

AGREEMENT
FOR
PROFESSIONAL SERVICES

THIS AGREEMENT is made as of 17th day of November in the year 1987 by and between the Nassau County, 416 Centre Street, Fernandina Beach, Florida 32034, (hereinafter called the OWNER) and Pitman-Hartenstein & Ashe, Inc., Engineers (hereinafter called the ENGINEER) with offices located at:

101 Century 21 Drive, Suite 207, Jacksonville, Florida 32216.

WITNESSETH

That for and in consideration of the covenants and promises to be carried out by each party herein, it is agreed by and between the parties hereto as follows:

WHEREAS, the ENGINEER is licensed and qualified to provide professional services in various field of municipal consulting engineering; and

WHEREAS, the OWNER has need from time to time for the services of the ENGINEER for various engineering and related professional studies, reports, evaluations, and design projects under the OWNER's public works, utilities, and other municipal programs (hereinafter called the PROJECT(s)); and

WHEREAS, the OWNER has selected the ENGINEER in compliance with the procedures set forth in Florida Statutes, FS 287.055, known as the "Consultants Competitive Negotiations Act";

NOW THEREFORE, the OWNER does hereby employ said ENGINEER as Municipal Consulting Engineer to perform the following engineering services:

1. Engineering and Related (Including Rate/Financial) Studies, Investigations, and Reports;
2. Design of New Facilities, Additions and Improvements;
3. Professional Services During Construction;
4. Resident Project Representative Services During Construction; and
5. Other, Supplementary and/or Ancillary Services.

SECTION 1

SCOPE OF SERVICES

It is understood and agreed that the professional services to be included under this Agreement will consist of various PROJECTS and that each PROJECT must be authorized separately. Prior to the initiation of any PROJECT, the ENGINEER will prepare for the OWNER a detailed scope of work, consulting fee estimate, and project schedule.

SECTION 2

METHOD OF AUTHORIZATION

Each PROJECT shall be authorized in writing by the OWNER in the OWNER's Notice to Proceed on any PROJECT. The written authorization shall include agreed upon scope of work, method of payment, PROJECT schedule, and special provisions or conditions specific to the PROJECT being authorized.

SECTION 3

CONCEPT DEVELOPMENT AND PROGRAM DEFINITION

After written authorization to proceed, the ENGINEER will:

- 3.1 Consult with the OWNER to determine the OWNER's requirements for the PROJECT.
- 3.2 Advise the OWNER as to the necessity of OWNER's providing or obtaining services or data from others of the types described in Paragraph 6.3 and act as the OWNER's representative in connection with any such services.
- 3.3 Provide special analysis of the OWNER's needs, planning surveys, site evaluations, and comparative studies of prospective sites and solutions.
- 3.4 Provide general economic analysis of the OWNER's requirements applicable to various alternatives as defined in the scope of work.

- 3.5 Prepare a PROJECT Report, when indicated, with findings and recommendations for the PROJECT and furnish five (5) copies of the same to the OWNER.
- 3.6 Perform rate and financial studies, comprehensive planning, facility operational review, and related investigations as requested by the OWNER and defined under Section 1.

SECTION 4

BASIC SERVICES OF THE ENGINEER FOR DESIGN PROJECTS

4.1 GENERAL:

- 4.1.1 The ENGINEER will perform professional design services in connection with the PROJECT as stated hereinafter.

4.2 SCHEMATIC PLANNING PHASE:

After written authorization to proceed with the Schematic Planning Phase, the ENGINEER will:

- 4.2.1 Review with the OWNER his requirements for the PROJECT.
- 4.2.2 Advise the OWNER as to the necessity of OWNER's providing or obtaining from others any additional services or data of the types described in Paragraph 6.3 and act as the OWNER's representative in connection with any such services.
- 4.2.3 On the basis of the OWNER's requirements and the data obtained as a result of the services provided in accordance with Paragraphs 3.2, 3.3, and 4.2.2, prepare Schematic Planning documents indicating clearly the considerations involved and the alternate solutions available to the OWNER; the schematic design shall include schematic layouts, sketches, and preliminary design criteria, and set forth the ENGINEER's recommendations and establish the scope of the PROJECT.
- 4.2.4 Prepare a preliminary cost estimate for the PROJECT.
- 4.2.5 Furnish two (2) copies of the above schematic documents and estimate.

