

# GREEN MOUNTAIN ENGINEERING, INC.

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(802) 862-5590 (Fax) 862-7598*

March 28, 2018

Mr. Geoffrey Urbanik, Town Manager  
Town of Richmond  
PO Box 285  
Richmond, VT 05477

Re: Agreement for Professional Engineering Services  
East Main Street - Storm Water Outfall Final Design & Construction  
GME Project No. 28-007

Dear Geoff;

This letter is written pursuant to your (CLIENT) request for Green Mountain Engineering, Inc., (CONSULTANT) to provide professional Engineering services as outlined below. It is to be considered an AGREEMENT when executed and witnessed by a duly authorized agent of the CLIENT.

## SCOPE OF SERVICES

Professional services are to be performed by the CONSULTANT as detailed in Attachment No. 1 of this AGREEMENT. The CLIENT may, from time to time, request changes in the scope of services of the CONSULTANT to be performed hereunder. Such changes, including any increase or decrease in the amount of the CONSULTANT's compensation, which are mutually agreed upon by and between the CLIENT and the CONSULTANT, shall be incorporated into this AGREEMENT by written amendments signed by both parties.

## BASIS OF COMPENSATION

For services as outlined in Attachment No. 1, the CLIENT agrees to compensate the CONSULTANT as follows:

### **Final Design Phase:**

- A. a Lump Sum Fee of Fifteen Thousand Dollars (\$15,000.00) including Reimbursable Expenses per Attachment No. 2 for Basic Services.

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 East Main Street - Storm Water Outfall  
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**Bid and Construction Phase:**

- B. For Bid Phase Services as outlined in Attachment No. 1, CLIENT shall pay the CONSULTANT a Lump Sum Fee, including Reimbursable Expenses, of Four Thousand Dollars (\$4,000.00).
- C. For Basic Services as outlined in Attachment No. 1, CLIENT shall pay the CONSULTANT a Lump Sum Fee of Six Thousand Dollars (\$6,000.00) based on the hours expended in the interest of the project, including Reimbursable Expenses.
- D. For Resident Services as outlined in Attachment No. 2, CLIENT shall pay the CONSULTANT an Hourly Fee based on the hours expended in the interest of the project based on the Billing Rates per Attachment No. 2, including Reimbursable Expenses, for a Not-To-Exceed cost of Twenty-Four Thousand Dollars (\$24,000.00).
- E. For Special Services as outlined in Attachment No. 1, CLIENT shall pay the CONSULTANT a Lump Sum Fee based on the hours expended in the interest of the project including Reimbursable Expenses, of One Thousand Dollars (\$1,000.00).

The total engineering fee for East Main Street - Storm Water Outfall project is Fifty Thousand Dollars (\$50,000.00) as summarized below:

<u>Final Design Items</u>	<u>Cost</u>
A. Basic Services	\$ 15,000.00 (Lump Sum)
<b>Subtotal</b>	<b><u>\$ 15,000.00</u></b>
<u>Bid and Construction Phase Items</u>	<u>Cost</u>
B. Bid Phase Services	\$ 4,000.00 (Lump Sum)
C. Basic Services	6,000.00 (Lump Sum)
D. Resident Services	24,000.00 (N-T-E)
E. Special Services:	
1. Record Drawings	<u>1,000.00</u> (N-T-E)
<b>Subtotal</b>	<b><u>\$ 35,000.00</u></b>
<b>TOTAL</b>	<b><u>\$ 50,000.00</u></b>

It is understood that the CONSULTANT's billing rates, per Attachment No. 2, shall be adjusted in January 2018, and that the services provided under this AGREEMENT shall use the current rates at the time that the work is performed.

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TERMS AND CONDITIONS:


Refer to Attachment No. 3 for the terms and conditions that govern this AGREEMENT.

If this AGREEMENT is not executed within sixty (60) days of the date on Page 1, it may be subject to re-negotiation.

If this AGREEMENT is acceptable, please sign both copies and return one (1) executed copy to our office, to confirm our agreement. We are pleased to have the opportunity to be of service.

