

First Selectman

From: Sarah Croucher <sarah.croucher@gmail.com>
Sent: Wednesday, June 29, 2022 7:50 AM
To: First Selectman
Cc: Rosemary Coyle; Deborah Bates; Denise Turner; Jason LaChapelle
Subject: Prurient "Audit" of Children's Books

Dear First Selectman Bisbikos,

I write in dismay at your recent actions in unilaterally having a book removed from the shelves of the children's section of the library and then your resulting request for an inventory of all children's books in our town library. I am the parent of two young children and we (my children and my spouse) use the library most weeks.

Several months ago my family were disturbed by some content in a book from Craigin Memorial Library. The book in question was a *Barbie* story, in which the main character stopped eating because of comments from others. We were concerned that this storyline in a book aimed at young children would encourage eating disorders. The book was, as I recall, over 20 years old. We didn't finish reading the rest of the story with our child but just bought the book back to the library. They took the book and our explanation and said they would review the content. The process was straightforward and I can commend the library staff on taking seriously our concerns. I would like to highlight this personal experience that the library staff are attentive and responsive when a family has a concern about a particular book.

However, I have also been enjoying the selection of books displayed for pride month and selected one that fit the interests of my children on our last library visit. As a parent, there was no issue in being able to select the books that were right for **my** family. We are regular library users and my children have enjoyed all types of books. This includes books about superheroes and pop stars in which there are sometimes images where characters are not wearing many clothes. My children do not see these as sexual images in any way but have just enjoyed the books that they selected.

Given this fact, I am deeply concerned about your quotes in recent news stories calling for an "audit" of children's books. **Could you please address at the next Board of Selectman meeting exactly what the intent of this audit is, the criteria by which you would determine an image is "sexual" in nature, and the degree to which you initiated this audit in relation to currently existing library policies?**

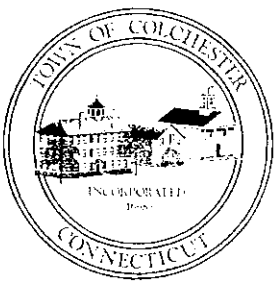
Please could you also address the extent to which you understand current library policies, and the degree to which you think it is acceptable (or proper, in accordance with current policy) for the First Selectman to play any role in censoring library content?

I also thought that you might find this [American Library Association webpage](#) on access to library resources for minors of use.

I look forward to a response during the Board of Selectman's meeting that directly addresses the questions above.

Yours sincerely,
Dr. Sarah K. Croucher

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Town of Colchester, Connecticut

127 Norwich Avenue, Colchester, Connecticut 06415

Andreas Bisbikos, First Selectman

Board of Selectmen Special Meeting Minutes

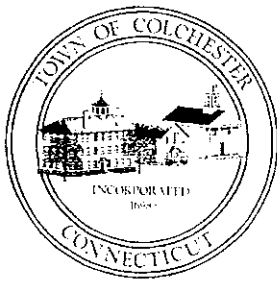
Tuesday, June 21st, 2022, at 5:30 PM

Members Present: A. Bisbikos (First Selectman), D. Bates, D. Turner, R. Coyle, and J. LaChapelle

Others Present: S. Ramsby (Human Resources Director)

1. Call to Order – Meeting called to order 5:34 PM
2. Pledge of Allegiance
3. Executive Session
 - J. LaChapelle motioned to move the meeting into Executive Session. 2nd by R. Coyle. *Motion carried unanimously 5-0*
 - A. Interview for the Town Planner Position
 - Exited Executive Session at 6:48 PM
4. Possible action on the Town Planner Position – No action
5. Adjourn – R. Coyle motioned to adjourn. 2nd by D. Bates. Meeting ends at 6:49 PM

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COLCHESTER, CT
2022 JUN 23 AM 10:22
Gayle Furman
GAYLE FURMAN
TOWN CLERK



Town of Colchester, Connecticut

127 Norwich Avenue, Colchester, Connecticut 06415

Andreas Bisbikos, First Selectman

Board of Selectmen Agenda – Special Meeting Minutes
Thursday, June 16th, 2022, at 6 PM

Members Present: A. Bisbikos (First Selectman), D. Bates, R. Coyle, D. Turner, J. LaChapelle
Others Present: S. Hoffmann (Fire Chief), C. Collins (UHY), D. Koji (ARPA Ad-Hoc Committee Chair)

1. Call to Order – Meeting called to order at 6 PM
2. Pledge of Allegiance
3. Correspondence
4. Citizens Comments
 - E. Sharon spoke about the Old Town Hall roof and the Town Green Project. D. Richard raised personal concerns about the First Selectman. J. Burstein spoke about her ARPA application. S. Croucher spoke about white nationalist flyers littered around town.
5. Consent Agenda
 - D. Turner made a motion to make the Consent Agenda 5 and make 5C as 5A. 2nd by D. Bates. **Motion carried unanimously 5-0**
 - A. Approve the 5/31/22 Board of Selectmen Special Meeting and the 6/2/22 Board of Selectmen Regular Meeting
 - B. Accept the Contract Agreement with Legion Fireworks Co, Inc with the Town of Colchester in the amount of \$7,600 and allow the First Selectman to sign any necessary paperwork
 - D. Turner made a motion to approve of the Consent Agenda. 2nd by R. Coyle. **Motion carried unanimously 5-0**
 - C. Accept the Second Amendment to the Kiosk Testing Agreement with Curative
 - D. Turner made a motion to accept the Second Amendment to the Kiosk Testing Agreement with Curative. 2nd by R. Coyle. **Motion carried unanimously 5-0**
6. Boards and Commissions Interviews
 - A. Stephanie Mattera – ARPA Ad Hoc Committee
 - B. Brien Brown – ARPA Ad Hoc Committee
 - C. Amy Domeika – Parks & Recreation
 - Interviews conducted
7. EMT Job Description
 - A. Possible action to approve of the EMT Job Description

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COLCHESTER,
2022 JUN 21 AM 9:32
Gayle Furman
TOWN CLERK

- S. Hoffmann provided an overview of the current difficulties of filling ambulance shifts and an overview of the EMT job description. R. Coyle and A. Bisbikos talked about working with the Chief to establish a long-term solution to some of the short-term band-aids to the staffing shortages.
- R. Coyle made a motion to approve the EMT Per Diem Job Description, 2nd by D. Bates. ***Motion carried unanimously 5-0***

8. ARPA Discussion

- A. Possible action to approve of the Youth & Social Services department to hire a Community Counselor by utilizing up to \$63,000 in ARPA funds and allow the First Selectman to sign any necessary paperwork
- R. Coyle made a motion to approve of the Youth & Social Services department to hire a Community Counselor by utilizing up to \$63,000 in ARPA funds and allow the First Selectman to sign any necessary documents. 2nd by D. Turner. ***Motion carried unanimously 5-0***
- B. Possible action to approve of the Youth & Social Services department to hire a Case Manager by utilizing up to \$42,681 in ARPA funds and allow the First Selectman to sign any necessary paperwork
- D. Turner made a motion to approve of the Youth & Social Services department to hire a Community Counselor by utilizing up to \$63,000 in ARPA funds and allow the First Selectman to sign any necessary documents. 2nd by D. Bates. ***Motion carried unanimously 5-0***
- C. Possible action to approve of the Town to enter a contract with Scholar Painting, LLC to repair the current Youth Center Roof in an amount to not exceed \$74,020 in ARPA Funds and have the First Selectman sign any necessary paperwork
- D. Bates made a motion to approve of the Town to enter a contract with Scholar Painting, LLC to repair the current Youth Center Roof in an amount to not exceed \$74,020 in ARPA Funds and have the First Selectman sign any necessary documents. 2nd by R. Coyle. ***Motion carried unanimously 5-0***
- D. Possible action to approve of up to \$1 Million in Small Business applications
1. Group A
 - R. Coyle made a motion to approve Group A ARPA applications recommended to the BOS by the ARPA committee with the understanding that the funding of the eligible business applications will follow the following formula: The requested amounts will meet the previously motioned funding cap by accepting all eligible and approved application amounts \$10,000 and under as-is and reducing all eligible and approved applications by an equitable percentage amount that results in a final total amount that meets the business cap of one million dollars. In reducing the businesses above \$10,000 no business shall receive less than \$10,000. The percentage reduction will be determined by the ARPA Committee in consultation with UHY once all business applications have been finalized.

This percentage will then be recommended to the BOS for final approval and checks to businesses will be issued upon signing the attestation agreement. 2nd by D. Turner.

Motioned carried unanimously 5-0

2. Group B

- R. Coyle made a motion to approve Group B ARPA applications recommended to the BOS by the ARPA committee with the understanding that the funding of the eligible business applications will follow the following formula: The requested amounts will meet the previously motioned funding cap by accepting all eligible and approved application amounts \$10,000 and under as-is and reducing all eligible and approved applications by an equitable percentage amount that results in a final total amount that meets the business cap of one million dollars. In reducing the businesses above \$10,000 no business shall receive less than \$10,000. The percentage reduction will be determined by the ARPA Committee in consultation with UHY once all business applications have been finalized. This percentage will then be recommended to the BOS for final approval and checks to businesses will be issued upon signing the attestation agreement. 2nd by D. Bates.