4.3 PRELIMINARY DESIGN PHASE:

After written authorization to proceed with the Preliminary Design Phase, the ENGINEER will:

- 4.3.1 On the basis of the approved schematic documents, prepare preliminary design documents consisting of final design criteria, preliminary drawings, and outline specifications.
- 4.3.2 Prepare a revised preliminary cost estimate for the PROJECT based on the information contained in the preliminary design documents.
- 4.3.3 Furnish two (2) copies of the above preliminary design documents and revised estimate.

4.6.1 Consult with and advise the OWNER and act as his representative as provided in Articles 1 through 17, inclusive, of the "Standard General Conditions of the Construction Contract", National Society of Professional Engineers, 1983 Edition; the extent and limitations of the duties, responsibilities, and authority of the ENGINEER as assigned in said Standard General Conditions shall not be modified without the ENGINEER's written consent; all of the OWNER's instructions to the Contractor(s) shall be issued through the ENGINEER who

4.6 The Construction Phase shall commence with the execution of the first of the prime construction contract(s) to be executed (or on such other date as may be specified by the OWNER for commencement of the work under any construction contract) and will terminate upon written approval of final payment by the ENGINEER to all of the Contractor(s). During the Construction Phase, the ENGINEER will:

4.6 CONSTRUCTION PHASE:
 4.6.1 as may otherwise be required to complete the services called for in Paragraph 9.4.2.5).

4.5.3 This Phase shall terminate upon commencement of the Construction Phase or upon cessation of negotiations with Contractor(s) (except as may otherwise be required to complete the services called for in Paragraph 9.4.2.5).

4.5.2 Consult with and advise the OWNER as to the acceptability of subcontractors and other persons and organizations proposed by the prime construction contractor(s) (hereinafter called "Contractor(s)") for those portions of the work as to which such acceptability is required by the bidding documents.

4.5.1 Assist the OWNER in obtaining and evaluating bids or negotiating proposals and preparing construction contracts.

4.5 BIDDING OR NEGOTIATING PHASE:

4.4.5 Furnish five (5) copies of the final Drawings and Specifications.

4.4.4 Prepare Proposal forms and Notice to Bidders and assist in the preparation of the Contract Documents.

4.4.3 Advise the OWNER of any adjustment of the cost estimate for the PROJECT caused by changes in scope, design requirements, or construction costs and furnish a revised cost estimate for the PROJECT based on the final Drawings and Specifications.

4.4.2 Furnish to the OWNER such documents and design data as may be required for, and assist in the preparation of, the required documents so that the OWNER may secure approval of such governmental authorities as have jurisdiction over design criteria applicable to the PROJECT.

4.4.1 On the basis of the approved preliminary design documents, prepare for incorporation in the Contract Documents, detailed drawings to show the character and scope of the work to be performed by contractors on the PROJECT (hereinafter called the "Drawings") and instructions to Bidders, General Conditions, Special Conditions, and Technical Provisions (all of which are hereinafter called the "Specifications").

4.4 FINAL DESIGN PHASE:

4.4 After written authorization to proceed with the Final Design Phase, the ENGINEER will:

shall have authority to act on behalf of the OWNER to the extent provided in said Standard General Conditions except as provided otherwise in writing.

- 4.6.2 Make visits to the site at intervals appropriate to the various stages of construction to observe as an experienced and qualified design professional the progress and quality of the executed work of Contractor(s) and to determine in general if such work is proceeding in accordance with the Contract Documents. The ENGINEER shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of such work. The ENGINEER shall not be responsible for the means, methods, techniques, sequences, or procedures of construction selected by Contractor(s) or the safety precautions and programs incident to the work of Contractor(s). The ENGINEER's efforts will be directed toward providing a greater degree of confidence for OWNER that the completed work of Contractor(s) will conform to the Contract Documents, but the ENGINEER shall not be responsible for the failure of Contractor(s) to perform the work in accordance with the Contract Documents. During such visits, and on the basis of on-site observations, the ENGINEER shall keep OWNER informed of the progress of the work, shall endeavor to guard OWNER against defects and deficiencies in such work, and may disapprove or reject work failing to conform to the Contract Documents.
- 4.6.3 Review and approve (or take other appropriate action in respect of) Shop Drawings (as that term is defined in the aforesaid Standard General Conditions) and samples, the results of tests and inspections and other data which each Contractor is required to submit, but only for conformance with the design concept of the PROJECT and compliance with the design information given in the Contract Documents (but such review and approval or other action shall not extend to means, methods, sequences, techniques, or procedures of construction or to safety precautions and programs incident thereto); determine the acceptability of substitute materials and equipment proposed by Contractor(s); and receive and review (for general content as required by the Specifications) maintenance and operating instructions, schedules, guarantees, bonds, and certificates of inspection which are to be assembled by Contractor(s) in accordance with the Contract Documents.
- 4.6.4 Issue all instructions of OWNER to Contractor(s); issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare change orders as required; have authority, as OWNER's representative, to require special inspection or testing of the work; act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of OWNER and Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work; but the ENGINEER shall not be liable for the results of any such interpretations or decisions rendered by him in good faith.
- 4.6.5 Based on the ENGINEER's on-site observations as an experienced and qualified design professional and on review of applications for payment and the accompanying data and schedules, determine the amounts owing to Contractor(s) and recommend in writing payments to Contractor(s) in such amounts; such recommendations of payment will constitute a representation to OWNER, based on such observations and review, that the work has progressed to the point indicated, that, to the best of the ENGINEER's knowledge, information, and belief, the quality of such work is in accordance with the Contract

