



Wellfleet Selectboard

Note: Start Time of 2pm

The Wellfleet Selectboard will hold a public meeting on **Monday, October 5, 2020, at 2:00 p.m.** **This meeting will be held via Zoom Video Conference** in accordance with the temporary suspension and enhancement of the Open Meeting Law requirements by Governor Baker. Instructions for a Zoom video conference meeting which also allows phone dial-in are given below:

1. Watch a livestream on Wellfleet's YouTube Channel located at the following link:
www.youtube.com/c/wellfleettownmedia.
2. Join the meeting hosted in Zoom by using the following link:
<https://zoom.us/j/98788085014?pwd=VjN4bGtBaml4YmtGQjNiZEFUVk1QZz09>
3. Audio, video, chat, and screen sharing functions will be disabled during the public session. Request to participate by using the "raise hand" function. **Meeting ID: 987 8808 5014 | Passcode: 063835**
 - a. Raise hand in smartphone app – touch bottom of your screen and select "more" - hit "raise hand" button
 - b. Raise hand on computer – hit "participants" button on bottom of screen – hit "raise hand" button on bottom of participants panel
 - c. Please make sure you properly identify yourself before speaking, rename yourself by selecting the participants button and choosing "more" (or by holding down on your name on a smartphone app) and selecting "rename" - full, legal names only.
 - d. Please join the meeting on time.
4. You may also listen to the meeting by calling in on a phone to **+1 929 205 6099** and enter **Meeting ID: 987 8808 5014 | Passcode: 063835** Landline callers can participate by **dialing *9 to raise their hand**.
5. You may submit questions and comments to the Town using the following email:
executive.assistant@wellfleet-ma.gov Comments made during the meeting via e-mail will be sent to Selectboard members AFTER the meeting.
6. Meeting materials are attached to this agenda, available online at Wellfleet-ma.gov. It is recommended that phone participants access materials in advance of the meeting.
7. **Please follow the following general instructions:**
 - a. Keep your phone muted at all times when not talking; no one is allowed to unmute themselves during the meeting.
 - i. Selectboard meetings are NOT interactive. If public comments are allowed that's all, comments only, not questions.
 - ii. If the Chair is allowing comments during the meeting the number of comments will be limited and may be **no longer than one minute**.
 - b. Do not use speakerphone; do not use Bluetooth devices; mute all background noise.
 - c. Please do not speak until the Chair asks for public comments or questions and you have been recognized by the moderator and unmuted.
 - d. After the business section is complete no public comments are permitted. Future agenda items are from the Selectboard, no one else.
8. It is anticipated that the meeting will be recorded by the Town. Anyone else desiring to record the meeting may do so only after notifying the chair and may not interfere with the conduct of the meeting in doing so.

I. Announcements, Open Session and Public Comments

Note: Public comments must be brief. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.

II. SCADA System Upgrade: Contract Approval – Cape Water Resources

III. Dredging: Contract Approval – GEI

IV. Adjournment



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: 2020

II

SCADA System Upgrade: Contract Approval – Cape Water Resources

| | |
|-------------------------|--|
| REQUESTED BY: | Assistant Town Administrator |
| DESIRED ACTION: | Approval of Contract with Cape Water Resources for SCADA System Upgrade |
| PROPOSED MOTION: | I move to approve the contract with Cape Water Resources, for the SCADA System Upgrade, and authorize the Town Administrator to sign it. |
| ACTION TAKEN: | Moved By: _____ Seconded By: _____ Condition(s): |
| VOTED: | Yea _____ Nay _____ Abstain _____ |

AGREEMENT

SECTION 00500

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AGREEMENT

SECTION 00500

WELLFLEET WATER SYSTEM
SCADA SYSTEM UPGRADES

BOARD OF WATER COMMISSIONERS
WELLFLEET, MASSACHUSETTS

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2020 by and between the Town of Wellfleet, acting by and through its Town Administrator, duly authorized therefore, who acts herein solely for the Town of Wellfleet and without personal liability to itself, (hereinafter called OWNER) and _____ (hereinafter called CONTRACTOR).

OWNER AND CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. WORK

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is as described in SECTION 01010, SUMMARY OF WORK.

The work done and materials and equipment furnished shall be strictly pursuant to and in conformity with the specifications and plans; said plans are signed and accompany this contract and these specifications, and are intended to complement each other. Any work appearing in or upon the one and not mentioned in the other shall be executed according to the true intent and meaning of said specifications and plans, the same as though the work was contained and described in all and as reasonably implied by the plans.

The Wellfleet Water System SCADA System Upgrades project includes, but is not necessarily limited to, new and replacement of the water system SCADA and telemetry systems at the Coles Neck Wellfield, Boy Scout Wells, Water Storage Tank, and Wellfleet Police Department. The project shall include furnishing all labor, services, equipment, materials, devices, plant, facilities, and appurtenances for the demolition, removal, and disposal of existing SCADA and telemetry equipment and systems; and the installation of new materials, equipment, and facilities.

ARTICLE 2. ENGINEER

The Project has been designed by Environmental Partners Group, Inc., 1900 Crown Colony Drive, Suite 402, Quincy, Massachusetts 02169, who is hereinafter called ENGINEER and who is to act as OWNER'S representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3. CONTRACT TIMES

- 3.1 All work must be substantially complete **120 calendar days** from and including issuance of a notice to proceed, and/or receipt of fully executed contract.
- 3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 11 of the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER one thousand dollars (\$1,000) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete.

ARTICLE 4. CONTRACT PRICE

The OWNER shall pay CONTRACTOR for completion of the work in accordance with the Contract Documents in current funds as follows:

For unit price items, the extended total resulting from the product of the actual measured quantities suitably installed and accepted and the unit prices from the accepted bid proposal herein referred to as Section 00301 BID FORM dated _____ . The total of the Bid Proposal accepted by the Town is:

ARTICLE 5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

- 5.1 For unit price bid items the product of the actual measured quantities suitably installed and accepted and the unit prices from the accepted bid proposal constitutes the extended total for payment. The extended total is the unit price times the quantity indicated. An adjustment of the unit price bid for an item in the proposal will only be considered if the actual quantity furnished and installed is greater than 25% above or below the estimated quantity. Said adjustment will only be applicable to that measured quantity which is 25% above or below the estimated quantity. For Lump Sum items suitably installed and completed the lump sum amount listed in the accepted bid proposal constitutes the total for payment.
- 5.2 Progress Payments; Retainage. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as

- recommended by ENGINEER, and in accordance with the applicable Massachusetts General Law during construction. All such payments will be measured by the schedule of values established in paragraph 2.05 of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
- 5.3 Progress payments will be made in an amount equal to 95 percent of Work completed (with the balance being retainage) but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with paragraph 15.01.C.5 of the General Conditions.
- 5.4 Final Payment. Upon final completion and acceptance of the Work in accordance with paragraph 15.06 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 15.06.

