



February 24, 2020
09020-0208

Education Mr. Leonard R. Lepore
Township of West Orange
Department of Public Works
Energy 25 Lakeside Avenue
Federal West Orange, New Jersey 07052

Healthcare Re: Proposal for Civil Engineering, Electrical Engineering and Surveying Services
Hospitality Degnan Park Ball Field Improvements
Infrastructure Block 154.19 Lot 6
Real Estate West Orange, Essex County, New Jersey

Science & Technology

Dear Mr. Lepore:

1.0 INTRODUCTION

Paulus, Sokolowski & Sartor, LLC (PS&S) is pleased to present this proposal to provide Civil Engineering, Electrical Engineering and Surveying services associated with the Degnan Park Ball Field improvements located on Alisa Drive in the Township of West Orange, New Jersey. The site is situated at the end of Alisa Drive just south of the West Orange High School. The site is further identified on the West Orange tax maps as Block 154.19, Lot 6. The property is currently an existing grass baseball field with an asphalt parking lot, fencing and bleachers.

We understand from the Request for Proposal (RFP) dated February 4, 2020 and from the plans included in the RFP, that the Township of West Orange is proposing improvements to the Degnan Park Ball Field including installation of Turf Field for a new softball field, new scoreboard and new outfield fencing.

We further understand that the Township is seeking design and specifications for the artificial turf construction including excavation, grading, and underdrain installation. Furthermore, the new scoreboard will require installation of new electrical conduits, wiring and service connection. As per the RFP, the scope of work will also include a Bid Document phase and a Construction Administration phase.

We have prepared the following scope of basic services based upon the information provided and our knowledge of similar projects for this region of New Jersey.

67B Mountain Blvd Ext
PO Box 4039
Warren, NJ 07059

t. 732.560.9700

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2.0 SCOPE OF BASIC SERVICES

2.1 Surveying Services

Topographic & Utility Survey

PS&S survey crews will perform a topographic survey of the project area (limited to the area of the proposed artificial turf and adjacent vicinity) using a combination of drone aerial mapping technology and conventional on-ground survey methods. We will locate and provide elevations of all surface features within the project area including, but not limited to buildings, inlets, manholes, curbs, shrubs, trees, fences, guardrails, sidewalks, lights, signs and retaining walls. All information will be at a 1"=30' scale and will provide a one (1) foot contour interval. Horizontal survey control will be prepared in New Jersey State Plane Coordinate System, North American datum 1983 (NAD83). Vertical survey control will be North American Vertical datum 1988 (NAVD88) and will be referenced on the survey. The final plan will be prepared as an AutoCAD drawing file showing the graphic scale and north arrow.

PS&S survey crews will also perform a survey of utilities within the project area as defined above. We will make reasonable investigations concerning the location and size of underground utility lines on site and on public streets. Where surface indications of the presence of such utilities are apparent, such features will be located on the plans. However, PS&S cannot be responsible to detect or locate buried utilities for which no surface indications are present, nor shall PS&S be responsible for the accuracy of information taken from records and drawings provided by others or locations marked out by utility companies. The drawing will also be prepared as an AutoCAD file.

2.2 Site Civil Engineering Services

2.2.2 Construction Documents Phase

In this phase of the project, PS&S will prepare site construction plans for the proposed improvements at the Degnan Park Ball Field. The Topographic and Utility Survey prepared by PS&S (in AutoCAD format) will form the base map for the site plan documents. PS&S will utilize the layout (in AutoCAD format) as prepared by Turf Field dated December 16, 2019 for incorporation into the construction plans. PS&S will prepare the following construction plans with sufficient detail as to provide sufficient information for bidding purposes. Based upon our understanding of the proposed project, we expect the site construction plans to consist of the following:

