

December 9, 2024

Hon. David Bucciferro, Mayor
Village of Scotia
4 N. Ten Broeck Street
Scotia, NY 12302

**Re: Village of Scotia
Corrosion Control Treatment Project
Proposal for Engineering Services**

Dear Mayor Bucciferro:

KB Engineering & Architecture, P.C. (KB Engineering) is pleased to submit this Proposal to provide Professional Engineering Services related to the design of the Village's Corrosion Control Treatment Project. As you know, we performed the study and prepared the Engineering Report for optimal corrosion control treatment which was approved by the NYS DOH on December 19, 2023. NYSDOH stated a deadline of 24 months after receiving this letter to complete the installation of the corrosion control treatment, which is **December 19, 2025**. In order to meet that deadline, the project design will need to commence design in early 2025. We propose the following scope of work:

A. Base Services

Task 1: Project Administration

KB Engineering will perform project administrative activities throughout the duration of the project, including:

- 1.1 Conduct a kick-off meeting with Village officials and staff to gain a thorough understanding and endorsement of the overall scope and schedule of the project.
- 1.2 Coordinate the project to stay on schedule and within budget.

Deliverables

1. Meeting summary.
2. Monthly invoices.

Task 2: Design Phase

KB Engineering will perform the following project planning and design activities:

- 2.1 Coordinate the development of the base survey mapping for the wellfield site.
- 2.2 Review readily available existing record drawings for site utilities (storm sewer, electric, gas, cable, phone) within and adjacent to the existing buildings on site. These will be incorporated into the base mapping.
- 2.3 Develop a set of schematic plans showing the extent of proposed work.
- 2.4 Present the schematic plans to the Village.
- 2.5 Prepare construction drawings, along with typical detail sheets after Village approval of schematic plans.
- 2.6 Prepare Division 1 and technical specifications.
- 2.7 Prepare the Bid Form utilizing a Lump Sum Price format, if acceptable to the Village.
- 2.8 Present the drawings to the Village, Schenectady County DOH and NYS DOH for review.
- 2.9 Incorporate any comments into a revised set of plans and specifications.
- 2.10 Develop a Bid Package for contractor selection.

Deliverables

1. Conceptual / Schematic plans
2. Construction drawings.
3. Bid Package containing final Plans and Specifications

Task 3: Bid Phase Services

Upon acceptance of the final design plans by Village officials and DOH, KB Engineering will advance the project to the bid phase. KB Engineering will perform the following activities:

- 3.1 Contact potential bidders to advise of the project advertisement.
- 3.2 Respond to RFI's.
- 3.3 Prepare any required addenda.
- 3.4 Attend pre-bid meeting.
- 3.5 Attend bid opening, if requested.
- 3.6 Review the low bidder's qualifications, prepare a recommendation of award, notice of award, and coordinate the execution of all required contract documents.

Deliverables

1. Bid analysis and recommendation of award letter.

Task 4: Construction Administration Services

Upon acceptance of a low bidder by the Village Board, KB Engineering will advance the project to the construction phase level. KB Engineering will perform the following Construction Administration Services:

- 4.1 Review Contractor Schedule.
- 4.2 Review Schedule of Values.
- 4.3 Conduct the preconstruction meeting.
- 4.4 Review submittals and shop drawings and maintain submittal review log.
- 4.5 Respond to RFIs.
- 4.6 Review and certify contractor payment requests and associated paperwork.
- 4.7 Coordinate substantial completion walkthrough and issue punch list.
- 4.8 Coordinate project closeout, obtain warranty information from contractor & prepare Record Drawings.

Task 5: Construction Observation Services

KB Engineering will perform the following Construction Observation Services:

- 5.1 Take preconstruction pictures within the project area.
- 5.2 Provide the services of a part-time field representative to observe construction work and verify general conformance with the approved plans and specifications. This proposal includes **96** hours.
- 5.3 Review test procedures, witness tests, review and certify results.
- 5.4 Maintain and submit written records of construction activities.
- 5.5 Submit written reports of inspection observations and related photographs.
- 5.6 Attend a final walkthrough with the Village and contractor and develop a punchlist of items for the contractor to complete.
- 5.7 Prepare a complete set of Record Drawings.

Deliverables:

1. Inspection Reports and relevant photographs
2. Testing certifications
3. Punch list
4. Record Drawings

B. Fee

For the services described in this proposal, KB Engineering proposes to complete the work for a lump sum fee amount not to exceed **\$39,600.00**, billed monthly on a percent complete basis.

