

CITY COUNCIL AGENDA REQUEST FORM

Today's date: 11 / 8 / 16

Date of meeting 11 / 16 / 16

(City Council meetings are held the 1st and 3rd Wednesday of each month.)

Name of Citizen, Organization, Elected Official, or Department Head making request:

Ryan Luttmann, Public Works Director

Address: 1123 Lake Street

Phone number and email address: 263-3407 rluttmann@sandpointidaho.gov

Authorized by: Ryan Luttmann

name of City official

City official's signature

(Department Heads, City Council members, and the Mayor are City officials.)

Subject: Professional Services Agreement for the Sand Creek Transmission Water Main Project

Summary of what is being requested: Approval of the Professional Services Agreement for

J-U-B ENGINEERS, INC. for the survey, concept design, final design, bid documents, advertisement,

construction observation, and record drawings for the Sand Creek transmission water main replacement.

The following information MUST be completed before submitting your request to the City Clerk:

1. Would there be any financial impact to the city? Yes or No

If yes, in what way? The project is budgeted for FY17 and the professional service fees are within the budgeted amount to perform the work.

2. Name(s) of any individual(s) or group(s) that will be directly affected by this action:

Have they been contacted? Yes or No

3. Is there a need for a general public information or public involvement plan? Yes or No

If yes, please specify and suggest a method to accomplish the plan:

Right-of-way agencies and utility companies will be contacted and informed of the project through the design process.

4. Is an enforcement plan needed? Yes or No Additional funds needed? Yes or No

5. Have all the affected departments been informed about this agenda item? Yes or No

This form must be submitted no later than 6 working days prior to the scheduled meeting. All pertinent paperwork to be distributed to City Council must be attached.

ITEMS WILL NOT BE AGENDIZED WITHOUT THIS FORM

Memo

To: City Council
From: Ryan J. Luttmann, Public Works Director
CC: Mayor Rognstad
Date: 11/8/2016
Re: Sandcreek Transmission Water Main Project – Professional Services Agreement

Description/Background:

The Sandcreek waterline replacement project is included in the Fiscal Year 2016/2017 budget to replace approximately 5,500 lineal feet of 18" coal tar lined transmission pipe from the Sandcreek Water Treatment Plant to the Woodland Reservoir. The replacement is intended to mitigate taste and odor issues within this section of the water system.

The planned improvements will incorporate the 2006 Facility Plan water model results to verify adequate sizing and the transmission main is proposed to be constructed within existing right-of-way along Woodland Drive and Schweitzer Mountain Road.

J-U-B ENGINEERS, INC. is on the City of Sandpoint Preapproved Consultant Selection roster for Water and Construction Management. The Public Works Department has met with J-U-B to discuss the project and negotiate a scope and fee for survey, concept design, final design, bid documents, advertisement, construction observation, quality assurance and record drawings.

Staff Recommendation:

The Public Works Department recommends the Council approve the attached Professional Services Agreement for the Sandcreek Transmission Water Main Project for J-U-B ENGINEERS, INC. with a lump sum fee of \$117,200 for the design phase services and a not-to-exceed amount of \$115,700 for the construction phase services.

The Contract has been submitted to the City Attorney for review and the budgeted expense for the City's project costs have been reviewed with the Finance Director.

No: 16-
Date: November 16, 2016

RESOLUTION
OF THE CITY COUNCIL
CITY OF SANDPOINT

**TITLE: PROFESSIONAL SERVICES AGREEMENT WITH J-U-B ENGINEERS, INC.,
FOR SAND CREEK TRANSMISSION WATER MAIN PROJECT**

WHEREAS: The Sand Creek water line replacement project is included in the City's budget for the current fiscal year;

WHEREAS: J-U-B Engineers is one of the firms included on the City's Preapproved Consultant Selection Roster under Water and Construction Management;

WHEREAS: Staff from the Public Works Department has met with J-U-B to discuss the project and negotiate a scope and fee for survey, concept design, final design, bid documents, advertisement, construction observation, quality assurance, and record drawings; and

WHEREAS: The Public Works Director recommends contracting with J-U-B to provide these services for a lump sum fee of \$117,200 for the design phase and an amount not to exceed \$115,700 for the construction phase.

NOW, THEREFORE, BE IT RESOLVED THAT: The Mayor is hereby authorized, on behalf of the City, to execute the Professional Services Agreement with J-U-B Engineers, Inc., a copy of which is attached hereto and made a part hereof as if fully incorporated herein.

Shelby Rognstad, Mayor

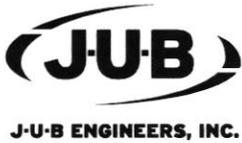
ATTEST:

Maree Peck, City Clerk

City Council Members:

YES NO ABSTAIN ABSENT

1. Eddy
2. Aitken
3. Williamson
4. Camp
5. Ruehle
6. Snedden



J-U-B ENGINEERS, Inc.
AGREEMENT FOR PROFESSIONAL SERVICES

J-U-B Project No.: 20-16----
J-U-B Project Manager: Peter M. Stayton, P.E.

This Agreement entered into and effective this ____ day of ____ 2016, between City of Sandpoint, hereinafter referred to as the "CLIENT" and J-U-B ENGINEERS, Inc., an Idaho corporation, hereinafter referred to as "J-U-B".

WITNESSETH:

WHEREAS the CLIENT intends to: Replace approximately 5,500 linear feet of 18" tar-lined steel transmission water main from Sand Creek Water Treatment Plant to Woodland Reservoir hereinafter referred to as the "Project". The Services to be performed by J-U-B are hereinafter referred to as the "Services."

NOW, THEREFORE, the CLIENT and J-U-B, in consideration of their mutual covenants herein, agree as set forth below:

CLIENT INFORMATION AND RESPONSIBILITIES

The CLIENT will provide to J-U-B all criteria and full information as to CLIENT'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, rules and laws which CLIENT or others will require to be included in the drawings and specifications, and upon which J-U-B can rely for completeness and accuracy.

The CLIENT will furnish to J-U-B all data, documents, and other items in CLIENT's possession, or reasonably obtainable by CLIENT, including, without limitation: 1) borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment; 2) appropriate professional interpretations of all of the foregoing; 3) environmental assessment and impact statements; 4) surveys of record, property descriptions, zoning, deeds and other land use restrictions, rules and laws; and 5) other special data or consultations, all of which J-U-B may use and rely upon in performing Services under this Agreement.

The CLIENT will obtain, arrange and pay for all advertisements for bids, permits and licenses, and similar fees and charges required by authorities, and provide all land, easements, rights-of-ways and access necessary for J-U-B's Services and the Project.

In addition, the CLIENT will furnish to J-U-B: Relevant record drawings (Woodland Tank, Booster Pump Station, Water Main, Sand Creek Water Treatment Plant, Woodland Drive Bridge), Water System Facility Plan and Hydraulic Analysis.

PROJECT REPRESENTATIVES

The CLIENT and J-U-B hereby designate their authorized representatives to act on their behalf with respect to the Services and responsibilities under this Agreement. The following designated representatives are authorized to receive notices, transmit information, and make decisions regarding the Project and Services on behalf of their respective parties, except as expressly limited herein. These representatives are not authorized to alter or modify the TERMS AND CONDITIONS of this Agreement.

For the CLIENT:

1.	Name	<u>Ryan Luttmann/City of Sandpoint</u>	Work telephone	<u>(208) 263-3411</u>
	Address	<u>1123 West Lake Street</u>	Home/cell phone	_____
		<u>Sandpoint, ID 83864-1714</u>	FAX telephone	<u>(208) 265-1480</u>
		_____	E-mail address	_____

For J-U-B:

1.	Name	<u>Peter M. Stayton, P.E.</u>	Work telephone	<u>(208) 762-8787</u>
	Address	<u>7825 Meadowlark Way</u>	Cell phone	_____
		<u>Coeur d'Alene, ID 83815</u>	FAX telephone	<u>(208) 762-9797</u>
		_____	E-mail address	_____

In the event any changes are made to the authorized representatives or other information listed above, the CLIENT and J-U-B agree to furnish each other timely, written notice of such changes.