Motioned carried unanimously 5-0

3. Group C

- D. Turner made a motion to approve Group C ARPA applications recommended to the BOS by the ARPA committee with the understanding that the funding of the eligible business applications will follow the following formula: The requested amounts will meet the previously motioned funding cap by accepting all eligible and approved application amounts \$10,000 and under as-is and reducing all eligible and approved applications by an equitable percentage amount that results in a final total amount that meets the business cap of one million dollars. In reducing the businesses above \$10,000 no business shall receive less than \$10,000. The percentage reduction will be determined by the ARPA Committee in consultation with UHY once all business applications have been finalized. This percentage will then be recommended to the BOS for final approval and checks to businesses will be issued upon signing the attestation agreement. 2nd by R. Coyle.

Motioned carried unanimously 5-0

4. Group D

- D. Turner made a motion to approve Group D ARPA applications recommended to the BOS by the ARPA committee with the understanding that the funding of the eligible business applications will follow the following formula: The requested amounts will meet the previously motioned funding cap by accepting all eligible and approved application amounts \$10,000 and under as-is and reducing all eligible and approved applications by

an equitable percentage amount that results in a final total amount that meets the business cap of one million dollars. In reducing the businesses above \$10,000 no business shall receive less than \$10,000. The percentage reduction will be determined by the ARPA Committee in consultation with UHY once all business applications have been finalized. This percentage will then be recommended to the BOS for final approval and checks to businesses will be issued upon signing the attestation agreement. 2nd by R. Coyle.

Motioned carried unanimously 5-0

5. Group E

- R. Coyle made a motion to approve Group E ARPA applications recommended to the BOS by the ARPA committee with the understanding that the funding of the eligible business applications will follow the following formula: The requested amounts will meet the previously motioned funding cap by accepting all eligible and approved application amounts \$10,000 and under as-is and reducing all eligible and approved applications by an equitable percentage amount that results in a final total amount that meets the business cap of one million dollars. In reducing the businesses above \$10,000 no business shall receive less than \$10,000. The percentage reduction will be determined by the ARPA Committee in consultation with UHY once all business applications have been finalized. This percentage will then be recommended to the BOS for final approval and checks to businesses will be issued upon signing the attestation agreement. 2nd by A. Bisbikos.

Motioned carried unanimously 5-0

6. Group Not Eligible

- The Board of Selectmen reviewed ineligible applications. All members agreed that Herman's Diner application needed further review regarding qualifications based on a previous motion and business ownership.
- R. Coyle and A. Bisbikos commended the work of the ARPA Ad-Hoc Committee for their hard work throughout the process.

9. Citizen's Comments

- J. Burstein commented on her ARPA application. T. Rudko commented on the termination of a former employer. D. Bouchard discussed the agenda packet and the minutes.

10. First Selectman's Report

- The month of June represents many things such as the start of summer, graduations, Father's Day, Pride month, Juneteenth, etc. Specifically, regarding Pride month and Juneteenth, I'd like to emphasize that Colchester has a long history of accepting people of all backgrounds including (but not limited to): race, ethnicity, religion, gender, and sexuality. And that our community lives by the immortal words of Martin Luther King Jr. where we "judge a man not by the color of his skin, but by the content of his character." This quote is extended to all

backgrounds including (but not limited to): race, ethnicity, religion, gender, and sexuality. This administration believes that the achievements & histories of people regardless of race, ethnicity, religion, gender, and sexuality should not be limited to a day, week, or month – but should be celebrated year around.

- I am happy to report that the CORE Commission will be hosting our first celebration of Juneteenth at this week's Farmers' Festival. June 19 represents both Father's Day and Juneteenth and I hope you can stop by the Town green from 9 AM -1:00 PM. On June 26th, the CORE Commission will be adding an event to celebrate Pride Month as the Town of Colchester proudly supports all people.
- The Town Budget was defeated last night. Times are tough and the voters made it clear that even an equalized zero mill from last year is unacceptable. I am currently working with Department heads on potential reductions. I am aiming for significant reductions in the budget and will not return with a zero-budget increase. The reductions will be far more. I look forward to collaborating with the Board of Finance and other elected officials throughout the process.
- One of my first moves as First Selectman was to enter the Town of Colchester into the National Opioid Settlement. As of this week, Town of Colchester is expected to receive \$9,731.83.
- The Basketball Courts and the Pickleball Courts are both open. Who wants to take on the First Selectman?
- Colchester Town Green Bicycle and Pedestrian Improvement Project – Colossale Siteworks will begin work on the project on July 11th and the town can expect completion by September 9th. The project cost will be \$369,240.00 and is being funded by the State of Connecticut Community Connectivity Program. I want to thank Sal Tassone, our Town Engineer, for working with me to move this project forward and achieving a summer start date.
- Due to the backlog of various items, Red Thread reports that the Hybrid Room should be operational sometime in August and fully completed by September.

11. Liaison Reports

- D. Turner: Historic District Commission – Town Green Project discussed: CORE Commission will have a booth at the Farmer's Market on June 19th in recognition of Juneteenth
- D. Bates: Park & Recreation Commission – Looking at the field schedules and rehired W. Rubin for the strategic plan; Norton Park – J. Gigliotti provided an overview of the status update of the park
- J. LaChapelle: Board of Education – J. Morozowich dedication was acknowledged, discussed the cost of the oil cleanup, special education survey sent to parents, search for the special education director has begun, Principal Peel update; Planning & Zoning – an upcoming hearing on the Affordable Housing Plan will soon be scheduled, possible regulation for the water tanks for new subdivisions will be reviewed soon

12. Adjourn

- D. Turner made a motion to adjourn. 2nd by D. Bates. Meeting adjourned at 8 PM.

Town of Colchester Board of Selectman
Andreas Bisbikos, Deb Bates, Rosemary Coyle, Denise Turner and Jason LaChapelle.
127 Norwich Avenue
Colchester Connecticut 06415

14 June 2022

Dear Board of Selectmen,

I am writing you this letter in order to obtain permission to replace the gravestone of my ancestor, Frederick Bulkeley [1772-1801], which is located in the Old Burying Ground in Colchester. His gravestone is badly deteriorated and delaminated at this point.

I am Frederick's 4th great-grandson. I descend from his son James Bulkeley to Elias Edwin Bulkeley to his daughter Eida E. Bulkeley [wife of William H. Daycock] to Harvey Bulkeley Daycock [my grandfather] to his daughter Estelle [Daycock] Kane, my mother.

The person that I have chosen to carve the gravestone is Michael A. Angelicola, a well-known carver in Bristol, Connecticut [MichaelAAngelicolastonecarving.com]. He has created many replicas of older gravestones, and in this case will use brownstone to match the original as closely as possible. He will install it directly in front of the old stone, unless you say otherwise. I will bear all costs. I had wished to have this work done sooner with funding from the Bulkeley fund, but they declined.

I have had long communications with the Colchester Historical Society Board of Governors, and they fully support this initiative. I believe that Michael will do the work later this year after I travel to Colchester to measure the existing stone carefully. Note that since the new stone will be a replica, it will retain the incorrect spelling of the surname as BULKLEY.

Thank you for your time, and I look forward to your response,



David E. Kane

First Selectman

From: Rick Peruta
Sent: Tuesday, June 14, 2022 10:41 AM
To: First Selectman
Cc: Sean Shoemaker
Subject: Public Safety sub committee

Good morning.

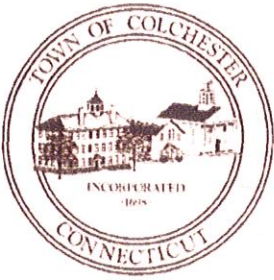
Thank you for the opportunity to be involved with the Colchester Public Safety subcommittee BUT, I think it best if I be removed from participation effective immediately.

This is not intended to involve my affiliation with Emergency Management, only the Colchester Public Safety sub committee.

Respectably,

Rick Peruta

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Town of Colchester, Connecticut

127 Norwich Avenue, Colchester, Connecticut 06415

DATE: 6-15-2022

BOARDS & COMMISSIONS APPLICATION

Name: DENISE SALMOIRAGHI

Address: 15 EAST CT Colchester, CT. 06415

Home Phone: 860-537-3395 Email: denisesalmoiraghi@47@gmail.com

Cell Phone: 860-908-7073 Town Residency 49 Years

Party Affiliation: Democrat Republican Unaffiliated (check one)

Commission or Board you are interested in serving on: COLCHESTER HOUSING AUTHORITY

Educational Background: List name and location of school, # of years attended, Subjects/Major, Did you graduate?

High School: 4 GRADUATED
NEW BRITAIN HIGH SCHOOL

College: N/A

Trade, Business Or Correspondence School: N/A

Work Experience: List length of employment, name and address of employer, position & reason for leaving:

COLCHESTER BOARD OF EDUCATION
FOOD SERVICE DIRECTOR
RETIRED
25 years

Are you capable of making the commitment of time necessary to serve on this Board or Commission? YES

Why are you interested in serving? I have served on this
Committee for 17 years.

Helping seniors like myself.

Do you have any experience or familiarity with this area? YES

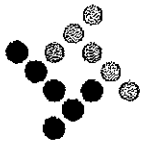
having served for 17 years.

If you are not appointed to this board or commission, would you be interested in other forms of public service?

