



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item:	Consider draft resolution awarding Professional Service Agreement with Stanley Consultants for South Street Substation Relay upgrade.		
Presenter & Title:	Hal Wright, Superintendent of Electrical Services		
Date:	May 6, 2019		
Please Check Appropriate Box:			
<input checked="" type="checkbox"/>	Committee of the Whole Meeting	<input type="checkbox"/>	Special Committee of the Whole Meeting
<input checked="" type="checkbox"/>	City Council Meeting	<input type="checkbox"/>	Special City Council Meeting
<input type="checkbox"/>	Public Hearing	<input type="checkbox"/>	Other -
Associated Strategic Plan Goal/Objective: EMS - II			
Estimated Cost: \$104,500.00		Budgeted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Other Funding? <input type="checkbox"/> Yes <input type="checkbox"/> No
If "Other Funding," please explain how the item will be funded:			
Executive Summary:			
<p>City of Geneva Electric Division has identified the protection relays at the South Street Substation as needing replacement due to time in service. This equipment has been in service continually since the substation was built in 2001 and are now reaching their end of expected time in service.</p> <p>The Professional Service Agreement with Stanley Consultants will include design, bidding support, project and construction support and final documents for the relay upgrade project.</p> <p>Due to the complexity of the project, staff is recommending that a 10% contingency be included in the overall not-to-exceed amount to account for any unforeseen field changes that may occur. Any field changes (Change Orders) must be approved by the City Administrator to be applied to the contingency.</p>			
Attachments: (please list)			
<ul style="list-style-type: none"> • Resolution 2019 • Memo from Superintendent Wright • Contract for Professional Service with Stanley Consultants 			
Voting Requirements:			
<p><i>This motion requires 6 affirmative votes for passage.</i></p> <p><i>The Mayor may vote on three occasions: (a) when the vote of the aldermen or trustees has resulted in a tie; (b) when one half of the aldermen or trustees elected have voted in favor of an ordinance, resolution, or motion even though there is no tie votes; or (c) when a vote greater than a majority of the corporate authorities is required by state statute or local ordinance to adopt an ordinance, resolution, or motion.</i></p>			
Recommendation / Suggested Action: (how item should be listed on agenda)			
Award Professional Service Agreement to Stanley Consultants for design and support services for the South Street Substation Relay Upgrade at a cost of \$95,000.00 and allow the city Administrator to approve up to \$9,500.00 in change orders for a total not-to-exceed amount of \$104,500.00.			

RESOLUTION NO. 2019-46

**RESOLUTION AUTHORIZING EXECUTION OF
Professional Service Agreement with Stanley Consultants for design and support services for
the South Street Substation Protective Relay and RTU upgrade**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GENEVA, KANE COUNTY, ILLINOIS, as follows:

SECTION 1: That the Mayor is hereby authorized to award, on behalf of the City of Geneva, the Professional Services agreement with Stanley Consultants for design, procurement support and project management to upgrade the South Street Substation Protective Relays and RTU, the form attached hereto.

SECTION 2: This Resolution shall become effective from and after its passage as in accordance with law.

PASSED by the City Council of the City of Geneva, Kane County, Illinois, this 6th day of May, 2019

AYES: __ NAYS: __ ABSENT: __ ABSTAINING: __ HOLDING OFFICE: __

Approved by me this 6th day of May, 2019.

Mayor

ATTEST:

City Clerk



PUBLIC WORKS DEPARTMENT MEMORANDUM

April 22, 2019

Memo To: Mayor Burns and the Committee of the Whole

From: Hal Wright, Superintendent of Electrical Services

Re: Recommendation for professional service contract to Stanley Consultants for design, procurement support and project management to upgrade the South Street Substation protective relays and RTU.

The South Street Substation was built in 2001 and has remained in continuous service since that time.

The protective relays help maintain a safe and reliable electric distribution system by automatically monitoring the health of the feeders and operating the electric circuit breakers to prevent system damage and minimize outage times. These relays have now reached the end of their expected time in service.