Respectfully,

**GREEN MOUNTAIN ENGINEERING, INC.**

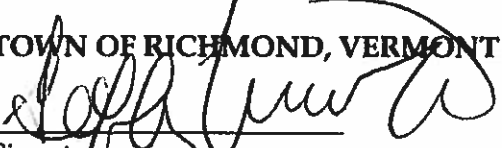
  
Alan Huizenga, P.E.  
President

ACKNOWLEDGMENT

The Town of Richmond, Vermont hereby acknowledges this to be an AGREEMENT and agrees to the conditions as stated. You are hereby directed to proceed with the Scope of Services.

The Town of Richmond, Vermont hereby acknowledges that it has the financial resources and intends to pay for services rendered in accordance with the conditions as stated herein and acknowledges that if invoices are not paid in full within sixty (60) days of receipt, that the CONSULTANT will stop work until the invoices are paid.

The Town of Richmond, Vermont warrants that the signature below represents the CLIENT'S AUTHORIZED REPRESENTATIVE and possesses the full legal authority to execute this AGREEMENT on behalf of CLIENT.

TOWN OF RICHMOND, VERMONT  
  
Signature

4/24/2018  
Date of Execution

  
Witness to Signature

Executed in Duplicate

TOWN OF RICHMOND, VERMONT  
EAST MAIN STREET - STORM WATER OUTFALL  
FINAL DESIGN & CONSTRUCTION  
PROFESSIONAL ENGINEERING SERVICES

ATTACHMENT NO. 1

SCOPE OF SERVICES

The CONSULTANT will perform the following services as they relate to the Final Design of the proposed East Main Street - Storm Water Outfall project for the Town of Richmond, Vermont:

**I. FINAL DESIGN PHASE**

- A. BASIC SERVICES - The scope of the final design is based on the Town's desire for engineering services for the following improvements:

Replacement of the existing 12-inch storm water pipe with a proposed 24-inch storm water pipe from the south side of Route 2 south, cross country, across Pleasant Street to a proposed 24-inch outfall located at the railroad right of way.

1. GME will make engineering investigations as are necessary and will compile such data as required for the design and drawings for the Project. GME shall prepare drawings and specifications setting forth in sufficient detail the requirements for constructing the Project. It is the intent of this AGREEMENT that GME shall prepare for the construction phase the following:
  - (a) Final design, detailed construction drawings, specifications and contract forms complete and ready for construction bids, and
  - (b) A detailed estimate of quantities of construction by bid item of the work designed and an opinion of probable construction cost, based upon completed final drawings and specifications, to be furnished to the Town.
2. An allowance for one (1) meetings with the Town and the railroad for pre-design and final design is included.
3. GME will coordinate and prepare final drawings and contract documents in the format required by the Town of Richmond, including necessary details.

Two (2) copies of the draft document will be supplied for review. Upon receipt of review comments, final construction plans will be provided in Adobe® .pdf format.

4. Within ninety (90) calendar days of the conclusion of the construction phase of this project, GME will furnish the Town with two (2) sets of contract record drawing blueprints.

5. Survey

The CONSULTANT will meet with appropriate Town officials and review existing drawings and surveys of utilities within the project area. Onsite investigations will also be conducted to confirm the data collected.

During the topographic survey of the project site, which will include existing street rights-of-way, utilities, driveways, corners of buildings, trees and shrubs, GME will establish both horizontal and vertical control, including temporary benchmarks, based on the Vermont State Plane Coordinate System.

No subsurface investigations are anticipated.

GME shall use all existing surveys and plans wherever possible and shall make such additional measurements and surveys and conduct office work related to said surveys as necessary for the preparation of the final design and contract drawings for the project. Survey information, including control points utilized for the design will be shown on the plans.

## II. CONSTRUCTION PHASE SERVICES

### B. BASIC SERVICES:

1. Bidding Phase

- (a) GME will furnish up to five (5) copies of the drawings, specifications, and contract documents for the bid phase.
- (b) Assist the Town in securing bids by preparation and processing addenda and by responding to bidders during the advertisement phase.