- Cover Sheet; showing key and vicinity maps, owner/applicant



- information, and sheet index;
- General Notes, Legend, and Abbreviations Plan;
 - Existing Conditions Site Plan; (Topographic and Utility Survey prepared by PS&S).
 - Site Plan; showing distances between key structures, softball field dimensions, new fencing and scoreboard location.
 - Grading, Drainage Plan; showing proposed grading, utility (storm), and structures, invert and rim elevations, pipe materials, pipe sizes and slopes, and connections to existing lines.
 - Soil Erosion and Sediment Control (SESC); showing SESC measures as required by the Hudson-Essex-Passaic Soil Conservation District (SCD);
 - Site Details Sheet(s) (up to 2 sheets, scale: as necessary); showing details for the site items specified by PS&S; and

PS&S has assumed that the ball field improvements will not require Township approvals for the construction of the proposed improvements. If Township approval is required, PS&S will prepare a separate proposal for the additional scope of work.

Additionally, we have assumed that the proposed improvements and turf ballfield will not trigger Stormwater Management design requirements and that the proposed turf field is considered pervious coverage.

PS&S has assumed that no meetings are needed for this phase and all coordination with West Orange Township can be handled via teleconference and/or email correspondence.

2.2.3 Permit Application Preparation Phase

- **Soil Conservation District (SCD) Certification**
PS&S will prepare an application for SCD certification to the Passaic-Essex-Passaic Soil Conservation District.

Following submission of permit application documents and/or site plan packages which are deemed administratively complete by the Hudson-Essex-Passaic SCD, PS&S will perform one (1) round of minor revisions. Major revisions to plans will be undertaken on a time and expense basis.

2.2.4 Bid and Award Phase (If required)

It is our understanding that the Township may be able to contract Field Turf directly through a cooperative purchasing network for the complete installation of the ballfield. In the event that a cooperative agreement is not possible, PS&S has prepared the following scope of work. In this phase if requested and required, PS&S



Mr. Frank Lepore
Township of West Orange
February 24, 2020
Page 4 of 8

Degnan Park Ball Filed Improvements at West Orange
West Orange, New Jersey
PS&S Proposal #09020-0208

will assist the Township of West Orange in developing the Bidding Documents consisting of Scope of Work, Proposal Form and List of Unit Pricing Form. We will respond to all Requests for Information from bidders prior to the date of the bid. We will review bids received and provide a tabular comparison and a written summary of the comparison of the bids received.

PS&S has assumed that no meetings are needed for this phase and all coordination with West Orange Township can be handled via teleconference and/or email correspondence.

2.2.5 Construction Administration Services

PS&S will work with the project team through the construction process and provide the following site/civil engineering services during the construction administration phase:

- PS&S will review shop drawings for standard site infrastructure as indicated on the site plans.
- PS&S will review requests for information from the contractor and provide guidance with respect to the design plans.
- PS&S will attend field meetings during the construction process to address field issues and concerns. At this time, we have budgeted a total of three (3) field meetings for the duration of the construction phase.
- PS&S will also coordinate with the owner and project team during the construction administration phase.
- PS&S will prepare a final punch list, site walk through for project close out.

2.3 Electrical Engineering Services

PS&S will perform the following electrical engineering design services:

- PS&S will first locate available nearby power source to determine if any nearby electrical circuit can be reused and extended to feed the new scoreboard. Site walkthrough of the Park will be performed. New electrical wires will be installed in electrical conduits directly buried under the ground surface.
- The existing electrical panel will be evaluated to confirm they are adequate to provide electric power to the new scoreboard.



- Preparation of Drawings including plans, underground power distribution, electrical panel schedules, electrical conduit and wire schedules, miscellaneous electrical details, and specifications on drawings, suitable for construction.

3.0 OUT-OF-SCOPE SERVICES

While we believe the intent of each task listed in the scope of basic services is clear and limited, from time to time a reading of those services may infer a broader scope than was intended. In order to help clarify the scope of basic services, we point out that the services listed above do not include the following, which may be required on this project. If you would like PS&S to furnish these or any other out-of-scope services, we would be pleased to discuss a mutually agreeable scope of services and fee arrangements. PS&S will not provide out-of-scope services without your written approval of the modified scope and fee arrangements.