The Remote Terminal Unit (RTU) in the substation is no longer supported by the manufacturer. This equipment allows remote monitoring, data acquisition and system monitoring from the SCADA system.

As part of the 10 year Capital Improvement Plan, Electric Division staff earmarked a project to replace the protective relays and RTU at South Street in 2019-2020.

Stanley Consultants has performed similar work in the past for the City of Geneva. Staff has been very pleased with their past performance and has full confidence in their ability to deliver on time and budget.

Due to the complexity of such projects, staff is also including a 10% contingency in the overall cost of the contract to account for any unforeseen changes that may occur. Any changes must be approved by the City Administrator to be applied to the contingency.

Staff Recommendations:

Based on the above requirements, it is staff's recommendation to award the professional service contract to Stanley Consultants for engineering, procurement support and project management to replace the South Street Substation protective relays in the amount of \$95,000. A contingency of no more than 9,500.00 that can be approved by the City Administrator is also included for a not to exceed cost of \$104,500.00.

Cc: Stephanie Dawkins, City Administrator
Rich Babica, Director of Public Works
Aaron Holton, Manager of Electric Operations
Jennifer Hilkemann, Manager of Distribution Construction & Maintenance
Kirk Landberg, Purchasing & Inventory Coordinator



PROFESSIONAL SERVICES AGREEMENT

THIS IS AN AGREEMENT made as of May 6, 2019, 2019, between City of Geneva, Illinois (CLIENT) and Stanley Consultants, Inc. (CONSULTANT). CLIENT intends to provide design services for the South Street Substation Relay Upgrade (hereinafter called "project").

CLIENT and CONSULTANT agree:

1. **Scope of Work.** CONSULTANT shall perform professional services as stated in Exhibit 1.
2. **Compensation.** CLIENT shall compensate CONSULTANT for CONSULTANT's services as stated in Exhibit 2.
3. **Terms and Conditions.** CONSULTANT shall provide professional services in accordance with the terms and conditions stated in Exhibit 3. If CLIENT issues a purchase order or other document to initiate the commencement of services hereunder, it is agreed that any terms and conditions appearing thereon shall have no application and only the provisions of this Agreement shall automatically apply.
4. CLIENT has provided or shall provide for payment from one or more lawful sources of all sums to be paid to CONSULTANT.
5. Following exhibits are attached to and made part of this Agreement:
 - Exhibit 1 – Scope of Work
 - Exhibit 2 – Compensation
 - Exhibit 3 – Standard Terms and Conditions

IN WITNESS WHEREOF, the parties below have executed this Agreement as of the day and year first above written.

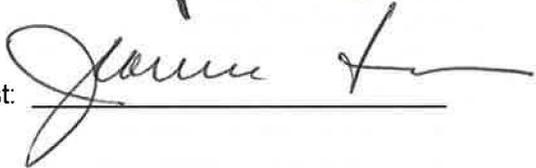
STANLEY CONSULTANTS, INC.

CITY OF GENEVA, ILLINOIS

By: 
 Eric D. Kamm, Business Development
 Manager

By: 

Attest: 
 Philip E. Schulz, Principal Electrical
 Engineer

Attest: 

Address for giving notices:
225 Iowa Avenue
Muscatine, IA 52761

Address for giving notices:
225 South First Street
Geneva, IL 60134

The following is Stanley Consultants' (CONSULTANT) Scope of Work for a project identified by the City of Geneva, Illinois (CLIENT) as the South Street Substation Relay Upgrade.

PROJECT UNDERSTANDING

The work described herein is developed in five phases, each with several tasks. Each task has a defined scope of work and deliverable(s). The tasks have been developed and arranged such that each task will build on the deliverables developed during previous tasks. The following is a description for each of the phases and tasks contained in the Project Approach.

CONSULTANT will provide design services for the relay upgrade at South Street Substation. The project will consist of removing the old relays and panel doors on eight switchgear cubicles. New doors with new SEL relays will be fabricated and installed by contractor.

Relay setting files will be created for the new SEL relays at South Street Substation based on the existing coordination study provided by CLIENT. These setting files will also include "hot-line tag" settings for the feeder relays.