2. Construction Phase

- (a) Conduct pre-construction conference.
- (b) Consult with and advise the Town and act as the Town's representative during construction to the extent and limitations of the duties, responsibilities and authority of the ENGINEER as assigned in the General Conditions of the Construction Contracts.
- (c) Prepare elementary sketches and supplementary sketches to resolve actual field conditions encountered; process routine Change Orders as necessary.

- (d) Check and review Shop Drawings, Certifications, samples, test results, and other data required to be submitted by CONTRACTOR(S) for conformance with the design concept of the PROJECT and compliance with the information given in the Contract Documents.
- (e) Interpret the intent of the drawings and specifications. The ENGINEER will not, however, guarantee the performance of any contractor.
- (f) Provide general engineering observation of the work of the CONTRACTOR(S) as construction progresses. The ENGINEER does not guarantee the performance of the CONTRACTOR(S) by the ENGINEER'S performance of such general construction observation. The ENGINEER'S undertaking hereunder shall not relieve the CONTRACTOR of his obligation to perform the work in conformity with the drawings and specifications and in a workmanlike manner; shall not make the ENGINEER an insurer of the CONTRACTOR'S performance; and shall not impose upon the ENGINEER any obligation to see that the work is performed in a safe manner.
- (g) Cooperate and work closely with local, state, and federal representatives.
- (h) Make pre-final and final inspections of construction. Prepare certificates of substantial and/or final completions as appropriate.
- (i) Review and make recommendations on the CONTRACTOR'S schedule of amounts for Contract monthly payments including verification of final quantities.

C. RESIDENT SERVICES

1. Provide detailed resident construction representation. The Resident Representative is the ENGINEER'S agent at the site and will act as directed by and under the supervision of the ENGINEER. The Resident's dealings in matters pertaining to the on-site work shall in general be with the ENGINEER and the CONTRACTOR, keeping the Town advised as necessary. Refer to Attachment No. 4.
2. The effort for construction representation to be provided for this project is summarized below and based on project construction duration of Sixty (60) calendar days for the contract. Any additional effort shall only be allowed upon the approval of the Town.
  - (a). Construction Representation staffing estimate provides for full- and part-time resident representation for a total estimate of 280 hours for the contract.

- (b). Construction Representation includes preparation for, and attendance at, the pre-construction conference, substantial and final completion walk through, preparation of punch lists, and public relations.

D. SPECIAL SERVICES

1. Record Drawings

- (a) GME shall prepare record drawings for the Project. Changes and deviations from the original construction drawings, as provided by the CONTRACTOR, shall be recorded on the original construction drawings. GME shall furnish original construction drawings. GME shall furnish the Town with two (2) copies of the record drawings for the Project as prepared by GME to show record information of the completed work as furnished by the CONTRACTOR.

END OF ATTACHMENT NO. 1

TOWN OF RICHMOND, VERMONT  
EAST MAIN STREET - STORM WATER OUTFALL  
FINAL DESIGN & CONSTRUCTION  
PROFESSIONAL ENGINEERING SERVICES

ATTACHMENT NO. 2

RATE SHEET

GME Project No. 28-007  
March 28, 2018

PERSONNEL

Engineer I	\$125.00/hour
Engineer II	\$105.00/hour
Engineer III	\$ 85.00/hour
Technician I	\$ 75.00/hour
Technician II	\$ 75.00/hour
Office Manager	\$ 55.00/hour
Survey Crew (2-man)	\$150.00/hour

REIMBURSABLE EXPENSES

The items below will be billed at cost:

Travel, Auto	@ \$0.545/mile
Lodging, Meals	@ Cost
Shipping, Postage, Messenger	@ Cost
Long Distance Telephone	@ Cost
Reproduction-Drawings, Reports, Specs	@ Cost
Other Direct Costs	@ Cost

SUBCONSULTANTS

Subconsultants shall be billed at cost plus 8% for administrative expenses.

END OF ATTACHMENT NO. 2



TOWN OF RICHMOND, VERMONT  
EAST MAIN STREET - STORM WATER OUTFALL  
FINAL DESIGN & CONSTRUCTION  
PROFESSIONAL ENGINEERING SERVICES

ATTACHMENT NO. 3

TERMS AND CONDITIONS

The terms and conditions set forth herein (these "Terms and Conditions") are hereby incorporated as Attachment No. 3 of the written agreement dated March 28, 2018 between Green Mountain Engineering, Inc. (herein after called "CONSULTANT") and Town of Richmond, (hereinafter called "CLIENT"). GME Project No. 28-007.