SERVICES TO BE PERFORMED BY J-U-B ("Services")

J-U-B will perform the Services described as follows (or as described in **Attachment 1**, if provided) in a manner consistent with the applicable standard of care: See Attachment 1.

J-U-B's services shall be limited to those expressly set forth above, and J-U-B shall have no other obligations, duties, or responsibilities for the Project except as provided in this Agreement.

SCHEDULE OF SERVICES TO BE PERFORMED

J-U-B will perform said Services in accordance with the following schedule (or as described in **Attachment 1**, if provided) in a manner consistent with the applicable standard of care: See Attachment 1.

This schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by the CLIENT or for delays or other causes beyond J-U-B's control.

BASIS OF FEE

The CLIENT will pay J-U-B for their Services at J-U-B's standard hourly rates and reimbursable expenses as follows (or as described otherwise in **Attachment 1**, if provided): See Attachment 1. A ten percent administrative fee will be applied to sub-consultant invoices.

Yes *Management Reserve Fund.* If "YES", the CLIENT will establish a management reserve fund of \$_____ to provide the CLIENT's Authorized Representative the flexibility of authorizing additional funds to the Agreement for allowable unforeseen costs or paying J-U-B for Additional Services beyond those defined in this Agreement.
 No

Yes *Retainer.* If "YES", the CLIENT will pay J-U-B a retainer of \$_____ prior to the Notice to Proceed. The retainer will be applied to the final billing(s) at the completion of the Services rendered under the Agreement.
 No

Other work that J-U-B performs in relation to the Project at the written request or acquiescence of the CLIENT, which are not defined as Services, shall be considered "Additional Services" and subject to the express terms and conditions of this Agreement. Unless otherwise agreed, the CLIENT will pay J-U-B for Additional Services on a time and materials basis. Resetting of survey and/or construction stakes shall constitute Additional Services.

File Folder Title: City of Sandpoint Sand Creek Transmission Water Main Project

Remarks: _____

The Notice to Proceed, by the CLIENT, verbal or written, or execution of the Agreement shall constitute acceptance of the terms of this Agreement. THE TERMS AND CONDITIONS ON PAGES 3 AND 4, INCLUDING RISK ALLOCATION, ARE PART OF THIS AGREEMENT. THE CLIENT AGREES TO SAID TERMS AND CONDITIONS FOR ALL SERVICES AND ADDITIONAL SERVICES. Special Provisions that modify these TERMS AND CONDITIONS, if any, are included in Attachment 2. All other modifications to these terms and conditions must be in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written. These parties represent and acknowledge that they have authority to execute this Agreement.

CLIENT:
City of Sandpoint

NAME
1123 West Lake Street

STREET
Sandpoint, ID 83864

CITY / STATE / ZIP CODE

BY (Signature)

NAME / TITLE

BY (Signature)

ADDITIONAL NAME / TITLE

J-U-B ENGINEERS, Inc.:
7825 Meadowlark Way

STREET
Coeur d'Alene, ID 83815

CITY / STATE / ZIP CODE
Stephen P. James, P.E.

BY (Signature)
Stephen P. James, V.P., Area Manager

NAME / TITLE
Applicable Attachments or Exhibits to this Agreement are indicated as marked.
 Attachment 1 – Scope of Services and/or Schedule and/or Basis of Fee
 Attachment 2 – Special Provisions
 Standard Exhibit A – Construction Phase Services

DISTRIBUTION: Accounting; Project File; CLIENT

REV: 1/15

J-U-B ENGINEERS, Inc.
TERMS AND CONDITIONS

GENERAL

All J-U-B Services shall be covered by this Agreement. The Services will be performed in accordance with the care and skill ordinarily used by members of the subject profession practicing under like circumstances at the same time and in the same locality. **J-U-B MAKES NO WARRANTY EITHER EXPRESS OR IMPLIED ON BEHALF OF IT OR OTHERS.** Nothing herein shall create a fiduciary duty between the parties.

The CLIENT acknowledges and agrees that requirements governing the Project may be ambiguous and otherwise subject to various and possibly contradictory interpretations and J-U-B is, therefore, only responsible to use its reasonable professional efforts and judgment to interpret such requirements. Accordingly, CLIENT should prepare and plan for clarifications or modifications which may impact both the cost and schedule of the Project.

J-U-B shall not be responsible for acts or omissions of any other party involved in the Project, including but not limited to the following: the failure of CLIENT or a third party to follow J-U-B's recommendations; the means, methods, techniques, sequences or procedures of construction; safety programs and precautions selected by third parties; compliance by CLIENT or third parties with laws, rules, regulations, ordinances, codes, orders or authority; and delays caused by CLIENT or third parties. CLIENT, therefore, releases and shall indemnify, defend and hold J-U-B harmless from the acts, errors, or omissions of CLIENT or third parties involved in the Project.

J-U-B shall not be required to execute any documents, no matter by whom requested, that would result in J-U-B's having to certify, guarantee or warrant the existence of conditions. CLIENT acknowledges that subsurface conditions can vary widely between adjacent samples and test points, and therefore J-U-B makes no warranty or other representation regarding soil investigations and characterization of subsurface conditions for the Project.

Any sales tax or other tax on the Services rendered under this Agreement, and additional costs due to changes in regulation, shall be paid by the CLIENT.

REUSE OF DOCUMENTS

Documents that may be relied upon by CLIENT as instruments of service under this Agreement are limited to the printed copies (also known as hard copies) that are signed or sealed by J-U-B (including non-vector PDF facsimiles thereof). All printed materials or other communication or information ("Documents") that may be prepared or furnished by J-U-B pursuant to this Agreement are instruments of service with respect to the Project. J-U-B grants CLIENT a limited license to use the Documents on the Project subject to receipt by J-U-B of full payment for all Services related to preparation of the Documents.

Although CLIENT may make and retain copies of Documents for reference, J-U-B shall retain all common law, statutory and other reserved rights, including the copyright thereto, and the same shall not be reused on this Project or any other Project without J-U-B's prior written consent. Submission or distribution of Documents to meet regulatory or permitting requirements, or for similar purposes, in connection with the Project, including but not limited to distribution to contractors or subcontractors for the performance of their work, is not to be construed as publication adversely affecting the reserved rights of J-U-B.

Any reuse without written consent by J-U-B, or without verification or adoption by J-U-B for the specific purpose intended by the reuse, will be at CLIENT's sole risk and without liability or legal exposure to J-U-B. The CLIENT shall release, defend, indemnify, and hold J-U-B harmless from any claims, damages, actions or causes of action, losses, and expenses, including reasonable attorneys' and expert fees, arising out of or resulting from such reuse.

CONSTRUCTION PHASE SERVICES

It is understood and agreed that J-U-B does not have control over, and neither the professional activities of J-U-B nor the presence of J-U-B at the Project Site shall give, J-U-B control over contractor(s) work nor shall J-U-B have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by contractor(s), for safety precautions and programs incident to the work of the contractor(s) or for any failure of contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to contractor(s)

furnishing and performing their work or providing any health and safety precautions required by any regulatory agencies. Accordingly, J-U-B does not guarantee or warrant the performance of the construction contracts by contractor(s), nor assume responsibility of contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

The CLIENT agrees that the general contractor shall be solely responsible for jobsite safety, and CLIENT agrees that this intent shall be set forth in the CLIENT's contract with the general contractor. The CLIENT also agrees that the CLIENT, J-U-B, and J-U-B's subconsultants shall be indemnified by the general contractor in the event of general contractor's failure to assure jobsite safety and shall be made additional insureds under the general contractor's policies of general liability insurance.

If **Standard Exhibit A** – Construction Phase Services is attached, the additional terms contained therein apply to this Agreement.

OPINIONS OF COST AND PROJECT FINANCIAL INFORMATION

CLIENT understands that J-U-B has no control over the cost of labor, materials, equipment or services furnished by others, the contractor(s)' methods of determining prices, nor bidding or market conditions. J-U-B's opinions of probable Project costs and construction, if any, are to be made on the basis of J-U-B's experience, and represent J-U-B's best judgment as a professional engineer, familiar with the construction industry.