This project also includes upgrading the RTU to an RTAC.

PHASE 1 – PREDESIGN ACTIVITIES

General: Phase 1 will commence with the Notice-to-Proceed. During this phase, all tasks required to be completed before detailed design will be provided such as data collection.

Task 1.1 – General and Administrative

The objective of this task is to establish a clear understanding of the procedures to be adhered to throughout the project. Detailed task descriptions, specific schedules, control and reporting methods, and quality control programs will be developed and reviewed by all concerned parties. This task will commence with the project kick-off meeting and continue throughout the project with specific deliverables being made on a mutually agreeable schedule.

1.1.1. Scheduling

A project Design Schedule, using Microsoft Project, will be developed and maintained by CONSULTANT. The Design Schedule identifying Project Milestones, such as completion dates for deliverables, will be maintained.

Deliverables:

- Schedule

1.1.2 Status Reporting

CONSULTANT will maintain contact with CLIENT to provide informal, timely project status and coordination requirements. Significant issues will be conveyed to CLIENT, in writing, as they arise.

Deliverables:

- Periodic Status Reports
- Telephone Conference Review Meetings

1.1.3. Review Meetings

CONSULTANT will maintain contact with CLIENT through teleconference meetings. The Scope of Work includes one teleconference with CLIENT regarding Control Panel layout, and one teleconference with CLIENT regarding controls and protection issues.

Deliverables:

- Review Meetings via Teleconference (two meetings)



Task 1.2 – Meeting Notes, Project Kick-Off, and Site Visit

The objective of this task is to collect data, and to review the project requirements and the Scope of Work as presented in this proposal. Existing facilities and specific site conditions not identified by CLIENT that may affect the design will be identified and discussed. This work will commence with the kick-off meeting where access to data will be requested, and drawings related to the site will be provided by CLIENT. The site visit will be scheduled in conjunction with the kick-off meeting to provide the opportunity for CONSULTANT personnel to familiarize themselves with site conditions.

Deliverables:

- Kick-Off Meeting Notes
- Request for Additional Information Identified During Site Visit

PHASE 2 – DETAILED DESIGN

General: This phase will commence after the data requested at the kick-off meeting has been received. CONSULTANT will prepare detailed design drawings required for bidding and construction of the project. Design will be based on applicable NESC, NEMA, and ANSI/IEEE standards. Drawings will be 24" x 36" and in MicroStation format.

CONSULTANT will design the installation for new panel doors. Existing CLIENT drawings will be updated to provide design for new relay installation. Wiring diagrams for the new doors will be produced by relay panel door vendor from schematics and terminal block layout drawings produced by CONSULTANT. Relay settings for the new relays will be developed by CONSULTANT utilizing existing criteria used on existing relays provided by CLIENT.

Deliverables:

- Update One-Line Diagrams (2 drawings assumed)
- Update Three-Line Diagrams (8 drawings assumed)
- Update DC Schematic Diagrams (16 drawings assumed)
- Panel Elevations (1 drawing assumed)
- Panel Terminal Block Layouts and Wiring (16 drawings assumed)
- SCADA Drawings (4 drawings assumed)
- Demo Drawings (30 drawings assumed)
- Relay Setting Files

PHASE 3 – DEVELOPMENT OF TECHNICAL SPECIFICATION PACKAGES

General: This phase will commence after the data requested at the kick-off meeting has been received, and will coincide with Phase 2 – Detailed Design. Technical specifications and shop drawings review will be provided. Supplemental administrative conditions will also be provided by CONSULTANT.

Task 3.1 – Equipment and Testing Specifications

The objective of this task is to develop the technical and administrative specifications for use in procuring new panel doors and an RTU. Equipment specifications will be included in the construction contract to be procured by the construction contractor. A technical specification will be provided to CLIENT for relay testing services. CLIENT will compile this section with their other bidding documents for use in soliciting bids for relay testing services.