C. Exceptions and Limitations

- a. As the actual construction schedule will not be known until a contractor has been selected, an amendment to this contract may be required for additional construction administration and inspection services beyond the estimated time commitment.
- b. Removal of the fluoride treatment system is not included in this proposal.
- c. Development of a unidirectional flushing program is not included in this proposal.

D. Additional Services

Additional projects and services will be the subject of a mutually agreed and separately executed Change Order. In the event that you request additional routine services that substantively relate to the subject of this Proposal and which in our judgement do not rise to the level of a Change Order or require a new proposal, ("Out-of-Scope Services"), our fees for such services will be based on the time required for the work performed at our standard rates, plus expenses. All such services will be subject to the terms of this Proposal, including KB Engineering's Standard Terms and Conditions, attached hereto.

E. Access to Client Facilities.

In providing the Services, KB Engineering may from time to time need to test, access, or use the Client's systems, applications, or hardware (collectively, "Client Network"). Client shall provide KB Engineering in advance of the commencement of the affected Services with a copy of Client's safety, security, and facilities policies which are applicable to the use of, and access to, the Client Network and KB Engineering shall use commercially reasonable efforts to abide by such communicated policies as appropriate under the circumstances. If compliance with such policies will prevent or impair KB Engineering from performing the Services or its obligations under this Agreement, the Parties shall work in good faith to develop reasonable exceptions to such policies. If such exceptions cannot be agreed upon, the applicable Statement(s) of Work will be modified to excuse KB Engineering's performance of the affected Services. If PRIME A KB Engineering's adherence to Client's policies increases KB Engineering's costs of providing the Services, KB Engineering shall notify Client of the foregoing and Client shall pay KB Engineering for the increased costs associated with adherence to such policies.

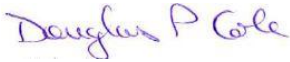
F. Terms & Conditions

Our work under this Proposal shall be performed in accordance with KB Engineering's Standard Terms and Conditions, attached hereto and hereby incorporated herein and made a part of this Proposal for all purposes as if fully set forth herein.

If you agree with this Proposal, please return an executed copy of this Proposal. If you have any questions, please feel free to contact me.

Sincerely,

KB Engineering & Architecture, P.C.



Douglas P. Cole, P.E.
Senior Director of Engineering

cc: Maria Schmitz, Village Clerk
Ryan Kedzior, Superintendent of Public Works

Enclosure: Standard Terms & Conditions

AGREED TO BY VILLAGE OF SCOTIA:

David Bucciferro, Mayor

DATE:

AGREED TO BY KB ENGINEERING &
ARCHITECTURE, P.C.:



Kumar Buwanendaran, P.E., President & CEO

DATE: 12/9/2024

1. **General.** These Standard SUBCONSULTANT Terms & Conditions, together with the Subconsultant Agreement, and its exhibits, constitute the full and complete Agreement between KB Engineering & Architecture, PC ("KB") and the entity or person identified as the SUBCONSULTANT in the Subconsultant Agreement. KB hereby gives notice that it objects to and expressly rejects the inclusion of any additional or different terms proposed by SUBCONSULTANT, and any reference to SUBCONSULTANT'S proposal is solely for the purpose of incorporating the description and specifications of any goods, materials or services contained therein. SUBCONSULTANT shall diligently perform all services, furnish all labor and materials and perform all tasks necessary to produce all of the deliverables required and perform all of the Services reasonably implied, incidental or inferred under the terms of this Agreement, its Exhibits, as well as all other documents attached to or incorporated by reference as forming a part of this Agreement ("Services"). The SUBCONSULTANT is not entitled to request a change order if the changes do not "materially" increase the Scope of Work. SUBCONSULTANT, its employees, and its agents are not the agents, representatives, or employees of KB, and SUBCONSULTANT is and shall be an independent contractor with regard to the Services. KB and the SUBCONSULTANT may be referred to collectively herein as "the parties", and any one of them may be referred to as "a party".

2. **Standard of Care.** SUBCONSULTANT'S Services will be performed in accordance with generally accepted practices and ordinary skill and care of architects, engineers, scientists, and/or technical professionals providing similar services at the same time, in the same locale, and under like circumstances. SUBCONSULTANT agrees to promptly reperform, repair or replace, at KB's option and at SUBCONSULTANT'S cost and expense, any Services which fail to conform to such requirements or in the event such a degree of skill and care is not exercised.