Documents (subject to an evaluation of such work as a functioning PROJECT upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any qualifications stated in his recommendation), and that payment of the amount recommended is due Contractor(s); but by recommending any payment the ENGINEER will not thereby be deemed to have represented that continuous or exhaustive examinations have been made by the ENGINEER to check the quality or quantity of the work or to review the means, methods, sequences, techniques, or procedures of construction or safety precautions or programs incident thereto or that the ENGINEER has made an examination to ascertain how or for what purposes any contractor has used the monies paid on account of the Contract Price, or that title to any of the work, materials, or equipment has passed to OWNER free and clear of any lien, claim, security interest, or encumbrance, or that Contractor(s) has(have) completed their work exactly in accordance with the Contract Documents.

- 4.6.6 Conduct an inspection to determine if the PROJECT is substantially complete and a final inspection to determine if the work has been completed in accordance with the Contract Documents and if each Contractor has fulfilled all of his obligations thereunder so that the ENGINEER may recommend, in writing, final payment to each Contractor and may give written notice to OWNER and the Contractor(s) that the work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice shall be subject to the limitations expressed in Paragraph 4.6.5.
- 4.6.7 The ENGINEER shall not be responsible for the acts or omissions of any Contractor, or Subcontractor, or any of the Contractor(s)' or Subcontractor's agents or employees or any other persons (except the ENGINEER's own employees and agents) at the site or otherwise performing any of the Contractor(s)' work; however, nothing contained in Paragraphs 4.6.1 through 4.6.7, inclusive, shall be construed to release the ENGINEER from liability for failure to properly perform duties undertaken by him in the Contract Documents.
- 4.6.8 Preparing for OWNER, on request, a set of reproducible record prints of Drawings showing those changes made during the construction process, based on the marked-up prints, drawings, and other data furnished by Contractor(s) to the ENGINEER and which the ENGINEER considers significant.

SECTION 5

ADDITIONAL SERVICES OF THE ENGINEER

5.1 GENERAL:

If authorized in writing by the OWNER, the ENGINEER will furnish, or obtain from others, Additional Services of the following types which are not considered normal or customary Basic Services; these will be paid for by the OWNER as indicated in Section 8.

- 5.1.1 Preparation of applications and supporting documents for governmental grants, loans, or advances in connection with the PROJECT; preparation or review of environmental assessments and impact statements; review and evaluation of the effect of the design requirements of the PROJECT on any such statements and documents

prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the PROJECT.

- 5.1.2 Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by the OWNER.
- 5.1.3 Services resulting from significant changes in extent of the PROJECT or its design including, but not limited to, changes in size, complexity OWNER's schedule, or character of construction or method of financing; revising previously accepted studies, reports, design documents, or Contract Documents when such revisions are due to causes beyond the ENGINEER's control; and revisions resulting from new or amended governmental regulations which were not in effect when specific scope of services were proposed pursuant to Section 1.
- 5.1.4 Providing renderings or models for OWNER's use.
- 5.1.5 Preparing documents for alternate bids requested by OWNER for Contractor(s)' work which is not executed or documents for out-of-sequence work.
- 5.1.6 Investigations involving detailed consideration of operations, maintenance and overhead expenses; providing Value Engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules, and appraisals; assistance in obtaining financing for the PROJECT; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of material, equipment, and labor; and audits or inventories required in connection with construction performed by OWNER.
- 5.1.7 Furnishing the services of special consultants for other than the normal civil, structural, mechanical, and electrical engineering and normal architectural design incidental thereto, such as consultants for interior design, furniture, furnishings, communications, acoustics, kitchens, and landscaping; and providing data or services of the types described in Paragraph 6.3 when OWNER authorizes the ENGINEER to provide such data or services in lieu of furnishing the same in accordance with Paragraph 6.3.
- 5.1.8 Services resulting from the award of more separate prime contracts for construction, materials, and equipment or services for the PROJECT than are contemplated by Paragraph 8.1.2, and services resulting from the arranging for performance by persons other than the principal prime Contractor(s) of services for the OWNER and administering OWNER's contracts for such services.
- 5.1.9 Providing any type of field surveys for design purposes and engineering surveys and staking to enable Contractor(s) to proceed with their work; and providing other special field surveys.
- 5.1.10 Services in connection with change orders to reflect changes requested by OWNER if the resulting change in compensation for Basic Services is not commensurate with the Additional Services rendered, services after the award of each contract in evaluating substitutions proposed by Contractor(s) and in making revisions to Drawings and Specifications occasioned thereby, and services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of material, equipment, or energy shortages.