Which ones? _____

Date: 6-15-2027

Signature: Waise Salmeraghi



tyler
technologies

Remittance:
Tyler Technologies, Inc
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

Invoice

Invoice No	Date	Page
045-378013	06/01/2022	1 of 1

Questions:

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Email: ar@tylertech.com



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127 NORWICH AVENUE
COLCHESTER, CT 06415

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127 NORWICH AVENUE
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Cust No.-BillTo-ShipTo	Ord No	PO Number	Currency	Terms	Due Date
1106 - MAIN - MAIN	170479		USD	NET30	07/01/2022

Date	Description	Units	Rate	Extended Price
Contract No.: COLCHESTER, CT (TOWN/BOE)				
	APPLICATION SERVICES - HUMAN RESOURCES & TALENT MANAGEMENT	1	5,962.67	5,962.67
	Maintenance: Start: 01/Jul/2022, End: 30/Jun/2023			
	APPLICATION SERVICES - BMI ASSET TRACK INTERFACE	1	0.00	0.00
	Maintenance: Start: 01/Jul/2022, End: 30/Jun/2023			
	APPLICATION SERVICES - ACCTG/GL/BUDGET/AP	1	42,925.25	42,925.25
	Maintenance: Start: 01/Jul/2022, End: 30/Jun/2023			
	APPLICATION SERVICES - PURCHASING	1	0.00	0.00
	Maintenance: Start: 01/Jul/2022, End: 30/Jun/2023			
	APPLICATION SERVICES - TYLER FORMS PROCESSING	1	1,789.11	1,789.11
	Maintenance: Start: 01/Jul/2022, End: 30/Jun/2023			
	APPLICATION SERVICES - REQUISITIONS	1	5,008.89	5,008.89
	Maintenance: Start: 01/Jul/2022, End: 30/Jun/2023			
	APPLICATION SERVICES - MUNIS OFFICE	1	2,384.45	2,384.45
	Maintenance: Start: 01/Jul/2022, End: 30/Jun/2023			
	APPLICATION SERVICES - PAYROLL W/ESS	1	13,626.90	13,626.90
	Maintenance: Start: 01/Jul/2022, End: 30/Jun/2023			
	APPLICATION SERVICES - CAPITAL ASSETS	1	8,108.16	8,108.16
	Maintenance: Start: 01/Jul/2022, End: 30/Jun/2023			
	APPLICATION SERVICES - TYLER CONTENT MANAGER SE	1	5,191.20	5,191.20
	Maintenance: Start: 01/Jul/2022, End: 30/Jun/2023			

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Invoice Total	84,996.63



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 Dallas, TX 75320-3556

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Company	Order No.	Date	Page
045	170479	03/21/2022	1 of 2

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Questions

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Customer Grp/No.	Customer PO#	Payment Terms	Currency Code	Ship Via	Salesperson Cd
1 1106		Net 30	USD	MISC	

No. Item/ Description/ Comments	Drop Ship	# Users	Quantity	U/M	Unit Price	Disc %	Total Cost
Contract No.: COLCHESTER, CT (TOWN/BOE)							
1 Renewal: APPLICATION SERVICES - HUMAN RESOURCES & TALENT MANAGEMENT Maintenance Plan: ; Start: 07/01/2022, End: 06/30/2023; Term: 12 months	No	32	1	EA	5,962.67	.00	5,962.67
2 Renewal: APPLICATION SERVICES - BMI ASSET TRACK INTERFACE Maintenance Plan: ; Start: 07/01/2022, End: 06/30/2023; Term: 12 months	No	32	1	EA	0.00	.00	0.00
3 Renewal: APPLICATION SERVICES - ACCTG/GL/BUDGET/AP Maintenance Plan: ; Start: 07/01/2022, End: 06/30/2023; Term: 12 months	No	32	1	EA	42,925.25	.00	42,925.25
4 Renewal: APPLICATION SERVICES - PURCHASING Maintenance Plan: ; Start: 07/01/2022, End: 06/30/2023; Term: 12 months	No	32	1	EA	0.00	.00	0.00
5 Renewal: APPLICATION SERVICES - TYLER FORMS PROCESSING Maintenance Plan: ; Start: 07/01/2022, End: 06/30/2023; Term: 12 months	No	32	1	EA	1,789.11	.00	1,789.11
6 Renewal: APPLICATION SERVICES - REQUISITIONS Maintenance Plan: ; Start: 07/01/2022, End: 06/30/2023; Term: 12 months	No	32	1	EA	5,008.89	.00	5,008.89
7 Renewal: APPLICATION SERVICES - MUNIS OFFICE Maintenance Plan: ; Start: 07/01/2022, End: 06/30/2023; Term: 12 months	No	32	1	EA	2,384.45	.00	2,384.45
8 Renewal: APPLICATION SERVICES - PAYROLL W/ESS Maintenance Plan: ; Start: 07/01/2022, End: 06/30/2023; Term: 12 months	No	32	1	EA	13,626.90	.00	13,626.90
9 Renewal: APPLICATION SERVICES - CAPITAL ASSETS Maintenance Plan: ; Start: 07/01/2022, End: 06/30/2023; Term: 12 months	No	32	1	EA	8,108.16	.00	8,108.16



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Company	Order No.	Date	Page
045	170479	03/21/2022	2 of 2

Questions

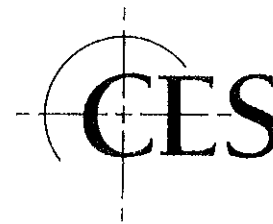
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Fax: 1-866-673-3274
Email: ar@tylertech.com

No.	Item/ Description/ Comments	Drop Ship	# Users	Quantity	U/M	Unit Price	Disc %	Total Cost
10	Renewal: APPLICATION SERVICES - TYLER CONTENT MANAGER SE Maintenance Plan: ; Start: 07/01/2022, End: 06/30/2023; Term: 12 months	No	32	1	EA	5,191.20	.00	5,191.20

Does not include any applicable taxes

Order Total: **84,996.63**

Comments: Upon acceptance please email your purchase order to PO@tylertech.com



June 16, 2022

Andreas Bisbikos
First Selectman- Town of Colchester, CT
127 Norwich Ave, Suite 201
Colchester, CT 06415

Re: Colchester Town Hall HVAC Study

Dear Andreas,

We are very pleased to have this opportunity to provide to you this proposal for professional engineering services. It is our understanding that the project is best described as a study of the existing HVAC system and options for replacement for the Colchester Town Hall Building. To complete this work, the following items shall be considered as our "Scope of Services" (hereinafter called the "Project") and will be provided by our firm.

SCOPE OF SERVICES -- INCLUDED

- I. Initial Investigation, Study and Report:
 - A. We will field survey the existing facility to determine the existing condition of the mechanical and electrical power systems.
 - B. We will review the existing blueprints for the existing building's mechanical and electrical systems and determine the general accuracy of the prints.
 - C. We will prepare an "Existing Conditions" report stating our findings of the building's existing mechanical and electrical systems.
 - D. We will prepare a report stating our findings of the building's existing mechanical systems and preliminary design alternatives to correct the deficiencies within the building.
 - E. We will prepare an order of magnitude construction cost estimate for the recommended system improvements.
 - F. We will present our findings to your office.
 - G. Upon selection of the desired systems and phasing of the construction, we will provide you with a proposal to complete the necessary contract documents to implement the work.

SCOPE OF SERVICES -- EXCLUDED

It is our understanding that the following items, in general, are not required by us and have therefore been excluded from our "Scope of Services". Any of these items can be added to our Scope of Services if you so desire.

1. We will not be providing contract documents for the project.
2. We will not be providing a life cycle cost analysis.
3. We will not be providing a whole building energy model.
4. We will not be providing consulting services or attending meetings for public forums such as public hearings, planning and zoning, environmental impact assessment, etc.

SCHEDULE FOR COMPLETION OF SCOPE OF SERVICES

We should be able to meet any reasonable schedule you may have at this time. The actual completion dates will be established based on the receipt date by this office of your acceptance of this proposal.

FEES FOR SCOPE OF SERVICES

Engineering Study Fee: \$5,850.00

BILLING TERMS FOR SERVICES RENDERED

CES, Inc. shall invoice monthly for all services rendered, as a percentage complete of overall scope, and shall include reimbursable expenses monthly. Invoices shall be generated by the end of each month, and shall be directly mailed to the accounts payable department (or other entity assigned). Invoices are due and payable upon receipt.

JOBSITE SAFETY CLAUSE

Neither the professional activities of the Design Professional, nor the presence of the Design Professional, or the Design Professional's employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequences, techniques, or procedures necessary for performing, superintending, or coordination all portions of the work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. The Design Professional and Design Professional's personnel have no authority to exercise any control over any construction contractors or their entity or their employees in connection with their work or any health or safety precautions. The client agrees that the General Contractor is solely responsible for jobsite safety, and warrants that this intent shall be made evident in the Client's agreement with the General Contractor. The Client also agrees that the Client, the Design Professional and the Design Professional's consultants shall be indemnified and shall be made additional insureds under the General Contractors general liability insurance policy.

STANDARD FORM OF AGREEMENT BETWEEN CLIENT AND ENGINEER

Finally, we have attached to this Scope of Services our “Standard Form of Agreement Between Client and Engineer” that details specific contractual items. Please review this carefully and acknowledge your acceptance of our “Standard Form of Agreement Between Client and Engineer” by signing the last page of the document and returning one copy to our office. Once we have received the signed copy of the Standard Form of Agreement Between Client and Engineer, we will consider this to be your acceptance of this “Scope of Services” and “The Standard Form of Agreement Between Client and Engineer”. This shall constitute as our notice to proceed on the Project.

Thank-you very much for the opportunity to provide you with this proposal. In the meantime, if we can be of any assistance to you, please feel free to call.