- NJDEP Flood Hazard Area or Freshwater Wetlands permitting;
- Off-site water, sewer, drainage, utility and roadway design;
- Changes or revisions beyond our control, changes or supplemental work as may be required by the Municipality or other review agencies or regulations, or changes in the provided project concept after design work has commenced;
- Boundary Survey;
- Geotechnical Services;
- Structural Services;
- Mechanical and Plumbing Services;
- Preparation of Construction cost estimates;
- Design revisions required to satisfy unexpected budgetary requirements;
- Site and landscaping retaining walls above three (3) feet in height or supporting vehicular or building loads;
- As-Built/Record of Construction Survey;
- 3D Colored Rendering/Perspective;
- Construction Management
- Agency Permitting other than HEP SCD.

4.0 FEES, TERMS AND CONDITIONS

PS&S proposes to provide the services described above on a not-to-exceed lump sum basis as indicated below:

Phase I Services and Fees:

4.1	<u>Surveying Services</u>	
	4.1.1 Topographic and Utility Survey.....	\$6,000
4.2	<u>Site Engineering</u>	
	4.2.1 Construction Document Phase.....	\$6,600
	4.2.2 Permit Application Preparation Phase	\$2,000
4.3	<u>Electrical Engineering</u>	



4.3.1 Construction Document Phase.....	\$4,000
Total Phase I not-to-exceed lump sum fee.....	\$18,600

Phase II Services and Fees (if required):

4.4 <u>Site Engineering:</u>	
4.4.1 Bid and Award Phase (If required)	\$3,000
4.5 <u>Electrical Engineering</u>	
4.5.1 Bid and Award Phase (If required)	\$700
Total Phase II not-to-exceed lump sum Fee (if required).....	\$3,700

Phase III Services and Fees

4.6 <u>Site Engineering:</u>	
4.6.1 Construction Administration Phase	\$4,000
4.7 <u>Electrical Engineering</u>	
4.7.1 Construction Administration Phase	\$800
Total Phase III not-to-exceed lump sum Fee	\$4,800

Total for Phase I & III not-to-exceed lump sum Fee\$23,400

These services would be performed in accordance with the terms and conditions of the attached PS&S **General Conditions of Service (GSC)** dated October 1, 2019 and our **Schedule of Charges and Hourly Rates (SCHR)**, dated October 1, 2019 (the Schedule). These documents will also govern any authorized out-of-scope services we provide.

Any services not listed above will be considered out of scope. If required, with your written authorization, PS&S will provide additional requested services on a time and expense basis in accordance with the attached copy of our SCHR and GCS.

You will note that we issue invoices on a monthly period basis. We request that you review each invoice upon receipt and inform us of any discrepancies or other problems with that invoice within fifteen (15) days of receipt. If no comment is received within this period, the invoice will be considered correct, approved and payable.

5.0 CLIENT PROVIDED ITEMS

The proposed PS&S Scope of Work and associated Fee described in this proposal are based upon a provision of the following by the Client:

- A. Payment of all application and permit fees.
- B. Access to all areas involved in the project. Access is to be provided during normal working hours.



- C. Copies of any available associated drawings for the site, including electronic drawing files if available.