1. PERFORMANCE OF SERVICES

The CONSULTANT agrees to perform the services as set forth in Attachment No. 1 (the "Services") subject to any Unexpected Contingency (as provided for herein). The Services shall not be changed without the written agreement of both the CONSULTANT and the CLIENT, except for changes to the Services as may be permitted, authorized, or contemplated by the AGREEMENT.

2. CLIENT'S AUTHORIZED REPRESENTATIVE

The CLIENT shall designate in writing a person to act as CLIENT'S representative regarding the services to be rendered under this AGREEMENT. Such person shall have authority to transmit instructions, receive information, interpret and define CLIENT'S policies and decisions regarding services for the Project. The CLIENT reserves the right to dismiss the Project Manager from this position at any time.

3. TERMINATION, SUSPENSION OR ABANDONMENT

- a. This AGREEMENT may be terminated by either party upon not less than seven (7) days written notice should the other party fail substantially to perform in accordance with the terms of this AGREEMENT through no fault of the party initiating the termination.
- b. CONSULTANT shall be compensated in full for services performed and expenses incurred prior to the date of termination, suspension, or abandonment.

4. OWNERSHIP OF DOCUMENTS

Plans, specifications, designs and reports prepared under this AGREEMENT by the CONSULTANT as instruments of service, are and shall remain the CONSULTANT's property, whether the project for which they are made is executed or not. The CLIENT shall be permitted to retain copies, including reproducible copies of plans, specifications, designs and reports, in connection with the use and occupancy of the specific project. The plans, specifications, designs and reports shall not be used by the CLIENT on other projects, for additions to this project, or for completion of this project by others except by agreement in writing and, provided the CONSULTANT is not in default under this AGREEMENT, without appropriate compensation to the CONSULTANT.

The CLIENT acknowledges that the CONSULTANT's plans and specifications are instruments of professional service. Nevertheless, the plans and specifications prepared under this AGREEMENT shall become the property of the CLIENT upon completion of the work. Any reuse by the CLIENT without written verification or adaptation by the CONSULTANT for the specific purpose intended will be at CLIENT's sole risk and without liability or legal exposure to CONSULTANT. The CLIENT agrees to hold harmless and indemnify the CONSULTANT against all damages, claims and losses, including defense costs, arising out of any reuse of the plans and specifications by the CLIENT without the written authorization of the CONSULTANT.

5. SCOPE OF OPINIONS

Unless otherwise specifically stated, any information, documents, records, data, interpretations, or opinions given to the CLIENT by the CONSULTANT in the course of the CONSULTANT's performance of the Services shall be for the CLIENT's sole use and benefit and only in connection with the specific project for which the CONSULTANT was engaged by the CLIENT, and the same is not intended to be used or relied upon by the CLIENT for any other purpose nor is it intended to benefit or be relied upon by any third party. Any such unintended use or reliance by the CLIENT or by a third party shall be at the CLIENT's or said third party's own risk. Further, any interpretation or opinion given by the CONSULTANT to the CLIENT shall be limited to the specific laws and/or regulations addressed in the AGREEMENT as the same may be further qualified by the interpretations or opinion in question.

6. BILLING AND PAYMENT

The CLIENT shall pay the CONSULTANT for services performed in U.S. funds drawn upon U.S. banks and in accordance with the rates and charges set forth herein. Invoices will be submitted by the CONSULTANT from time to time, but no more frequently than every two weeks, and shall be due and payable within thirty (30) calendar days of invoice date. CLIENT recognizes that payment is a material part of the consideration of this AGREEMENT.

If the CLIENT objects to all or any portion of an invoice, the CLIENT shall so notify the CONSULTANT within fourteen (14) calendar days of the invoice date, identify the cause of disagreement, and pay when due that portion of the invoice, if any, not in dispute. Any invoices not objected to within such fourteen day period shall be deemed accepted by CLIENT.