ARTICLE 6. CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

- 6.1 CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda listed in paragraph 7) and the other related data identified in the Bidding Documents including "technical data."
- 6.2 CONTRACTOR has visited the sites and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance, or furnishing of the Work.
- 6.3 CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- 6.4 CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 5.03.A.1 of the General conditions. CONTRACTOR accepts the determination set forth in paragraph SC-5.03 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which CONTRACTOR is entitled to rely as provided in paragraph 5.03 of the General Conditions. CONTRACTOR acknowledges that OWNER and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface,

subsurface, and underground utilities and facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

- 6.5 CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the site that relates to the Work as indicated in the Contract Documents.
- 6.6 CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports, and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- 6.7 CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

- 7.1 Invitation to Bid.
- 7.2 Instructions to Bidders.
- 7.3 CONTRACTOR's Bid Proposal.
- 7.4 This Agreement.
- 7.5 Exhibits to this Agreement.
- 7.6 Performance, Payment, and other Bonds.
- 7.7 General Conditions EJCDC Document C-700, 2013 edition.
- 7.8 Supplemental Conditions.
- 7.9 Specifications as listed in table of contents thereof.
- 7.10 Addenda numbers ___ to ___, inclusive.

- 7.11 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to paragraph 11.01 of the General Conditions.

ARTICLE 8. MISCELLANEOUS

- 8.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.
- 8.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment with release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 8.3 OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.
- 8.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- 8.5 No officer or employee of the OWNER shall participate in any decision relating to this Contract which affects his/her personal interest or the interest of any corporation, partnership, or association in which she/he is directly or indirectly interested. No officer or employee of the OWNER shall have any interest, direct or indirect, in this Contract or the proceeds thereof. The CONTRACTOR understands that any key personnel individually named to provide services under the Contract may become municipal employees subject to the provisions of M.G.L. c. 268A.
- 8.6 Appropriations for expenditures by the OWNER to spend for a particular purpose are ordinarily made on a fiscal year basis. The fiscal year of the OWNER is the twelve (12) month period ending June 30 of each year. The obligations of the OWNER under the Contract for the present or any subsequent fiscal year following the fiscal year in which the Contract is executed are subject to the appropriation to the OWNER of funds sufficient to discharge the OWNER's obligations, which accrue in this or any subsequent fiscal year. In the absence of such appropriation or authorization, this Contract shall be terminated immediately without liability for damages, penalties or other charges arising from early termination. Expenditures for contracted services,

which will extend beyond a single fiscal year shall not exceed in any fiscal year the amount appropriated and authorized for said fiscal year. The CONTRACTOR's yearly costs, as set out herein, may not exceed the amount appropriated for said year.

- 8.7 Discriminatory employment practices by contractors, subcontractors and suppliers of goods and services based on race, color, religion, national origin, ancestry, age or sex are prohibited. CONTRACTOR s and suppliers of goods and services shall give written notice of their commitment to non-discrimination to any labor union, association or brotherhood with which they have a collective bargaining or other agreement.

IN WITNESS HEREOF, the parties of this AGREEMENT have hereunto set their hands and seals as of the day and year first above written.

FOR THE TOWN OF WELLFLEET, MA

Maria Broadbent
Town Administrator

CONTRACTOR

BY: _____

TITLE: _____
Print or type name and title

TAX ID#: _____
(Social Security # or FEID #)

Approved as to Form:

(Owner's Counsel)

CERTIFICATE PURSUANT TO GL C44 & 31C

In accordance with M.G.L. C44, Section 31C, this is to certify that an appropriation in the amount of this contract is available therefor and that the _____ has been authorized to execute the contract and approve all requisitions and change orders.

BY _____
Town Accountant



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: 2020

III

Dredging: Contract Approval – GEI

| | |
|-------------------------|--|
| REQUESTED BY: | Assistant Town Administrator |
| DESIRED ACTION: | Approval of Contract with Cape Water Resources for SCADA System Upgrade |
| PROPOSED MOTION: | I move to approve the contract with GEI, for dredging, and authorize the Town Administrator to sign it. |
| ACTION TAKEN: | Moved By: _____ Seconded By: _____ Condition(s): |
| VOTED: | Yea _____ Nay _____ Abstain _____ |

STANDARD PROFESSIONAL SERVICES AGREEMENT

1. AGREEMENT

This Agreement is made and entered into by and between

GEI Consultants, Inc. 124 Grove Street, Suite 300, Franklin MA 02038 and

Town of Wellfleet, 300 Main Street, Wellfleet MA 02667

By this Agreement, the parties do mutually agree as follows:

2. SCOPE OF SERVICES

GEI shall perform the services described herein and in **Exhibit A**.

3. EFFECTIVE DATE

The effective date of this Agreement shall be the latter of the acceptance dates indicated in Article 16, Acceptance. Acceptance of this Agreement by both parties shall serve as GEI's Notice to Proceed with the services described in **Exhibit A**.

4. FORCE MAJEURE

- a) Force Majeure "Event of Force Majeure" means an event beyond the control of GEI and CLIENT, which prevents a Party from complying with any of its obligations under this Agreement, including but not limited to, acts of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods); war, hostilities, acts of terrorism, riot, commotion, strikes, go slows, lock outs or disorder, unless solely restricted to employees of GEI or its subcontractors.
- b) Neither CLIENT nor GEI shall be considered in breach of this Agreement to the extent that performance of their respective obligations (excluding payment obligations) is prevented by an event of Force Majeure. Either CLIENT or GEI shall give written notice to the other upon becoming aware that an Event of Force Majeure.