6.0 MISCELLANEOUS PROVISIONS

- A. The scope of services is limited to that described herein. If requested to perform any work which is not included in the scope of services as presented, we would invoice such work on a time and expense basis in accordance with the attached Schedule.
- B. Attendance of PS&S personnel at any additional meetings would be invoiced separately on a time and expense basis in accordance with the attached Schedule. Meetings are assumed to be held in the New York/New Jersey area.
- D. PS&S reserves the right to rely on the accuracy of all information related to the project site provided by the Client, Owner, or their representatives.
- E. PS&S shall not be responsible for contractors' means, methods, techniques, procedures or sequence of construction, for the safety precautions and programs incident to the work of the contractor(s), or for any failure of contractor(s) to comply with laws, rules, or regulations. To the fullest extent as permitted by law, including, but not limited to the protections afforded professional engineers pursuant to N.J.S.A. 2A:29B-1, et seq., neither PS&S nor any of its employees or representatives performing services at the site or elsewhere, shall be liable for any injury occurring on the construction project or site due to a breach or disregard of construction safety standards or practices on the construction project or site by construction contractors or others not under the employment of PS&S. PS&S expressly does not assume responsibility for the implementation, discharge or monitoring of safety standards or practices with respect to the construction project or site for anyone other than PS&S's employees.

7.0 AUTHORIZATION

The fee quoted herein shall remain in effect for a period of sixty (60) days from the date of this proposal, after which the proposal will be renegotiated to the mutual satisfaction of both parties.

PS&S looks forward to our continued relationship with the Township of West Orange and appreciates the opportunity to prepare this proposal. We trust that the above fully explains the scope of services you have requested.



Mr. Frank Lepore
 Township of West Orange
 February 24, 2020
 Page 8 of 8

Degnan Park Ball Filed Improvements at West Orange
 West Orange, New Jersey
 PS&S Proposal #09020-0208

If the terms and conditions described above are acceptable, please indicate your authorization to proceed by returning one (1) signed copy to us for our record. We will begin providing services upon our receipt of a signed proposal.

If you have any questions concerning this proposal, please do not hesitate to call. We look forward to working with you on this project.

Sincerely,

PAULUS, SOKOLOWSKI AND SARTOR, LLC

Adolf Montana, P.E., LEED AP
 Project Manager
 cc: Admin

ACCEPTANCE OF THE TERMS AND CONDITIONS HEREIN

The undersigned certifies that he/she is authorized to enter into the contract for the named Client and understands that acceptance of this agreement sets forth the obligation of prompt payment for the performance of services described herein.

PROPOSAL, SCHR & GCS ACKNOWLEDGED AND ACCEPTED
CLIENT: Township of West Orange
SIGNATURE:
NAME:
TITLE:
DATE:



67A Mountain Blvd Ext
 PO Box 4039
 Warren, NJ 07059

Proposal/Contract No: 09020-0208
 Date: 02/21/2020

SCHEDULE OF CHARGES & HOURLY RATES

1. CHARGES FOR SERVICES

When PS&S is to be paid on the basis of time expended and expenses incurred on the Project, compensation shall be determined using the hourly rates. These rates are effective October 1, 2019, but may be modified any time six months thereafter by PS&S, depending upon market conditions.

If the Client requests PS&S to provide other Services in addition to those described in the attached Proposal, PS&S requires a written additional service authorization amending this Agreement, before PS&S will proceed with that work.

<u>Billable Hourly Rate</u>	<u>Title</u>
\$ 245	Principal, SVP, VP, Principal LSRP
\$ 220	Sr. Director, Sr. Project (Manager, Engineer, Architect, Planner, Designer, Scientist, or LSRP)
\$ 205	Director, Project (Engineer, Architect, Planner, Designer, Scientist, or LSRP), Project Manager II
\$ 185	Sr. (Engineer, Architect, Planner, Designer, Scientist, Surveyor or LSRP), Project Manager I
\$ 165	Engineer IV, Architect IV, Planner IV, Designer VI, Scientist VI, LSRP
\$ 155	Engineer III, Architect III, Planner III, Designer V, Scientist V, Project Controls III
\$ 145	Surveyor III, Inspector III
\$ 140	Engineer II, Architect II, Planner II, Designer IV, Scientist IV
\$ 135	Engineer I, Architect I, Planner I, Designer III, Scientist III, CAD Technician III, Project Controls II
\$ 125	Surveyor II, Inspector II
\$ 120	Designer II, Scientist II, Cad Technician II
\$ 115	Designer I, Scientist I, Cad Technician I
\$ 100	Project Controls I
\$ 95	Surveyor I, Inspector I
\$ 80	Technician I
When survey field crew time is billed on a crew basis, the following rates apply (portal to portal):	
\$ 235	2-person crew
\$ 315	3-person crew