CLIENT understands and acknowledges that J-U-B cannot and does not guarantee that proposals, bids or actual Project or construction costs will not vary from opinions of probable cost prepared by J-U-B. J-U-B's Services to modify the Project to bring the construction costs within any limitation established by the CLIENT will be considered Additional Services and paid for as such by the CLIENT in accordance with the terms herein.

CLIENT agrees that J-U-B is not acting as a financial advisor to the CLIENT and does not owe CLIENT or any third party a fiduciary duty pursuant to Section 15B of the Exchange Act with respect J-U-B's professional Services. J-U-B will not give advice or make specific recommendations regarding municipal securities or investments and is therefore exempt from registration with the SEC under the municipal advisors rule. CLIENT agrees to retain a registered financial municipal advisor as appropriate for Project financing and implementation.

TIMES OF PAYMENTS

J-U-B shall submit monthly statements for Services rendered and for expenses incurred, which statements are due on presentation. CLIENT shall make prompt monthly payments. If CLIENT fails to make any payment in full within thirty (30) days after receipt of J-U-B's statement, the amounts due J-U-B will accrue interest at the rate of 1% per month from said thirtieth day or at the maximum interest rate allowed by law, whichever is less.

If the CLIENT fails to make payments when due or otherwise is in breach of this Agreement, J-U-B may suspend performance of Services upon five (5) days' notice to the CLIENT. J-U-B shall have no liability whatsoever to the CLIENT for any costs or damages as a result of such suspension caused by any breach of the Agreement by the CLIENT. Upon cure of breach or payment in full by the CLIENT within thirty (30) days of the date breach occurred or payment is due, J-U-B shall resume Services under the Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension, plus any other reasonable time and expense necessary for J-U-B to resume performance. If the CLIENT fails to make payment as provided herein and cure any other breach of this Agreement within thirty (30) days after suspension of Services, such failure shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by J-U-B.

CLIENT shall promptly review J-U-B's invoices and shall notify J-U-B in writing of any dispute with said invoice, or portion thereof, within thirty (30) days of receipt. Failure to provide notice to J-U-B of any dispute as required herein shall constitute a waiver of any such dispute. CLIENT shall pay all undisputed portions of such invoice as required by this Agreement. Client shall not withhold any payment or portion thereof as an offset to any current or prospective claim.

TERMINATION

The obligation to provide further Services under the Agreement may be terminated by either party upon thirty (30) days' written notice. If this Agreement is terminated by either party, J-U-B will be paid for Services and Additional Services rendered and for expenses incurred. In addition to any other remedies at law or equity, if the Agreement is terminated by the CLIENT for reasons other than J-U-B's material breach of this Agreement, or is terminated by J-U-B for CLIENT's material breach of this Agreement, J-U-B shall be paid a termination fee which shall include: the cost and expense J-U-B incurs in withdrawing its labor and resources from the Project, the costs and expense incurred by J-U-B to obtain and engage in a new Project with the labor and resources withdrawn from the Project, and the lost profit on the remainder of the work.

RISK ALLOCATION

In recognition and equitable allocation of relative risks and benefits of the Project, CLIENT limits the total aggregate liability of J-U-B and its employees and consultants, whether in tort or in contract, for any cause of action, as follows: Five Hundred Thousand Dollars and No Cents (\$500,000.00). ~~1) for insured liabilities, to the amount of insurance then available to fund any settlement, award, or verdict, or 2) if no such insurance coverage is held or available with respect to the cause of action, twenty five thousand dollars (\$25,000.00) or one hundred percent (100%) of the fee paid to J-U-B under this Agreement, whichever is less.~~ J-U-B shall provide certificates evidencing insurance coverage at the request of the CLIENT. For purposes of this section, attorney fees, expert fees and other costs incurred by J-U-B, its employees, consultants, insurance carriers in the defense of such claim shall be included in calculating the total aggregate liability.

The CLIENT agrees that J-U-B is not responsible for damages arising directly or indirectly from any delays for causes beyond J-U-B's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; emergencies or acts of God; failure of any government agency or other third party to act in a timely manner; failure of performance by the CLIENT or the CLIENT's contractors or consultants; or discovery of any hazardous substance or differing site conditions. In addition, if the delays resulting from any such causes increase the cost or time required by J-U-B to perform its Services in an orderly and efficient manner, J-U-B shall be entitled to an equitable adjustment in schedule and compensation.

Notwithstanding any other provision contained within this Agreement, nothing shall be construed so as to void, vitiate, or adversely affect any insurance coverage held by either party to this Agreement. The CLIENT further agrees that, to the fullest extent permitted by law, no shareholder, officer, director, or employee of J-U-B shall have personal liability under this Agreement, or for any matter in connection with the professional services provided in connection with the Project.

Neither CLIENT nor J-U-B shall be responsible for incidental, indirect, or consequential damages.

HAZARDOUS WASTE, ASBESTOS, AND TOXIC MATERIALS

The CLIENT agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless J-U-B, its officers, employees, successors, partners, heirs and assigns (collectively, J-U-B) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project location, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of J-U-B.

RIGHT OF ENTRY

The CLIENT shall provide J-U-B adequate and timely access to all property reasonably necessary to the performance of J-U-B and its subconsultant's services. The CLIENT understands that use of testing or other equipment may unavoidably cause some damage, the correction of which, or compensation for, is expressly disclaimed by J-U-B. Any such costs incurred are CLIENT's sole responsibility.

MEDIATION BEFORE LITIGATION

Any and all disputes arising out of or related to the Agreement, except for the payment of J-U-B's fees, shall be submitted to nonbinding mediation before a mutually-acceptable mediator as a condition

precedent to litigation or other binding adjudicative procedure unless the parties mutually agree otherwise. The CLIENT further agrees to include a similar mediation provision in all agreements with independent contractors, consultants, subcontractors, subconsultants, suppliers and fabricators on the Project, thereby providing for mediation as the primary method for dispute resolution among all the parties involved in the Project. In the event the parties are unable to agree on a mediator, said mediator shall be appointed by a court of competent jurisdiction or, if not possible, the American Arbitration Association. If a dispute relates to, or is the subject of a lien arising out of J-U-B's Services, J-U-B or its subconsultants may proceed in accordance with applicable law to comply with the lien notice and filing deadlines prior to submission of the matter by mediation.

LIMITATION PERIODS

For statutes of limitation or repose purposes, any and all CLIENT claims shall be deemed to have accrued no later than the date of substantial completion of J-U-B's Services.

LEGAL FEES

For any action arising out of or relating to this Agreement, the Services, or the Project, each party shall bear its own attorneys fees and costs.

SURVIVAL

All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

EXTENT OF AGREEMENT

In entering into this Agreement, neither party has relied upon any statement, estimate, forecast, projection, representation, warranty, action, or agreement of the other party except for those expressly contained in this Agreement. CLIENT shall include a similar provision in its contracts with any contractor, subcontractor, or consultant stating that any such contractor, subcontractor, or consultant is not relying upon any statement, estimate, forecast, projection, representation, warranty, action, or agreement of J-U-B when entering into its agreement with CLIENT.

This Agreement represents the entire and integrated agreement between the CLIENT and J-U-B and supersedes all prior negotiations, representations or agreements, either written or oral. The Agreement may be amended only by written instrument signed by both CLIENT and J-U-B.

In the event any provision herein or portion thereof is invalid or unenforceable, the remaining provisions shall remain valid and enforceable. Waiver or a breach of any provision is not a waiver of a subsequent breach of the same of any other provision.

SUCCESSORS AND ASSIGNS

Neither party shall assign, sublet, or transfer any rights or interest (including, without limitation, moneys that are due or may become due) or claims under this Agreement without the prior, express, written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated in any written consent to an assignment, no assignment will release the assignor from any obligations under this Agreement.