5. COMPENSATION

- a) CLIENT agrees to pay GEI in accordance with the payment terms provided in **Exhibit B** but in no event later than thirty (30) days of CLIENT's receipt of invoice.
- b) GEI will submit invoices monthly or upon completion of a specified scope of service in accordance with GEI's standard invoicing practices, or as otherwise provided in **Exhibit B**.
- c) Payment is due upon receipt of the invoice. Payments will be made by either check or electronic transfer to the address specified by GEI, and will reference GEI's invoice number.
- d) Interest will accrue at the rate of 1% per month of the invoiced amount in excess of thirty (30) days past the invoice date, or as otherwise provided in **Exhibit B**.
- e) In the event of a disputed or contested invoice, only that portion so contested will be withheld from payment, and the undisputed amounts will be paid.

6. PERFORMANCE STANDARDS

- a) GEI will perform its services under this Agreement in a manner consistent with that degree of skill and care ordinarily exercised by members of GEI's profession currently practicing in the same locality under similar conditions. GEI makes no other representations and no warranties, either express or implied, regarding the services provided hereunder.
- b) GEI shall correct deficiencies in services or documents provided under this Agreement without additional cost to CLIENT; except to the extent that such deficiencies are directly attributable to deficiencies in CLIENT-furnished information.

- c) Unless otherwise specifically indicated in writing, GEI shall be entitled to rely, without liability, on the accuracy and completeness of information provided by CLIENT, CLIENT's consultants and contractors, and information from public records, without the need for independent verification.
- d) CLIENT agrees to look solely to the manufacturer or provider to enforce any warranty claims arising from any equipment, materials or other goods provided as a component of GEI's services.

7. INSURANCE

- a) GEI will carry the types and amounts of insurance in the usual form as provided in **Exhibit C**.
- b) Upon written request of CLIENT, GEI will furnish Certificates of Insurance indicating the required coverages and conditions.

8. ALLOCATION OF RISKS

- a) Indemnification. To the fullest extent permitted by law, GEI agrees to indemnify and hold CLIENT harmless from and against liabilities, claims, damages, and costs (including reasonable attorney's fees) to the extent caused by the negligence or willful misconduct of GEI in the performance of services under this Agreement.
- ~~b) Limitation of Liability. To the fullest extent permitted by law, the total liability, in the aggregate, of GEI and its officers, directors, employees, agents, and independent professional associates and consultants, and any of them, to CLIENT and any one claiming by, through or under CLIENT, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to GEI's services, the project, or this Agreement, will not exceed the total compensation received by GEI under the specific applicable project and/or task order, or Fifty Thousand Dollars (\$50,000) whichever is less. This limitation will apply regardless of legal theory, and includes but is not limited to claims or actions alleging negligence, errors, omissions, strict liability, breach of contract, breach of warranty of GEI or its officers, directors, employees, agents, or independent professional associates or consultants, or any of them. CLIENT further agrees to require that all contractors and subcontractors agree that this limitation of GEI's liability extends to include any claims or actions that they might bring in any forum.~~
- c) Consequential Damages. GEI and CLIENT waive consequential damages, including but not limited to damages for loss of profits, loss of revenues, and loss of business or business opportunities, for claims, disputes, or other matters in question arising out of or relating to this Agreement.

9. CONFIDENTIALITY

- a) Unless compelled by law, governmental agency or authority, or order of a court of competent jurisdiction, or unless required pursuant to a subpoena deemed by GEI to be duly issued, or unless requested to do so in writing by CLIENT, GEI agrees it will not convey to others any proprietary non-public information, knowledge, data, or property relating to the business or affairs of CLIENT or of any of its affiliates, which is in any way obtained by GEI during its association with CLIENT. GEI further agrees to strive to limit, to a "need to know" basis, access by its employees to information referred to above.
- b) Unless compelled by law, governmental agency or authority, or order of a court of competent jurisdiction, or unless required pursuant to a subpoena deemed by CLIENT to be duly issued, CLIENT will not release to its employees or any other parties any concepts, materials, or procedures of GEI deemed by GEI to be proprietary and so explained to CLIENT.

10. OWNERSHIP OF DOCUMENTS

One (1) reproducible copy of all drawings, plans, specifications and other documents prepared by GEI shall become the property of the Client upon payment in full therefor to GEI. Ownership of stamped drawings and specifications shall not include GEI's certification or stamp. Any re-use of such documents without the GEI's written verification of suitability for the specific purpose intended shall be without liability or legal exposure to the GEI or to GEI's independent professional associates, subcontractors or consultants. Distribution or

submission to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as an act in derogation of GEI's rights under this Agreement.

11. TERMINATION AND SUSPENSION

- a) This Agreement may be terminated by CLIENT for any reason upon ten (10) days written notice to GEI.
- b) This Agreement may be terminated by GEI for cause upon thirty (30) days written notice to CLIENT.
- c) In the event that this Agreement is terminated for any reason, CLIENT agrees to remit just and equitable compensation to GEI for services already performed in accordance with this Agreement, subject to the limitations given in this Article 11, Termination and Suspension.
- d) In the event Client terminates this Agreement for cause, in determining just and equitable compensation to GEI for work already performed, CLIENT may reduce amounts due to GEI by amounts equal to additional costs incurred by CLIENT to complete the Agreement scope. Such additional costs incurred by CLIENT may include but are not limited to: (1) the additional costs incurred by CLIENT to engage another qualified consultant to complete the unfinished scope; and (2) CLIENT's labor costs and expenses to demobilize and remobilize its personnel to the site to coordinate with the new consultant.
- e) GEI may suspend any or all services under this Agreement if CLIENT fails to pay undisputed invoice amounts within sixty (60) days following invoice date, by providing written notice to CLIENT, until payments are restored to a current basis. In the event GEI engages counsel to enforce overdue payments, CLIENT will reimburse GEI for all reasonable attorney's fees and court costs related to enforcement of overdue payments, provided that CLIENT does not have a good faith dispute with the invoice. CLIENT will indemnify and save GEI harmless from any claim or liability resulting from suspension of the work due to non-current, undisputed payments.

12. DISPUTE RESOLUTION

Both parties agree to submit any claims, disputes, or controversies arising out of or in relation to the interpretation, application, or enforcement of this Agreement to non-binding mediation pursuant to the Rules for Commercial Mediation of the American Arbitration Association, as a condition precedent to litigation or any other form of dispute resolution.