Sincerely yours,

CONSULTING ENGINEERING SERVICES, INCORPORATED

Brian Hamel

Brian Hamel
Team Leader

Cc: Derek Bride

STANDARD FORM OF AGREEMENT BETWEEN CLIENT AND ENGINEER

Consulting Engineering Services, Inc. (Identified as "CES, Inc." throughout this document) shall perform the services outlined in this agreement for the stated Fee Arrangement.

Access to Site

Unless otherwise stated, CES, Inc. will have access to the site for activities necessary for the performance of the services, CES, Inc. will take precautions to minimize damage due to these activities, but has not included in the fee the cost of restoration of any resulting damage, unless otherwise agreed upon.

Fee

The total fee, except stated lump sum, shall be understood to be an estimate, based upon Scope of Services, and shall not be exceeded by more than ten percent, without written approval of the Client. Where the fee arrangement is to be on an hourly basis, the rates shall be those that prevail at the time services are rendered. Reimbursable expenses are in addition to the Scope of Services Fee Arrangement. Reimbursable expenses include: Portal to Portal mileage at the published Internal Revenue Service standard mileage rate for business use, toll charges: travel expenses, car rentals, plane charges and hotel accommodations: FedEx, UPS, etc. mailing charges. Photos for recording project conditions. Printing of contract documents inclusive of drawings and specifications

Billings/Payments

Invoices will be submitted monthly for services and reimbursable expenses and are due when rendered. Invoices shall be considered PAST DUE if not paid within 30 days after the invoice date and CES, Inc. may without waiving any claim or right against Client, and without liability whatsoever to the Client, terminate the performance of the service. Retainers shall be credited on the final invoices. A service charge will be charged at 1.5% (or the legal rate) per month on the unpaid balance. In the event any portion or all of an account remains unpaid 90 days after billing, the client shall pay cost of collection, including reasonable attorney's fees.

Indemnifications

The Client shall indemnify and hold harmless CES, Inc. and all of its personnel from and against any and all claims, damages, losses and expenses (including reasonable attorney's fees) arising out of or resulting from the performance of the services, provided that any such claims, damage, loss or expense is caused in whole or in part by the negligent act or omission, and/or strict liability of the Client, anyone directly or indirectly employed by the Client (except CES, Inc.) or anyone for whose acts any of them may be liable.

Hidden Conditions

A condition is hidden if concealed by existing finishes or is not capable of investigation by reasonable visual observation. If CES, Inc. has reason to believe that such a condition may exist, CES, Inc. shall notify the client who shall authorize and pay for all costs associated with the investigation of such a condition, and, if necessary, all costs necessary to correct said condition. If (1) the client fails to authorize such investigation or correction after due notification, or (2) CES, Inc. has no reason to believe that such a condition exists, the client is responsible for all risks associated with this condition, and shall not be responsible for the existing condition nor any resulting damages to persons or property.

Risk Allocations

In recognition of the relative risks, rewards and benefits of the project to both the Client and CES, Inc. the risks have been allocated so that the Client agrees that, to the fullest extent permitted by law, CES, Inc's total liability to the Client, for any and all injuries, claims, losses, expenses, damages or claim expenses arising out of this agreement, from any cause or causes shall not exceed the total amount of \$50,000.00, the amount of CES, Inc's fee (whichever is lesser) or other amount agreed upon when added under Special Conditions. Such causes, include, but are not limited to CES, Inc's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

Termination of Services

This agreement may be terminated upon 10 days written notice by either party should the other fail to perform his obligations hereunder. In the event of termination, the Client shall pay CES, Inc. for all services rendered to the date of termination, all reimbursable expenses, and reasonable termination expenses.

Ownership of Documents

All documents produced by CES, Inc. under this agreement shall remain the property of CES, Inc. and may not be used by this Client or anyone else for any other endeavor without the written consent of CES, Inc.

Applicable Law

Unless otherwise specified, this agreement shall be governed by the laws of the principal place of business of CES, Inc.

CLIENT

CES, INC. PRINCIPAL-IN-CHARGE

DATE

DATE



Lenard Engineering, Inc.

2210 Main Street
P.O. Box 1088
Glastonbury, CT 06033
Tel: 860 659-3100
Fax: 860 659-3103
www.lenard-eng.com

134B Conantville Road
P.O. Box 580
Storrs, CT 06268
Tel: 860 429-5400
Fax: 860 429-1367

140 Willow Street
Suite 8
Winsted, CT 06098
Tel: 860 379-6669
Fax: 860 738-1272

19 Midstate Drive
Suite 200
Auburn, MA 01501
Tel: 508 721-7600
Fax: 508 721-7610

Civil, Environmental and Hydrogeological Consultants

May 25, 2022

Ms. Pamela Minella, Supervisor
Town Of Colchester Sewer and Water Department
127 Norwich Road
Colchester, CT 06415

RE: Proposal for Professional Services, Provide Design Plans, Contract Documents and Permitting, for Upgrade of Cabin Road Filter Plant, Colchester, CT

Dear Ms. Minella:

As requested, Lenard Engineering, Inc. (LEI) is pleased to submit the following proposal for your commission's review and approval. Based on our recently completed site inspections, study and DWSRF State Funding application, the most comprehensive means of improving currently inactive filter vessels # 1 and 2 is to retrofit these vessels to operate similarly to the original filter vessels 3, 4 and 5; by lowering the legs, installing a sidewall outlet pipe, replacing the media in all the filters with Greensand Plus, and modifying system controls.

SCOPE OF SERVICES

- 1) Conduct Detailed Filter and Piping Measurements, Create Existing Condition Drawings – LEI will conduct detailed inspections inside the existing filter plant, and take photographs and measurements of existing filters and piping. LEI will prepare existing condition drawings for the five existing filters, and connecting filter face piping.
- 2) Develop Filter Retrofit Drawings for Filters 1 and 2 – LEI will prepare retrofit drawings for Filter Vessels # 1 and 2, the two newest filter vessels which experienced structural floor failures in the past. We will outline requirements to remove the existing damaged underdrain system and concrete ballast, providing an 8" sidewall flange for new filter underdrain/ backwash piping, and shortening the filter legs so that filter outlet/backwash supply pipes are at the same elevation.
- 3) Develop Updated Piping Drawings for Filters 1 and 2 – LEI will prepare updated filter face piping drawings for Filters 1 and 2, showing connections to common plant piping for raw water, treated water, backwash water supply, backwash water waste piping, and airwash piping.
- 4) Develop Filter Media Upgrade Plans – As discussed, the existing Layne- Ox media will be replaced by Greensand Plus, another common media used for iron and manganese removal. LEI will specify new filter media and support gravel media for both Filters # 1 and #2, as well as for existing filters # 3, #4 and # 5, once Filters # 1 and # 2 are on-line and operational.



Ms. Pamela Minella
Town of Colchester Sewer and Water Department
Page 2

- 5) Restore Airwash Piping – LEI will evaluate the status of the existing air wash system, which we understand was removed when the Layne-Ox media was chosen. We will show new air wash piping and connections to each of the five filters.
- 6) Treatment System Control Upgrades – LEI will attempt to retain the Control Systems Integrator from the last Cabin Road filter plant upgrades, to assist us in designing water system control upgrades to modify system operation with the new filter media and piping in place.

We have included an allowance of \$ 10,000 for this work in our fee estimate.

- 7) Prepare Technical Specifications – LEI will prepare technical specifications which along with the plans will detail the materials, methods and standards of construction for this project.
- 8) Prepare Front-End Contract Documents- LEI will prepare a set of industry standard, front-end bid documents that the Town can use to solicit competitive bids, as well as to construct the project. If the Town has any specific contract forms or language they would like to use, we ask that this be provided early in the project so we can incorporate it into the documents.
- 9) Approvals – LEI will prepare the DPH General Application Form and submit our design plans and technical specifications to the DPH Drinking Water Section for review and approval. We will attend up to one meeting with them, either virtual or in person, to discuss the project. We will make one set of plan and specification revisions, based on written comments received.
- 10) Deliverables- LEI will provide the Town of Colchester with final design plans, technical specifications, and Contract Documents, ready for public bidding.
- 11) Prepare DPH DWSRF Compliant Contract Documents and Obtain Approvals (Optional) - If Colchester decides to construct this project with DPH Drinking Water State Revolving Fund (DWSRF) money, we will need to make significant upgrades of the front-end bid documents for the State to approve the project. We will also assist the Town in preparing the necessary DPWRF paperwork.
- 12) If requested, LEI can provide a separate proposal to provide engineering services during bidding and services during construction.



Ms. Pamela Minella
Town of Colchester Sewer and Water Department
Page 3


PROPOSED FEES

We propose to complete this work for a fixed fee of \$ 70,000, which includes a \$ 10,000 allowance for a Control Systems Integrator services.

If the Town wanted to utilize DWSRF funds, the additional cost for Item 11 - Prepare DPH DWSRF Compliant Contract Documents and Obtain Approvals, is \$ 8,500.

I hope that you find this proposal acceptable, and look forward to continuing our work on this exciting, fast track project for the Town of Colchester Sewer and Water Department. By reference, the attached Standard Conditions for Engagement are part of this contract. If you or other commission members have any questions or comments regarding this proposal, I am at your service.

Very truly yours,
Lenard Engineering, Inc.


James E. Ericson, P.E.
Vice President

Enclosure

ACCEPTED BY: _____

DATE: _____

Standard Conditions of Engagement
Lenard Engineering, Inc.