3. **Compliance.** SUBCONSULTANT shall comply with all applicable laws and regulations of any governmental agency having jurisdiction (including any requirement to obtain and maintain any permits, licenses, or approvals) to complete the Services. SUBCONSULTANT certifies compliance with all applicable federal, provincial, state, local, occupational, health and safety, labor, and other anti-discrimination

laws, the standards and regulations issued thereunder, and the amendments thereto. The SUBCONSULTANT represents it shall comply, to the extent applicable, with all applicable provisions of the standards and regulations issued thereunder. Such rules and regulations are incorporated herein by reference with the same force and effect as if set forth herein verbatim. Furthermore, SUBCONSULTANT shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741 (a), regulations that prohibit discrimination against qualified individuals and protected veterans on the basis of disability or veteran status, and requires affirmative action by covered prime contractors and subconsultants to employ and advance in employment qualified individuals with disabilities and protected veterans.

4. **Schedule.** Time is of the essence in the performance of the obligations created by this Agreement if required by the Prime Contract between KB and KB's Client. Otherwise, SUBCONSULTANT agrees to commence and complete the Services in accordance with any schedule incorporated into this Agreement, or any schedule submitted by SUBCONSULTANT and otherwise accepted in writing by KB; and with respect to any changes, out of scope or additional Services, SUBCONSULTANT shall expeditiously perform such Services according to any schedule therefore agreed to by the parties. In addition, no Services shall be delayed and SUBCONSULTANT shall be required to proceed diligently with the performance of the Services under this Agreement during all disputes pending final resolution for any request for relief, claim, appeal or action arising under this Agreement.

5. **Compensation.** (a) SUBCONSULTANT may invoice KB after it has completed the Services, or portions thereof, and any required corrections to the satisfaction of KB, and delivered in accordance with the terms of this Agreement all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required hereunder, certificates of inspection, marked-up record documents, required itemizations and other documents required for progress payments. INVOICES MUST BE SUBMITTED TO SUBINVOICES@PRIMEENG.COM. INVOICES SUBMITTED TO KB SHALL INCLUDE A VALID, CURRENT COPY OF THE CERTIFICATE OF INSURANCE REQUIRED UNDER THIS AGREEMENT (IF NOT PREVIOUSLY PROVIDED DURING THE CURRENT YEAR). (b) KB agrees to

pay SUBCONSULTANT within thirty (30) days of KB's receipt of payment from Client for SUBCONSULTANT's satisfactory Services which has been accepted by the Client. SUBCONSULTANT expressly agrees that it shall be a condition to any payment that KB shall have received payment from the Client for such Services of the SUBCONSULTANT, and that such payment by the Client shall be a condition precedent to KB's obligations hereunder, and that KB shall have no obligation to SUBCONSULTANT unless payment for such Services is made to KB by the Client. However, in the event KB's Client disputes or otherwise withholds a payment to KB, which payment includes some non-disputed portion due SUBCONSULTANT, KB will make all reasonable efforts to secure release of non-disputed portion of payment from its Client. (c) SUBCONSULTANT warrants that title to and ownership of the Services shall transfer to KB free and clear of all liens or rights of liens. No payment shall be made to SUBCONSULTANT without a duly executed Agreement and a valid, current Certificate of Insurance in compliance with this Agreement. Payments made to the SUBCONSULTANT will include compensation for all applicable sales, use, gross receipts, or excises taxes. (d) In recognition that KB's Client requires the prompt submission of invoices for payment, the parties agree that all invoices must be submitted by SUBCONSULTANT to KB within ninety (90) days of the date costs are incurred or the scheduled completion date whichever occurs first. SUBCONSULTANT waives its right to receive payment on all invoices which are not submitted within that time. KB may set-off or counterclaim against amounts payable to SUBCONSULTANT, or asserted to be payable to SUBCONSULTANT, under this or any other contract, any claim KB may have against SUBCONSULTANT, including any failure to comply with any terms herein.

6. Changes. No changes to this Agreement and no extra charges will be allowed unless a duly authorized representative of KB specifically agrees to them in writing. As a condition precedent to SUBCONSULTANT's recovery on any claim for an increase in the cost of the Services or for an extension of time to complete the Services (a "Claim"), SUBCONSULTANT shall, immediately after the occurrence of the event which SUBCONSULTANT believes may give rise to a Claim, give KB written notice of the claim, which notice shall contain a verified statement that supports the claim and details the estimated change in the Subcontract cost and the time to

complete the Services. SUBCONSULTANT's failure to provide notice as required by this paragraph shall be a waiver of SUBCONSULTANT's right to recovery under the Agreement and on a Claim. In no event shall SUBCONSULTANT be entitled to compensation for changes which are not reimbursable to KB by its Client. Any determination by KB or Client regarding same shall be binding upon SUBCONSULTANT.