13. GENERAL CONSIDERATIONS

- a) Authorized Representatives. The following individuals are authorized to act as CLIENT's and GEI's representatives with respect to the services provided under this Agreement:

| | |
|-------------|---|
| For CLIENT: | William Sullivan, Assistant Harbormaster |
| | _____ Mike Trovato, Assistant Town Administrator |
| | _____ Maria Broadbent, Town Administrator |
| | _____ |
| For GEI: | Daniel Robbins, Senior Project Manager |
| | _____ Russell Titmuss, Vice President |
| | _____ |

- b) Nothing in this Agreement shall be construed as establishing a fiduciary relationship between CLIENT and GEI.
- c) Notices. Any notice required under this Agreement will be in writing, submitted to the respective party's Authorized Representative at the address provided in this Article 13, General Considerations. Notices shall be delivered by registered or certified mail postage prepaid, or by commercial courier service. All notices shall be effective upon the date of receipt.
- d) Controlling Law. This Agreement is to be governed by the laws of the Commonwealth of Massachusetts.

- e) Survival. All express representations, indemnifications, or limitations of liability included in the Agreement will survive its completion or termination for any reason. However, in no event shall indemnification obligations extend beyond the date when the institution of legal or equitable proceedings for professional negligence would be barred by an applicable statute of repose or statute of limitations.
- f) Severability. Any provision or part of this Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon GEI and CLIENT.
- g) Waiver. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- h) Headings. The headings used in this Agreement are for general reference only and do not have special significance.
- i) Certifications. GEI shall not be required to sign any documents, no matter by whom requested, that would result in GEI having to certify, guaranty, or warrant the existence of conditions or the suitability or performance of GEI's services or the project, that would require knowledge, services or responsibilities beyond the scope of this Agreement.
- j) Third Parties. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either CLIENT or GEI. GEI's services hereunder are being performed solely for the benefit of CLIENT, and no other entity shall have any claim against GEI because of this Agreement or GEI's performance of services hereunder. CLIENT shall indemnify and hold GEI harmless from any claims by any third parties that arise from the CLIENT's release of any Project Documents by CLIENT.

14. ADDITIONAL PROVISIONS

- a) If Field Services are provided under this Agreement, the additional provisions included in **Exhibit D** shall apply. Field Services are defined as services performed on property owned or controlled by CLIENT, any federal, state, or local government or governmental agency, or other third party, and include, but are not limited to: site inspection, site investigation, subsurface investigation, sample collection, or sample testing.
- ~~b) If the services of a Licensed Site Professional (LSP), a Licensed Environmental Professional (LEP), or a Licensed Site Remediation Professional (LSRP) are provided under this Agreement, the additional provisions included in **Exhibit E** shall apply.~~
- c) If Engineering Design Services are provided under this Agreement, the additional provisions included in **Exhibit F** shall apply.
- d) If Opinions of Probable Construction Cost are provided under this Agreement, the additional provisions included in **Exhibit G** shall apply.
- e) If Construction Services are provided under this Agreement, the additional provisions included in **Exhibit H** shall apply.

15. EXHIBITS

The following Exhibits are attached to and made a part of this Agreement:

- Exhibit A, Scope of Services and Schedule
- Exhibit B, Payment Terms
- Exhibit C, Insurance
- Exhibit D, Special Provisions for Field Services
- ~~Exhibit E, Special Provisions for Services of Licensed Site/Environmental/Remediation Professionals~~
- Exhibit F, Special Provisions for Engineering Design Services
- Exhibit G, Special Provisions for Opinions of Probable Construction Costs
- Exhibit H, Special Provisions for Construction Services

(Check all that apply; strike all that do not apply)



16. ACCEPTANCE

The parties hereto have executed this Agreement as of the dates shown below.

For CLIENT:

For GEI:

By: _____

(Signature)

(Print Name)

(Title)

(Date)

By: _____

(Signature)

Daniel B. Robbins

(Print Name)

Senior Project Manager

(Title)

October 1, 2020

(Date)

STANDARD PROFESSIONAL SERVICES AGREEMENT

EXHIBIT A

Scope of Services and Schedule

Scope of Services shall be as identified within the attached proposal.

EXHIBIT A



Consulting
Engineers and
Scientists

August 28, 2020
Revised: October 1, 2020
Proposal 40-117

VIA EMAIL: William Sullivan <william.sullivan@wellfleet-ma.gov>

Mr. William Sullivan
Assistant Harbormaster
Town of Wellfleet
255 Commercial Street
Wellfleet, MA 02667

Dear Mr. Sullivan:

**Re: Wellfleet Dredging Design and Construction Support Services
Wellfleet, MA**

GEI Consultants, Inc. (GEI) thanks the Town of Wellfleet for the opportunity to submit this proposal to prepare contract documents for the bidding and construction services associated with dredging Wellfleet Harbor.

GEI has been working with the Town to obtain permits for dredging of Areas I and II and is intimately familiar with the project. We understand that the Army Corps of Engineers is planning to dredge the Federal Channel and Federal Anchorage in the Fall of 2020 which will allow access of dredge equipment into the town owned anchorages and channels. We further understand that the Town is currently seeking to dredge a portion of Area I if time permits during the 2020 / 2021 dredge window after the Army Corps has completed their dredging.

Assumptions

- Dredging design will be limited to L-Pier Access Channel and North as depicted in red on plan C-01 "Existing Site Survey – I (Additional design services could be provided to include all or additional portions of Area I and II for an additional fee)
- Material disposal will be at Cape Cod Bay Disposal Site (CCBDS)
- Dredge limits will be based on the dredge depths and limits as determined by the project permits
- Conditions of dredging will be as outlined within the approved regulatory permits
- The Town will remove and reinstall floats and moorings to allow for complete access to the dredge area
- The most recent hydrographic survey (January 2020) and the associated volumes calculated will be used for bidding purposes
- Pre- and post-dredge surveys are assumed to be included within the contractor's scope of work and subject to review and approval
- Contract documents will utilize EJCDC standard contract, reviewed and amended by the Town of Wellfleet or other standard construction contract provided by the Town
- All documents will be submitted and distributed electronically

Scope of Services**Task 1 – Preliminary Design**

GEI will develop preliminary design documents to a 60% level for review by the Town including:

1. Prepare contract bid document
 - a. Technical Specifications
 - b. EJCDC Contract Documents
 - c. Bid Invitation
 - d. Draft Bid Form
2. Prepare preliminary dredging plans and sections illustrating dredge area, depth and over dredge depth limits
3. Volume estimate calculations
4. Prepare construction cost estimate for proposed scope
5. Submit preliminary design documents to Town for review and comment

Task 2 – Final Design

GEI will develop final design documents for bidding after comments are received on the preliminary design and as soon as all regulatory approvals are imminent. Final documents for solicitation will require all regulatory approvals in place. Final design work will include:

1. Perform final design incorporating comments from preliminary design
2. Prepare bid documents for 90% review including:
 - a. Final construction drawings
 - b. Final technical specifications
 - c. Incorporation of regulatory approvals and conditions
 - d. Attachments as required including material sampling and testing data
 - e. Detailed construction cost estimate
 - f. Prepare draft contract bid documents utilizing EJCDC or Town standard documents
3. Submit Town 90% documents for final review
 - a. Bid and contract documents
 - b. Bid schedule with quantities
 - c. Engineer's estimate in bid schedule format
 - d. Probable dates for advertising, pre-bid, bid due date
4. Submit final bid and contract documents
 - a. Finalized bid and contract documents
 - b. Submit opinion of probable construction cost

Task 3 – Bid Phase Services

GEI will assist the Town with bid phase services including.

1. Assist the Town in advertising project
2. Provide bid documents to prospective bidders in electronic format
3. Attend pre-bid meeting and present project
4. Maintain bidders list

- 5. Prepare and distribute addenda as required in response to questions and clarification of work
- 6. Attend bid opening and prepare bid canvas for comparison
- 7. Provide summary of bids with recommendation for award
- 8. Review documentation of contractor references

Task 4 – Construction Support Services

GEI will complete the following as part of construction support services.

- 1. Attend pre-dredge meeting after project award
- 2. Perform review and approval of submittals
- 3. Respond to RFI's
- 4. Perform review of pre-dredge survey
- 5. Perform periodic site visits to monitor contractor operations and compliance to regulatory conditions. (3 site visits assumed)
- 6. Perform review of Contractor's post-dredge survey and confirmation of completion of dredging
- 7. Notifications and distribution as-completed conditions to regulatory agencies as required
- 8. Provide engineering support as requested (20 hours budgeted)

Task 5 – Construction Surveys

GEI will complete the following surveys to support the Town payment process.

- 1. Perform a Pre-Dredge Construction Survey to verify existing conditions prior to starting work
- 2. Perform a Post Dredge Survey to verify conditions post dredging
- 3. Develop calculations for total quantity of material removed
- 4. Prepare a stamped plan showing post dredge condition

SUMMARY OF FEES

GEI proposed to perform the services specified within the Scope of Services on a Lump Sum Basis except Task 4 which will be billed at a Time and Expense – Not to Exceed Basis based on GEI's 2020 Rate Sheet.

| | |
|---|-----------------------|
| Task 1 – Preliminary Design | \$6,100 |
| Task 2 – Final Design | \$11,250 |
| Task 3 – Bid Phase Services | \$7,625 |
| Task 4 – Construction Support Services | \$17,525 |
| Task 5 – Construction Surveys | \$13,500 |
| | <hr/> \$56,000 |

Given the difficulties created by the ongoing COVID-19 crisis, the performance of the services included in this Proposal as well as the satisfaction of the schedule described herein, are contingent and conditioned upon GEI having the ability to deploy the required resources as well as having access to the required site and data/documents to complete the services. These resources include, but are not limited to GEI staff, subcontract vendors and materials providers. GEI will immediately notify the Client in the event it becomes aware that services will be interrupted or otherwise delayed as discussed herein.

Thank you for the opportunity to submit this proposal. We hope the above is satisfactory for your needs. If you have any questions or would like to discuss the project or proposal further, please do not hesitate to contact me at [drobbins@geiconsultants.com](mailto:d Robbins@geiconsultants.com) or 781-721-4017.

Sincerely,

GEI CONSULTANTS, INC.



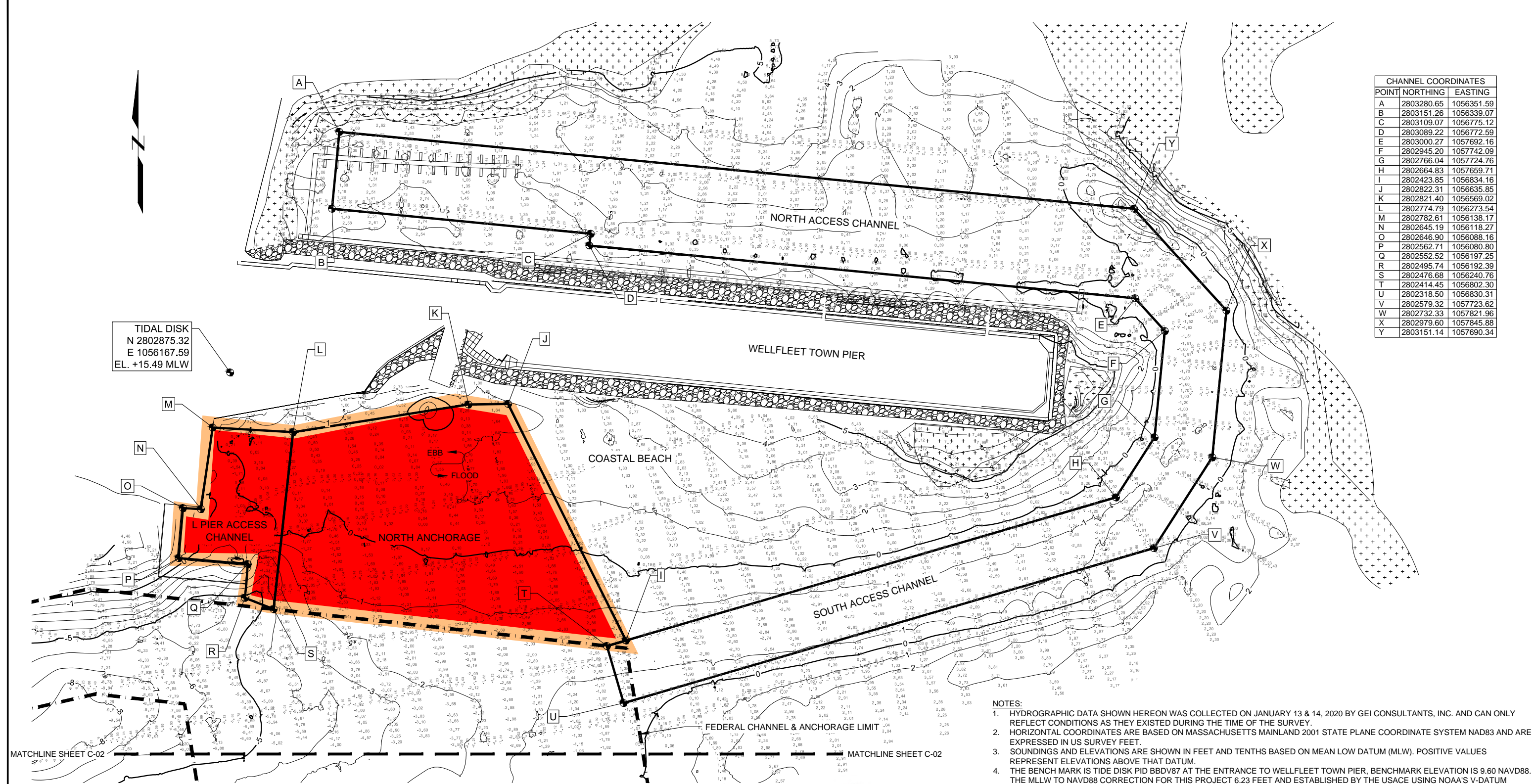
Daniel B. Robbins, P.E.
Senior Project Manager