Deliverables:

- Panel Door Technical Specification and Bidding Documents
- RTU Technical Specification and Bidding Documents
- Relay Testing Technical Specification

Task 3.2 – Construction Specifications-Bidding Documents

In this task, CONSULTANT will prepare required technical specifications for construction of the project. Specifications will be submitted to CLIENT for review and approval. EJCDC bidding documents will be prepared.

Deliverables:

- Construction Technical Specifications
- EJCDC Bidding Documents

Task 3.3 – Bidding Services

CONSULTANT will provide construction bidding documents to CLIENT. Bid documents will include equipment and materials to be contractor-furnished and installed. CLIENT will solicit bids from qualified construction contractors. CONSULTANT services for this task include issuing addenda, attending a prebid meeting, answering bidder questions, review and evaluation of bids received, and recommendation of award.

Deliverables:

- Attend Prebid Meeting
- Issue Addenda
- Recommendation for Award of Construction Contract

Task 3.4 – Shop Drawing Review

CONSULTANT will review requested vendor and contractor submittals and stamp as “Reviewed,” “Reviewed as Noted,” “Resubmit,” or “For Information Only.”

Deliverables:

- Panel Door Elevation and BOM Shop Drawing Review
- Panel Door Wiring Diagram Shop Drawing Review

PHASE 4 – CONSTRUCTION SERVICES

General: CONSULTANT will provide contract administration on contract. CONSULTANT’s Scope of Work also includes two site visits during the construction process. These visits will occur at the construction kick-off meeting and final walk-through inspection.

Task 4.1 – Construction Contract Administration

This task will involve administrating the contract between the CLIENT and construction contractor. This will include Contract Execution, Instructions to Contractors (ITC), Pay Application Review, Change Order Processing, and Contract Closeout.

Deliverables:

- Contract Execution
- Instructions to Contractor (ITC)
- Pay Application Review
- Change Order Processing
- Contract Closeout

Task 4.2 – Construction Kick-Off

The objective of this task is to conduct a construction kick-off meeting with CLIENT, award Construction Contractor at CLIENT’s office, and participate in a site visit following the meeting.

Deliverables:

- Meeting Agenda
- Meeting Notes

Task 4.3 – Final Walk-Through Inspection

The objective of this task is to assist CLIENT in final on-site review of construction contractor’s work in accordance to the specification. Punchlist items will be compiled into a final report to be given to construction contractor for correction.

Deliverables:

- Meeting Notes
- Punchlist



PHASE 5 – INSTALLATION RECORD DRAWINGS

General: In this phase, CONSULTANT will create the installation record drawings for the project by incorporating changes noted on the construction drawings.

Task 5.1 – Record Drawings

The objective of this task will be to produce Installation Record Drawings for the project by incorporating changes noted on the construction drawings. The construction contractor will transmit construction drawings, red-lined to indicate changes, to CONSULTANT. CONSULTANT will incorporate the changes and provide CLIENT with final record drawings in MicroStation digital format.

Deliverables:

- Installation Record Drawings (as denoted below)

DELIVERABLE FORMAT AND DISTRIBUTION

Submittal of the design package deliverables, as listed above, will be made as outlined. All submittals shall be concurrently submitted via email in electronic format as PDF files, plus paper submittals in accordance with the following table:

<u>Phase</u>	<u>Deliverables</u>	<u>Number of Sets</u>
Preliminary Design	Electronic Via Email or FTP Site	1
Construction Documents	Documents: 8-1/2 x 11"	2
	Drawings: 11x17"	2
	Drawings: Full Size, Stamped	2
	Electronic: Via Email or FTP Site	1
Record Drawings	Drawings: Full Size	2
	Electronic: Via Email or FTP Site	1
General Correspondence	Electronic: Email and PDF	Distribution As Appropriate

<u>Documents</u>	<u>Format</u>	<u>Method of Transmittal</u>
General Correspondence	PDF	Email
Specifications	Microsoft Word Format Copy in PDF	Email or via FTP Site
Review Drawings	PDF	Email or via FTP Site
Issued for Construction (IFC) Drawings, PE Sealed*	Hard Copy (2 sets) Scanned PDF**	Drawing Tube via Carrier FTP Site
Record Drawings – MicroStation Copy***	MicroStation w/o PE Seal PDF Copy, Hard Copy (2 sets)	FTP Site

*Issued for Construction documents will be sealed by a Professional Engineer registered in the State of Illinois with signature and date.

