

**ADA COUNTY CONTRACT FOR PROFESSIONAL CONSULTING SERVICES FOR
PROJECTS WITH PROFESSIONAL SERVICE FEES NOT EXCEEDING \$50,000
TERMS AND CONDITIONS
(REVISED 11/21)**

These Terms and Conditions together with the Ada County Fixed Price Professional Consulting Services Scope of Services Contract Form For Projects With Professional Service Fees Not Exceeding \$50,000 (“Scope of Services Form”) constitute the Professional Services Contract (the “Contract”) between Ada County, a duly formed and existing county pursuant to the laws and Constitution of the State of Idaho, (the “Owner”) and the Consultant for professional consulting services related to the Project, as defined and described in the Scope of Services Form. Capitalized terms used herein without definition shall have the meanings assigned to them in the Scope of Services Form. The Contract shall be effective on the date the Scope of Services Form is executed by the last party.

Compensation for professional service fees for the Project shall not exceed Fifty Thousand and 00/100 Dollars (\$50,000.00), as provided in Idaho Code § 67-2320.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements stated herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Owner and the Consultant agree:

GENERAL PROVISIONS

Owner and Consultant will review the Owner’s needs and determine individual Project scope of services covered by this Contract. Owner and Consultant contemplate that some projects will require only a preliminary report, some only a preliminary design, and some construction activities, all of which will be determined and described in the Scope of Services Form.

**ARTICLE I.
REPRESENTATIONS AND WARRANTIES**

By executing this Contract, the Consultant makes the following express representations and warranties to the Owner:

A. The Consultant will be professionally qualified to act in whatever capacity required for the Project and licensed to practice in that capacity by all public entities having jurisdiction over the Consultant and the Project;

B. The Consultant shall maintain all necessary licenses, permits, or other authorizations necessary to act as Consultant for the Project until the Consultant’s duties hereunder have been fully satisfied;

C. The Consultant has become familiar with and examined the Project site, facilities, existing structures, and the local conditions under which the Project is to be designed, constructed, and operated;

D. The Consultant shall prepare all documents and items required by this Contract including, but not limited to, designs, advice, reports, needs assessments, and all contract plans and specifications. Such documents and items shall be accurate, coordinated, adequate for construction, sufficient to accomplish the purposes of the Project, and shall be in conformity and comply with all applicable laws, codes, and regulations. These documents and items shall be prepared in such a manner that increases in the Project costs resulting from Consultant's errors or omissions do not exceed one percent (1%) of the total construction price of the Project on new construction, or two and one-half percent (2.5%) of the total construction price of the Project on remodel construction; provided, however, the following shall not be included in determining the above-listed percentages:

1. costs directly resulting from Owner initiated modifications to the scope of work; or
2. costs directly resulting from unforeseen site conditions; or
3. costs, at the Contractor's original bid price, of items that should have been included in the original Design for Construction, but were omitted due to the Consultant's error(s), omission(s), and/or misdescriptions.

E. The Consultant assumes full responsibility to the Owner for the improper acts and/or omissions (excluding intentional acts) of its consultants or others employed or retained by the Consultant in connection with the Project, but not for acts and omissions expressly directed by the Owner; and

F. Consultant shall promptly notify Owner of any material changes in Consultant's duties for the Project.

G. Certification Regarding Anti-Boycott of Israel: Pursuant to Idaho Code section 67-2346, if this Contract is one hundred thousand dollars (\$100,000) or more and/or Consultant employs ten (10) or more persons, Consultant certifies that it is not currently engaged in, and will not for the duration of the Contract engage in, a boycott of goods or services from Israel or territories under its control.

**ARTICLE II.
PRELIMINARY CONSULTATION, EXAMINATION, AND REPORT OF OWNER'S
CRITERIA**

Owner shall name a liaison for the Project. Prior to the preparation of the Preliminary Design as required by Article III below, the Consultant shall first consult in detail with the Owner and shall carefully examine any information provided by the Owner concerning the Owner's purposes, concepts, desires, existing facilities, and requirements (the "Owner's Criteria"), including, but not limited to, any design, construction, scheduling, budgetary, or operational Project needs, restrictions, or requirements. Following such examination, the Consultant shall prepare and submit to the Owner a written report detailing the Consultant's understanding of the Owner's Criteria and identifying any design, construction, scheduling, budgetary, operational, or other problems or

recommendations which may result from the Owner's Criteria. The written report of the Consultant shall also include proposed solutions, if appropriate, addressing each of such identified problems.