Russell J. Titmuss, P.E.
Vice President

Enclosure

| CHANNEL COORDINATES | | |
|---------------------|------------|------------|
| POINT | NORTHING | EASTING |
| A | 2803280.65 | 1056351.59 |
| B | 2803151.26 | 1056339.07 |
| C | 2803109.07 | 1056775.12 |
| D | 2803089.22 | 1056772.59 |
| E | 2803000.27 | 1057692.16 |
| F | 2802945.20 | 1057742.09 |
| G | 2802766.04 | 1057724.76 |
| H | 2802664.83 | 1057659.71 |
| I | 2802423.85 | 1056834.16 |
| J | 2802822.31 | 1056635.85 |
| K | 2802821.40 | 1056569.02 |
| L | 2802774.79 | 1056273.54 |
| M | 2802782.61 | 1056138.17 |
| N | 2802645.19 | 1056118.27 |
| O | 2802646.90 | 1056088.16 |
| P | 2802562.71 | 1056080.80 |
| Q | 2802552.52 | 1056197.25 |
| R | 2802495.74 | 1056192.39 |
| S | 2802476.68 | 1056240.76 |
| T | 2802414.45 | 1056802.30 |
| U | 2802318.50 | 1056830.31 |
| V | 2802579.32 | 1057723.62 |
| W | 2802732.33 | 1057821.96 |
| X | 2802979.60 | 1057845.88 |
| Y | 2803151.14 | 1057690.34 |



- NOTES:**
1. HYDROGRAPHIC DATA SHOWN HEREON WAS COLLECTED ON JANUARY 13 & 14, 2020 BY GEI CONSULTANTS, INC. AND CAN ONLY REFLECT CONDITIONS AS THEY EXISTED DURING THE TIME OF THE SURVEY.
 2. HORIZONTAL COORDINATES ARE BASED ON MASSACHUSETTS MAINLAND 2001 STATE PLANE COORDINATE SYSTEM NAD83 AND ARE EXPRESSED IN US SURVEY FEET.
 3. SOUNDINGS AND ELEVATIONS ARE SHOWN IN FEET AND TENTHS BASED ON MEAN LOW DATUM (MLW). POSITIVE VALUES REPRESENT ELEVATIONS ABOVE THAT DATUM.
 4. THE BENCH MARK IS TIDE DISK PID BBDV87 AT THE ENTRANCE TO WELLFLEET TOWN PIER. BENCHMARK ELEVATION IS 9.60 NAVD88. THE MLLW TO NAVD88 CORRECTION FOR THIS PROJECT 6.23 FEET AND ESTABLISHED BY THE USAGE USING NOAA'S V-DATUM MODELING SOFTWARE. THE SAME SOFTWARE WAS USED TO ESTABLISH A MLLW TO MLW DATUM CONVERSION FOR THIS PROJECT.
 5. LIMITS OF SALT MARSH ARE BASED ON SURVEY PERFORMED BY GEI IN JUNE 2016. LIMITS CAN ONLY REFLECT CONDITIONS AT THE TIME OF THE SURVEY.
 6. FEDERAL ANCHORAGE LIMITS FROM USACE CONDITIONS SURVEY OF THE FEDERAL CHANNEL PERFORMED IN 2018.
 7. SURVEY WAS PERFORMED USING THE FOLLOWING:
 - TRIMBLE GEO XH 2005 SERIES GPS W/ ZEPHYR EXTERNAL WITH ANTENNA - RTK
 - ODEM HYDROTRAC II
 - SINGLE BEAM TRANSDUCER- 9° ANGLE - 200kHz
 - HYPACK MAX HYDROGRAPHIC SURVEY SOFTWARE VERSION 2018

Varujan Hagopian

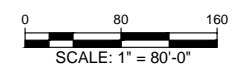
 2/6/2020

LEGEND

| | |
|-----------------|------|
| MAJOR CONTOUR | ——— |
| MINOR CONTOUR | ——— |
| SPOT GRADE | 0.00 |
| DREDGE LIMITS | ——— |
| FEDERAL CHANNEL | ——— |

DATUM CONVERSION TABLE

| | |
|--------------|--------|
| 100 YR FLOOD | +17.06 |
| HTL | +12.86 |
| MHW | +9.66 |
| NAVD88 | +5.89 |
| MLW | +0.0 |
| MLLW | -0.34 |



| | | | | |
|---|------|----------------|-----|--|
| Attention: | | | | |
| 0 | | | | |
| If this scale bar does not measure 1" then drawing is not original scale. | | | | |
| NO. | DATE | ISSUE/REVISION | APP | |



| | |
|--------------|--------------|
| Designed: | DR |
| Checked: | DR |
| Drawn: | ASC |
| Approved By: | VH -2/6/2020 |

Town of Wellfleet
286 Main Street
Wellfleet, MA 02667

Harbor Dredging
Wellfleet Harbor

EXISTING SITE SURVEY - I

DWG. NO.
C-01

SHEET NO.
01

STANDARD PROFESSIONAL SERVICES AGREEMENT

EXHIBIT B

Payment Terms

Payment Terms are lump sum unless otherwise identified within the Scope of Services in Exhibit A.