Payment will not be delayed by any conditions relating to purchase, sale or conveyance of Real Estate that may, directly or indirectly, be the subject of this AGREEMENT.

The CLIENT shall pay an additional charge of one percent (1%) (or the maximum percentage allowed by law, whichever is lower), of the invoiced amount per month for any payment received by the CONSULTANT more than thirty (30) calendar days from the date of the invoice, excepting any portion of the invoiced amount in dispute and resolved in favor of CLIENT. Payment thereafter shall first be applied to accrued interest and then to the principal unpaid amount. Payment of invoices is in no case subject to unilateral discounting or setoffs by the CLIENT.

Application of the percentage rate indicated above as a consequence of the CLIENT's late payments does not constitute any willingness on the CONSULTANT's part to finance the CLIENT's operation, and no such willingness should be inferred. If the CLIENT fails to pay undisputed invoiced amounts within sixty (60) calendar days of the date of the invoice, the CONSULTANT may at any time, without waiving any other claim against the CLIENT and without thereby incurring any liability to the CLIENT, suspend or terminate this AGREEMENT (as provided for herein). In no event shall CONSULTANT be responsible for any liability or damage incurred by CLIENT or OWNER relating to CONSULTANT's suspension or termination of this AGREEMENT pursuant to this Section.

7. SALES TAX

The fee for this project does not include state or local sales tax. If any public authority levies a sales tax on any of the services to be provided by the CONSULTANT, the CLIENT hereby agrees to pay all such sales taxes invoiced to the CLIENT by the CONSULTANT within 30 days of the date of the CONSULTANT's invoice.

8. INDEMNIFICATION

The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold the CONSULTANT harmless from any damage, liability, or cost (including reasonable attorneys' fees and cost of defense) to the extent caused by the CLIENT's negligent acts, errors, or omissions and those of its contractors, sub-contractors, or consultants or anyone for whom the CLIENT is legally liable, and arising from the project that is the subject of this AGREEMENT.

Neither party is obligated to indemnify the other party in any manner whatsoever for that party's negligence.

9. DAMAGES

CONSULTANT makes no guarantees or warranties and, specifically, no representation or warranty of merchantability, nor will we warrant that any party will approve or consent CONSULTANT's opinions. In addition, you hereby agree to limit our liability to you with respect to all services relating to this Agreement, due to negligent acts, errors, or omissions by us, such that the total aggregate liability of CONSULTANT will not exceed \$50,000 (Fifty Thousand Dollars) or the amount actually paid to us, whichever is greater.

10. STANDARD OF CARE

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

11. COURT COSTS

In the event that CLIENT fails to fulfill its obligations hereunder CLIENT shall reimburse CONSULTANT for all its costs, including reasonable attorney fees, court costs, and interest associated with the enforcement of this AGREEMENT.

12. UNEXPECTED CONTINGENCIES

- a. If the CONSULTANT is unable to commence the Services within the time period set forth in the AGREEMENT (or, if no time period is set forth in the AGREEMENT, then within sixty (60) days from the date of the AGREEMENT) because of any Unexpected Contingency (as defined in subsection b. below), then the CONSULTANT shall have the right, at its option, either to terminate its obligations under this AGREEMENT or to renegotiate the terms and conditions set forth in this AGREEMENT. Further, if the CONSULTANT'S performance of any covenant, agreement, condition, or term of this AGREEMENT is prevented, delayed, made impossible, or otherwise interfered with by any Unexpected Contingency, then the CONSULTANT'S performance thereof shall be suspended during the continuance of such event and for a reasonable time thereafter, notwithstanding any provisions of this AGREEMENT to the contrary.
- b. For purposes of this AGREEMENT, an "Unexpected Contingency" shall mean:

- (1) strikes, lockouts, riots, unavoidable accidents, acts of God or of the public enemy, or unavailability of transportation;
- (2) any lawful order issued by the United States government or any other federal, state, or local governmental authority,
- (3) any unforeseen or unexpected contingency the non-occurrence of which was expressly or implicitly assumed is the AGREEMENT, or
- (4) any other cause beyond the CONSULTANT's reasonable control.