2. LICENSED SITE REMEDIATION PROFESSIONAL (LSRP) CONDITIONS

When work performed by PS&S includes the services of an Licensed Site Remediation Professional ("LSRP"), the LSRP will use his or her professional judgment to make recommendations as to actions required based upon the LSRP's review of the applicable statutes, regulations and guidance documents. The Client acknowledges that the LSRP's recommendations or issuance of any Response Action Outcome ("RAO") shall not constitute: (i) any acceptance of liability on behalf of PS&S or any LSRP employed by PS&S; (ii) any form of guarantee, indemnity or insurance for any legal liability or obligation of the Client. Further, the Client acknowledges that when PS&S's services hereunder entail the use of professional judgment, PS&S is not providing any guarantee that any other professional reviewing PS&S's work hereunder will not offer different recommendations or reach different conclusions based on that professional's use of his or her judgment. The Client acknowledges that PS&S is not responsible to the Client or any third-party for costs resulting from a different recommendation or different conclusion rendered by another party.

Under the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq. ("SRRRA"), the New Jersey Department of Environmental Protection (NJDEP) can audit and review an RAO and the Site Remediation Professional Board can review work performed by an LSRP. Further, an RAO can be invalidated if NJDEP determines that the RAO is not protective of human health and the environment. Neither PS&S nor the LSRP shall be held responsible for the invalidation of the RAO, and any services which might be required due to any such invalidation shall be considered an Additional Service.

The State has established mandatory and regulatory time frames to complete certain remediation requirements. If these time frames are not met, fines and potential NJDEP direct oversight could be imposed upon the Client. To the extent provided for in the scope of work, PS&S will advise the Client of deadlines and actions necessary to fulfill the requirements of such time frames. The Client acknowledges that PS&S's provision of such advice will not and does not shift responsibility for compliance with such time frames to PS&S. Further, if the Client delays in approving and proceeding with the recommendations of PS&S's LSRP in meeting these time frames or the Client delays in payment of services rendered by PS&S, which results in a delay to the progress of the project, the Client agrees that PS&S will not be held responsible or liable for any fees, fines, or financial impacts incurred as a result of NJDEP's direct oversight, fines, and fees.

Furthermore, the Client acknowledges that in the context of supporting any conclusions or recommendations made to any third-party or governmental entity, PS&S may be required to release or otherwise publish: data from tests performed on samples taken from the project location; physical observations of the project location; or other technical information obtained by PS&S regarding the physical conditions of the project location, including but not limited to, submissions made by PS&S's LSRP in connection with a project. Client expressly acknowledges that under SRRRA, if the LSRP identifies a condition at the Site that, in the professional judgment of the LSRP, is an Immediate Environmental Concern ("IEC") (as defined in the SRRRA), the LSRP is obligated to so advise the Client and to call the NJDEP's telephone hotline to advise the NJDEP of such IEC.



67A Mountain Blvd Ext
PO Box 4039
Warren, NJ 07059

Proposal/Contract No: 09020-0208

Date: 02/21/2020

GENERAL CONDITIONS OF SERVICE

Page 1 of 2

These General Conditions of Service and the PS&S Rate Schedule are attachments to this PS&S Proposal. Together they comprise the agreed terms under which PS&S will provide its Services (hereinafter referred to as the "Agreement") for the project described in the Proposal (the "Project"). Any Services requested or required that are not described in the Proposal are considered to be Additional Services. Additional Services will require a written amendment to this Agreement before being performed.