- 5.1.11 Services during out-of-town travel required by the ENGINEER other than visits to the site as required by Section 4.
- 5.1.12 Additional or extended services during construction made necessary by: (1) work damaged by fire or other cause during construction; (2) a significant amount of defective or neglected work of Contractor(s); (3) prolongation of the contract time of any prime contract by more than sixty (60) days; (4) acceleration of the progress schedule involving services beyond normal working hours; and (5) default by Contractor(s).
- 5.1.13 Preparation of operating and maintenance manuals; protracted or extensive assistance in the utilization of any equipment or system (such as initial startup, testing, adjusting, and balancing); and training personnel for operation and maintenance.
- 5.1.14 Services after completion of the Construction Phase, such as inspections during any guarantee period and reporting observed discrepancies under guarantees called for in any contract for the PROJECT.
- 5.1.15 Preparing to serve or serving as a consultant or witness for OWNER in any litigation, public hearing, or other legal or administrative proceeding involving the PROJECT.
- 5.1.16 Additional services in connection with the PROJECT including services normally furnished by OWNER and services not otherwise provided for in the Agreement.
- 5.2 RESIDENT SERVICES DURING CONSTRUCTION:
- 5.2.1 If requested by OWNER or recommended by the ENGINEER and agreed to in writing by the other, a Resident Project Representative(s) will be furnished and will act as directed by the ENGINEER in order to assist the ENGINEER in observing performance of the work of Contractor(s). Such services will be paid for by OWNER as indicated in Paragraph 8.1.3.3.
- 5.2.2 The duties and responsibilities and the limitations on the authority of the Resident Project Representative and assistants will be set forth in Exhibit A which is to be identified, attached to, and made a part of this Agreement before such services begin.
- 5.2.3 Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative (if furnished) and assistants, the ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the work of Contractor(s); but the furnishing of such resident PROJECT representation will not make the ENGINEER responsible for construction means, methods, techniques, sequences, or procedures or for safety precautions or programs, or for Contractor(s)' failure to perform his(their) work in accordance with the Contract Documents.
- 5.2.4 If OWNER designates another person to represent OWNER at the PROJECT site who is not the ENGINEER's agent or employee, the duties, responsibilities, and limitations of authority of such other person and the effect thereof on the duties and responsibilities of the ENGINEER under this Agreement will be set forth in an exhibit that is to be identified, attached to, and made a part of this Agreement before such services begin.

SECTION 6

THE OWNER'S RESPONSIBILITIES

OWNER shall:

- 6.1 Provide all criteria and full information as to OWNER's requirements for the PROJECT including design objectives and constraints, space, capacity, and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.
- 6.2 Assist the ENGINEER by placing at its disposal all available information pertinent to the PROJECT including previous reports and any other data relative to design or construction of the PROJECT.
- 6.3 Furnish to the ENGINEER, as required for performance of the ENGINEER's Basic Services, data prepared by or services of others, including without limitation core borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic, and utility surveys; property descriptions; zoning, deed, and other land use restriction; and other special data or consultations not covered in Section 5; all of which the ENGINEER may rely upon in performing his services.
- 6.4 Provide field control surveys and establish reference points and base lines to enable Contractor(s) to proceed with the layout of the work.
- 6.5 Arrange for access to and make all provisions for the ENGINEER to enter upon public and private property as required for the ENGINEER to perform its services.
- 6.6 Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by the ENGINEER to obtain advice of an attorney, insurance counselor, and other consultants as OWNER deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the ENGINEER.
- 6.7 Except as otherwise agreed to, furnish approvals and permits from all governmental authorities having jurisdiction over the PROJECT and such approvals and consents from others as may be necessary for completion of the PROJECT and bear the cost of permit applications.
- 6.8 Provide such accounting, independent cost estimating, and insurance counseling services as may be required for the PROJECT, such legal services as OWNER may require or the ENGINEER may reasonable request with regard to legal issues pertaining to the PROJECT including any that may be raised by Contractor(s), such auditing services as OWNER may require to ascertain how or for what purpose any Contractor has used the monies paid to him under the construction contract, and such inspection services as OWNER may require to ascertain that Contractor(s) are complying with any law, rule, or regulation applicable to their performance of the work.
- 6.9 Designate in writing a person to act as OWNER's representative with respect to the services to be rendered under this Agreement. Such