13. OPINIONS OF PROBABLE CONSTRUCTION COST

The CONSULTANT has no control over the cost of labor and materials nor over competitive bidding and market conditions and, therefore, does not guarantee the accuracy of the CONSULTANT'S Opinions of Probable Construction Cost as compared to contractor bids or actual cost to the CLIENT. If the CLIENT requires greater assurance as to probable Construction Cost or requires formal estimates, an independent cost estimator should be employed by the CLIENT.

14. DEFINITIONS

As used herein, the following words and their derivative words or phrases shall have the meaning indicated, unless otherwise specified in this AGREEMENT.

**CERTIFY, CERTIFICATION:** A statement of the CONSULTANT's opinion, based on observation of conditions, to the best of the CONSULTANT's professional knowledge, information and belief. Such statement of opinion does not constitute a warranty, either express or implied. It is understood that the CONSULTANT's certification shall not relieve the CLIENT or the CLIENT's contractors of any responsibility or obligation they may have by industry custom or under any contract.

**INSPECT, INSPECTION:** The visual observation of construction to permit the CONSULTANT, as an experienced and qualified professional, to determine that the Work, when completed by the contractor, generally conforms to the Contract Documents. In making such inspections, the CONSULTANT makes no guarantees for, and shall have no authority or control over, the contractor's performance or failure to perform the Work in accordance with the Contract Documents. The CONSULTANT shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor or for the contractor's safety precautions and programs nor for failure by the contractor to comply with any laws or regulations relating to the performance or furnishing of the Work by the contractor.

**RECORD DOCUMENTS:** Drawings prepared by the CONSULTANT upon the completion of construction based upon the drawings and other data furnished to the CONSULTANT by the Contractor and others showing significant changes in the Work made during construction. Because Record Drawings are prepared based on unverified information provided by others, the CONSULTANT makes no warranty of the accuracy or completeness of the drawings.

15. ADDITIONAL SERVICES FOR PERMIT ACQUISITION

By following acceptable design standards, and normal and customary standards of the CONSULTANT, we do not imply that the engineered product will meet all permit and Board approvals. It is understood by the CLIENT that at times additional efforts may need to be expended in order to obtain approvals even when all reasonable and customary procedures are followed during the engineering process and that CLIENT'S obligation to pay invoices is in no way related to obtaining permits or approvals.

16. BINDING EFFECT

This AGREEMENT shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal and legal representatives, successors, and assigns; provided, that neither of the parties hereto shall be entitled to assign any of said party's rights under this AGREEMENT without prior written consent of the other party hereto.

17. COOPERATION

The CLIENT agrees to cooperate fully with the CONSULTANT and its agents, representatives, and employees in the performance of the Services and to take any and all such actions as may reasonably be requested by the CONSULTANT in connection therewith.

18. INDEPENDENT CONTRACTOR STATUS

The CONSULTANT and CLIENT agree that the CONSULTANT is an independent contractor and not a partner, employee, or agent of the CLIENT for any purpose.

19. HAZARDOUS SUBSTANCES

It is understood and agreed that this contract does not involve the identification, handling, or disposal of hazardous waste as defined in 10 V.S.A., Section 6602(4), except for the identification of suspected hazardous wastes as noted below, nor does the CONSULTANT hold itself out, for the purpose of this AGREEMENT, as being an expert in the identification, handling, or disposal of hazardous wastes.

Should a substance be encountered by the CONSULTANT, while providing services subject to this AGREEMENT, that is suspected of being a hazardous waste, the CONSULTANT shall stop work in the area where the suspected hazardous waste is encountered. The CONSULTANT shall immediately notify the CLIENT and the Vermont Hazardous Materials Management Division (1-800-641-5005) of the substance encountered and shall take any actions directed by the Hazardous Materials Management Division to secure the site. Work may resume in the affected area only after the appropriate state authorities have determined that work associated with the AGREEMENT may proceed.

20. CONSEQUENTIAL DAMAGES

In no event shall either CLIENT or CONSULTANT be liable for consequential damages, including, without limitation, loss of opportunity, loss of use, or loss of profits, incurred by one another or their subsidiaries or successors, regardless of whether such damages are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.