1. CHARGES FOR SERVICES

When PS&S is to be paid on the basis of time expended and expenses incurred on the Project, compensation shall be determined using the hourly rates on the attached Schedule of Charges & Hourly Rates. These rates are effective for six months from October 1, 2019. PS&S reserves the right to increase its rates every six (6) months. However, in no event shall the rates be increased by more than ten percent (10%). If PS&S is to be paid on a fixed-fee or lump-sum basis, compensation shall be paid either on a percentage-of-completion basis, or in accordance with the milestone achievement schedule included in the Proposal.

If the Client requests PS&S to provide other Services in addition to those described in the attached Proposal, PS&S requires a written additional service authorization amending this Agreement, before PS&S will proceed with that work.

2. CHARGES FOR OTHER DIRECT PROJECT EXPENSES

All other expenses incurred for a Project will be separately billed at actual cost plus fifteen percent (15%). Such expenses include, but are not limited to, costs for: subcontractor(s)/consultant(s); laboratory; reproduction [printing, binding, etc.]; special equipment required for Project execution; Project-required travel; special insurance coverage in excess of or different from PS&S's standard insurance coverage; and, any other costs particular to Project engagement. Mileage costs will be billed at the rate authorized by the Internal Revenue Service. If rental vehicles are used (at the option of PS&S), the actual rental charges plus fifteen percent (15%) will be billed instead of using the IRS mileage reimbursement rate.

3. TIME FOR PERFORMANCE

Delays created by scheduling of government meetings, or by Client not responding timely to requests for input, information, or decisions may extend the Project schedule and require an increase in PS&S's compensation. If PS&S's Services have not been completed by the date established in the Proposal for the completion of Services, through no fault of PS&S, all PS&S Services provided thereafter shall be compensated on an hourly-rate basis using the rates attached, notwithstanding any other compensation amount set forth in the Proposal.

Neither party shall be liable to the other for any delay or failure in performance of any of the obligations under this Agreement to the extent such delay or failure is caused by fire, flood, earthquake, civil, governmental or military authority, acts of God, war, terrorist acts, or other similar causes beyond a party's reasonable control and without the fault or negligence of the delayed or non-performing party.

4. PAYMENT

Invoices for all Services: will be issued on a monthly basis; are considered due upon receipt; and, must be paid within 30 days of the invoice date. Interest at one percent (1%) per month (but not exceeding any maximum rate allowed by law) will be charged on any invoice amount not paid within 30 days of the invoice date. All reasonable attorney's fees and costs incurred by PS&S to collect any delinquent amounts shall be added to the amount to be paid by the Client.

PS&S shall not be obligated to deliver any documents for governmental review, deliver any documents or Services for the next Project milestone,

sign and seal documents (or any final Construction Documents), nor shall PS&S be obligated to commence providing any Services during the Construction Phase of a Project while any invoice for properly performed Services (or previously delivered document) is due and remains unpaid more than 30 days after invoice date. If any undisputed invoiced amounts are not paid within 60 days of invoice date, PS&S may suspend its Services or terminate this Agreement whether on this project or another PS&S engagement. Once Services are suspended for nonpayment, they will be resumed at the discretion of PS&S but only when all unpaid amounts, including accrued interest, are paid in full on all other engagements. If PS&S terminates this Agreement for non-payment, the Client shall also be obligated to pay the reasonable costs associated with termination. A suspension of Services shall not preclude PS&S from later electing to terminate this Agreement for continued non-payment of its invoices. Any failure by PS&S to terminate or suspend Services shall not constitute a waiver of, nor be considered a limitation of, these or any other rights and remedies available at law or equity.

If the Client requests PS&S to suspend Project Services for more than 60 days, the Client shall pay PS&S a charge of not more than ten percent (10%) of the amount due for the remaining unperformed Services, as a condition for PS&S to resume the performance of its Services, according to a mutually acceptable revised Project Schedule.

5. TAXES

If applicable, the Client shall pay the cost of any sales, use, excise, value-added or other tax, which is or may become applicable to the Services, in addition to the amount of compensation due to PS&S under this Agreement.