No third party beneficiary rights are intended or created under this Agreement, nor does this Agreement create any cause of action in favor of any third party hereto. J-U-B's Services under this Agreement are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against J-U-B because of this Agreement or the performance or nonperformance of Services hereunder. In the event of such third party claim, CLIENT agrees to indemnify and hold J-U-B harmless from the same. The CLIENT agrees to require a similar provision in all contracts with contractors, subcontractors, consultants, vendors and other entities involved in the Project to carry out the intent of this provision to make express to third parties that they are not third party beneficiaries.

CONTROLLING LAW, JURISDICTION, AND VENUE

This Agreement shall be interpreted and enforced in and according to the laws of the state in which the Project is primarily located. Venue of any dispute resolution process arising out of or related to this Agreement shall be in the state in which the Project is primarily located and subject

to the exclusive jurisdiction of said state.



**J-U-B ENGINEERS, Inc.
AGREEMENT FOR PROFESSIONAL SERVICES**

Attachment 1 – Scope of Services, Schedule, and Basis of Fee

The Agreement for Professional Services is amended and supplemented to include the following provisions regarding the Scope of Services, Schedule of Services, and the Basis of Fee:

For the purposes of this attachment, 'Agreement for Professional Services' and 'the Agreement' shall refer to the document entitled 'Agreement for Professional Services,' executed between J-U-B and CLIENT to which this exhibit and any other exhibits have been attached.

PROJECT UNDERSTANDING

The City's 2006 Water Facility Plan previously identified 39,850 lineal feet (LF) of tar lined water main throughout the distribution system for eventual replacement or rehabilitation to mitigate taste and odor (T&O) issues resulting from the tar lining. The City has prioritized the 18" transmission main (approximately 5,500 LF) from the Sand Creek Water Treatment Plant (WTP) near Schweitzer Mountain Road to the Woodland Reservoir to be completed in 2017 with an estimated total project budget of \$1.4 million. It is believed this pipeline segment has the greatest T&O effect, particularly in the late summer months when water supply from Little Sand Creek is low.

This Scope of Services is necessary to design and administer construction of the transmission main replacement and is separated into several tasks and subtasks as detailed in the following pages:

SCOPE OF SERVICES

J-U-B's Services under this Agreement are limited to the following:

- **Task 100: Design Phase Services**
 - Subtask 001: Project Administration and Client Meetings
 - Subtask 002: Survey and Base Topo Development
 - Subtask 003: Concept Design
 - Subtask 004: Final Design
- **Task 200: Construction Phase Services**
 - Subtask 201: Bidding and Contract Award Assistance
 - Subtask 202: Construction Observation and Contract Administration

TASK 100: DESIGN PHASE SERVICES

Subtask 001: Project Administration and Client Meetings

J-U-B will provide Project Management as follows:

- Conduct a Project Kick-off meeting with CLIENT's team and key J-U-B team members.
- Conduct a Concept Design review meeting with CLIENT.
- Conduct a 95% Design review meeting with CLIENT.
- Set up Project accounting and record keeping systems for document retention and project controls.
- Regularly communicate with CLIENT about project status, budget and schedule, as project progress requires.
- During periods of project activity, provide a monthly report to CLIENT on project status, budget and schedule. This written report may be in the form of an email or an attachment to the monthly invoice.
- Provide a monthly invoice including budget status for each task.
- Provide ongoing document handling and filing.
- Close-out the Project in J-U-B's accounting and record keeping systems.

Subtask 002: Survey and Base Topo Development

- J-U-B will perform topographic survey of approximately 5,500 lineal feet of alignment from the Woodland Reservoir, along Woodland Drive and Schweitzer Mountain Road, to the Sand Creek Water Treatment Plant. Survey will include the full width of the road, to the approximate right-of-way as indicated by lines of possession, utility limit and/or the limit as indicated by the Bonner County Assessor's office, and the following:
 - Utilities as marked by the utility owners based on the One-Call service (request to be made by J-U-B). It is assumed that the City of Sandpoint will locate the existing transmission and distribution water mains and services.
 - Roadway features, including pavement and shoulder elevations and grades
 - Trees and landscaping
 - Driveways
 - Signs
 - Buildings and fences
- J-U-B will establish project control and benchmarks on CLIENT's preferred elevation datum (NGVD29 or NAVD88).
- J-U-B will research survey records to identify survey monuments within the corridor. Found monuments will be located and referenced for replacement after construction is complete in accordance with Idaho State Law.
- J-U-B will prepare topographic base drawings for use in design.
- Boundary and right-of-way survey will not be conducted unless specifically requested by the CLIENT and authorized as additional services.
- No land or easement acquisition, frontage improvements, or public hearings are anticipated for the project at this time and will not be conducted unless specifically requested by the CLIENT and authorized as additional services.

Subtask 003: Concept Design

- J-U-B will review the 2006 Facility Plan water system model results to verify adequate sizing of the existing transmission main pipe size. It is assumed that the previous modeling efforts adequately assessed pipe capacity and can be readily verified by a review of model results. Performing additional modeling scenarios will only be conducted if specifically requested by the CLIENT and authorized as additional services.
- No geotechnical analysis is assumed necessary for trenching, bedding, or backfill. If dewatering or rock excavation or other specialized analysis is needed, it will be provided separately if specifically requested by the CLIENT and authorized as additional services.
- J-U-B will provide engineering drawings to locate a new transmission pipe within existing rights-of-way along Woodland Drive and Schweitzer Mountain Road. Minor adjustments to alignment and grade may be made to mitigate conflicts with other underground utilities or private property encroachment at the direction of the CLIENT. CLIENT will obtain right-of-entry and encroachment agreements from affected property owners as needed during design and construction.
- J-U-B will identify pipe alignment for open cut construction. It is assumed that the transmission main will be constructed within existing rights-of-way along Woodland Drive and Schweitzer Mountain Road. Additional alternative alignments will be considered if specifically requested by the CLIENT and authorized as additional services.
- It is anticipated that a single crossing of Little Sand Creek on Woodland Drive will be needed within the existing right-of-way. Direction drilling is generally considered to be unpredictable in variable soil conditions with cobbles which makes this technique cost-prohibitive for this diameter of transmission main. Open cut with creek diversion and/or dewatering is also considered less than ideal due to permitting and cost impacts. It is unknown if the existing bridge structure will adequately support the additional weight of the pipe crossing at an elevation that will not encroach on established floodplains. Therefore, the following items are included in this scope of services:
 - J-U-B will provide design for a single above-grade self-supporting or free-spanning insulated pipe crossing at or above bottom of bridge elevation. Alternatively, if record drawings and load sufficiency rating information is readily available for the bridge structure and is adequate to support the additional weight of the pipe, the crossing design may include pipe support attachments to the existing structure.
 - If deemed necessary and upon specific authorization by the CLIENT, the following items will be provided as additional services as additional services:
 - Subsurface stream crossing design, including application for a Section 404 (discharge of dredged or fill material into waters of the U.S.) permit which may be required by the U.S. Army Corps of Engineers.
 - Structural analysis (in addition to a review of bridge record drawings and load sufficiency rating information) to ascertain the load bearing capacity of the existing bridge structure.
 - Hydraulic impact analysis for improvements within the established floodplain or normal high water elevation.

- J-U-B will incorporate right-of-way conditions from jurisdictions having authority. CLIENT shall provide coordination with these jurisdictions to ascertain applicable conditions or additional design standards. If required, use of other agency design standards shall be provided as additional services upon specific authorization by the CLIENT.
- J-U-B will identify one option for temporary piping during transmission main construction if use of existing transmission main is not expected to be feasible during construction (e.g. open cut replacement in place).
- J-U-B will prepare a preliminary opinion of probable cost based on average construction costs (on a per foot basis), adjusted for construction year prices per the Construction Cost Index with 20% construction contingency.
- J-U-B will review the concept design with CLIENT. CLIENT shall conduct a review of the design and identify issues to address (e.g. replacing or re-routing other utilities; partial or full-width surface repair; and other specific surface repair objectives).