Owner shall review the report with the Consultant in a timely manner.

ARTICLE III. PRELIMINARY DESIGN AND PRICE ESTIMATE

If contemplated by the Project Scope of Services Form, after reviewing with the Owner the written report required by Article II above, agreeing upon any proposed solutions to identified problems resulting from the Owner's Criteria, within the time frames provided in the agreed upon Scope of Services Form, the Consultant shall draft and submit to the Owner a Preliminary Design for the Project. The Preliminary Design shall be consistent with the Owner's Criteria, as, and if, modified and shall include all of the following which apply:

- A. Preliminary plans which depict, as appropriate, each of the basic aspects of the Project including, but not necessarily limited to, the size, location, and dimensions of each structure;
- B. Preliminary plans which depict each exterior view of each structure;
- C. A floor plan for each room within the Project and the dimensions thereof;
- D. Written preliminary specifications, together with preliminary plans, if and as necessary or useful to the Owner, of the architectural, electrical, mechanical, geotechnical, hydrological, structural, engineering, and, if relevant, other systems to be incorporated in the Project;
- E. A written description of the equipment and materials to be specified for the Project and the location of same;
- F. Any other documents or things necessary or appropriate to describe and depict the Project and the conformity of same with the Owner's Criteria (as, and if, modified as set forth above) for the Project; and

Upon completion of the Preliminary Design, the Consultant shall submit to the Owner in writing, its estimate of the Contractor's anticipated price for constructing the Project in accordance with the Preliminary Design.

ARTICLE IV. DESIGN FOR CONSTRUCTION

Where construction is contemplated by the Project Scope of Services Form, a Design for Construction shall be prepared in accordance with these provisions.

Upon written direction from the Owner, after reviewing with the Owner the Preliminary Design required by Article III above, and after incorporating any changes or alternations authorized

or directed by the Owner with respect to the Preliminary Design or with respect to the Owner's Criteria, as, and if, modified, the Consultant shall draft and submit to the Owner the Design for Construction. The Design for Construction shall include, but shall not necessarily be limited to, plans and specifications which describe with specificity all systems, elements, details, components, materials, equipment, and other information necessary for construction. The Design for Construction shall be accurate, coordinated, and in all respects adequate for construction and shall be in conformity, and comply, with all applicable law, codes, and regulations. Products, equipment, and materials specified for use shall be readily available unless written authorization to the contrary is given by the Owner. In preparing the Design for Construction, the Consultant shall provide an experienced, qualified geotechnical engineer to evaluate all geotechnical considerations relating to the design and construction of the Project. If required by the Scope of Services Form, the Consultant shall be responsible for designing the Project in accordance with the analyses and recommendations of its geotechnical engineer.

ARTICLE V. PRICE ESTIMATES

A. Contemporaneously with the submission of the Design for Construction, the Consultant shall submit to the Owner in writing its final estimate of the Contractor's anticipated price for constructing the Project. Once submitted, the final anticipated price estimate shall not be increased or decreased by the Consultant unless the Design for Construction is changed upon authorization by the Owner. In such event, the final anticipated price estimate shall be adjusted by the Consultant to reflect any increase or decrease in anticipated price resulting from the change in Design for Construction.

B. Prior to directing the Consultant to proceed with preparation of the Design for Construction, the Owner may establish and communicate to the Consultant a maximum amount for payment to the Contractor as the Contract Price for constructing the Project (the "Maximum Price"). In the event the Consultant's final anticipated price estimate, as required herein, exceeds the Maximum Price, or in the event the lowest negotiated proposal from a qualified contractor exceeds the Maximum Price, the Owner may require the Consultant, at no cost to the Owner, to consult with the Owner and to revise the Design for Construction so as to obtain a proposal at or below the Maximum Price. Absent clear and convincing evidence of gross negligence of the Consultant in making its final anticipated price estimate or in designing the Project without regard to the Maximum Price, providing such revisions shall fulfill the Consultant's liability to the Owner in connection with the Maximum Price. The fees for professional services included in the Maximum Price shall not exceed Fifty Thousand and 00/100 Dollars (\$50,000.00).