person shall have complete authority to transmit instructions, receive information, and interpret and define OWNER's policies and decisions with respect to materials, equipment, elements, and systems pertinent to the ENGINEER's services.

- 6.10 Give prompt written notice to the ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of the ENGINEER's services, or any defect in the work of Contractor(s).
- 6.11 Furnish, or direct the ENGINEER to provide, necessary Additional Services as stipulated in Section 5 of this Agreement or other services as required.
- 6.12 Bear all costs incident to compliance with the requirements of this Section 6.

SECTION 7

PERIOD OF SERVICE

- 7.1 The period of service on each PROJECT shall be as mutually agreed to by the OWNER and the ENGINEER and as specifically indicated in the PROJECT authorization executed under the terms of this Agreement.
- 7.2 The ENGINEER's services under the Schematic Planning Phase, Preliminary Design Phase, and Final Design Phase shall each be considered complete at the earlier of: (1) the date when the submissions for that phase have been accepted by the OWNER; and (2) thirty (30) days after the date when such submissions are delivered to the OWNER for final approval.
- 7.3 Unless this Agreement has been terminated as provided in Paragraph 9.1, the ENGINEER will be obligated to render services hereunder for a period which may reasonably be required for the design, award of contracts, and construction of the PROJECT including extra work and any required extension thereof. The ENGINEER may decline to render further services hereunder if the OWNER fails to give prompt written authorization to proceed with the Schematic Planning, Preliminary Design, Final Design, or Bidding or Negotiating Phase after completion of the immediately preceding phase, or if the Construction Phase has not commenced within one hundred eighty (180) calendar days (plus such additional time as may be required to complete the services called for under Paragraph 9.3.2.5) after completion of the Final Design Phase.
- 7.4 If the OWNER has requested significant modifications or changes in the scope of the PROJECT, the time of performance shall be adjusted appropriately.
- 7.5 If the design or construction of the PROJECT is delayed significantly for reasons (including costs of construction) beyond the ENGINEER's control, the various rates of compensation provided for elsewhere in this Agreement shall be subject to renegotiation.

SECTION 8

METHOD OF PAYMENT

- 8.1 The OWNER will pay the ENGINEER for services rendered under this Agreement on one of the following bases as designated by the ENGINEER's proposal described in Section 1.
- 8.1.1 Concept Development and Program Definition: The OWNER will pay the ENGINEER for Concept Development and Program Definition Services rendered under Section 3 either a lump sum fee indicated in the written PROJECT authorization or an amount based on a schedule of hourly rates for the services of the ENGINEER's staff members assigned to the PROJECT, which shall be indicated in the PROJECT authorization, plus reimbursable expenses.
- 8.1.2 Basic Services: The OWNER will pay the ENGINEER for Basic Services rendered under Section 4 on one of the bases indicated in Paragraph 8.1.1.
- 8.1.3 Additional Services: The OWNER will pay the ENGINEER for Additional Services rendered under Section 5 on one of the bases indicated in Paragraph 8.1.1 above, except for the following:
- 8.1.3.1 Special Consultants: The OWNER will pay the ENGINEER for services of special consultants covered by Paragraph 5.1.7, the amount billed to the ENGINEER therefor times a factor of 1.10 plus all of the ENGINEER's reimbursable expenses in connection therewith.
- 8.1.3.2 Resident Project Services: The OWNER will pay the ENGINEER for resident services during construction furnished under Paragraph 5.2.1 on basis of raw labor expense times a factor of 2.35 for services rendered by staff assigned to field offices in connection with resident PROJECT representation plus all reimbursable expenses.
- 8.1.4 Other Services: The OWNER will pay the ENGINEER for services authorized under the procedures established under Sections 1 and 2 but not falling within the definitions of services rendered under Sections 3, 4, and 5 on one of the bases indicated in Paragraph 8.1.1 above.
- 8.2 PROFESSIONAL SERVICES BUDGET:
- 8.2.1 If payment for professional services is by the staff hourly rate method, an estimated professional services budget shall be established in the PROJECT authorization. This total budget shall not be exceeded without prior written authorization by the OWNER. All requests, if any, for PROJECT budget increase by the ENGINEER shall be made in writing and shall contain suitable justification for said increase.
- 8.3 TIMES OF PAYMENT:
- 8.3.1 The OWNER will make prompt payments in response to the ENGINEER's detailed statements for all categories of services rendered under this Agreement and for reimbursable expenses incurred, unless specified otherwise in the written PROJECT authorization.
- 8.3.2 Should the OWNER fail to make payment of any undisputed portion of an invoice within sixty (60) days after date of the rendered invoice, interest at a rate of one percent (1%) per month shall be