Subtask 004: Final Design

- **95% Design:** J-U-B will prepare 95% design drawings and specifications as follows:
 - J-U-B will review CLIENT comments to the Concept Design and prepare final design drawings and technical specifications for bidding purposes. CLIENT comments are expected to be minor in nature due to the previous review step; consequently, substantial revisions, separate bidding schedules, or development of additive alternates requested by the CLIENT will be completed as additional services upon specific authorization by the CLIENT. The Bid Documents will be based on City engineering standard drawings, the 2015 ISPWC technical specifications, and supplemental technical specifications as required for the project. If the following items are requested, the work will be completed as Additional Services: preparation of separate bid schedules or additive alternates; full-width roadway replacement or redesign of roadway grades.
 - J-U-B will prepare an itemized final Opinion of Probable Cost based on average construction costs, adjusted for construction year prices per the Construction Cost Index with 15% construction contingency.
 - J-U-B will perform an internal Quality Control/ Quality Assurance review of the Bid Documents.
- **Bid Documents:** J-U-B will prepare Bid Documents as follows:
 - J-U-B will review CLIENT comments to the 95% Design and prepare final design drawings and technical specifications for bidding purposes. CLIENT comments are expected to be minor in nature due to the previous review step; consequently, substantial revisions, separate bidding schedules, or development of additive alternates requested by the CLIENT will be provided as additional services upon specific authorization by the CLIENT.
 - J-U-B will prepare an itemized final Opinion of Probable Cost based on prior years' average construction costs, adjusted for construction year prices per the Construction Cost Index with 10% construction contingency.
 - J-U-B will perform an internal Quality Control/ Quality Assessment review of the Bid Documents.
 - J-U-B will provide 5 printed and electronic sets of the Bid Documents, including half-sized (11x17) drawings, bid forms, contract forms, and technical specifications, for distribution to CLIENT departments, and affected utilities or jurisdictions having authority. Bid Documents will be distributed to potential bidders and plan agencies in electronic format as described in Subtask 201: Bidding and Contract Award Assistance.

TASK 200: CONSTRUCTION PHASE SERVICES

Subtask 201: Bidding and Contract Award Assistance

- J-U-B will prepare a draft notice of advertisement for the project. CLIENT will advertise the project in its publication of record.
- J-U-B will administer electronic bid document distribution through QuestCDN (electronic bidding website).
- J-U-B will conduct one pre-bid meeting at CLIENT's office with a site visit.
- J-U-B will respond to bidders' questions during the bid phase, and prepare and issue addenda as necessary to modify the drawings or specifications.
- J-U-B will assist in bid opening, review bids as received, prepare a bid summary, review bids for responsiveness, and issue a recommendation to CLIENT regarding the responsiveness of the bids.
- As directed by CLIENT, J-U-B will prepare a notice of award, agreement, and notice to proceed for review, approval, and distribution by CLIENT, and assist in contract award.

Subtask 202: Construction Observation and Contract Administration

- J-U-B will perform construction support as noted in "J-U-B Standard Exhibit A – Construction Phase Services", attached. Project duration and commitments are further defined in Basis of Fee. It is assumed that construction will occur consecutively, i.e. without a temporary shutdown or similar delay by contractor and that contractor will provide stormwater control permitting and administration.
- J-U-B will provide five printed half-sized (11x17) sets of record drawings.

ADDITIONAL SERVICES

The Services outlined hereinafter are not currently anticipated and shall only be provided by the ENGINEER when requested and authorized by Supplemental Agreement by the CLIENT. Such authorization shall also state the negotiated amount and method of compensation by the CLIENT. When authorized, the ENGINEER will:

- Assist the CLIENT with locating the alignment of the existing transmission water main, distribution piping, and service connections.
- Application for U.S. Army Corps of Engineers or IDEQ Section 404 permit (discharge of dredged or fill material into waters of the U.S.) for construction activities near or in surface waters.
- Ground-penetrating radar (GPR) services for locating underground utilities or other subsurface features.
- Geotechnical analysis to evaluate subsurface conditions such as the presence of bedrock and groundwater.
- Evaluate additional alternative trenchless construction methods (e.g. interior coatings, slip-lining, directional drilling).
- Provide structural analysis (in addition to a review of bridge record drawings) to ascertain the load bearing capacity of the existing bridge structure.
- Hydraulic impact analysis for improvements within the established floodplain or normal high water elevation.
- Perform additional water system modeling scenarios to assess capacity needs or alternative pipe sizing.
- Evaluate additional alternative pipe alignments outside of existing rights-of-way.
- Design for modification of other non-City-owned utilities.
- Alternative bidding formats separate bidding schedules or additive alternates.
- Use of other agency design standards.
- Provide additional construction administration services due to delays in construction as a result of contractor's activities, or as requested by CLIENT, which extend the construction phase beyond the assumed timeframe.
- Re-design or update the drawings and specifications schedules for bidding and construction in subsequent projects or years.
- Perform boundary survey work.

And other additional services specifically requested by CLIENT.

SCHEDULE OF SERVICES AND BASIS OF FEE

Predicated upon timely receipt of CLIENT-provided information, typical review periods, and active direction during work, J-U-B anticipates the following schedule for the Services listed:

Task	Days	Compensation and Type
Task 100: Design Phase Services	165	\$117,200 Lump Sum Fee
Task 200: Construction Phase Services	B	\$115,700 Time & Materials Basis ^{A, B}

^A Time and Materials estimates shall be paid at J-U-B's Standard Billing rates or as otherwise negotiated when authorized.

^B Dependent on construction schedules developed by the successful bidder(s).

BASIS OF FEE

Task No.	Sub-Task No.	Task	Principal / QC	Project Manager	Design Engineer	Structural Engineer	Professional Land Surveyor	Field Surveyor + Equipment	Survey Tech	Construction Observation	CADD Design	Clerical	Subconsultants and Expenses	Subtask Total
100	DESIGN PHASE SERVICES (LUMP SUM FEE)													
	-001	PROJECT ADMINISTRATION AND CLIENT MEETINGS												\$10,600
		Project kick-off meeting with CLIENT	1	8	8						2	2	\$100	
		CLIENT meeting: Concept Review	1	8	8						2	2	\$100	
		CLIENT meeting: 95% Review	1	8	8						2	2	\$100	
		Monthly status updates and invoicing		18								18		
	-002	SURVEY AND BASE TOPO DEVELOPMENT												\$23,100
		Office research, review survey monuments and project area		1	2		6							
		Calculate project rights of way		1	2		8		12					
		Field search for monuments and tie existing			1		4	20					\$100	
		Coordinate utility locates and data		2	8		1						\$50	
		Field survey (approx. 5,500 LF)		1	2		6	80					\$400	
		Prepare topographic and ROW base sheets		1	6		12		56					
		Quality control and field review of base sheets		1	2		10		4				\$50	
	-003	CONCEPT DESIGN												\$42,800
		Confirm pipe sizing based on 2006 Facility Plan (additional analysis not included)		2	4									
		Identify alternative alignments, 1 site visit		6	12								\$50	
		Incorporate Topo & ROW base sheets into design		2	6									
		Identify utility conflicts		4	8						12			
		Incorporate ROW conditions into design	1	4	4		4				4			
		Little Sand Creek bridge crossing, structural design	1	2	4	40					8			
		Concept design drawings: site, plan, sections, pipe profiles	1	17	66						88			
		Temporary construction transmission piping plan	1	8	16						8			
		Cost opinion	1	4	12									
		QC/QA review, incorporate comments	8	4	16						16			
	-004	FINAL DESIGN												\$40,700
		95% Design												
		Plan and profile		8	30						44		\$50	
		Resolve utility conflicts		4	12						12			
		Project specifications and bid schedule(s)		8	24									
		Cost opinion		2	6									
		QC/QA review and incorporate comments	8	4	16						16			
		CLIENT review workshop: plans, cost opinion, next steps		4	6									
		Bid Documents												
		95% Bidding and technical specifications (ISPWC)		8	24							12		
		95% Drawings		6	12						44			
		95% Cost opinion		2	8									
		QC/QA review, incorporate comments	8	4	16						8	4		
		Submit 95% to CLIENT and IDEQ		2	4						8	2		
		Incorporate CLIENT and IDEQ comments	2	4	8						8	4		
		Prepare 5 copies of Bid Documents		1	2						4	4	\$100	
TASK 100 - DESIGN PHASE SERVICES SUBTOTAL			34	159	363	40	51	100	72	0	286	50	\$1,100	