Where fees are based on a Time and Expense Basis they will be charged per the attached Standard GEI Rate Schedule.



EXHIBIT B

EFFECTIVE January 2020

| POSITION | RATE |
|--|-------------|
| Staff Professional-Grade 1 | \$ 95.00 |
| Staff Professional-Grade 2 | \$105.00 |
| Project Professional- Grade 3 | \$130.00 |
| Project Professional-Grade 4 | \$145.00 |
| Senior Professional-Grade 5 | \$157.00 |
| Senior Professional-Grade 6 | \$167.00 |
| Senior Professional-Grade 7 | \$220.00 |
| Senior Consultant-Grade 8 | \$265.00 |
| Senior Principal/Senior Consultant-Grade 9 | \$285.00 |
| Technician | \$ 85.00 |
| Senior Technician | \$ 95.00 |
| Senior Drafter Designer | \$100.00 |
| Drafter/Designer | \$ 90.00 |
| Field Professional | \$ 88.00 |
| Word Processor | \$ 95.00 |
| Office Aide | \$ 75.00 |
| Administrative Staff | \$100.00 |

| EXPENSES | RATE |
|---|---------------|
| Mileage | \$ 0.575/mile |
| 14 ft Jon Boat | \$ 25.00/day |
| 18 ft Boat (w/motor) | \$250.00/day |
| Fathometer | \$350.00/day |
| Sub-Foot GPS | \$250.00/day |
| Survey Equipment –Total Station/Level | \$ 35.00/day |
| Ultrasonic Thickness Measurement | \$150.00/day |
| Weld Testing - Magnetic Particle | \$ 50.00/day |
| Coating Thickness Testing Equipment | \$ 50.00/day |
| Coring Equipment - Compressor w/ accessories | \$100.00/day |
| Soil Sample Augers | \$100.00/day |
| Field Expendables (rulers, lights, batteries, etc.) | \$ 25.00/day |
| Diving – Dive Team Scuba Equipment | \$650.00/day |
| Dive Support Vehicle - plus mileage | \$500.00/day |
| Field Investigation Support Vehicle - plus mileage | \$250.00/day |

All Other Expenses at Cost plus a 5% service charge

Rates are subject to review and change on an annual basis with an increase limit of 5% per year.

STANDARD PROFESSIONAL SERVICES AGREEMENT**EXHIBIT C****Insurance**

GEI will carry the following types and amounts of insurance:

- A. Worker's Compensation and Employer's Liability (statutory):
 - 1. In accordance with the laws of the state(s) in which services are performed.

- B. Commercial General Liability (CGL) Insurance:
 - 1. Bodily Injury and Property Damage Combined: \$1,000,000 per occurrence and in aggregate.
 - 2. Including explosion, underground drilling excavation, and collapse hazards.
 - 3. Including an endorsement providing Additional Insured Status to CLIENT under the policy.

- C. Comprehensive Automobile Insurance:
 - 1. Bodily Injury and Property Damage Combined: \$1,000,000 per accident.
 - 2. Includes all owned, nonowned, and hired vehicles used in connection with the services under this Agreement.

- D. Professional Liability Insurance:
 - 1. \$1,000,000 per claim and in aggregate.

STANDARD PROFESSIONAL SERVICES AGREEMENT

EXHIBIT D

Special Provisions for Field Services

- A. Right of Entry. CLIENT agrees to furnish GEI with right-of-entry and a plan of boundaries of the site where GEI will perform its services. If CLIENT does not own the site, CLIENT represents and warrants that it will obtain permission for GEI's access to the site to conduct site reconnaissance, surveys, borings, and other explorations of the site pursuant to the scope of services in the Agreement. GEI will take reasonable precautions to minimize damage to the site from use of equipment, but GEI is not responsible for damage to the site caused by normal and customary use of equipment. The cost for restoration of damage that may result from GEI's operations has not been included in GEI's fee, unless specifically stated in **Exhibit B**.
- B. Underground structures. CLIENT will identify locations of buried utilities and other underground structures in areas of subsurface exploration. GEI will take reasonable precautions to avoid damage to the buried utilities and other underground structures noted. If locations are not known or cannot be confirmed by CLIENT, then there will be a degree of risk to CLIENT associated with conducting the exploration. In the absence of confirmed underground structure locations, CLIENT agrees to accept the risk of any damages and losses resulting from the exploration work and shall indemnify and hold GEI, its subconsultants and employees harmless from all claims, losses or damages arising from GEI's services involving subsurface exploration.
- C. Presence of Hazardous Materials. If unanticipated hazardous waste, oil, asbestos, or other hazardous materials, as defined by federal, state, or local laws or regulations, and if such materials are discovered during GEI's work, CLIENT agrees to negotiate appropriate revisions to the scope, schedule, budget, and terms and conditions of this Agreement. When such hazardous materials are suspected, GEI will have the option to stop work, without financial penalty, until a modification to this Agreement is made or a new Agreement is reached. If a mutually satisfactory Agreement cannot be reached between both parties, this Agreement will be terminated without cause and CLIENT agrees to pay GEI for all services rendered up to the date of termination, including any costs associated with termination.
- D. Disposal of Samples and Wastes Containing Regulated Contaminants. In the event that samples collected by GEI or provided by CLIENT, or wastes generated as a result of site investigation activities, contain or potentially contain substances or constituents which are or may be regulated contaminants as defined by federal, state, or local statutes, regulations, or ordinances, including but not limited to samples or wastes containing hazardous materials, said samples or wastes remain the property of CLIENT and CLIENT will have responsibility for them as a generator. If set forth in the Agreement, GEI will, at CLIENT's expense and as CLIENT's appointed agent, perform necessary testing, and either (a) return said samples and wastes to CLIENT, or (b) using a manifest signed by CLIENT as generator, have said samples and/or wastes transported to a location selected by CLIENT for disposal. CLIENT agrees to pay all costs associated with the storage, transport and disposal of said samples and/or wastes. Unless otherwise provided in the Agreement, GEI will not transport, handle, store, or dispose of waste or samples or arrange or subcontract for waste or sample transport, handling, storage, or disposal. CLIENT recognizes and agrees that GEI is working as a bailee and/or agent and at no time assumes title to said waste or samples or any responsibility as generator of said waste or samples. Further, CLIENT agrees to look solely to any transport or disposal entity in the event any claim, cause of action or damages arise from GEI's activities a bailee or agent of CLIENT under this provision.
- E. Contribution of Hazardous Materials. CLIENT agrees that GEI has not contributed to the presence of hazardous wastes, oils, asbestos, biological pollutants such as molds, fungi, spores, bacteria and viruses, and