ARTICLE VI. DUTIES DURING BIDDING AND NEGOTIATION

The Consultant, following the Owner's approval of the Construction Documents and of the latest preliminary estimate of Construction Cost, shall assist the Owner in reviewing bids or proposals for construction.

ARTICLE VII.
DUTIES, OBLIGATIONS, AND RESPONSIBILITIES DURING CONSTRUCTION

During construction of the Project, where construction is contemplated, and until final payment to the Contractor, and at all times relevant thereto, the Consultant shall have and perform the following duties, obligations, and responsibilities without additional compensation:

A. Reserved;

B. The Consultant shall, as contemplated herein and in the Construction Contract, but not otherwise, act on behalf, and be the agent, of the Owner throughout construction of the Project. Instructions, directions, and other appropriate communications from the Owner to the Contractor shall be given to the Contractor by the Consultant;

C. Upon receipt, the Consultant shall carefully review and examine the Contractor's Schedule of Values, together with any supporting documentation or data which the Owner or the Consultant may require from the Contractor. The purpose of such review and examination shall be to protect the Owner from an unbalanced Schedule of Values which allocates greater value to certain elements of the work than is indicated by such supporting documentation or data, or than is reasonable under the circumstances. If the Schedule of Values is not found to be appropriate, or if the supporting documentation or data is deemed to be inadequate, and unless the Owner directs the Consultant to the contrary in writing, the Schedule of Values shall be returned to the Contractor for revision or supporting documentation or data. After making such examination, if the Schedule of Values is found to be appropriate as submitted, or if necessary, as revised, the Consultant shall sign the Schedule of Values thereby indicating its informed belief that the Schedule of Values constitutes a reasonable, balanced basis for payment of the Contract Price to the Contractor. The Consultant shall not sign such Schedule of Values in the absence of such belief unless directed to do so, in writing, by the Owner;

D. The Consultant shall carefully observe the work of the Contractor whenever, wherever, and as often as necessary, and shall, at a minimum, observe work at the Project site no less frequently than that stated in the Scope of Services Form. The purpose of such observations shall be to determine the quality and quantity of the work in comparison with the requirements of the Construction Contract. In making such observations, the Consultant shall protect the Owner from continuing deficient or defective work, from continuing unexcused delays in the schedule and from overpayment to the Contractor. Following each observation, the Consultant shall submit a written report of such observation, together with any appropriate comments or recommendations, to the Owner;

E. The Consultant shall initially approve periodic and final payments owed to the Contractor under the Construction Contract predicated upon observations of the work, as required in Subarticle VII.D hereinabove, and evaluations of the Contractor's rate of progress in light of the remaining Contract Time and shall issue to the Owner Approvals of Payment in such amounts. By issuing an Approval of Payment to the Owner, the Consultant reliably informs the Owner that the Consultant has made the observation of the work required by Subarticle VII.D above, that the work for which payment is approved has reached the quantities or percentages of completion shown, or

both, that the quality of the Contractor's work meets or exceeds the requirements of the Construction Contract, and that, under the terms and conditions of the Construction Contract, the Owner is obligated to make payment to the Contractor of the amount approved;

F. The Consultant shall promptly provide appropriate interpretations as necessary for the proper execution of the work;

G. The Consultant shall promptly notify the Owner of work of the Contractor which is not in compliance with the Construction Contract and shall timely reject, in writing, any work of the Contractor which is not in compliance with the Construction Contract unless directed by the Owner, in writing, not to do so;

H. The Consultant shall require inspection or re-inspection and testing or re-testing of the work in accordance with the provisions of the Construction Contract whenever appropriate;

I. The Consultant shall receive and promptly examine, study, and approve, or otherwise respond to, the Contractor's shop drawings and other submittals. Approval by the Consultant of the Contractor's submittal shall constitute the Consultant's representation to the Owner that such submittal is in general conformance with the Construction Contract;

J. The Consultant shall receive, promptly examine, and advise the Owner concerning requests for change orders from the Contractor. Upon request by the Owner, the Consultant shall draft Change Orders, and supporting specifications, drawings, and other documentation, whether initiated by the Owner, or by the Contractor and approved by the Owner, in accordance with the Construction Contract;

K. Based upon inspections of the Project, the Consultant shall certify in writing to the Owner the fact that, and the date upon which, the Contractor has achieved Substantial Completion of the Project and the date upon which the Contractor has achieved Final Completion of the Project;