BASIS OF FEE (continued)

Task No.	Sub-Task No.	Task	Principal / QC	Project Manager	Design Engineer	Structural Engineer	Professional Land Surveyor	Field Surveyor + Equipment	Survey Tech	Construction Observation	CADD Design	Clerical	Subconsultants and Expenses	Subtask Total	
200	CONSTRUCTION PHASE SERVICES (TIME AND MATERIALS ESTIMATE)														
	-201	BIDDING AND CONTRACT AWARD ASSISTANCE												\$8,600	
		Bid advertisement, contractor coordination		2	4							2			
		Electronic bid document distribution through bidding website		1	2							4			
		Pre-bid meeting		6	8							2	\$50		
		Bid management (bidder questions and addenda)	1	6	8						8	2			
		Bid opening and contract award	1	6	6							4	\$50		
		Coordinate execution of agreements; issue Notice to Proceed		2	4							4			
	-202	CONSTRUCTION OBSERVATION AND CONTRACT ADMINISTRATION												\$107,100	
		Pre-construction meeting		4	6							2	\$50		
		Bi-weekly construction meetings (14 weeks of project activity)		14	28		4					10	\$700		
		Construction management (14 weeks of project activity)	4	47	94							4	\$150		
		Submittal review		8	20							4			
		Survey control and construction staking		2	6		6	36	8				\$150		
		Observation (10 hrs/day, 12 weeks)								600			\$3,000		
		Pay requests (4 total)		4	8					4		4			
		Final walkthrough and punchlist follow-up (4 weeks)		6	12					12		2	\$100		
		Record Drawings and Record of Survey for reset monuments		4	4		6	12	6		8	22	\$100		
TASK 200 - CONSTRUCTION PHASE SERVICES SUBTOTAL			6	112	210	0	16	48	14	624	30	44	\$4,350		
														TASK 100 - DESIGN PHASE SERVICES (LUMP SUM FEE)	\$117,200
														TASK 200 - CONSTRUCTION PHASE SERVICES (TIME AND MATERIALS ESTIMATE)	\$115,700
														TOTAL	\$232,900



J-U-B ENGINEERS, Inc.
AGREEMENT FOR PROFESSIONAL SERVICES

J-U-B ENGINEERS, INC.

Standard Exhibit A – Construction Phase Services

Client Name: City of Sandpoint

Project: Sand Creek Transmission Water Main Project

The Agreement for Professional Services dated _____ is amended and supplemented to include the following agreement of the parties with respect to Services during the construction phase of the Project.

For the purposes of this exhibit, 'Agreement for Professional Services' and 'the Agreement' shall refer to the document entitled 'Agreement for Professional Services,' executed between J-U-B and CLIENT to which this exhibit and any other exhibits have been attached.

For the purposes of this exhibit, the term 'Contract Documents,' shall be defined as documents that establish the rights and obligations of the parties engaged in construction and include the Construction Agreement between CLIENT and contractor, Addenda (which pertain to the Contract Documents), contractor's bid (including documentation accompanying the bid and any post-bid documentation submitted prior to the notice of award) when attached as an exhibit to the Construction Agreement, the notice to proceed, the bonds, appropriate certifications, the General Conditions, the Supplementary Conditions, the Specifications and the Drawings, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and J-U-B's written interpretations and clarifications issued on or after the Effective Date of the Construction Agreement. Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.

For the purposes of this exhibit, the term 'Work,' shall be defined as the entire construction or the various separately identifiable parts thereof required to be provided by the construction contractor under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction; all as required by the Contract Documents.

For the purposes of this exhibit, the term 'Site,' shall be defined as lands or areas indicated in the Contract Documents as being furnished by CLIENT upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by CLIENT which are designated for the use of contractor.

CONSTRUCTION PHASE SERVICES

J-U-B shall provide Construction Phase Services as agreed below. There is a "Yes" and "No" box to the left of each Service. If a box is marked "Yes", J-U-B agrees to perform the Service listed. If a box is marked "No", J-U-B undertakes no duty to perform the Service listed. If a duty or a condition of performance is listed below that is a responsibility of CLIENT, CLIENT's agreement to perform the same is assumed.

It is understood and agreed that J-U-B shall not, during the performance of Services, or as a result of observations of the Work in progress, supervise, direct, or have control over contractor(s) Work; nor shall J-U-B have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by contractor(s), for safety precautions and programs incident to the Work of the contractor(s) or for any failure of contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to contractor(s) furnishing and performing their Work or providing any health and safety precautions required by any regulatory agencies. Accordingly, J-U-B does not guarantee or warrant the performance of the construction contracts by contractor(s) nor assume responsibility of contractor(s) failure to furnish and perform their Work in accordance with the Contract Documents.

The CLIENT agrees that the general contractor shall be solely responsible for jobsite safety, and warrants that this intent shall be carried out in the CLIENT's contract with the general contractor. The CLIENT also agrees that the CLIENT, J-U-B and J-U-B's subconsultants shall be indemnified by the general contractor in the event of general contractor's failure to assure jobsite safety and shall be named as additional insureds under the general contractor's policies of general liability insurance.

Construction Phase

After receiving written authorization from CLIENT to proceed with the construction phase, J-U-B may provide the following Services with respect to this part of the Project:

- 1. General Administration of the Contract Documents. Consult with, advise, and assist CLIENT in J-U-B's role as CLIENT's representative. Relevant J-U-B communications with contractor shall be imputed to the CLIENT. Nothing contained in this Standard Exhibit A creates a duty in contract, tort, or otherwise to any third party; but, instead, the duties defined herein are performed solely for the benefit of the CLIENT. CLIENT shall agree to include this language in any such agreements it executes with contractor, subcontractors or suppliers.
2. Pre-Construction Conference. Participate in a pre-construction conference.

3. *Visits to Site and Observation of Construction / Resident Project Representative (RPR) Services.* In connection with observations of the Work while it is in progress:
- Yes
 No
- a. Periodic Site Visits by J-U-B.* Make visits to the Site at intervals appropriate to the various stages of construction, as J-U-B deems necessary, to observe as an experienced and qualified design professional the progress and quality of the Work. Such visits and observations, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to J-U-B in this Agreement, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on J-U-B's exercise of professional judgment as assisted by the RPR, if any. Based on information obtained during such visits and observations, J-U-B will determine in general, for the benefit of CLIENT, if the Work is proceeding in accordance with the Contract Documents, and J-U-B shall keep CLIENT informed of the progress of the Work.
- Yes
 No
- b. Resident Project Representative ("RPR").* When requested by CLIENT, provide the Services of a RPR at the Site to provide more extensive observation of the Work. Duties, responsibilities, and authority of the RPR, are as set forth in the section entitled Resident Project Representative, herein. Through more extensive observations of the Work and field checks of materials and equipment by RPR, J-U-B shall endeavor to provide further protection to the CLIENT against defects and deficiencies in the Work. The furnishing of such RPR's Services will not extend J-U-B's responsibilities or authority beyond the specific limits set forth elsewhere in this Agreement.
- Yes
 No
4. *Defective Work.* Recommend to CLIENT that the Work be disapproved and rejected while it is in progress if J-U-B believes that such Work does not conform generally to the Contract Documents or that the Work will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.
- Yes
 No
5. *Clarifications and Interpretations; Field Orders.* Recommend to CLIENT necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of the Work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Based on J-U-B's recommendations, CLIENT may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.
- Yes
 No
6. *Change Orders, and Work Change Directives.* Recommend to CLIENT Change Orders or Work Change Directives, as appropriate, and prepare required documents for CLIENT consideration. CLIENT may issue Change Orders or Work Change Directives authorizing variations from the requirements of the Contract Documents.
- Yes
 No
7. *Shop Drawings and Samples.* Review or take other appropriate action in respect to Shop Drawings, Samples, and other data that contractor is required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews or other action shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto.
- Yes
 No
8. *Substitutes.* Consult with and advise CLIENT concerning, and determine the acceptability of, substitute materials and equipment proposed by contractor.
- Yes
 No
9. *Inspections and Tests.* Make recommendations to CLIENT concerning special inspections or tests of the Work, and the receipt and review of certificates of inspections, testing, and approvals required by laws and regulations and the Contract Documents (but only to determine generally that the results certified indicate compliance with the Contract Documents).
- Yes
 No