1. **Agreement:** The proposal or agreement form duly executed by LEI and the Client, along with any documents appended by reference, including this Standard Conditions of Engagement constitutes the entire agreement between LEI and the Client and supersedes any written or oral representations made by either party prior to execution of this agreement.

2. **Acceptance Period:** This Client shall have 30 days after the offering date listed on the professional services agreement to accept the proposal, after which time the proposal terminates at the sole option of LEI. If the Client returns the executed agreement to LEI after the 30-day acceptance period expires, LEI may elect to accept the executed agreement or re-issue the agreement with revised terms and conditions.

3. **Governing Law:** This agreement is governed by the law of the State of Connecticut.

4. **Compensation Format:** The Client agrees to compensate LEI for services rendered according to the compensation format(s) stipulated in the agreement. The following paragraphs define the various compensation formats and the methods by which LEI will compute invoice amounts:

4.A) **Fixed Fee:** LEI shall render services for the fixed fee stipulated in the agreement. The fixed fee shall include the cost of all *Basic Services* (in-house labor), *Outside Services* (services provided by outside individuals or firms), *Reimbursable Expenses* (mileage, printing, and other consumable expenses), services charges, and taxes (if any). At the conclusion of each billing period, LEI will compute the invoice value by estimating the percentage of completion, or if so stipulated in the agreement, by applying milestone payment requirements.

4.B) **Fixed Fee Plus Outside Services and Expenses:** LEI shall furnish *Basic Services* for the fixed fee stipulated in the Agreement. In addition to the fixed fee for *Basic Services*, LEI shall furnish *Outside Services* at LEI's cost plus a 10% service charge and invoice the Client for *Reimbursable Expenses* according to the attached document entitled "Reimbursable Expense Schedule" and made a part hereof. At the conclusion of each billing period, LEI will calculate the value of *Basic Services* by estimating the percentage of completion, or if so stipulated in the agreement, by applying milestone payment requirements. To this value, LEI will add the value of *Outside Services* and *Reimbursable Expenses* incurred during the billing period.

4.C) **Time and Materials:** LEI shall furnish services on a time-and-materials basis, with no limiting amount. LEI will compute time charges for *Basic Services* by multiplying the number of hours expended on the project by LEI staff by LEI's standard hourly rates for various employee classifications (refer to the attached document entitled "Hourly Billing Rates"). In addition to charges for *Basic Services*, LEI will invoice the Client for *Outside Services* at LEI's cost plus a 10% service charge and for *Reimbursable Expenses* (refer to the attached document entitled "Reimbursable Expense Schedule"). At the conclusion of each billing period, LEI will invoice the Client for *Basic Services*, *Outside Services*, and *Reimbursable Expenses* incurred during the billing period.

4.D) **Time-Charge Maximum:** LEI shall furnish services on a time-and-materials basis. LEI will compute time charges for *Basic Services* by multiplying the actual number of hours charged to the project by LEI staff by LEI's standard hourly rates for various employee classifications (refer to the attached document entitled "Hourly Billing Rates"). In addition to time charges for *Basic Services*, LEI will invoice the Client for *Outside Services* at LEI's cost plus a 10% service charge and for *Reimbursable Expenses* (refer to the attached document entitled "Reimbursable Expense Schedule"). The total value of LEI time charges for in-house labor shall not exceed the maximum limiting amount stipulated in the Agreement. At the conclusion of each billing period, LEI will invoice the Client for *Basic Services*, *Outside Services*, and *Reimbursable Expenses* incurred during the billing period.

5. **Payment Terms:**

5.A) **Retainer:** If the Agreement requires a retainer, the Client shall forward the retainer to LEI along with an executed copy of the Agreement. LEI will apply the retainer toward the Client's final invoice. If the retainer exceeds the final invoice value, LEI shall refund the difference to the Client within 30 days from the date of final invoice. If the final invoice exceeds the retainer, the Client shall, within 30 days from the date of final invoice remit the amount due.

5.B) **Invoice Frequency and Review:** LEI will submit invoices monthly, unless the Agreement specifies a different frequency, including specific milestones. The Client shall review LEI invoices within seven (7) business days. If the Client disputes any invoice or charge the Client shall identify in writing within fourteen (14) days from its receipt of the invoice the specific cause of the disagreement and the amount in dispute and shall pay that portion of the invoice not in dispute in accordance with the other payment terms of this Agreement.

5.C) **Interest on Overdue Balances:** Invoices are due and payable in full thirty (30) days after the date on the invoice. LEI will add an interest charge of 1½ % (or the maximum rate allowed by law, whichever is less) of the invoice amount automatically to each invoice if payment is not received on the thirty-first day. Thereafter, LEI will add interest on the cumulative outstanding balance at a rate of 1½ % per month (or the maximum rate allowed by law, whichever is less).

5.D) **Collection Costs:** For outstanding balances beyond 60 days past-due, LEI may employ a collection agency to enforce payment terms of this agreement and may recover the amount owed along with reasonable attorneys' fees and other reasonable costs and expenses incurred in collection. LEI's collection agency shall be entitled to collect from the Client any settlement sum due plus the value of the collection agency's charges.

5.E) **Attorney's Fees and Other Charges:** For outstanding balances beyond 60 day past-due, LEI reserves the right to take legal action to enforce the payment terms of this agreement. In the event of such legal action, LEI shall be entitled to collect from the Client any judgment or settlement sum due, plus reasonable attorney's fees, court costs, and the reasonable value of LEI's time and expenses relating to such collection action, computed according to LEI's prevailing hourly billing schedule and expense policies.

5.F) **Application of Payments:** LEI reserves the right to apply payments to accrued interest first, and then to any unpaid principal. LEI will apply payments to unpaid principal in the order in which invoices are issued, starting with the oldest outstanding invoice.

6. **LEI's Performance:** LEI will endeavor to complete the services rendered under this agreement within the estimated schedule or period of service discussed in the agreement. The Client understands that LEI may be obstructed from timely performing this agreement by factors or causes beyond LEI's reasonable control. Such factors or causes include, but are not limited to, acts of God, war, riots, fire, floods, inclement weather, delays created within or by approving agencies, acts of civil or military authority (including governmental laws, orders, priorities or regulations), acts of the Client, acts of the Client's contractors and agents, or inability, despite reasonable efforts, to obtain access to the project site and facilities. If delays arise through no fault of LEI, the Client agrees that LEI's estimated schedule or period of service will be extended by a period of time equal to that of the delay. The Client also agrees to compensate LEI for reasonable costs incurred by LEI in contending with such delays.

7. **Right of Entry:** The Client shall provide access to the property owned by the Client and/or others so that LEI and its authorized agents may fulfill the scope of services of this agreement. Although LEI will exercise reasonable care in performing its services, the Client understands that the use of testing equipment or other tools and procedures may unavoidably cause some impact to the site, the correction of which is not part of this agreement. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless LEI, its officers, directors, employees, and subcontractants (collectively, LEI) against any damages, liabilities, or costs arising or allegedly arising from procedures associated with testing, surveys, and site investigations connected in any way with LEI's fulfillment of the scope of services of this agreement. LEI shall be liable only for damages resulting solely from LEI's negligent acts, errors, and omissions, subject to the Professional Liability Risk Allocation provisions contained elsewhere in this Standard Conditions of Engagement.

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

9. **Ownership and Reuse of Documents:** All reports, drawings, specifications, computer files, field data, notes, laboratory test data, calculations, and other instruments prepared by LEI as instruments of service shall remain the property of LEI. LEI shall retain all common law, statutory, and other reserved rights, including the copyright thereto. The Client may make and retain copies of LEI's instruments of service for its own information and reference in connection with the use and occupancy of the project site by the Client and others; however, such documents are not intended or represented by LEI to be suitable for re-use by the Client or others on extensions of the project or on any other project. Any re-use of documents prepared for the Client by LEI will be at the re-user's sole risk, without liability or legal exposure to LEI. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless LEI, its officers, directors, employees, and subcontractants (collectively, LEI) against any damages, liabilities, or costs, including reasonable attorney's fees and defense costs, arising or allegedly arising from or in any way connected with the unauthorized re-use or modification of LEI documents by the Client or any person or entity that acquires or obtains LEI documents from or through the Client without written authorization of LEI. The Client agrees that all LEI instruments of service which are not paid for in full will be returned upon demand by LEI and will not be used for any purpose whatsoever. Unless specifically stipulated in the agreement, LEI will not provide the Client with any instruments of service on electronic media. If LEI and the Client subsequently agree to such transfer of electronic data, the Client agrees to compensate LEI for costs incurred in preparing electronic documents. LEI reserves the right to impose terms and conditions for such transfer of electronic data in addition to those already stipulated in this Standard Conditions of Engagement.

10. **Standard of Care:** By accepting this agreement for professional services, the Client acknowledges that LEI's services often require decisions that are based upon professional judgment. In performing professional services, LEI will use that degree of care and skill ordinarily exercised under similar circumstances, at the

same time, and in the same locale by members of the profession. The standard of care shall be exclusively judged as of the time the services are rendered and not according to later standards. The Client agrees that LEI will render the services provided without any other warranty, expressed or implied.

11. Insurances: LEI maintains general liability, automobile liability, worker's compensation / employer's liability, and professional liability insurance coverage. LEI will furnish certification upon written request. The Client agrees that LEI will not be liable or responsible to the Client for any loss, damage, or liability beyond the amounts, limits, exclusions, and conditions of such insurance.