**The physically stamped drawing will be scanned to electronic format and issued as an Adobe PDF file for record. MicroStation format drawings will not contain signatures.

***Final drawings in editable electronic format will be provided to CLIENT.



WORK BY OTHERS

Work not specifically listed in Exhibit 1 is not included in the proposal provided by CONSULTANT. Specific exclusions of this proposal are as follows:

1. System Fault Data (provided by CLIENT).
2. Panel Door Wiring Diagrams (by panel door vendor).
3. Physical programming of relays (to be included in Relay Testing Company requirements).
4. Testing and Commissioning of Substation (to be included in Contractor requirements).
5. SCADA (RTU) Software Integration (by CLIENT).

SCHEDULE

Engineering for this project will commence upon receipt of a fully executed agreement.

ADDITIONAL SERVICES

CONSULTANT can, at CLIENT's request, provide assistance in:

1. Complete Construction Services
2. Panel Door Wiring Diagrams

Additional services authorized by CLIENT and accepted by CONSULTANT will be compensated as mutually agreed upon.



General

Based on the services identified in Exhibit 1 – Scope of Work, Phases 1 through 5, the CONSULTANT will provide professional services on an hourly fee and expense basis per our current schedule of Hourly Fees and Charges at the time the work is completed, with a not-to-exceed fee as shown below:

Base Bid (Phases 1 and 2)	Not-to-Exceed Fee of \$69,000
Development of Technical Specification Package (Phase 3)	Not-to-Exceed Fee of \$15,500
Construction Site Visits (Phase 4)	Not-to-Exceed Fee of \$4,750
Installation Record Drawings (Phase 5)	Not-to-Exceed Fee of \$5,750

Attached is our current schedule of Hourly Fees and Charges (Form BC_C 18-19).

Invoices will be submitted monthly for time and expenses incurred during the month.

Clarification of Proposal Assumptions

All required drawings will be provided by CLIENT. No drawing recreation is included.



Stanley Consultants

HOURLY FEES AND CHARGES

Fiscal Year 2018-2019

I. Compensation for office-based personnel in the United States for time in the performance of the work shall be in accordance with the following Hourly Fees:

Classification	Hourly Fee	Classification	Hourly Fee	Classification	Hourly Fee
BC-1	38.00	BC-11	137.00	BC-21	261.00
BC-2	49.00	BC-12	152.00	BC-22	275.00
BC-3	58.00	BC-13	161.00	BC-23	290.00
BC-4	67.00	BC-14	173.00	BC-24	306.00
BC-5	78.00	BC-15	185.00	BC-25	322.00
BC-6	87.00	BC-16	199.00	BC-26	349.00
BC-7	97.00	BC-17	209.00	BC-27	416.00
BC-8	106.00	BC-18	221.00	BC-28	568.00
BC-9	115.00	BC-19	234.00		
BC-10	125.00	BC-20	246.00		

Travel time in the interest of the work and away from the assigned office, either local or intercity, will be charged in accordance with the foregoing schedule.

II. Compensation for items of expense and other charges incurred in connection with the performance of the work shall be in accordance with the following schedule:

Automobile	\$0.62/mile
Automobile Assigned to Project Site	\$48.00/cal. day
Four-Wheel Drive Vehicles	\$0.78/mile
Four-Wheel Drive Vehicles Assigned to Project Site	\$59.00/cal. day
Ground Transportation (rental car, taxi, etc.)	At Cost Plus 10%
Air Travel (commercial and charter)	At Cost Plus 10%
Living Expenses (away from assigned office)	At Cost Plus 10%
Telephone and Facsimile	At Cost Plus 10%
Equipment Rental	At Cost Plus 10%
Laboratory Work	At Cost Plus 10%
Soils Testing and Analysis	At Cost Plus 10%
Outside Photographic Work	At Cost Plus 10%
Duplicating Work	(schedule supplied upon request)
Technical Testing and Surveying Equipment	(schedule supplied upon request)

III. Compensation for purchases, items of expense, and other charges not scheduled above, incurred in connection with the performance of the work, shall be at cost plus 10%.