L. The Consultant shall transmit to the Owner all manuals, operating instructions, as-built plans, warranties, guarantees, and other documents and things required by the Construction Contract and submitted by the Contractor;

M. The Consultant shall testify in any judicial proceeding concerning the design and construction of the Project, when requested in writing by the Owner, and the Consultant shall make available to the Owner any personnel or consultants employed or retained by the Consultant for the purpose of reviewing, studying, analyzing, or investigating any claims, contentions, allegations, or legal actions relating to, or arising out of, the design or construction of the Project;

N. The Consultant shall review any as-built drawings furnished by the Contractor and shall certify to the Owner that same are adequate and complete;

O. The Consultant shall promptly correct any errors, omissions, deficiencies, or conflicts in the work product of the Consultant or its consultants, or both;

P. The Consultant shall have and perform additional duties obligations and responsibilities after Final Payment to the Contractor as defined in the Scope of Services Form;

Q. Pursuant to the Construction Contract, the Consultant shall promptly notify the Owner of any claim filed by the Contractor and shall provide the Owner, or its designee, with a timely written response to a claim filed by the Contractor; and

R. Consultant will review and approve the quality control program prepared by the Contractor to ensure its appropriateness.

ARTICLE VIII. INDEMNITY

A. In the event the Owner is alleged to be liable in any manner as a result of acts, errors, or omissions of Consultant, its officers, agents, employees, invitees, or guests the Consultant shall indemnify and hold the Owner, its officers, agents, employees, invitees, and guests harmless from and against all liability, claims, losses, costs, and expenses as a result of the acts, errors, or omissions of the Consultant, its officers, agents, employees, invitees, or guests.

B. In the event the Owner, its officers, agents, employees, invitees, or guests is alleged to be liable in any manner as a result of the acts, errors, or omissions of the Consultant, its officers, agents, employees, invitees, and guests, the Consultant shall defend such allegations through counsel chosen by the Owner and the Consultant shall bear all costs, fees, and expenses of such defense, including, but not limited to, all attorney fees and expenses, court costs, and expert witness fees and expenses.

C. In case of acts, errors, or omissions of both the Consultant and the Owner, or their officers, agents, employees, invitees, or guests, all costs and fees, including, but not limited to, attorney fees, expenses, court costs, expert witness fees and expenses, shall be apportioned between Consultant and Owner according to the relative degree of negligence or misconduct with the right of indemnity applying to such proportion.

D. For purposes of this Article, the terms “acts, errors, or omissions” is defined as any negligent, reckless, intentional, deliberate, willful, malicious, criminal, or wanton act, error, or omission, and it shall include any combination of such acts, errors, or omissions.

E. Nothing contained herein shall extend the liability of either party beyond that provided by governing law.

ARTICLE IX. SCHEDULE

Time is of the essence in the performance of this Contract. Within two (2) weeks of requesting Consultant to provide a Project Scope of Services Form, the Consultant shall provide the Owner with a proposed schedule for performance by the Consultant hereunder. Such schedule, if

approved by the Owner, shall constitute the schedule for performance of its duties hereunder by the Consultant for the Project.

ARTICLE X. PERSONNEL

The Consultant shall assign only qualified personnel to perform any service concerning the Project as named and described in the Scope of Services Form.

So long as the individuals named in the Scope of Services Form remain actively employed or retained by the Consultant, they shall perform the functions indicated next to their names, subject to Owner's continued reasonable approval.

ARTICLE XI. PAYMENTS

For its assumption and performance of the duties, obligations, and responsibilities set forth herein, the Consultant shall be compensated in the amount and as provided in the Project Scope of Services Form, subject to the following:

A. Consultant will maintain accounting records, in accordance with generally accepted accounting principles and practices, to substantiate all invoiced amounts. These records will be available to Owner during Consultant's normal business hours for a period of one (1) year after Consultant's final invoice. During that year and thereafter, Consultant's records will be accessible in accordance with applicable law and this Contract;

B. If the Consultant's duties, obligations, and responsibilities are materially changed through no fault of the Consultant after execution of the Contract, and notice has been provided pursuant to Subarticle I.F, above, compensation due to the Consultant shall be equitably adjusted, either upward or downward;

C. For the assumption and performance of any duties, obligations, and responsibilities, (other than those services contemplated by this Contract), provided same are first authorized in writing by the Owner, the Consultant shall be paid at completion of the Project. Said payments shall include all services and expenses;