12. Professional Liability Risk Allocation: The Client and LEI have discussed their risks, rewards, and benefits under this agreement and LEI's total fee for services. The parties to this Agreement have allocated the risks such that, to the fullest extent permitted by law, LEI's total liability for any and all injuries, claims, expenses, damages, or claim expenses arising out of this agreement from any causes related to professional services shall not exceed the total amount of \$ 50,000 or LEI's fee, whichever is greater. Such causes include, but are not limited to LEI's negligent errors and omissions.

13. Consequential Damages: Notwithstanding any other provisions of this Agreement, and to the fullest extent permitted by the law, neither the Client nor LEI, their respective officers, directors, partners, employees, contractors, or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect, or consequential damages arising out of or connected in any way to the Project or this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract, and breach of strict or implied warranty. Both the Client and LEI shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

14. Opinions of Probable Construction Cost: In providing opinions of probable construction cost, the Client understands that LEI has no control over the cost or availability of labor, equipment, or materials, or over market conditions, or contractors' methods of pricing, and that LEI's opinions of probable construction cost are made on the basis of LEI's professional judgment and experience. LEI makes no warranty, expressed or implied, that the bids or negotiated cost of the work will not vary from LEI's opinion of probable construction cost.

15. Services Related to Permits and Approvals: The Client understands that the granting of project-related permits and approvals by regulatory agencies often involves discretionary and subjective judgments and that LEI has no control over such judgments. Consequently, LEI cannot assure the Client that regulatory agencies will approve permit applications prepared by LEI on the Client's behalf, or that any conditions-of-approval imposed by regulatory agencies will be acceptable to the Client. Hence, the Client agrees to waive any claim against LEI for relative damages, direct or indirect, which may result from an unfavorable decision or denial of approvals or permit applications by regulatory agencies. LEI shall be liable only for damages resulting solely from LEI's negligence acts, errors, and omissions, subject to the Professional Liability Risk Allocation provisions contained elsewhere in this Standard Conditions of Engagement.

16. Public Responsibility: The Client agrees to notify each appropriate federal, state, county, and local public agency, as they each may require, of the existence of any condition at the Site that may present a potential danger to public health, safety, or the environment. LEI shall have no liability or responsibility to the Client or to any other person for reports or disclosures made in accordance with such statutory or other lawful requirements. The Client shall defend, indemnify, and hold LEI harmless from and against any and all claims, demands, liabilities and expense, including reasonable attorney's fees and defense costs, incurred by LEI and arising directly or indirectly out of LEI's reporting such information under a bona fide belief, or upon advice of counsel, that such reporting or failure to report or disclosure is required by law.

17. Modification of Agreement: The Client and LEI may modify this Agreement at any time by duly executed written change order. All change orders shall include detailed descriptions, where applicable, of adjustments to:

- 17.A) The agreement's scope of services
- 17.B) The magnitude or format of compensation
- 17.C) The magnitude and/or timing of progress payments
- 17.D) LEI's schedule or period of service

18. Suspension of Work: If the Client suspends the project or LEI's services for more than 30 calendar days, consecutive or in the aggregate, over the term of this agreement, the Client shall pay LEI for all services performed and reimbursable expenses incurred prior to LEI's receipt of the written suspension notice. In addition, upon resumption of services, the Client shall pay LEI for expenses incurred as a result of the suspension and resumption, and LEI's schedule of fees for the remainder of the project shall be equitably adjusted. If the Client is in breach of the payment terms or otherwise in material breach of this agreement, LEI may suspend performance of services upon provision of seven days' written notice to the Client. LEI shall have no liability to the Client, and the Client agrees to make no claim for any delay or damages as a result of such suspension caused by any breach of this agreement by the Client. Upon receipt of payment in full of all outstanding sums due from the Client, LEI shall resume services and there shall be an equitable adjustment to the remaining project schedule and fees as a result of the suspension. In the event that the Client has paid a retainer to LEI, LEI shall be entitled to apply the retainer to cover any sums due from the Client up to the date of suspension.

Prior to resuming services after such suspension, the Client shall remit to LEI sufficient funds to replenish the retainer to its full prior amount.

19. Termination of Agreement: Either party may terminate this agreement for cause upon giving the other party at least seven calendar days' written notice. In the event of termination of this agreement by either party, the Client shall pay LEI for all services rendered and all reimbursable expenses incurred by LEI up to the date of termination, in accordance with the payment terms of this agreement. The Client may terminate this agreement for the Client's convenience and without cause, upon giving LEI seven (7) calendar days' written notice. The following causes may give rise to termination:

- 19.A) Substantial failure by the other party to perform in accordance with the terms of this agreement and through no fault of the terminating party
- 19.B) Assignment of this agreement or transfer of the project to any other entity without prior written consent of the other party
- 19.C) Suspension of the project or LEI's services for more than 90 calendar days, consecutive or in the aggregate
- 19.D) Material changes in the conditions under which this agreement was entered into, the scope of services, or the nature of the project, and the failure of the parties to reach agreement in the compensation and schedule adjustments necessitated by such changes

In the event of termination that is not the fault of LEI, the Client shall pay LEI, in addition to payment for services rendered and reimbursable expenses incurred, for all expenses reasonably incurred by LEI in connection with the orderly termination of this agreement, including but not limited to demobilization, reassignment of personnel, associated overhead costs, and all other expenses directly resulting from termination.

20. Shop Drawing Review: If required by the Agreement, LEI shall review and approve or take other appropriate action on the Contractor's submittals, such as shop drawings, product data, samples and other data, which the Contractor is required to submit, but only for the limited purpose of checking for conformance with the design concept and the information shown in the Construction Documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the Contractor. LEI's review shall be conducted with reasonable promptness while allowing sufficient time in LEI's judgment to permit adequate review. Review of a specific item shall not indicate that LEI has reviewed the entire assembly of which the item is a component. LEI shall not be responsible for any deviations from the Construction Documents not brought to the attention of LEI in writing by the Contractor. LEI shall not be required to review partial submissions or those for which submission of correlated items have not been received.

21. Assignment: Neither party to this agreement shall transfer, sublet, or assign any rights under this agreement (including, but not limited to, monies that are or may be due) without prior written consent of the other party. The subcontracting of services by LEI to other parties (subconsultants) shall not be considered an assignment for purposes of this agreement.

22. Hazardous Materials: Both parties acknowledge that LEI's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event LEI or any other party encounters any hazardous or toxic materials, or should it become known to LEI that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of LEI's services, LEI may, at its option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the Client retains appropriate consultants or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations. The Client agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless LEI, its officers, partners, employees and consultants (collectively, LEI) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of LEI.

23. Dispute Resolution: In the event of a dispute arising out of or relating to this Agreement or the services to be rendered hereunder, the Client and LEI agree to attempt to resolve such disputes in the following manner:

First, the parties agree to attempt to resolve such disputes through direct negotiations between the appropriate representatives of each party.

Second, if such negotiations are not fully successful, the parties agree to attempt to resolve any remaining dispute by formal nonbinding mediation conducted in accordance with rules and procedures to be agreed upon by the parties.

Third, if the dispute or any issues remain unresolved after the above steps, the parties agree to attempt resolution by submitting the matter to the American Arbitration Association or any other alternate dispute resolution provider agreed upon by the parties. Costs of arbitration, including reasonable attorneys' fees and interest on sums determined to be improperly withheld, shall be borne by the losing party. Judgment may be entered on any arbitration award in any court of competent jurisdiction or withheld and set-off from any payment due hereunder or any other agreement entered in connection with this agreement.



Lenard Engineering, Inc.

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Civil, Environmental and Hydrogeological Consultants

May 25, 2022

Ms. Pamela Minella, Supervisor
Town Of Colchester Sewer and Water Department
127 Norwich Road
Colchester, CT 06415

RE: Proposal for Professional Services, Provide Design Plans, Technical Specifications and Contract Documents for Coatings and Upgrades to 40' Tall, 375,000 Gallon Steel Water Tank, Elmwood Heights, Colchester, CT

Dear Ms. Minella:

As requested, Lenard Engineering, Inc. (LEI) is pleased to submit the following proposal for your commission's review and approval. Based on our recently completed study, your existing 40' tall, 375,000 gallon water tank is in need of exterior recoating. In addition, our inspection report indicated that lead and chromium abatement is needed, along with roof vent, roof hatch and shell ladder improvements should be conducted as well.

SCOPE OF SERVICES

- 1) Prepare Design Plans for Tank Improvements – LEI will develop design plans showing the locations of improvements on the tanks, along with construction details.
- 2) Prepare Technical Specifications – LEI will prepare technical specifications which along with the plans will detail the materials, methods and standards of construction for this project.
- 3) Prepare Front-end Contract Documents- LE will prepare a set of industry standard, front-end bid documents that the Town can use to solicit competitive bids, as well as to construct the project. If the Town has any specific contract forms or language they would like to use, we ask that this be provided early in the project so we can incorporate it into the documents.
- 4) Approvals -- LEI will prepare the DPH General Application Form and submit our design plans and technical specifications to the DPH Drinking Water Section for review and approval. We will attend up to one meeting with them, either virtual or in person, to discuss the project. We will make one set of plan and specification revisions, based on written comments received.
- 5) Deliverables- LEI will provide the Town of Colchester with final design plans, technical specifications, and Contract Documents, ready for public bidding. We will provide you with both paper and PDF copies, for your use in reproducing these documents for bidding.