IV. Interest at the rate of 1½% per month will be charged on invoices not paid within 30 days.

V. Fees and charges are subject to revision on or after March 30, 2019.



Standard Terms and Conditions Exhibit 3

1. CLIENT'S RESPONSIBILITIES

1.1 Name CLIENT's representative with authority to receive information and transmit instructions for CLIENT.

1.2 Provide CLIENT's requirements for project, including objectives and constraints, design and construction standards, bonding and insurance requirements, and contract forms.

1.3 Provide available information pertinent to project upon which CONSULTANT may rely.

1.4 Arrange for access by CONSULTANT upon public and private property, as required.

1.5 Examine documents presented by CONSULTANT, obtain legal and other advice as CLIENT deems appropriate, and render written decisions within reasonable time.

1.6 Obtain consents, approvals, licenses, and permits necessary for project.

1.7 Advertise for and open bids when scheduled.

1.8 Provide services necessary for project but not within scope of CONSULTANT's services.

1.9 Indemnify CONSULTANT, its employees, agents, and consultants against claims arising out of CONSULTANT's design, if there has been a deviation from the design beyond the CONSULTANT's control or failure to follow CONSULTANT's recommendation and such deviation or failure caused the claims.

1.10 Promptly notify CONSULTANT when CLIENT learns of contractor error or any development that affects scope or timing of CONSULTANT's services.

1.11 Nothing in this agreement shall create a fiduciary duty between the parties.

2. PERIOD OF SERVICE

2.1 CONSULTANT is not responsible for delays due to factors beyond its control.

2.2 If CLIENT requests changes in project, compensation for and time of performance of CONSULTANT's services shall be adjusted appropriately.

3. CONSTRUCTION COST AND COST ESTIMATES

3.1 **Construction Cost.** Construction cost means total cost of entire project to CLIENT, except for CONSULTANT's compensation and expenses, cost of land, rights-of-way, legal and accounting services, insurance, financing charges, and other costs which

are CLIENT's responsibility as provided in this Agreement.

3.2 **Cost Estimates.** Since CONSULTANT has no control over cost of labor, materials, equipment or services furnished by others, over contractors' methods of determining prices, or over competitive bidding or market conditions, its estimates of project construction cost will be made on the basis of its employees' experience and qualifications and will represent their best judgment as experienced and qualified professionals, familiar with the construction industry. CONSULTANT does not guarantee that proposals, bids, or actual construction cost will not vary from its estimates of project cost.

4. GENERAL

4.1 Termination.

4.1.1 Either party may terminate their obligation to provide further services upon twenty (20) days' written notice, after substantial default by other party through no fault of terminating party.

4.1.2 CLIENT may terminate CONSULTANT's obligation to provide further services upon twenty (20) days' written notice if project is abandoned. In such event, progress payments due to CONSULTANT for services rendered plus unpaid reimbursable to expenses, shall constitute total compensation due.

4.2 Reuse of Documents.

4.2.1 All tangible items prepared by CONSULTANT are instruments of service, and CONSULTANT retains all copyrights. CLIENT may retain copies for reference, but reuse on another project without CONSULTANT's written consent is prohibited. CLIENT will indemnify CONSULTANT, its employees, agents, and consultants against claims resulting from such prohibited reuse. Said items are not intended to be suitable for completion of this project by others.

4.2.2 Submittal or distribution of items in connection with project is not publication in derogation of CONSULTANT's rights.