7. Insurance. SUBCONSULTANT shall provide and maintain during the term of this Agreement and for three (3) years after completion of Services, at SUBCONSULTANT's expense, the minimum limits of insurance described below. SUBCONSULTANT's failure to procure the required types and limits of insurance as set forth herein, shall not relieve SUBCONSULTANT of its indemnification obligations hereunder. (a) *Workers' Compensation, Disability Benefit, and Employer's Liability Insurance* in at least the minimum amounts required by and in compliance with the laws of the State(s) where the Services is to be performed. (b) *Commercial General Liability Insurance*, including contractual liability, completed operations, hazards and explosion, collapse, and underground hazard coverage, with a limit of not less than \$1,000,000 per occurrence, \$2,000,000 aggregate. All such insurance policies shall provide (unless by specific statute applicable thereto it is otherwise provided) coverage for: (i) damage to above-ground or underground property; (ii) collapse of structures; (iii) damage resulting from explosion or blasting; (iv) damages or losses arising out of liabilities assumed, except infringement, under the indemnity provision of this Agreement; and (v) damage to completed operations. If the Services to be performed is within or near a railroad right-of-way and other railroad facilities, SUBCONSULTANT's insurance shall not include any exclusions of coverage for any claims or liabilities associated with Services, occurrences or incidents occurring within 50 feet of railroad right-of-way and other railroad facilities. (c) *Automobile Liability Insurance* covering owned, non-owned, and hired vehicles used by SUBCONSULTANT in connection with the Services with a limit of not less than \$1,000,000 per accident combined single limit, \$1,000,000 aggregate. If/when transporting waste motor carrier endorsement form MCS-90 will be required. (d) *Following form Excess Umbrella Liability Insurance* extending coverage under SUBCONSULTANT's comprehensive general, automobile and Employer's Liability insurance policies with a limit of \$2,000,000

per occurrence and in the aggregate. (e) If the Services involves the handling, transportation or use of chemicals or contaminants or Services areas containing pollutants or hazardous materials, Pollution Liability with a limit of not less than \$1,000,000 per incident, \$1,000,000 aggregate to coverage damage or losses relating to environmental impairment as may have been caused by the SUBCONSULTANT. (f) For professional services, including but not limited to engineering, architectural, laboratory analysis and/or surveying services, are part of the Work, *Professional Liability (Errors and Omissions) Insurance* with a limit of not less than \$1,000,000 per claim, \$2,000,000 aggregate.

8. Certificates of Insurance (COI). (a) *General Information.* SUBCONSULTANT's proof of coverage shall be in the form of a duly executed and properly endorsed insurance certificate from an insurance carrier licensed to transact insurance business in the state in which the Services is to be performed. Each certificate shall certify that all the required insurance, in Section 7, has been effected and that the SUBCONSULTANT is covered thereby. SUBCONSULTANT shall provide KB with the certificate of insurance (COI) indicating that the minimum types and limits of insurance have been procured by SUBCONSULTANT prior to final execution of this Agreement and include said COI as an exhibit to the Agreement. All certificates must contain the applicable KB project manager contact name (first and last name), project name and project number to ensure timely payment. Refer to the Subconsultant Agreement for project manager, project name and project number. (b) *Additional Insureds.* SUBCONSULTANT agrees to name "KB Engineering & Architecture, PC, its Client, and their respective affiliates, directors, officers, employees, and agents" as additional insured as their interests may apply on all policies as required by Section 7 (with the exception of the Workers' Compensation, Employer's Liability, and any Professional Liability Policy). SUBCONSULTANT shall provide this specific language endorsement on the Certificate of Insurance under the additional insured section of the COI.