6. PS&S'S RESPONSIBILITIES

PS&S shall perform its Services in a manner consistent with that level of skill and care ordinarily exercised by other professional consultants providing the same or similar Services, under similar circumstances and location that exist at the time of providing the Services. PS&S represents that it is duly qualified to provide the Services that are covered by this Agreement and that it is authorized to enter into and execute this Agreement. No other representation, express or implied, and no warranty or any guarantee is made as part of this Agreement, or in any report, document or other communication provided as part of the Services.

If changes are made by the Client or others to aspects of the project, such as location, that affect the design documentation or Services provided by PS&S, all PS&S liability for such changes and their consequences shall be waived by the Client and Client shall have sole responsibility and liability for such changes and their consequences, unless PS&S was previously advised in writing of such changes, and allowed the proper time in accordance with applicable professional standards, to evaluate such changes. Client shall compensate PS&S for the time required to provide any evaluation required due to such changes.

PS&S's Services are provided to meet the requirements of applicable standards of care, applicable laws, building codes and regulations to obtain needed approvals and permits of governmental authorities with jurisdiction over the project. These requirements may be interpreted differently by government inspectors and building officials, requiring changes to the design documents and the project construction even after permits and approvals have been issued. While this may increase the construction costs of the Project, it does not mean that the design documents were not prepared to meet applicable requirements or professional standards. The additional costs that result, if any, will be deemed to be value-added items, as if required in the original design documentation, and shall not be the basis for any claim for damages against PS&S.

Effective Date: October 1, 2019



7. CLIENT'S RESPONSIBILITIES

The Client will provide to PS&S all available information pertinent to or required for the performance of PS&S's Services as described in this Agreement. PS&S will be permitted to rely on the accuracy and completeness of the Client-supplied information unless doing so would be a breach of the standard of care set forth in Section 6 above. The Client will provide PS&S access to all public and private property as necessary for PS&S to perform its Services, and give prompt written notice to PS&S whenever the Client becomes aware of anything that could affect the Services.

8. PURCHASE/WORK/TASK ORDERS

If the Client issues a purchase/work/task order or other document related to PS&S's Services, it is agreed that such document is issued for Client's internal accounting purposes only and shall not amend, supplement, modify, or delete any terms or conditions of this Agreement regardless of the language on that purchase/work/task order. If there is any conflict between the terms and conditions of such purchase/work/task order and this Agreement, the terms and conditions of this Agreement shall govern.

9. MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES

PS&S and the Client each waive the right to make any claims against the other for consequential damages arising out of or related to this Agreement.

10. LIMITATION OF LIABILITY

To the fullest extent permitted by law, PS&S's total liability to the Client for any and all injuries, claims, losses, costs, damages, or claim expenses arising out of or related to this Agreement, however caused, shall not exceed the total amount of \$50,000 or the amount of PS&S's fee (whichever is greater).

11. PROJECT CONSTRUCTION AND SITE SAFETY

PS&S shall not be responsible for the means, methods, techniques, procedures or sequence of construction, nor shall PS&S be held responsible for the safety precautions and programs of the Client's contractor(s) working at the Project Site, or any failure of those contractor(s) to comply with applicable laws, rules, or regulations. To the fullest extent permitted by law, neither PS&S nor any of its employees, consultants, authorized agents or representatives performing Services at the Project Site or elsewhere shall be liable for any injury occurring as part of the construction of the Project or any site work, due to a failure, breach or disregard of construction safety standards, procedures, site-specific programs, transportation regulations, or industry practices at the construction Project (or Site) by the Client's contractors or others for whom PS&S is not responsible under this Agreement. PS&S shall only be responsible for the adherence and compliance of all PS&S employees, consultants, authorized agents and representatives with the Project-site safety programs and procedures, and the laws and regulations applicable to those for whom PS&S is responsible under this Agreement.