D. The Consultant's invoice shall describe with reasonable particularity each service rendered, the date thereof, the time expended if such services were rendered pursuant to Subarticle XI.B or XI.C hereinabove, and the person(s) rendering such service. Each invoice shall bear the signature of the Consultant, which signature shall constitute the Consultant's representation to the Owner that the services indicated in the invoice have reached the level stated, have been properly and timely performed as required herein, that the expenses included in the invoice have been approved by Owner and have been reasonably incurred in accordance with this Contract, that all obligations of the Consultant covered by prior invoices have been paid in full, and that the amount requested is currently due and owing, there being no reason known to the Consultant that payment or any portion thereof should be withheld. Submission of the Consultant's invoice for final

payment shall further constitute the Consultant's representation to the Owner that, upon receipt by the Owner of the amount invoiced, all obligations of the Consultant to others, including its consultants, incurred in connection with the Project, will be paid in full;

E. In the event that the Owner becomes credibly informed that any representations of the Consultant as set forth in Subarticle XI.D are wholly or partially inaccurate, the Owner may withhold payment of sums then or in the future otherwise due to the Consultant, to the value of the inaccuracy, until the inaccuracy, and the cause thereof, is corrected to the Owner's reasonable satisfaction; and

F. The Owner shall make payment to the Consultant of all sums properly invoiced under the Scope of Services Form and the provisions of this Article XI within thirty (30) days of the Owner's receipt of such invoice.

ARTICLE XII. PROJECT RECORD AVAILABILITY AND RETENTION

A. All records relating in any manner whatsoever to the Project, or any designated portion thereof, which are in the possession of the Consultant or the Consultant's consultants, shall be made available to the Owner for inspection and copying upon written request of the Owner. Additionally, said records shall be made available, upon request by the Owner, to any state, federal, or other regulatory authorities and any such authority may review, inspect, and copy such records. Said records include, but are not limited to, all plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, electronic records, or other writings or things which document the Project, its design, and its construction. Said records expressly include those documents reflecting the time expended by the Consultant and its personnel in performing the obligations of this Contract and the records of expenses incurred by the Consultant in its performance under said Contract. The Consultant shall maintain and protect these records for no less than six (6) years after substantial completion of the Project or for any longer period of time as may be required by applicable law or good engineering, architecture, landscape architecture, and/or surveying practice, as applicable for the Project, whichever is longer.

B. All public records relating in any manner whatsoever to the Project, or any designated portion thereof, which are in the possession of the Owner, shall be made available to the Consultant for inspection and copying upon written request of the Consultant.

ARTICLE XIII. DUTIES, OBLIGATIONS, AND RESPONSIBILITIES OF THE OWNER

The Owner shall have and perform the following duties, obligations, and responsibilities to the Consultant:

A. The Owner shall provide the Consultant with the Owner's Criteria;

B. The Owner shall review any documents provided by or through the Consultant requiring the Owner's decision and shall make any required decisions;

C. The Owner shall, at its own expense, furnish a legal description and any necessary survey of the real property upon which the Project is situated;

D. As may be mandated by law or called for by the Construction Contract, the Owner shall, at its own expense, provide for all required testing, inspections (except for those inspections expressly required of the Consultant herein), filing, studies, or reports;

E. In the event the Owner learns of any failure to comply with the Construction Contract by the Contractor, or of any errors, omissions, or inconsistencies in the work product of the Consultant, and in the further event that the Consultant does not have notice of same, the Owner shall inform the Consultant;

F. The Owner shall afford the Consultant access to the Project site and to the Work as may be reasonably necessary for the Consultant to properly perform its services under this Contract;

G. The Owner shall perform its duties set forth in this Article XIII in a timely manner;

H. Except for documents requiring the Owner's decision as set forth in Subarticle XIII.B above, the Owner's review of any documents prepared by the Consultant or its consultants shall be solely for the purpose of determining whether such documents are generally consistent with the Owner's Criteria, as, and if, modified. No review of such documents shall relieve the Consultant of its responsibility for the accuracy, adequacy, fitness, suitability, or coordination of its work product.

ARTICLE XIV. APPLICABLE LAW

The law applicable to this Contract is hereby agreed to be the law of the state where the Project is situated. Any controversy or claim arising out of or relating to this Agreement, or breach thereof, must be first submitted to mediation by a mediator mutually acceptable to the parties and, if not resolved by mediation, may be finally determined by litigation. Any action shall be filed in Fourth District Court in Ada County, Idaho.