4.2.3 **Confidentiality.** Each party acknowledges that in connection with this Agreement it may receive certain confidential or proprietary technical and business information and materials of the other party ("Confidential Information"). Each party, its agents and employees shall hold and maintain in strict confidence all Confidential Information, shall not disclose Confidential Information to any third party, and shall not use any Confidential Information except as may be necessary to perform its obligations under the agreement except as may be required by a court or governmental authority. CLIENT and CONSULTANT shall keep all information and communications related



Standard Terms and Conditions Exhibit 3

to the project confidential in the same manner each party protects its own confidential information, to the extent that it is marked "proprietary" or "confidential" or with a similar label or which by the nature of the information generally would be regarded as proprietary or confidential. This clause shall not apply to information that is previously known by either party, lawfully becomes public knowledge, or is required to be disclosed by law or a court order.

4.3 Payment.

4.3.1 CONSULTANT shall submit a monthly statement for services rendered and reimbursable expenses incurred. CLIENT shall make prompt monthly payments.

4.3.2 If CLIENT fails to make payment within thirty (30) days after receipt of statement, interest at maximum legal rate or at a rate of 18%, whichever is less, shall accrue; and, in addition, CONSULTANT may, after giving seven (7) days' written notice, suspend services until it has been paid in full all amounts due it.

4.3.3 CLIENT has provided or shall provide for payment from one or more lawful sources of all sums to be paid to CONSULTANT.

4.3.4 CONSULTANT's compensation shall not be reduced on account of any amounts withheld from payments to contractors.

4.3.5 If services performed by CONSULTANT are subject to state or local sales taxes, said taxes will be reflected in the invoices and remitted according to state law. If CLIENT claims a status that would make the transaction exempt, then CLIENT shall provide appropriate proof of exempt status to CONSULTANT.

4.4 **Controlling Law.** Agreement shall be governed by Illinois law, excluding its choice of law rules.

4.5 Successors and Assigns.

4.5.1 The parties bind themselves, their successors, and legal representatives to the other party and to successors and legal representatives of such other party, in respect to all covenants and obligations of this Agreement.

4.5.2 Neither party shall assign, sublet, or transfer any interest in this Agreement without written consent of the other, provided CONSULTANT may employ such independent consultants, associates, and subcontractors as it may deem appropriate.

4.5.3 Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the parties.

4.6 **CONSULTANT's Accounting Records.** Records of CONSULTANT's personnel time, reimbursable expenses, and accounts between parties shall be kept on a generally-recognized accounting basis.

4.7 **Separate Provisions.** If any provisions of this Agreement shall be held to be invalid or unenforceable, remaining provisions shall be valid and binding.

4.8 **Waiver.** No waiver shall constitute a waiver of any subsequent breach.

4.9 Warranty.

4.9.1 CONSULTANT shall use reasonable care to reflect requirements of all applicable laws, rules, or regulations of which CONSULTANT has knowledge or about which CLIENT specifically advises in writing, which are in effect on date of Agreement. CONSULTANT INTENDS TO RENDER SERVICES IN ACCORDANCE WITH GENERALLY ACCEPTED PROFESSIONAL STANDARDS, BUT NO OTHER WARRANTY IS EXTENDED, EITHER EXPRESS OR IMPLIED, IN CONNECTION WITH SUCH SERVICES. CLIENT's rights and remedies in this Agreement are exclusive.

4.9.2 CONSULTANT shall not be responsible for contractors' construction means, methods, techniques, sequences, or procedures, or for contractors' safety precautions and programs, or for contractors' failure to perform according to contract documents.

4.9.3 The CONSULTANT believes that any computer software provided under this Agreement is suitable for the intended purpose, however, it does not warrant the suitability, merchantability, or fitness for a particular purpose of this software.

4.9.4 Subject to the standard of care set forth in Paragraph 4.9.1, CONSULTANT and its Subconsultants may use or rely upon design elements, work, and information ordinarily or customarily furnished by others, including, but not limited to, CLIENT or his authorized representatives, public record, specialty contractors, manufacturers, suppliers, and publishers of technical standards.

4.10 **Period of Repose.** Any applicable statute of limitations or repose shall commence to run and any alleged cause of action shall be deemed to have accrued not later than completion of services to be performed by CONSULTANT.