due and payable upon any such unpaid balance. If payment is not made within one hundred twenty (120) days after date of the rendered invoice, the ENGINEER will suspend work on the PROJECT until all payments on undisputed invoices are current.

8.3.3 In the case of payments on the basis of a lump sum under Paragraph 8.1.2, upon conclusion of each phase, compensation for all phases of Basic Services rendered shall amount to the following percentages of the total compensation payable for all phases of Basic Services:

Schematic Planning Phase	15%
Preliminary Design Phase	35%
Final Design Phase	75%
Bidding or Negotiating Phase	80%
Construction Phase	100%

8.4 GENERAL:

8.4.1 Reimbursable expenses shall mean the actual expenses of transportation and subsistence of principals, employees, and consultants for the normal civil, structural, mechanical, and electrical engineering services and the normal architectural services incidental thereto when traveling in connection with the PROJECT: expenses incidental to obtain bids or proposals from contractors; expenses of furnishing and maintaining field office facilities; subsistence and transportation of Resident Project Representatives and their assistants; toll telephone calls and telegrams; reproduction of reports, Drawings, and Specifications, and similar PROJECT-related items and additions to those required under Sections 3 and 4; expense of computer time including an appropriate charge for previously established programs; if authorized in advance by the OWNER, expense of overtime work requiring higher than regular rates; and, sales or other taxes imposed directly on professional fees.

8.4.2 If this Agreement is terminated upon the completion of the ENGINEER's services under Section 3, or at the completion of any phase of the Basic Services called for under Section 4, progress payments to be made to the ENGINEER on account of services rendered shall constitute total payment for services rendered. If this Agreement is terminated during any phase of the Basic Services when the ENGINEER is being compensated on the basis of hourly rates, the ENGINEER shall be paid for services rendered to the date of termination. In the event of any termination, the ENGINEER will be paid for all reasonable expenses resulting from such termination and for any unpaid reimbursable expenses.

8.4.3 If, prior to termination of this Agreement, any work designed or specified by the ENGINEER under Section 3, or during any phase of the Basic Services, is suspended in whole or in part for more than three (3) months, or is abandoned, after written notice from the OWNER, the ENGINEER shall be paid for services performed prior to receipt of such notice from the OWNER as provided in Paragraph 8.4.6 for termination during any phase of his service.

SECTION 9
GENERAL CONSIDERATIONS

- 9.1 **ACCOUNTING RECORDS:** Records of the ENGINEER's special consultants, and reimbursable expenses pertaining to the PROJECT and applicable to the Method of Payment shall be kept and shall be available to the OWNER or its authorized representative for observation at mutually convenient times.
- 9.2 **TERMINATION OF AGREEMENT:** This Agreement may be terminated without cause by either party upon thirty (30) days' written notice. In the event of termination, the ENGINEER shall be compensated as provided herein for services performed to termination date and all terminal expenses.
- 9.3 **OWNERSHIP OF DOCUMENTS:** All documents including Drawings and Specifications prepared by the ENGINEER pursuant to this Agreement are instruments of service in respect of the PROJECT. They are not intended or represented to be suitable for reuse by OWNER or others on extensions of the PROJECT or on any other project. Any reuse without written verification or adaptation by the ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to the ENGINEER; and OWNER shall indemnify and hold harmless the ENGINEER from all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle the ENGINEER to further compensation at rates to be agreed upon by OWNER and the ENGINEER.
- 9.4 **ESTIMATES:**
- 9.4.1 Since the ENGINEER has no control over the cost of labor, materials, or equipment, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, estimates of cost for the PROJECT provided for herein are to be made on the basis of experience and qualifications and represent the best judgment of a design professional familiar with the construction industry, but the ENGINEER cannot and does not guarantee that proposals, bids, or the PROJECT construction cost will not vary from cost estimates prepared by the ENGINEER.
- 9.4.2 If, as a condition of this Agreement, a PROJECT construction cost limit is established, the following shall apply:
- 9.4.2.1 The approval by OWNER at any time during the Basic Services of a revised cost estimate in excess of the then established cost limit, shall constitute a corresponding increase in the PROJECT construction cost limit.
- 9.4.2.2 Any PROJECT construction cost limit established by this Agreement shall include a bidding contingency of ten percent (10%) unless another amount is agreed upon in writing.
- 9.4.2.3 The ENGINEER shall be permitted to determine what materials, equipment, component systems, and types of construction are to be included in the Drawings and Specifications and to make reasonable adjustments in the scope of the PROJECT to bring it within the cost limit.
- 9.4.2.4 If the Construction Phase had not commenced within six (6) months of the completion of the Final Design Phase, the established PROJECT construction cost limit in this Agreement shall not be