- Yes 10. *Disagreements between CLIENT and Contractor.* Assist CLIENT in rendering formal written decisions on claims of CLIENT and contractor 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. In assisting in such decisions, J-U-B shall not be liable in connection with any decision rendered in good faith.
- No
- Yes 11. *Applications for Payment.* Based on J-U-B's on-site observations as an experienced and qualified design professional, and upon written request of CLIENT, review Applications for Payment and the accompanying supporting documentation. Assist CLIENT in determining the amounts owed to contractor and, if requested by CLIENT, recommend in writing to CLIENT that payments be made to contractor in such amounts. Such recommendations of payment will constitute a representation to CLIENT that, to the best of J-U-B's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of such Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, and subject to any subsequent tests called for in the Contract Documents or to any other qualification stated in the recommendation), and the conditions precedent to contractor's being entitled to such payments appear to have been fulfilled insofar as it is J-U-B's responsibility to observe the Work. In the case of unit price Work, J-U-B's recommendation of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Contract Documents). By recommending any payment and after reasonable inquiry, J-U-B shall not thereby be deemed to have represented that exhaustive, continuous, or detailed reviews or examinations have been made by J-U-B to check the quality or quantity of the Work as it is furnished and provided beyond the responsibilities specifically assigned to J-U-B in this Agreement and the Contract Documents. J-U-B's review of the Work for the purposes of recommending payments will not impose on J-U-B the responsibility to supervise, direct, or control such Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or contractor's compliance with laws and regulations applicable to its furnishing and performing the Work. J-U-B's review will also not impose responsibility on J-U-B to make any examination to ascertain how or for what purposes contractor has used monies paid to contractor by CLIENT; to determine that title to any of the Work, including materials or equipment, has passed to CLIENT free and clear of any lien, claims, security interests, or encumbrances; or that there may not be other matters at issue between CLIENT and contractor that might affect the amount that should be paid.
- No
- Yes 12. *Contractor's Completion Documents.* Receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals, Shop Drawings, Samples, other data approved, and the annotated record documents which are to be assembled by contractor in accordance with the Contract Documents (such review will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspection, tests, or approvals indicates compliance with, such Contract Documents); transmit them to CLIENT with written comments.
- No
- Yes 13. *Substantial Completion.* Promptly after notice from CLIENT that contractor considers the Work for this part of the Project is ready for its intended use, in company with CLIENT and contractor, conduct a site visit to determine if the Work is substantially complete. Provide recommendation to CLIENT relative to issuance of Certificate of Substantial Completion.
- No
- Yes 14. *Final Notice of Acceptability of the Work.* Assist CLIENT in conducting a final inspection to determine if the completed Work is acceptable so that J-U-B may recommend, in writing, that final payment be made to contractor.
- No
- Yes 15. *Additional Tasks.* Perform or provide the following additional construction phase tasks or deliverables as delineated in Attachment 1 – Scope of Services and/or Schedule and/or Basis of Fee, which is included with the Agreement.
- No

General Limitation of Responsibilities. J-U-B shall not be responsible for the acts or omissions of any contractor or of any of their subcontractors, suppliers, or any other individual or entity performing or furnishing any of the Work. J-U-B shall not be responsible for failure of any contractor to perform or furnish the Work in accordance with the Contract Documents. CLIENT shall agree to include this language in any such agreements it executes with contractor, subcontractors or suppliers.

J-U-B's Construction Phase Services will be considered complete on the date of Final Notice of Acceptability of the Work.

Post-Construction Phase

After receiving authorization from CLIENT to proceed with the post-construction phase, J-U-B may:

- Yes
 No
- 1. *Testing/Adjusting Systems.* Provide assistance in connection with the testing and adjusting of equipment or systems.

- Yes
 No
- 2. *Operate/Maintain Systems.* Assist CLIENT in coordinating training for CLIENT's staff to operate and maintain equipment and systems.

- Yes
 No
- 3. *Control Procedures.* Assist CLIENT in developing procedures for control of the operation and maintenance of, and recordkeeping for, equipment and systems.

- Yes
 No
- 4. *O&M Manual.* Assist CLIENT in preparing operating, maintenance, and staffing manuals.

- Yes
 No
- 5. *Defective Work.* Together with CLIENT, visit the Project to observe any apparent defects in the Work, assist CLIENT in consultations and discussions with contractor concerning correction of any such defects, and make recommendations as to replacement or correction of Defective Work, if present.

- Yes
 No
- 6. *Record Surveying.* Provide field surveying of readily accessible elements of the final completed construction to supplement the preparation of Record Drawings.

- Yes
 No
- 7. *Record Drawings.* Furnish a set of reproducible prints of Record Drawings showing significant changes made during the construction process, based on the annotated record documents for the Project furnished by the contractor.

- Yes
 No
- 8. *Warranty Inspection.* In company with CLIENT or CLIENT's representative, provide an inspection of the Project within one month before the end of the contractor correction period to ascertain whether any portion of the Work is subject to correction.

- Yes
 No
- 9. *Additional Tasks.* Perform or provide the following additional post-construction phase tasks or deliverables as listed in Attachment 1 - Scope of Services and/or Schedule and/or Basis of Fee, which is included with the Agreement.

The Post-Construction Phase Services may commence during the construction phase and, if not otherwise modified by the mutual agreement of CLIENT and J-U-B, will terminate at the end of the correction period.

CONSTRUCTION PHASE ADDITIONAL SERVICES

If authorized by CLIENT and expressly agreed by J-U-B; or, if performed by J-U-B with the knowledge of the CLIENT after the signing of the Agreement for Professional Services, J-U-B shall furnish or obtain from others Additional Services of the types listed in this paragraph:

1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by CLIENT if the resulting change in compensation for Construction Phase Services is not commensurate with the Services rendered; Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions proposed by contractor and Services after the award of the contract; Services in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by contractor; and Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of material equipment, or energy shortages.
2. Services involving out-of-town travel required of J-U-B other than visits to the Site or CLIENT's office.
3. Assistance in connection with bid protests, rebidding, or renegotiating the Construction Agreement.
4. Services in connection with any partial utilization of the Work by CLIENT prior to Substantial Completion.
5. Additional or extended Services during construction of the Work made necessary by (a) emergencies or acts of God endangering or delaying the Work, (b) the discovery of constituents of concern, (c) Work damaged by fire or other cause during construction, (d) a significant amount of defective Work, (e) acceleration of the progress schedule involving Services beyond normal working hours, and (f) default by contractor, including extensions of the construction period.
6. Evaluating an unreasonable number of claims submitted by contractor or others in connection with the Work.
7. Protracted or extensive assistance in refining and adjusting any equipment or system (such as initial startup, testing, adjusting, and balancing).
8. Services or consultations after completion of the construction phase, such as excessive inspections during any correction period and reporting observed discrepancies under guarantees called for in the Construction Agreement for the Work (except as agreed to under Construction Phase Services).
9. Preparing to serve or serving as a consultant or witness for CLIENT in any litigation, arbitration, or other legal or administrative proceeding involving the Project to which J-U-B has not been made a party.
10. Additional Services in connection with the Work, including Services which are to be furnished by CLIENT and Services not otherwise provided for in this Agreement.