9. Insurance Miscellaneous. (a) *Waiver of Subrogation.* SUBCONSULTANT shall cause the underwriters of each of the insurance coverage required above waive all rights of subrogation against "KB Engineering & Architecture, PC, its Client and their affiliates, directors, officers, employees, and agents" where allowed by law under each of the foregoing

policies. (b) *Thirty (30) Day Cancellation Notice.* SUBCONSULTANT shall provide KB and Client with a minimum of thirty (30) days written notice prior to the effective date of cancellation of, or diminution in the coverage provided by, all such policies. (c) *Insurance Policies.* Upon request SUBCONSULTANT shall provide KB with certified copies of its insurance policies. (d) *Claims or losses or potential losses.* SUBCONSULTANT agrees to promptly notify KB of any claims or losses or potential claims or losses resulting from or arising out of SUBCONSULTANT's performance of the Services and shall, within three (3) days of occurrence, provide KB with copies of SUBCONSULTANT's correspondence pertaining to the incident, including any and all SUBCONSULTANT accident reports. (e) *Primary and non-contributory.* Any coverage provided KB by SUBCONSULTANT'S insurance under this Agreement is primary insurance and shall not be considered contributory insurance with any insurance policies of KB, its members, subsidiaries, and affiliated companies. (f) *Incident Notices.* Whenever an employee of SUBCONSULTANT suffers an occupational injury or disease as a result of the Services and such injury or disease is required by the Workman's Compensation or Occupational Disease Laws to be reported to the proper authorities, SUBCONSULTANT shall promptly furnish a copy of such report to KB. SUBCONSULTANT also shall require all SUBCONSULTANTS to furnish copies of such reports to KB in connection with occupational injuries or diseases sustained by their employees.

10. Indemnity. (a) *With respect to non-professional services (General Liability Insurance),* SUBCONSULTANT agrees to indemnify, defend and hold KB and Client and their respective owners, partners, directors, officers and employees harmless from all suits, actions, claims, demands, judgments, and liabilities including property damage and bodily injury or death, including claims of SUBCONSULTANT's employees, to the extent caused by the act, error, omission, breach of contract, recklessness, wrongful acts, intentional misconduct, willful misconduct and gross negligence of or by SUBCONSULTANT, or its subconsultants, in providing the Services hereunder. (b) *With respect to professional services (Professional Liability Insurance),* SUBCONSULTANT agrees to indemnify and hold the KB and Client and their respective owners, partners, directors, officers and employees ("Indemnitees") harmless from judgments and liabilities, including property damage and bodily

injury or death ("Damages"), including claims of SUBCONSULTANT's employees, to the proportionate extent caused by the negligent act, error, omission, breach of contract, recklessness, wrongful acts, intentional misconduct, willful misconduct and gross negligence of or by SUBCONSULTANT, or its subconsultants, in providing the Services hereunder. SUBCONSULTANT's defense obligations hereunder, including any actual or implied up-front duty to defend, with respect to professional negligence-based claims shall mean the reimbursement of reasonable attorneys' fees incurred by Indemnitees to the proportionate extent such Damages are caused by SUBCONSULTANT's negligence as proven in a Court with competent jurisdiction and recoverable under applicable law on account of negligence.

11. Assignment / Subcontracts. SUBCONSULTANT shall not assign any proceeds or subcontract any of the Services to be performed hereunder without the express written consent of KB. SUBCONSULTANT will be fully responsible to KB for the acts and omissions of its lower-tier subconsultants and of persons either directly or indirectly employed by all SUBCONSULTANT's lower-tier subconsultants.

12. Termination / Survival. KB may terminate this Agreement with or without cause upon delivery of written notice to SUBCONSULTANT. In the event KB shall terminate without cause, KB shall be liable to SUBCONSULTANT in accordance with the terms of this Agreement, inclusive of the limitations set forth in the contract between KB and its Client, for any outstanding amount owing to SUBCONSULTANT for Services provided to KB's satisfaction through the effective date of termination. All express representations, confidentiality obligations, waivers, and the indemnifications included in this Agreement will survive its completion or termination for any reason. If this Agreement is terminated for cause, KB may procure, upon such terms as it shall deem appropriate, supplies or services like those so terminated. SUBCONSULTANT shall continue performance under this Agreement to the extent not terminated and shall be liable to KB for any excess cost for such similar supplies or services, and for any other costs, expenses, or liabilities incurred by KB and/or its Client(s) as a result of SUBCONSULTANT's default. KB reserves the right to offset any such costs, expenses, or liabilities against monies due to SUBCONSULTANT under this or any other AGREEMENT. In the event the

amount of damage exceeds the balance due to SUBCONSULTANT, SUBCONSULTANT shall pay to KB the amount of such excess. The rights and remedies of KB set forth in this Paragraph shall not be exclusive and are in addition to all other rights and remedies of KB.