effective or binding on the ENGINEER and the OWNER will consent to an adjustment in such cost limit commensurate with any change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or bids are sought.

- 9.4.2.5 If the lowest bona fide proposal or bid exceeds the established PROJECT construction cost limit, the OWNER will: (1) give written approval to increase such cost limit; (2) authorize negotiating or rebidding the PROJECT within a reasonable time; or (3) cooperate in revising the PROJECT scope.
- 9.5 INSURANCE: the ENGINEER shall secure and maintain such insurance as will protect the ENGINEER from claims under the Workmen's Compensation Act and from claims for bodily injury, death, or property damage which may arise from the performance of services under this Agreement.
- 9.6 LENGTH OF AGREEMENT: This Agreement remains in force until terminated under the provisions of Paragraph 9.2.
- 9.7 SUCCESSORS AND ASSIGNS: The OWNER and the ENGINEER each binds himself and his partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the OWNER nor the ENGINEER will assign, sublet, or transfer his interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the OWNER and the ENGINEER.

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

OWNER

ENGINEER
PITMAN-HARTENSTEIN & ASHE, INC.


Name:


Name: E.H. Pitman, Jr., P.E.

Chairman _____ 11-17-87
Title _____ Date _____

PRES. _____
Title _____ Date _____

ATTEST

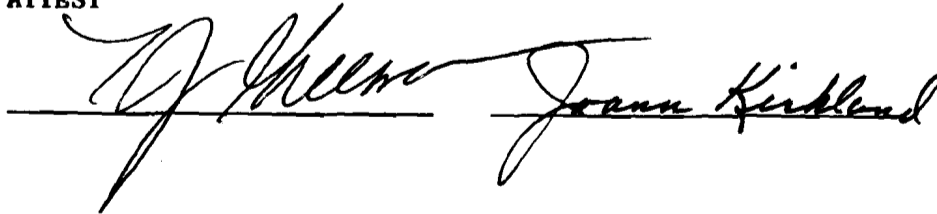

Joann Kirkland

EXHIBIT A TO AGREEMENT

BETWEEN OWNER AND THE ENGINEER FOR PROFESSIONAL SERVICES

Duties, Responsibilities, and Limitations of
Resident Project Representative

- A. **GENERAL:** Resident Project Representative is the ENGINEER's agent and will act as directed by and under the supervision of the ENGINEER. He will confer with the ENGINEER regarding his actions. His dealings in matters pertaining to the on-site work shall, in general, be only with the ENGINEER and Contractor(s). His dealings with Subcontractors shall only be through or with the full knowledge of the Contractor(s) or his superintendent. He will generally communicate with OWNER only through or as directed by the ENGINEER.
- B. **DUTIES AND RESPONSIBILITIES:** Resident Project Representative will:
1. **Schedules:** Review the progress schedule of Shop Drawings submissions and schedule of values prepared by Contractor(s) and consult with the ENGINEER concerning their acceptability.
 2. **Conferences:** Attend preconstruction conferences. Arrange a schedule of progress meetings and other job conferences as required in consultation with the ENGINEER and notify those expected to attend in advance. Attend meetings and maintain and circulate copies of minutes thereof.
 3. **Liaison:**
 - a. Serve as the ENGINEER's liaison with the Contractor(s) working principally through Contractor(s)' superintendent and assist him in understanding the intent of the Contract Documents. Assist the ENGINEER in serving as OWNER's liaison with Contractor(s) when Contractor(s)' operations affect OWNER's on-site operations.
 - b. As requested by the ENGINEER, assist in obtaining from OWNER additional details or information when required at the job site for proper execution of the work.
 - c. Alert Contractor(s) directly and through his superintendent to the hazards involved in accepting or acting upon instructions from OWNER or others, except instructions transmitted through the ENGINEER or himself.
 4. **Shop Drawings and Samples:**
 - a. Receive and record date of receipt of Shop Drawings and samples which have been approved by the ENGINEER.
 - b. Receive samples which are furnished at the site by Contractor(s) for the ENGINEER's approval and notify the ENGINEER of their availability for examination.
 - c. Advise the ENGINEER and Contractor(s) or his(their) superintendent immediately of the commencement of any work requiring a Shop Drawing or sample submission if the submission has not been approved by the ENGINEER.
 5. **Review of Work, Rejection of Defective Work, Inspections and Tests:**