ARTICLE XV. OWNERSHIP OF THE CONTRACT DOCUMENTS

The Preliminary Report, Preliminary Design, Design for Construction, and all other Contract Documents shall become and be the sole property of the Owner. The Consultant may maintain copies thereof for its records and for its future professional endeavors. The Owner and the Consultant agree that all architectural work prepared for the Project, including but not limited to, drawings, plans and specifications, and other Contract Documents, is work made for hire, and all intellectual property rights in such work therefore vested in the Owner at the time of their completion. If for any reason such architectural work is not considered a work made for hire under applicable law, in consideration for the promises and covenants contained in this Contract, the Consultant does hereby sell, assign, and transfer to Owner, its successors and assigns, at the time of

completion, the entire right, title and interest in and to the copyright in the architectural work and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

The Contract Documents are intended by the Consultant for use on other projects by the Owner or others. Any reuse by the Owner or by third parties without the written approval of the Consultant shall be at the sole risk of the Owner and the Owner shall indemnify and save harmless the Consultant from any and all liability, costs, claims, damages, losses, and expenses including attorney fees arising out of, or resulting from, such reuse; provided, however, that this Contract to indemnify and save harmless shall not apply to any reuse of documents retained by, or through, the Contractor for use on this Project.

**ARTICLE XVI.
SUCCESSORS AND ASSIGNS**

The Consultant shall not assign its rights hereunder, excepting its right to payment, nor shall it delegate any of its duties hereunder without the written consent of the Owner. Subject to the provisions of the immediately preceding sentence, each party hereto binds itself, its successors, assigns, and legal representatives to the other and to the successors, assigns, and legal representatives of such other party.

**ARTICLE XVII.
NO THIRD PARTY BENEFICIARIES**

A. Nothing contained herein shall create any relationship, contractual or otherwise, with, or any rights in favor of, any third party.

B. Consultant's personnel at Construction Site. The presence or duties of Consultant's and Owner's personnel at a construction site, whether as on-site representatives or otherwise, do not make any of them or their representatives or personnel in any way responsible for those duties that belong to the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to any health or safety precautions required by such construction work. Consultant's and Owner's personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the construction contractor(s) or other entity or any other persons at the site except their own personnel. The presence of Consultant's or Owner's personnel at a construction site is for the purpose of providing to Owner a greater degree of confidence that the completed work will conform to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by the construction contractor(s). For this Agreement only, construction sites include places of manufacture for materials incorporated into the construction work, and construction contractors include manufacturers of materials incorporated into the construction work.

C. Contractor Indemnification and Claims. Owner agrees to include in all construction contracts the provisions of Subarticle XVII.B, Consultant's personnel at Construction Site.

**ARTICLE XVIII.
INSURANCE**

The Consultant shall have and maintain insurance at all times this Contract is in effect and for the stated periods after final completion of the Project in accordance with the requirements of Exhibit A attached to the Project Scope of Services Form and incorporated herein by reference.

**ARTICLE XIX.
TERM, TERMINATION, AND RENEWAL**

A. Unless otherwise terminated, this Contract shall be for the term provided in the Project Scope of Services Form.

B. Either party hereto may terminate this Contract upon giving seven (7) days written notice to the other in the event that such other party substantially fails to perform its material obligations set forth herein;

C. This Contract may be terminated by the Owner without cause upon thirty (30) days written notice to the Consultant. In the event of such a termination without cause, the Owner shall pay the Consultant for all services rendered prior to the termination, plus any expenses incurred and unpaid which would otherwise be payable hereunder. In such event, the Consultant shall promptly submit to the Owner its invoice for final payment which invoice shall comply with the provisions of Article XI.

**ARTICLE XX.
ENTIRE AGREEMENT**

This Contract constitutes the entire and exclusive agreement between the parties with reference to the Project and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements.

**ARTICLE XXI.
SEVERABILITY**

In the event any provision or section of this Contract conflicts with applicable law, or is otherwise held to be unenforceable, the remaining provisions shall nevertheless be enforceable and shall be carried into effect.

**ARTICLE XXII.
AMENDMENTS**

This Contract may be modified or amended only by a writing duly executed by both parties.