insurance or copies of policies will be provided upon request. Additional coverage may be obtained at the CLIENT's expense. Failure to exercise this option waives any claims of liability beyond such limits.
- 4.4 CLIENT/MANUFACTURER SUPPLIED DESIGNS:** In the event that the Project requires the furnishing and supplying of design services for such products as pre-manufactured buildings, tanks, special structures and systems, etc, the CLIENT shall not hold ELA responsible for any design which is furnished by others.

#### 5. PAYMENT/INVOICES

- 5.1 PAYMENTS:** ELA will submit invoices to the CLIENT every four weeks as the work proceeds. Payment is due and payable in full on receipt of an invoice by the CLIENT without retainage and is not contingent upon receipt of funds from third parties.

The CLIENT recognizes that prompt payment of invoices is an essential aspect of overall consideration for this Agreement. The CLIENT agrees to pay all charges not in dispute within 30 days of the invoice date. If payment in full is not made within 30 days of the invoice date, ELA reserves the right to pursue all remedies, including withdrawing certifications, withholding the submission (to CLIENT or third party municipality or agency) and/or recording of plans or other documents, stopping work on seven (7) days' prior written notice, and retaining all documents without recourse. The CLIENT agrees to pay a service charge of 1-1/2% per billing period on any amount outstanding over 30 days.

In the event CLIENT breaches its obligation to pay amounts invoiced by or otherwise due ELA under the Agreement and ELA obtains a judgment for any such amount, interest shall accrue on the total amount of the judgment at the rate of 1 1/2 % per month notwithstanding the fact that such interest rate may exceed the legal rate of post-judgment interest.

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The CLIENT further agrees to reimburse ELA for all expenses ELA incurs in the collection process or to enforce payment under this Agreement, including, but not limited to, court costs, arbitrators' and attorneys' fees and other claim related expenses.

Timely payments of invoices is a condition of this Agreement. Failure to make payments in full within the time limits stated above will be considered substantial noncompliance with the terms of this Agreement and cause for termination of the Agreement if ELA so chooses.

**5.2 DISPUTED CHARGES:** Any charges the CLIENT disputes must be brought to ELA's attention within 10 days of receipt of the invoice. The CLIENT and ELA shall work together in good faith to resolve any disputed charges. If the CLIENT and ELA are unable to resolve their differences within 30 days, ELA shall have the right to suspend or terminate service. ELA has the right to suspend service if undisputed charges are not paid within 45 days of the invoice date.

**5.3 INVOICES:** All invoicing will be substantiated by ELA cost record sheets and work order system, all of which shall be made available to CLIENT upon request and during regular working hours for inspection and audit. Time spent in additional detailing of invoices is considered extra effort on the Project and will be invoiced as additional work. Any increase in ELA's cost resulting from state or federal legislation shall be reimbursed by the CLIENT.

If CLIENT asks ELA to issue invoices or bills to any entity or individual other than CLIENT, such invoicing or billing shall not in any way relieve CLIENT of its liability under the Agreement to pay such invoices or bills or any other obligation and such invoicing or billing shall not in any way interfere with or prejudice ELA's right to pursue CLIENT for the breach of any such obligation.

**5.4 CREDIT:** The CLIENT shall provide credit references and shall authorize ELA to conduct credit checks at ELA's request. ELA shall not be bound by this Agreement unless and until ELA approves in writing the CLIENT's credit history. The CLIENT's inability to provide credit references and/or a credit history acceptable to ELA constitutes a substantial failure to perform under this Agreement.

## 6. TERMINATION

**6.1 TERMINATION:** This Agreement may be terminated by either party upon seven (7) days' written notice should the other party substantially fail to perform in accordance with the terms of this Agreement through no part of the party initiating the termination. The CLIENT agrees to be liable and pay ELA for all labor done, work performed, materials furnished, and all expenses incurred for all work and additional work up to and including the day work is terminated.

**6.2 DEFAULT:** In addition to its other remedies, ELA reserves the right to withhold submission (to the CLIENT or any third party municipality or agency) of any plans or other documents and withhold performance of any other term of this Agreement upon default by the CLIENT of any of the CLIENT's obligations under this Agreement.

## 7. MISCELLANEOUS PROVISIONS

**7.1 ARBITRATION:** Any and all disputes of any nature whatsoever between ELA and CLIENT shall be submitted to binding arbitration at ELA's sole election in accordance with this paragraph. To initiate arbitration under this paragraph, ELA shall send written notice to CLIENT specifying the dispute that will be submitted to arbitration. Any arbitration under this paragraph shall be conducted by a single arbitrator selected using the arbitrator selection process offered by the American Arbitration Association. The arbitrator so selected shall be licensed to practice law in Pennsylvania and shall have substantial experience arbitrating commercial disputes. Any arbitrator selected to resolve a dispute between ELA and CLIENT shall have authority to: (a) decide the dispute in accordance with rules promulgated by the American Arbitration Association that the arbitrator determines are most appropriate based on the facts and circumstances; and (b) allocate the costs of arbitration among the parties as he or she deems appropriate. Each dispute submitted to arbitration under the Agreement shall be subject to the respective statute or statutes of limitations that would otherwise have applied had the dispute been brought in a court of law, all limitations of liability set forth in the Agreement, and Pennsylvania law. A judgment of any court having jurisdiction may be entered upon any arbitration award.

**7.2 VENUE:** If a dispute between ELA and CLIENT is submitted to arbitration, the arbitration shall be conducted at a location in Lancaster, Pennsylvania selected by the arbitrator. If, however, a dispute between ELA and CLIENT is submitted to the judicial process including, but in no way limited to, a dispute over an arbitrator's jurisdiction, such dispute shall be submitted to the Lancaster County Court of Common Pleas in Lancaster, Pennsylvania.

**7.3 CONTROLLING LAW:** The Agreement is governed by the laws of the Commonwealth of Pennsylvania.

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- 7.4 **ASSIGNS:** To the extent permitted by law, this Agreement cannot be assigned or transferred by either party without the prior written consent of both parties.
- 7.5 **THIRD PARTY BENEFICIARIES:** Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to any third party.
- 7.6 **MODIFICATION:** This Agreement may be amended only by written instrument signed by both parties.
- 7.7 **ENTIRE AGREEMENT:** These Terms and Conditions, any drawings, plans, plats, and/or exhibits attached hereto, and the Proposal to which these items are attached, set forth the entire understanding and agreement between the parties with respect to the Project and shall be binding upon and inure (except as otherwise provided herein) to the benefit of the parties and their respective successors and assigns. This Agreement supersedes all prior documents, agreements, and understandings between the parties with respect to the Project.