13. Use of Documents / Confidentiality / Ownership. SUBCONSULTANT shall maintain complete and accurate working files and/or documentation of the Services, including new data, calculations, estimates, assumptions, logs, maps, drawings, plans, specifications, diaries, interpretations, notes and calibrations, for a period of ten (10) years following final payment under this Agreement or until final conclusion of any litigation or administrative proceeding arising under or materially concerning this Agreement or the Services, and shall provide KB unrestricted access to such items and dispose of them only as directed by KB. All documents provided by SUBCONSULTANT pursuant to this Agreement are instruments of service of SUBCONSULTANT, and SUBCONSULTANT shall retain an ownership and property interest therein (including the right of reuse) until KB has made payment to SUBCONSULTANT for such documents pursuant to this Agreement. Notwithstanding the foregoing, upon termination of this Agreement or at an earlier time if KB requests, SUBCONSULTANT will deliver to KB any data, materials or information received or generated in the performance of this Agreement. Except to the extent required by law or government order, or as expressly permitted by the prior written consent of KB, SUBCONSULTANT agrees not to disclose any third party data, information, or documentation obtained, created, compiled, or prepared (in whatever form) by SUBCONSULTANT in connection with the performance of Services under this Agreement or any Services Authorization issued hereunder. SUBCONSULTANT and its SUBCONSULTANTS will not use or designate for use in connection with the Services any patented or patent-pending article, method or device which involves or requires payment of any license, fee or royalty in addition to the purchase price without KB's prior written approval. SUBCONSULTANT agrees to indemnify KB against any cost or expense incurred in connection with the payment of such license, fee or royalty in the event that KB's prior approval is not obtained and SUBCONSULTANT shall defend any suit or proceeding brought against KB based on a claim that

any item or part of an item furnished under this Agreement constitutes an infringement of any patent, trademark, service mark, or copyright, and shall pay all damages and costs awarded against KB or required to be paid in settlement of the claim. If the use of an item or part of an item is enjoined, SUBCONSULTANT shall at its own expense either procure for KB the right to continue using the item or part or replace it with a non-infringing item or part or modify the item or part so that it becomes non-infringing.

14. Governing Law/ Severability and Waiver. Governing law shall be as set forth in the prime contract between KB and its Client. In the absence of such provision, the laws of the State in which the Site is located shall govern this Agreement and the legal relations of the parties. No waiver of the terms, conditions, or covenants of this Agreement shall be binding and effective unless the same shall be in writing, signed by both parties. If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible, the remainder of this Agreement shall be deemed valid and operative, and effect shall be given to the intent manifested by the portion held invalid or inoperative.

15. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the Services, and supersedes all prior negotiations, representations or agreements relating thereto, written, or oral, except to the extent they are expressly incorporated herein. Unless otherwise provided for herein, no amendments, changes, alterations or modifications of this Agreement shall be effective unless in writing, executed by KB and SUBCONSULTANT. No other waiver, alteration, or modification of any provision in this Agreement will be binding on either party. Any course of prior dealings or usage of the trade not expressly incorporated in this Agreement shall not be binding on either party. The parties represent and warrant that each has had the opportunity to review and negotiate the terms of this Agreement, with the benefit of counsel if desired, and agree that any ambiguity shall not be construed against the drafter.

16. Non-Solicitation. During the period commencing on the Effective Date of the Agreement and ending one year following the termination of Agreement, for whatever cause, neither party shall, without the other party's prior written consent, directly or indirectly,

solicit or encourage any person to leave the employment or other service of the other party or its affiliates. During the period commencing on the date hereof through and ending one year following the termination of this Agreement, for whatever cause, neither party will, whether for its own account or for the account of any other person, intentionally interfere with the relationship of the other party or its affiliates with a tenant, co-investor, co-developer, joint venturer or other customer of the other party or its affiliates.

17. Dispute Resolution. Except for SUBCONSULTANT's breach of Section 16 of this Agreement, if a dispute arises out of or relates to this Agreement or breach thereof, the parties will attempt in good faith to resolve the dispute through negotiation. If the dispute is not resolved by these negotiations, prior to the initiation of legal proceedings, the parties agree to submit all claims and disputes arising out of this Agreement to non-binding mediation with a mutually agreed upon mediator. The parties agree that they will share equally in its costs, and that neither party will commence a civil action until after the completion of the initial mediation session.