21. MEDIATION

Any claims or disputes made during design, construction, or post-construction between you and CONSULTANT must be submitted to non-binding mediation, prior to the institution of litigation. The cost of mediation shall be shared equally by the parties hereto. In the event mediation is unsuccessful, any claims arising out of this AGREEMENT shall be brought in the State of Vermont. CLIENT and CONSULTANT hereby waive their rights to a trial by Jury.

22. MISCELLANEOUS

- a. **SEVERABILITY.** If any term, condition, or provision of this AGREEMENT or the application thereof to any person or circumstance shall to any extent, be held invalid or unenforceable, then the remainder of this AGREEMENT or the application of such term, condition, or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall be valid and enforced to the fullest extent permitted by law.
- b. **ENTIRE AGREEMENT.** This AGREEMENT sets forth the entire AGREEMENT of the CONSULTANT and the CLIENT with respect to the subject matter hereof. The CONSULTANT and the CLIENT expressly represent to and agree with each other that there are no oral or written representations, warranties, covenants, promises, agreements, conditions, or understandings between them other than as set forth in this AGREEMENT.

- c. **CONFLICTING PROVISIONS.** In the event of any conflict between any of the terms, conditions, or provisions of this AGREEMENT and any of the terms, conditions, or provisions of the Proposal, the terms, conditions, and provisions of this AGREEMENT shall control unless otherwise specifically set forth in this AGREEMENT.
- d. **MODIFICATION.** This AGREEMENT shall not be modified or amended except in writing signed by both the CONSULTANT and the CLIENT.
- e. **GOVERNING LAW.** This AGREEMENT has been accepted and executed in accordance with, and shall be governed by and construed in accordance with, the laws of the State of Vermont.

END OF ATTACHMENT NO. 3



**GREEN MOUNTAIN ENGINEERING, INC.  
A LISTING OF THE DUTIES, RESPONSIBILITIES AND  
LIMITATIONS OF AUTHORITY OF THE RESIDENT PROJECT REPRESENTATIVE**

ATTACHMENT NO. 4

The ENGINEER shall furnish a Resident Project Representative (RPR), assistants and other field staff to assist the ENGINEER in observing performance of the Work of the CONTRACTOR.

Through more extensive on-site observations of the Work in progress and field checks of materials and equipment by the RPR and assistants, the ENGINEER shall endeavor to provide further protection for the CLIENT against defects and deficiencies in the Work; but, the furnishing of such services will not make the ENGINEER responsible for or give the ENGINEER control over construction means, methods, techniques, sequences or procedures for safety precautions or programs, or responsibility for the CONTRACTOR'S failure to perform the Work in accordance with the Contract Documents.

The duties and responsibilities of the RPR are limited to those of the ENGINEER in the ENGINEER'S agreement with the CLIENT and in the construction Contract Documents, and are further limited and described as follows:

**A. GENERAL**

RPR is the ENGINEER'S agent at the site, will act as directed by and under the supervision of the ENGINEER, and will confer with the ENGINEER regarding the RPR's actions. RPR's dealings, in matters pertaining to the on-site work, shall in general be with the ENGINEER and the CONTRACTOR(S) keeping the CLIENT advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of the CONTRACTOR(S). RPR shall generally communicate with the CLIENT with the knowledge of and under the direction of the ENGINEER.

**B. DUTIES AND RESPONSIBILITIES OF THE RPR**

1. Schedules: Review the progress schedule, schedule of Shop Drawings submittals and schedule of values prepared by the CONTRACTOR(S) and consult with the ENGINEER concerning acceptability.
2. Conferences and Meetings: Attend meetings with the CONTRACTOR(S), such as preconstruction conferences, progress meetings, job conferences and other project related meetings, and prepare and circulate copies of minutes thereof.