Ms. Pamela Minella
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- 6) Prepare DPH DWSRF Compliant Contract Documents and Obtain Approvals (Optional) - If Colchester decides to construct this project with DPH Drinking Water State Revolving Fund (DWSRF) money, we will need to make significant upgrades of the front-end bid documents for the State to approve the project. We will also assist the Town in preparing the necessary DPWRF paperwork.
- 7) Service during Bidding and Construction (Optional) - If requested, LEI can provide a separate proposal to provide services during bidding and services during construction.

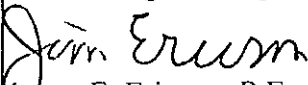
PROPOSED FEES

We propose to complete this work for a fixed fee of \$ 10,000.

If the Town wanted to utilize DWSRF funds, the additional cost for Item 6 - Prepare DPH DWSRF Compliant Contract Documents and Obtain Approvals, is \$ 5,000.

I hope that you find this proposal acceptable, and look forward to continuing our work on this exciting, fast track project for the Town of Colchester Sewer and Water Department. By reference, the attached Standard Conditions for Engagement are part of this contract. If you or other commission members have any questions or comments regarding this proposal, I am at your service.

Very truly yours,
Lenard Engineering, Inc.


James E. Ericson, P.E.
Vice President

Enclosure

ACCEPTED BY: _____

DATE: _____

Standard Conditions of Engagement
Lenard Engineering, Inc.

1. **Agreement:** The proposal or agreement form duly executed by LEI and the Client, along with any documents appended by reference, including this *Standard Conditions of Engagement* constitutes the entire agreement between LEI and the Client and supersedes any written or oral representations made by either party prior to execution of this agreement.
2. **Acceptance Period:** This Client shall have 30 days after the offering date listed on the professional services agreement to accept the proposal, after which time the proposal terminates at the sole option of LEI. If the Client returns the executed agreement to LEI after the 30-day acceptance period expires, LEI may elect to accept the executed agreement or re-issue the agreement with revised terms and conditions.
3. **Governing Law:** This agreement is governed by the law of the State of Connecticut.
4. **Compensation Format:** The Client agrees to compensate LEI for services rendered according to the compensation format(s) stipulated in the agreement. The following paragraphs define the various compensation formats and the methods by which LEI will compute invoice amounts:
 - 4.A) **Fixed Fee:** LEI shall render services for the fixed fee stipulated in the agreement. The fixed fee shall include the cost of all *Basic Services* (in-house labor), *Outside Services* (services provided by outside individuals or firms), *Reimbursable Expenses* (mileage, printing, and other consumable expenses), services charges, and taxes (if any). At the conclusion of each billing period, LEI will compute the invoice value by estimating the percentage of completion, or if so stipulated in the agreement, by applying milestone payment requirements.
 - 4.B) **Fixed Fee Plus Outside Services and Expenses:** LEI shall furnish *Basic Services* for the fixed fee stipulated in the Agreement. In addition to the fixed fee for *Basic Services*, LEI shall furnish *Outside Services* at LEI's cost plus a 10% service charge and invoice the Client for *Reimbursable Expenses* according to the attached document entitled "Reimbursable Expense Schedule" and made a part hereof. At the conclusion of each billing period, LEI will calculate the value of *Basic Services* by estimating the percentage of completion, or if so stipulated in the agreement, by applying milestone payment requirements. To this value, LEI will add the value of *Outside Services* and *Reimbursable Expenses* incurred during the billing period.
 - 4.C) **Time and Materials:** LEI shall furnish services on a time-and-materials basis, with no limiting amount. LEI will compute time charges for *Basic Services* by multiplying the number of hours expended on the project by LEI staff by LEI's standard hourly rates for various employee classifications (refer to the attached document entitled "Hourly Billing Rates"). In addition to charges for *Basic Services*, LEI will invoice the Client for *Outside Services* at LEI's cost plus a 10% service charge and for *Reimbursable Expenses* (refer to the attached document entitled "Reimbursable Expense Schedule"). At the conclusion of each billing period, LEI will invoice the Client for *Basic Services*, *Outside Services*, and *Reimbursable Expenses* incurred during the billing period.
 - 4.D) **Time-Charge-Maximum:** LEI shall furnish services on a time-and-materials basis. LEI will compute time charges for *Basic Services* by multiplying the actual number of hours charged to the project by LEI staff by LEI's standard hourly rates for various employee classifications (refer to the attached document entitled "Hourly Billing Rates"). In addition to time charges for *Basic Services*, LEI will invoice the Client for *Outside Services* at LEI's cost plus a 10% service charge and for *Reimbursable Expenses* (refer to the attached document entitled "Reimbursable Expense Schedule"). The total value of LEI time charges for in-house labor shall not exceed the maximum limiting amount stipulated in the Agreement. At the conclusion of each billing period, LEI will invoice the Client for *Basic Services*, *Outside Services*, and *Reimbursable Expenses* incurred during the billing period.
5. **Payment Terms:**
 - 5.A) **Retainer:** If the Agreement requires a retainer, the Client shall forward the retainer to LEI along with an executed copy of the Agreement. LEI will apply the retainer toward the Client's final invoice. If the retainer exceeds the final invoice value, LEI shall refund the difference to the Client within 30 days from the date of final invoice. If the final invoice exceeds the retainer, the Client shall, within 30 days from the date of final invoice remit the amount due.
 - 5.B) **Invoice Frequency and Review:** LEI will submit invoices monthly, unless the Agreement specifies a different frequency, including specific milestones. The Client shall review LEI invoices within seven (7) business days. If the Client disputes any invoice or charge the Client shall identify in writing within fourteen (14) days from its receipt of the invoice the specific cause of the disagreement and the amount in dispute and shall pay that portion of the invoice not in dispute in accordance with the other payment terms of this Agreement.
 - 5.C) **Interest on Overdue Balances:** Invoices are due and payable in full thirty (30) days after the date on the invoice. LEI will add an interest charge of 1½ % (or the maximum rate allowed by law, whichever is less) of the invoice amount automatically to each invoice if payment is not received on the thirty-first day. Thereafter, LEI will add interest on the cumulative outstanding balance at a rate of 1½ % per month (or the maximum rate allowed by law, whichever is less).
 - 5.D) **Collection Costs:** For outstanding balances beyond 60 days past-due, LEI may employ a collection agency to enforce payment terms of this agreement and may recover the amount owed along with reasonable attorneys' fees and other reasonable costs and expenses incurred in collection. LEI's collection agency shall be entitled to collect from the Client any settlement sum due plus the value of the collection agency's charges.
 - 5.E) **Attorney's Fees and Other Charges:** For outstanding balances beyond 60 day past-due, LEI reserves the right to take legal action to enforce the payment terms of this agreement. In the event of such legal action, LEI shall be entitled to collect from the Client any judgment or settlement sum due, plus reasonable attorney's fees, court costs, and the reasonable value of LEI's time and expenses relating to such collection action, computed according to LEI's prevailing hourly billing schedule and expense policies.
 - 5.F) **Application of Payments:** LEI reserves the right to apply payments to accrued interest first, and then to any unpaid principal. LEI will apply payments to unpaid principal in the order in which invoices are issued, starting with the oldest outstanding invoice.
6. **LEI's Performance:** LEI will endeavor to complete the services rendered under this agreement within the estimated schedule or period of service discussed in the agreement. The Client understands that LEI may be obstructed from timely performing this agreement by factors or causes beyond LEI's reasonable control. Such factors or causes include, but are not limited to, acts of God, war, riots, fire, floods, inclement weather, delays created within or by approving agencies, acts of civil or military authority (including governmental laws, orders, priorities or regulations), acts of the Client, acts of the Client's contractors and agents, or inability, despite reasonable efforts, to obtain access to the project site and facilities. If delays arise through no fault of LEI, the Client agrees that LEI's estimated schedule or period of service will be extended by a period of time equal to that of the delay. The Client also agrees to compensate LEI for reasonable costs incurred by LEI in contending with such delays.
7. **Right of Entry:** The Client shall provide access to the property owned by the Client and/or others so that LEI and its authorized agents may fulfill the scope of services of this agreement. Although LEI will exercise reasonable care in performing its services, the Client understands that the use of testing equipment or other tools and procedures may unavoidably cause some impact to the site, the correction of which is not part of this agreement. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless LEI, its officers, directors, employees, and subconsultants (collectively, LEI) against any damages, liabilities, or costs arising or allegedly arising from procedures associated with testing, surveys, and site investigations connected in any way with LEI's fulfillment of the scope of services of this agreement. LEI shall be liable only for damages resulting solely from LEI's negligent acts, errors, and omissions, subject to the Professional Liability Risk Allocation provisions contained elsewhere in this *Standard Conditions of Engagement*.
8. **Underground Improvements:** LEI and/or its subconsultants will conduct research that, in its professional opinion, is necessary, and will prepare a plan indicating the locations for subsurface penetrations with respect to the assumed locations of existing underground improvements. Such services by LEI and its subconsultants will be performed in a manner consistent with the ordinary standard of professional care. The Client recognizes, however, that such research may not identify all underground improvements and that the information upon which LEI reasonably relies may contain errors or may be incomplete. Therefore, the Client agrees, to the fullest extent permitted by law, to waive all claims and causes of action against LEI, and anyone for whom LEI may be legally liable, for damages to underground improvements resulting from subsurface penetrations in locations established by LEI that are based on properly filed and available records of said underground improvements.
9. **Ownership and Reuse of Documents:** All reports, drawings, specifications, computer files, field data, notes, laboratory test data, calculations, and other instruments prepared by LEI as instruments of service shall remain the property of LEI. LEI shall retain all common law, statutory, and other reserved rights, including the copyright thereto. The Client may make and retain copies of LEI's instruments of service for its own information and reference in connection with the use and occupancy of the project site by the Client and others; however, such documents are not intended or represented by LEI to be suitable for re-use by the Client or others on extensions of the project or on any other project. Any re-use of documents prepared for the Client by LEI will be at the re-user's sole risk, without liability or legal exposure to LEI. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless LEI, its officers, directors, employees, and subconsultants (collectively, LEI) against any damages, liabilities, or costs, including reasonable attorney's fees and defense costs, arising or allegedly arising from or in any way connected with the unauthorized re-use or modification of LEI documents by the Client or any person or entity that acquires or obtains LEI documents from or through the Client without written authorization of LEI. The Client agrees that all LEI instruments of service which are not paid for in full will be returned upon demand by LEI and will not be used for any purpose whatsoever. Unless specifically stipulated in the agreement, LEI will not provide the Client with any instruments of service on electronic media. If LEI and the Client subsequently agree to such transfer of electronic data, the Client agrees to compensate LEI for costs incurred in preparing electronic documents. LEI reserves the right to impose terms and conditions for such transfer of electronic data in addition to those already stipulated in this *Standard Conditions of Engagement*.
10. **Standard of Care:** By accepting this agreement for professional services, the Client acknowledges that LEI's services often require decisions that are based upon professional judgment. In performing professional services, LEI will use that degree of care and skill ordinarily exercised under similar circumstances, at the