by-products of any such biological organisms, or other hazardous materials that may exist or be discovered in the future at the site. GEI does not assume any liability for the known or unknown presence of such materials. GEI's scope of services does not include the investigation or detection of biological pollutants such as molds, fungi, spores, bacteria and viruses, and by-products of any such biological organisms. CLIENT agrees to indemnify and hold harmless GEI, its subconsultants, subcontractors, agents, and employees from and against all claims, damages, losses, and costs (including reasonable attorneys' fees) that may result from the detection, failure to detect, or from the actual, alleged, or threatened discharge, dispersal, release, escape, or exposure to any solid, liquid, gaseous, or thermal irritant, asbestos in any form, or contaminants including smoke, vapor, soot, fumes, acids, alkalies, chemicals, waste, oil, hazardous materials, or biological pollutants. CLIENT's obligations under this paragraph apply unless such claims, damages, losses, and expenses are caused by GEI's sole negligence or willful misconduct.

STANDARD PROFESSIONAL SERVICES AGREEMENT

EXHIBIT F

Special Provisions for Engineering Design Services

- A. Design Without Construction Phase Services. CLIENT understands and agrees that if GEI's services under this Agreement include engineering design and do not include Construction-Related Services, then CLIENT:
1. Assumes all responsibility for interpretation of the construction Contract Documents.
 2. Assumes all responsibility for construction observation and review.
 3. Waives any claims against GEI that may be in any way connected thereto.

For purposes of this Agreement, Construction-Related Services include, but are not limited to: construction observation; review of the construction contractor's technical submittals; review of the construction contractor's progress; or other construction-phase services.

- B. Use of Documents.
1. The actual signed and sealed hardcopy construction Contract Documents including stamped drawings, together with any addenda or revisions, are and will remain the official copies of all documents.
 2. All documents including drawings, data, plans, specifications, reports, or other information recorded on or transmitted as Electronic Files are subject to undetectable alteration, either intentional or unintentional, due to transmission, conversion, media degradation, software error, human alteration, or other causes.
 3. Electronic Files are provided for convenience and informational purposes only and are not a finished product or Contract Document. GEI makes no representation regarding the accuracy or completeness of any accompanying Electronic Files. GEI may, at its sole discretion, add wording to this effect on electronic file submissions.
 4. CLIENT waives any and all claims against GEI that may result in any way from the use or misuse, unauthorized reuse, alteration, addition to, or transfer of the electronic files. CLIENT agrees to indemnify and hold harmless GEI, its officers, directors, employees, agents, or subconsultants, from any claims, losses, damages, or costs (including reasonable attorney's fees) which may arise out of the use or misuse, unauthorized reuse, alteration, addition to, or transfer of electronic files.

STANDARD PROFESSIONAL SERVICES AGREEMENT

EXHIBIT G

Special Provisions for Opinions of Probable Construction Costs

GEI's Opinions of Probable Construction Cost provided under this Agreement are made on the basis of GEI's experience and qualifications, and represent GEI's best judgment as an experienced and qualified professional generally familiar with the industry. However, since GEI has no control over the cost of labor, materials, equipment, or services furnished by others, or over a contractor's methods of determining prices, or over competitive bidding or market conditions, GEI cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from Opinions of Probable Construction Cost prepared by GEI.

If CLIENT wishes greater assurance as to probable construction costs, CLIENT agrees to employ an independent cost estimator.

STANDARD PROFESSIONAL SERVICES AGREEMENT

EXHIBIT H

Special Provisions for Construction Services

In accordance with the scope of services under this Agreement, GEI will provide personnel to observe the specific aspects of construction stated in the Agreement and to ascertain that construction is being performed, in general, in accordance with the approved construction Contract Documents.

- A. GEI cannot provide its opinion on the suitability of any part of the work performed unless GEI's personnel make measurements and observations of that part of the construction. By performing construction observation services, GEI does not guarantee the contractor's work. The contractor will remain solely responsible for the accuracy and adequacy of all construction or other activities performed by the contractor, including: methods of construction; supervision of personnel and construction; control of machinery; false work, scaffolding, or other temporary construction aids; safety in, on, or about the job site; and compliance with OSHA and construction safety regulations and any other applicable federal, state, or local laws or regulations.
- B. In consideration of any review or evaluation by GEI of the various bidders and bid submissions, and to make recommendations to CLIENT regarding the award of the construction Contract, CLIENT agrees to hold harmless and indemnify GEI for all costs, expenses, damages, and attorneys' fees incurred by GEI as a result of any claims, allegations, administrative proceedings, or court proceedings arising out of or relating to any bid protest or such other action taken by any person or entity with respect to the review and evaluation of bidders and bid submissions or recommendations concerning the award of the construction Contract. This paragraph will not apply if GEI is adjudicated by a court to have been solely negligent or to have actually engaged in intentional and willful misconduct without legitimate justification, privilege, or immunity; however, CLIENT will be obligated to indemnify GEI until any such final adjudication by a court of competent jurisdiction.



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: 2020

IV

ADJOURNMENT

| | |
|-------------------------|---|
| REQUESTED BY: | Chair |
| DESIRED ACTION: | Adjournment |
| PROPOSED MOTION: | I move to adjourn. |
| ACTION TAKEN: | Moved By: _____ Seconded By: _____ Condition(s): |
| VOTED: | Yea _____ Nay _____ Abstain _____ |