12. HAZARDOUS OR TOXIC MATERIALS

Unless specifically agreed to in the Proposal, which is part of this Agreement, PS&S shall not be responsible to search for, detect, test, investigate or determine the presence of, monitor, remediate, clean up, remove, contain, treat, detoxify or neutralize hazardous, toxic or radioactive materials, mold, or any other pollutant or toxin within or adjacent to the Project or Site, which is the subject of this Agreement.

13. DOCUMENTATION AND ELECTRONIC MEDIA LIMITATIONS

- A. All drawings, specifications and/or other documents created by PS&S ("Documents") are instruments of service prepared for the Project. PS&S, as the author, retains the intellectual property rights in the Documents, subject to the licenses and rights to use granted in this Agreement.
- B. PS&S grants to the Client an unlimited license to make and retain copies of Documents but solely in connection with its use on the Project. The Documents are not intended or represented to be suitable for use by Client or others to prepare shop drawings, for extensions of the Project

at or on land adjacent to the Project Site or at any location other than the Project Site. Client shall not add to, modify or alter nor allow others to add to, modify, or alter the Documents including any printed copies of the Documents, unless Client shall have removed all references to "Paulus, Sokolowski and Sartor," "PS&S" and any other references, marks, and the like [including metadata or other electronic tags] that relate in any way to, or can be used to identify PS&S as the author of the Documents.

- C. Client shall indemnify, defend, save and hold PS&S, its subconsultants and each of their partners, officers, shareholders, directors and employees harmless from and against any and all claims, judgments, suits, liabilities, damages, costs or expenses (including reasonable attorneys' fees) arising as the result of: i) Client's failure to comply with any of the requirements of this Section 13; or ii) any use, addition to, modification, alteration, change to or misinterpretation of the Documents by Client, or any party that receives the Documents from the Client (the "User(s)").
- D. Files provided in electronic media format [text, data, graphics, or other types of information] are furnished only for the convenience of Client and/or its authorized users. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the Users shall perform acceptance tests or procedures within 10 days of receipt of the files, after which the Users shall be deemed to have accepted the data transferred. PS&S shall not be responsible to maintain Documents stored in electronic media format after acceptance by the Client or its Users.
- E. When transferring documents in electronic media format, PS&S makes no representations as to long-term compatibility, usability, or readability of Documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by PS&S. Copies of Documents that may be relied upon by the Client, or its User(s) are limited to the printed versions (also known as hard copies) that are signed and sealed by PS&S.
- F. Client accepts that the conversion of the printed versions of Documents into electronic media format or conversion of Documents from the format supplied by PS&S to another format may introduce errors or other inaccuracies. Client and its Users shall confirm the accuracy of the Documents before using them. Client accepts all responsibility for any errors or inaccuracies arising from the conversion of the Documents to another client-selected format, and releases PS&S and its subconsultants from any liability, costs, losses, or damages or expenses arising as the result of conversion errors or inaccuracies.
- G. Client waives any and all claims and liability against PS&S and its subconsultants resulting in any way from the use of the Documents transmitted pursuant to this Section 13.

14. OTHER TERMS

This Agreement shall be construed in accordance with, and governed by, the laws of the State of New Jersey excluding any choice-of-law principles, including those of the law of the state where the Project is located that would require the application of the laws of a jurisdiction other than New Jersey.

Each party to this Agreement for itself, its successors and in respect of its property, irrevocably consents and agrees that: i) any legal action or proceeding with respect to this Agreement will be brought in a state or federal court in the State of New Jersey, which shall be the exclusive jurisdiction for all legal matters and any appeals; and ii) irrevocably waives any objection that it may have now or later to the laying of venue of any of the aforesaid actions or proceedings in a location in the State of New Jersey.

If any term of this Agreement or its application to any person or circumstance shall be determined to be invalid or unenforceable, the remaining provisions of this Agreement and/or the application of terms or provisions other than those that are found to be invalid or unenforceable, shall not be affected, and this Agreement shall be valid, binding, and enforceable to the fullest extent permitted by law.

Effective Date: October 1, 2019