RESIDENT PROJECT REPRESENTATIVE

If provided as part of Construction Phase Services, J-U-B shall furnish a Resident Project Representative ("RPR"), assistants, and other field staff to assist J-U-B in observing progress and quality of the Work. The RPR, assistants, and other field staff may provide full-time representation or may provide representation to a lesser degree.

Through such additional observations of the Work and field checks of materials and equipment by the RPR and assistants, J-U-B shall endeavor to provide further protection for CLIENT against defects and deficiencies in the Work. It is understood and agreed that J-U-B shall not, during the performance of Services, or as a result of observations of the Work in progress, supervise, direct, or have control over contractor(s)' Work; nor shall J-U-B have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by contractor(s), for safety precautions and programs incident to the Work of the contractor(s) or for any failure of contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to contractor(s) furnishing and performing their Work or providing any health and safety precautions required by any regulatory agencies. Accordingly, J-U-B does not guarantee or warrant the performance of the construction contracts by contractor(s) nor assume responsibility of contractor(s)' failure to furnish and perform their Work in accordance with the Contract Documents.

The RPR's duties under this Agreement shall be strictly limited to the following:

1. *General.* RPR is J-U-B's agent at the Site, will act as directed by and under the supervision of J-U-B, and will confer with J-U-B regarding RPR's actions.
2. *Schedules.* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by contractor and consult with CLIENT concerning acceptability of such schedules.
3. *Conferences and Meetings.* When requested by CLIENT to do so, attend meetings with contractor, such as preconstruction conferences, progress meetings, job conferences, and other project-related meetings.
4. *Liaison.* Serve as J-U-B's liaison with CLIENT.

5. *Interpretation of Contract Documents.* Report to CLIENT when clarifications and interpretations of the Contract Documents are needed.
6. *Shop Drawings and Samples.* Receive and record date of receipt of reviewed Samples and Shop Drawings.
7. *Modifications.* Consider and evaluate contractor's suggestions for modifications to Drawings or Specifications and report, with RPR's recommendations, to CLIENT. Transmittal to contractor of written decisions as issued by J-U-B will be in writing.
8. *Review of Work and Rejection of Defective Work.*
 - a) Conduct on-site observations of the Work to assist J-U-B in determining if the Work is, in general, proceeding in accordance with the Contract Documents.
 - b) Report to CLIENT whenever RPR believes that any part of the Work in progress will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents; has been damaged; or does not meet the requirements of any inspection, test, or approval required to be made. Advise CLIENT of that part of the Work that RPR believes should be corrected, rejected, or uncovered for observation, or that requires special testing, inspection, or approval.
9. *Inspections, Tests, and System Startups.*
 - a) Advise CLIENT in advance of scheduled major inspections, tests, and system start-ups for important phases of the Work.
 - b) Verify that tests, equipment, and system start-ups and operating and maintenance training is conducted in the presence of appropriate personnel and that contractor maintain adequate records thereof.
 - c) Observe, record, and report to CLIENT appropriate details relative to the test procedures and system start-ups.
 - d) Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to CLIENT.
10. *Records.*
 - a) Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Contract, J-U-B's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals, and other Project-related documents.
 - b) Prepare a daily report or keep a diary or log book, recording contractor's and subcontractors' hours on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; furnish copies of such records to CLIENT.
 - c) Maintain accurate, up-to-date lists of the names, addresses, e-mail addresses, and telephone numbers of all contractors, subcontractors, and major suppliers of materials and equipment.
 - d) Maintain records for use in preparing documentation of the Work.
 - e) Upon completion of the Work with respect to the Project, furnish a complete set of all RPR Project documentation to CLIENT.

11. *Reports.*
 - a) Furnish to CLIENT periodic reports as required of progress of the Work and of contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
 - b) Present to CLIENT proposed Change Orders, Work Change Directives, and Field Orders.
 - c) Furnish to CLIENT copies of all inspection, test, and system startup reports.
 - d) Report immediately to CLIENT the occurrence of any Site accidents, emergencies, acts of God endangering the Work, property damaged by fire or other causes, and the discovery or presence of any constituents of concern.
12. *Payment Request:* Review Applications for Payment for compliance with the established procedure for their submission and forward with recommendations to CLIENT, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site, but not incorporated in the Work.
13. *Certificates, Operation and Maintenance Manuals.* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals, and other data required by the Specifications to be assembled and furnished by contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to CLIENT for review.
14. *Completion.*
 - a) Before issuing a Certificate of Substantial Completion, submit to CLIENT a list of observed items requiring completion or correction.
 - b) Observe whether contractor has arranged for inspections required by laws and regulations, including but not limited to those to be performed by public agencies having jurisdiction over the Project.
 - c) Participate in a final inspection in the company of CLIENT and contractor and prepare a final list of items to be completed or corrected with respect to the Work.
 - d) Observe whether all items on final list have been completed or corrected and make recommendations to CLIENT concerning acceptance and issuance of CLIENT's Final Notice of Acceptability of the Work.

The RPR shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of J-U-B's authority as set forth in the Agreement for Professional Services .
3. Undertake any of the responsibilities of contractor, subcontractors, suppliers, or contractor's superintendent.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences, or procedures of construction or of the Work, unless such advice or directions are specifically required by the Contract Documents.
5. Advise on, issue directions regarding, or assume control over safety practices, precautions, and programs in connection with the activities or operations of CLIENT or contractor.
6. Participate in specialized field or laboratory tests or inspections conducted by others, except as specifically authorized.
7. Accept Shop Drawing or Sample submittals from anyone other than J-U-B.
8. Authorize CLIENT to occupy the Work in whole or in part.

CLIENT'S RESPONSIBILITIES

Except as otherwise provided herein or in the Agreement for Professional Services, CLIENT shall do the following in a timely manner so as not to delay the Services of J-U-B and shall bear all costs incident thereto:

1. Provide, as may be required for the Project, such legal services as CLIENT may require or J-U-B may reasonably request with regard to legal issues pertaining to the Project, including any that may be raised by contractor.
2. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings and Substantial Completion, final payment, and other inspections.
3. Give prompt written notice to J-U-B whenever CLIENT observes or otherwise becomes aware of any development that affects the scope or time of performance or furnishing of J-U-B's Services, or any defect or nonconformance in J-U-B's Services or in the Work of any contractor.
4. Render all final decisions related to: 1) changes or modifications to the terms of the construction contract, 2) acceptability of the Work, and 3) claims or Work stoppages.
5. Unless included in J-U-B Scope of Services, provide construction staking and materials testing services for the project.

The Client agrees to require all contractors of any tier to carry statutory Workers Compensation, Employers Liability Insurance and appropriate limits of Commercial General Liability Insurance (CGL). The Client further agrees to require all contractors to have their CGL policies endorsed to name the Client, the Consultant and its sub-consultants as Additional insureds, on a primary and noncontributory basis, and to provide Contractual Liability coverage sufficient to insure the hold harmless and indemnity obligations assumed by the contractors. The Client shall require all contractors to furnish to the Client and the Consultant certificates of insurance as evidence of the required insurance prior to commencing work and upon renewal of each policy during the entire period of construction. In addition, the Client shall require that all contractors will, to the fullest extent permitted by law, indemnify and hold harmless the Client, the Consultant and its sub-consultants from and against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising out of or in any way connected with the Project, including all claims by employees of the contractors.

INDEMNIFICATION

In addition to any other limits of indemnification agreed to between the Parties, CLIENT agrees to indemnify and hold harmless J-U-B, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work. This is to include, but not to be limited to any such claim, cost, loss, or damage that is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom to the extent caused by any negligent act or omission of contractor, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable, as well as any general, special or other economic damages resultant from Work stoppages or delays that are caused in whole or part by J-U-B's exercise of the rights and duties as agreed herein (Construction Phase Services).

CLIENT agrees that CLIENT will cause to be executed any such agreements or contracts with contractors, subcontractors or suppliers to effectuate the intent of this part before any Work is commenced on the Project; if CLIENT negligently fails to do so, CLIENT agrees to fully indemnify J-U-B from any liability resulting therefrom, to include, but not to be limited to, all costs relating to tendering a defense to any such claims made.