same time, and in the same locale by members of the profession. The standard of care shall be exclusively judged as of the time the services are rendered and not according to later standards. The Client agrees that LEI will render the services provided without any other warranty, expressed or implied.

11. Insurances: LEI maintains general liability, automobile liability, worker's compensation / employer's liability, and professional liability insurance coverage. LEI will furnish certification upon written request. The Client agrees that LEI will not be liable or responsible to the Client for any loss, damage, or liability beyond the amounts, limits, exclusions, and conditions of such insurance.

12. Professional Liability Risk Allocation: The Client and LEI have discussed their risks, rewards, and benefits under this agreement and LEI's total fee for services. The parties to this Agreement have allocated the risks such that, to the fullest extent permitted by law, LEI's total liability for any and all injuries, claims, expenses, damages, or claim expenses arising out of this agreement from any causes related to professional services shall not exceed the total amount of \$ 50,000 or LEI's fee, whichever is greater. Such causes include, but are not limited to LEI's negligent errors and omissions.

13. Consequential Damages: Notwithstanding any other provisions of this Agreement, and to the fullest extent permitted by the law, neither the Client nor LEI, their respective officers, directors, partners, employees, contractors, or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect, or consequential damages arising out of or connected in any way to the Project or this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract, and breach of strict or implied warranty. Both the Client and LEI shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

14. Opinions of Probable Construction Cost: In providing opinions of probable construction cost, the Client understands that LEI has no control over the cost or availability of labor, equipment, or materials, or over market conditions, or contractors' methods of pricing, and that LEI's opinions of probable construction cost are made on the basis of LEI's professional judgment and experience. LEI makes no warranty, expressed or implied, that the bids or negotiated cost of the work will not vary from LEI's opinion of probable construction cost.

15. Services Related to Permits and Approvals: The Client understands that the granting of project-related permits and approvals by regulatory agencies often involves discretionary and subjective judgments and that LEI has no control over such judgments. Consequently, LEI cannot assure the Client that regulatory agencies will approve permit applications prepared by LEI on the Client's behalf, or that any conditions-of-approval imposed by regulatory agencies will be acceptable to the Client. Hence, the Client agrees to waive any claim against LEI for relative damages, direct or indirect, which may result from an unfavorable decision or denial of approvals or permit applications by regulatory agencies. LEI shall be liable only for damages resulting solely from LEI's negligence acts, errors, and omissions, subject to the Professional Liability Risk Allocation provisions contained elsewhere in this Standard Conditions of Engagement.

16. Public Responsibility: The Client agrees to notify each appropriate federal, state, county, and local public agency, as they each may require, of the existence of any condition at the Site that may present a potential danger to public health, safety, or the environment. LEI shall have no liability or responsibility to the Client or to any other person for reports or disclosures made in accordance with such statutory or other lawful requirements. The Client shall defend, indemnify, and hold LEI harmless from and against any and all claims, demands, liabilities and expense, including reasonable attorney's fees and defense costs, incurred by LEI and arising directly or indirectly out of LEI's reporting such information under a bona fide belief, or upon advice of counsel, that such reporting or failure to report or disclosure is required by law.

17. Modification of Agreement: The Client and LEI may modify this Agreement at any time by duly executed written change order. All change orders shall include detailed descriptions, where applicable, of adjustments to:

- 17.A) The agreement's scope of services
- 17.B) The magnitude or format of compensation
- 17.C) The magnitude and/or timing of progress payments
- 17.D) LEI's schedule or period of service

18. Suspension of Work: If the Client suspends the project or LEI's services for more than 30 calendar days, consecutive or in the aggregate, over the term of this agreement, the Client shall pay LEI for all services performed and reimbursable expenses incurred prior to LEI's receipt of the written suspension notice. In addition, upon resumption of services, the Client shall pay LEI for expenses incurred as a result of the suspension and resumption, and LEI's schedule of fees for the remainder of the project shall be equitably adjusted. If the Client is in breach of the payment terms or otherwise in material breach of this agreement, LEI may suspend performance of services upon provision of seven days' written notice to the Client. LEI shall have no liability to the Client, and the Client agrees to make no claim for any delay or damages as a result of such suspension caused by any breach of this agreement by the Client. Upon receipt of payment in full of all outstanding sums due from the Client, LEI shall resume services and there shall be an equitable adjustment to the remaining project schedule and fees as a result of the suspension. In the event that the Client has paid a retainer to LEI, LEI shall be entitled to apply the retainer to cover any sums due from the Client up to the date of suspension

Prior to resuming services after such suspension, the Client shall remit to LEI sufficient funds to replenish the retainer to its full prior amount.

19. Termination of Agreement: Either party may terminate this agreement for cause upon giving the other party at least seven calendar days' written notice. In the event of termination of this agreement by either party, the Client shall pay LEI for all services rendered and all reimbursable expenses incurred by LEI up to the date of termination. In accordance with the payment terms of this agreement, the Client may terminate this agreement for the Client's convenience and without cause, upon giving LEI seven (7) calendar days' written notice. The following causes may give rise to termination:

19.A) Substantial failure by the other party to perform in accordance with the terms of this agreement and through no fault of the terminating party

19.B) Assignment of this agreement or transfer of the project to any other entity without prior written consent of the other party

19.C) Suspension of the project or LEI's services for more than 90 calendar days, consecutive or in the aggregate

19.D) Material changes in the conditions under which this agreement was entered into, the scope of services, or the nature of the project, and the failure of the parties to reach agreement in the compensation and schedule adjustments necessitated by such changes

In the event of termination that is not the fault of LEI, the Client shall pay LEI, in addition to payment for services rendered and reimbursable expenses incurred, for all expenses reasonably incurred by LEI in connection with the orderly termination of this agreement, including but not limited to demobilization, reassignment of personnel, associated overhead costs, and all other expenses directly resulting from termination.

20. Shop Drawing Review: If required by the Agreement, LEI shall review and approve or take other appropriate action on the Contractor's submittals, such as shop drawings, product data, samples and other data, which the Contractor is required to submit, but only for the limited purpose of checking for conformance with the design concept and the information shown in the construction Documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the Contractor. LEI's review shall be conducted with reasonable promptness while allowing sufficient time in LEI's judgment to permit adequate review. Review of a specific item shall not indicate that LEI has reviewed the entire assembly of which the item is a component. LEI shall not be responsible for any deviations from the Construction Documents not brought to the attention of LEI in writing by the Contractor. LEI shall not be required to review partial submissions or those for which submission of correlated items have not been received.

21. Assignment: Neither party to this agreement shall transfer, sublet, or assign any rights under this agreement (including, but not limited to, monies that are or may be due) without prior written consent of the other party. The subcontracting of services by LEI to other parties (subconsultants) shall not be considered an assignment for purposes of this agreement.

22. Hazardous Materials: Both parties acknowledge that LEI's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event LEI or any other party encounters any hazardous or toxic materials, or should it become known to LEI that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of LEI's services, LEI may, at its option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the Client retains appropriate consultants or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations. The Client agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless LEI, its officers, partners, employees and consultants (collectively, LEI) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of LEI.

23. Dispute Resolution: In the event of a dispute arising out of or relating to this Agreement or the services to be rendered hereunder, the Client and LEI agree to attempt to resolve such disputes in the following manner:

First, the parties agree to attempt to resolve such disputes through direct negotiations between the appropriate representatives of each party.

Second, if such negotiations are not fully successful, the parties agree to attempt to resolve any remaining dispute by formal nonbinding mediation conducted in accordance with rules and procedures to be agreed upon by the parties.

Third, if the dispute or any issues remain unresolved after the above steps, the parties agree to attempt resolution by submitting the matter to the American Arbitration Association or any other alternate dispute resolution provider agreed upon by the parties. Costs of arbitration, including reasonable attorneys' fees and interest on sums determined to be improperly withheld, shall be borne by the losing party. Judgment may be entered on any arbitration award in any court of competent jurisdiction or withheld and set-off from any payment due hereunder or any other agreement entered in connection with this agreement.