3. Liaison:
  - a. Serves as the ENGINEER'S liaison with the CONTRACTOR(S), working principally through the CONTRACTOR'S superintendent and assists in understanding the intent of the Contract Documents; and assist the ENGINEER in serving as the CLIENT'S liaison with the CONTRACTOR(S) when the CONTRACTOR'S operations affect the CLIENT'S on-site operations.
  - b. Assist in obtaining from the CLIENT additional details or information, when required for proper execution of the Work.
4. Shop Drawings and Samples:
  - a. Record date of receipt of Shop Drawings and Samples.
  - b. Receive Samples which are furnished at the site by the CONTRACTOR(S), and notify the ENGINEER of the availability of Samples for examination.
  - c. Advise the ENGINEER and the CONTRACTOR(S) of the commencement of any Work requiring a Shop Drawing or Sample if the submittal has not been approved by the ENGINEER.
5. Review of Work, Rejection of Defective Work, Inspections and Tests:
  - a. Conduct on-site observations of the Work in progress to assist the ENGINEER in determining of the Work is in general proceeding in accordance with the Contract Documents.
  - b. Report to the ENGINEER whenever RPR believes that any work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or had been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise the ENGINEER of Work that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
  - c. Verify that test, equipment and systems start-ups and operating and maintenance training are conducted in the presence of appropriate personnel, and that the CONTRACTOR(S) maintains adequate records thereof; and observe, record and report to the ENGINEER appropriate details relative to the test procedures and start-ups.
  - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to the ENGINEER.
6. Interpretation of Contract Documents: Report to the ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to the CONTRACTOR(S) clarifications and interpretations as issued by the ENGINEER.
7. Modifications: Consider and evaluate the CONTRACTOR'S suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to the ENGINEER. Transmit to the CONTRACTOR(S) decisions as issued by the ENGINEER.

8. Records:
  - a. Maintain at the job site, orderly files for correspondence, reports of job conferences, Shop Drawings and Samples, reproductions of original Contract Documents including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, the ENGINEER'S clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.
  - b. Keep a diary or log book, recording the CONTRACTOR(S) hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to the ENGINEER.
  - b. Record names, addresses and telephone numbers of all CONTRACTOR(S), subcontractors and major suppliers of materials and equipment.
9. Reports:
  - a. Furnish the ENGINEER periodic reports as required of progress of the Work and of the CONTRACTOR'S compliance with the progress schedule of Shop Drawings and sample submittals.
  - b. Consult with the ENGINEER in advance of schedule major tests, inspections or start of important phases of Work.
  - c. Draft proposed Change Orders and Work Directive Changes obtaining backup material from the CONTRACTOR(S) and recommended to the ENGINEER Change Orders Work Directive Changes, and Field Orders.
  - d. Report immediately to the ENGINEER and the CLIENT upon the occurrence of any accident(s).
10. Payment Requests: Review applications for payment with the CONTRACTOR(S) for compliance with the established procedure for their submission and forward with recommendations to the ENGINEER, noting particularly the relationship of the payment request to the schedule of values, Work completed and materials and equipment delivered at the site but not incorporated in the Work.
11. Certificates, Maintenance and Operation Manuals: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by the CONTRACTOR(S) are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to the ENGINEER for review and forwarding to the CLIENT prior to final payment for the Work.
12. Completion:
  - a. Before the ENGINEER issues a Certificate of Substantial Completion, submit to the CONTRACTOR(S) a list of observed items requiring completion or correction.
  - b. Conduct final inspection in the company of the ENGINEER, CLIENT, and CONTRACTOR(S) and prepare a final list to be completed or corrected.

- c. Observe that all items on final list have been completed or corrected and make recommendations to the ENGINEER concerning acceptance.

## C LIMITATIONS OF AUTHORITY

### Resident Project Representative

1. Shall not authorize a deviation from the Contract Documents or substitution of materials or equipment, unless authorized by the ENGINEER.
2. Shall not exceed limitations of the ENGINEER'S authority as set forth in the Contract Documents.
3. Shall not undertake any of the responsibilities of the CONTRACTOR(S), subcontractors or CONTRACTOR'S superintendent.
4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advise or directions are specifically required by the Contract Documents.
5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
6. Shall not accept Shop Drawings or sample submittals from anyone other than the CONTRACTOR(S).
7. Shall not authorize the CLIENT to occupy the Project in whole or in part.
8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by the ENGINEER.

END OF ATTACHMENT NO. 4