4.11 **Indemnification.** To the fullest extent permitted by law, CONSULTANT shall indemnify and hold harmless CLIENT, CLIENT's officers, directors, partners, employees, and agents from and against any and all third party claims for bodily injury and for damage to tangible property to the extent caused by the negligent acts or omissions of CONSULTANT or



Standard Terms and Conditions Exhibit 3

CONSULTANT's officers, directors, partners, employees, agents, and CONSULTANT's consultants in the performance and furnishing of CONSULTANT's services under this Agreement. Any indemnification shall be limited to the terms and amounts of coverage of the CONSULTANT's insurance policies listed in 4.14.

To the fullest extent permitted by law, CLIENT shall indemnify and hold harmless CONSULTANT, CONSULTANT's officers, directors, partners, employees, and agents and CONSULTANT's consultants from and against any and all third party claims for bodily injury and for damage to tangible property to the extent caused by the negligent acts or omissions of CLIENT or CLIENT's officers, directors, partners, employees, agents, and CLIENT's consultants with respect to this Agreement on the Project. In addition to the indemnity provided under this section, and to the fullest extent permitted by law, CLIENT shall indemnify and hold harmless CONSULTANT and its officers, directors, partners, employees, and agents and CONSULTANT's consultants from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) caused by, arising out of, or relating to the presence, discharge, release, or escape of asbestos, PCBs, petroleum, hazardous waste, or radioactive material at, on, under, or from the Project site.

4.12 Limitation of Liability. IN NO EVENT SHALL CONSULTANT BE LIABLE TO CLIENT FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT. CONSULTANT SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL OR INDIRECT DAMAGES THAT ARISE OUT OF ITS PERFORMANCE ON THIS PROJECT.

4.13 Extent of Agreement. This Agreement represents the entire agreement between the parties and may be amended only by written instrument signed by both parties.

4.14 INSURANCE. CONSULTANT shall purchase and maintain insurance for the coverages and for not less than the limits of liability set forth below:

(a) Workers' Compensation: workers' compensation insurance as required by the laws of the states or countries with jurisdiction of the services to be performed, including employer's liability insurance, with a limit of \$1,000,000 per accident.

(b) Commercial General Liability: commercial general liability, including coverage for all premises, operations, operations of independent contractors, products and completed operations, and contractual

liability. Coverage shall have limits of not less than \$1,000,000 for each occurrence and aggregate.

(c) Commercial Automobile Liability: commercial automobile liability covering the use of all owned, non-owned, and hired automobiles with minimum combined single limits of \$1,000,000.

(d) Professional Liability: professional liability insurance for claims arising out of performance of professional services caused by any negligent error, omission, or act for which the insured is legally liable, with a minimum limit of \$1,000,000, to be kept in force for two (2) years after completion of project.

CONSULTANT shall provide certificates or other evidence from insurance carriers of the required insurance coverages, if requested by CLIENT in writing within 30 days of start of performance. All insurance except workers' compensation and professional liability shall designate CLIENT as additional insured.

4.15 Subrogation Waiver. The parties waive all rights against each other, and against contractors, consultants, agents, and employees of the other for damages covered by any property insurance during construction, and each shall require similar waivers from their contractors, consultants, and agents.

4.16 Force Majeure. Parties will not be liable for delays in delivery or for failure to perform obligations, other than payment, due to causes beyond their reasonable control, including, but not limited to, product allocations, material shortages, labor disputes, transportation delays, unforeseen circumstances, acts of God, acts or omissions of other parties, acts or omissions of civil or military authorities, government priorities, fire, strikes, floods, epidemics, quarantine restrictions, riots, terrorists acts, or war. CONSULTANT's time for delivery or performance will be automatically extended by the period of such delay or CONSULTANT may, at its option, cancel any services, in whole or in part, without liability by giving notice to CLIENT.

4.17 EQUAL EMPLOYMENT OPPORTUNITY CLAUSE. When applicable, the CONSULTANT and SUBCONSULTANT shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a), 60-741.5(a) and Appendix A of Subpart A of 29 CFR 471. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime CONSULTANTS and SUBCONSULTANTS take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.