- a. Conduct on-site observations of the work in progress to assist the ENGINEER in determining that the PROJECT is proceeding in accordance with the Contract Documents and that completed work will conform to the requirements of the Contract Documents.
 - b. Report to the ENGINEER whenever he believes that any work is unsatisfactory, faulty, or defective or does not conform to the requirements of any inspections, tests, or approvals required to be made; and advise the ENGINEER when he believes work should be corrected or rejected or should be uncovered for observation or requires special testing or inspection.
 - c. Verify that tests, equipment, and system startups and operating and maintenance instructions are conducted as required by the Contract Documents and in the presence of the required personnel and that Contractor(s) maintain(s) adequate records thereof; observe, record, and report to the ENGINEER appropriate details relative to the test procedures and startups.
 - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the PROJECT, record the outcome of these inspections, and report to the ENGINEER.
6. Interpretation of Contract Documents: Transmit to Contractor(s) the ENGINEER's clarifications and interpretations of the Contract Documents.
7. Modifications: Consider and evaluate Contractor(s)'s suggestions for modifications in Drawings or Specifications and report them with recommendations to the ENGINEER.
8. Records:
- a. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and sample submissions, reproductions to original Contract Documents including all addenda, change orders, field orders, additional Drawings issued subsequent to the execution of the Contract, the ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, and other PROJECT-related documents.
 - b. Keep a diary or log book, recording hours on the job site, weather conditions, data relative to questions of extras or deductions, list of visiting officials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures. Send copies to the ENGINEER.
 - c. Record names, address, and telephone numbers of all Contractors, Subcontractors, and major suppliers of equipment and materials.
9. Reports:
- a. Furnish the ENGINEER periodic reports as required of progress of the work and Contractor(s)' compliance with the approved progress schedule and schedule of Shop Drawing submissions.
 - b. Consult with the ENGINEER in advance of scheduled major tests, inspections, or start of important phases of the work.

10. **Payment Requisitions:** Review applications for payment with Contractor(s) for compliance with the established procedures for his(their) submissions and forward them with recommendations to the ENGINEER noting particularly their relation to the schedule of values work completed, and materials and equipment delivered at the site.
 11. **Guarantees, Certificates, Maintenance and Operation Manuals:** During the course of the work, verify that guarantees, certificates, maintenance and operation manuals, and other data required to be assembled and furnished by Contractor(s), are applicable to the items actually installed and deliver this material to the ENGINEER for his review and forwarding to OWNER prior to final acceptance of the PROJECT.
 12. **Completion:**
 - a. Before the ENGINEER issues a Certificate of Substantial Completion, submit to Contractor(s) a list of observed items requiring correction.
 - b. Conduct final inspection in the company of the ENGINEER, OWNER, and Contractor(s) and prepare a final list of items to be corrected.
 - c. Verify that all items on final list have been corrected and make recommendations to the ENGINEER concerning acceptance.
- C. **LIMITATIONS OF AUTHORITY:** Except upon written instructions of the ENGINEER, Resident Project Representative shall not:
1. Authorize any deviation from the Contract Documents or approve any substitute materials or equipment.
 2. Undertake any of the responsibilities of Contractor(s)', Subcontractor(s)', or Contractor(s)' superintendent.
 3. Expedite work for the Contractor(s).
 4. Advise on or issue directions relative to any aspect of the means, methods, techniques, sequences, or procedures of construction unless such is specifically called for in the Contract Documents.
 5. Advise on or issue directions as to safety precautions and programs in connection with the work.
 6. Authorize OWNER to occupy the PROJECT in whole or in part.
 7. Participate in specialized field or laboratory tests.