



TERMS & CONDITIONS

All professional services requested from Tri-County Engineering Consultants (TCEC) by the Client are only those services described in the Proposal or Agreement as agreed & authorized by the Client. TCEC agrees to perform and furnish the professional services as described in the signed Proposal in accordance with accepted professional standards. Quoted amounts do not include revisions that occur due to scope changes. Any revisions and / or extra services shall be billed on TCEC current hourly basis fee schedule (unless otherwise authorized by the Client in advance). All services not listed as part of the Proposal are excluded. TCEC makes no warranty, express or implied, as to its findings, recommendations, plans and specifications except that they were made or prepared in accordance with generally accepted engineering practices. All quotations are valid for 30 days from the date of the Proposal.

TCEC agrees to provide said services in a timely manner, provided, however, that TCEC shall not be responsible for delays in completing said services that cannot reasonably be foreseen on date hereof or for delays which are caused by factors beyond its control or delays resulting from the action or inaction of any government agency, Client, contractor, sub-contractor, or any other entity. TCEC shall not be required to perform services during any time that Client is delinquent in payment of monies due to TCEC.

TCEC invoices will be earned & billed monthly and shall be due and payable upon receipt. All amounts past due over 30 days will incur a finance charge of 1.5% (cumulative) per month past due. The Client shall be responsible for payment of all costs and expenses incurred by TCEC for its account, including any such monies that TCEC may advance for Client's account for any purpose whatsoever (plus 15% overhead charge).

If the Owner fails to make payments to the TCEC, such failure shall be considered substantial nonperformance and cause for termination or, at TCEC option, cause for suspension of performance of services under this Agreement. If TCEC elects to suspend services, prior to suspension of services, TCEC shall give written notice to the Owner. In the event of suspension of services, TCEC shall have no liability to the Owner for delay or damage caused to the Owner because of such suspension or termination of services. Before resuming services, TCEC shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of TCEC services. TCEC fees for the remaining services and the time schedules shall be equitably adjusted.

A mechanics lien will be recorded unless the account is paid in full or other prior arrangements have been made. All lien related charges such as filing or release, shall be the Client's responsibility. In the event of suit to effect collection for services rendered, Client shall also pay for all reasonable attorney's fees and court costs.

TCEC reserves the right to withdraw and terminate this proposal or agreement if an executed copy of the same is not returned to TCEC by the Client within 30 days of the date of signing a proposal for any services. Either TCEC or Client shall have the right to terminate this Agreement at any time by notifying the other party of such intention in writing, such notice to be effective as of the close of business the day of receipt. In such event, Client agrees to pay TCEC within 10 days of termination for all services performed up to the date of termination.

Neither Client nor TCEC shall assign its interest in this Agreement without written consent of the other, but TCEC may subcontract any portion of the services to be performed hereunder without such consent.

TCEC may provide certain estimates, including but not limited to evaluations of the Owner's project budget, completion dates, costs, quantities of materials, and areas to the Client. In providing opinions of estimates, the Client understands that TCEC has no control over the cost or availability of labor, materials or equipment, or over market conditions or the Contractor's method of pricing, and that the TCEC opinions of estimates and/or probable construction costs are made on the basis of the TCEC professional judgment and experience. TCEC makes no warranty, express or implied, that the bids or the negotiated cost of the Work will not vary from TCEC opinion of estimates and/or probable construction cost. Client agrees not to rely on any estimate and releases TCEC from any liability arising from Client's use thereof.

All reports, plans, specifications, computer files, field data, notes and other documents prepared by TCEC as instruments of service shall remain the property of TCEC. TCEC shall retain all common law, statutory and other reserved rights, including the copyright thereto. At such time as full compensation is made to TCEC, only hard and/or PDF copies of said documents shall become the property of the Client. The Client shall not reuse or make any modifications to such documents without the prior written authorization of TCEC.

At local public hearings or meetings, TCEC makes no representation, express or implied, that any governmental permits or approvals applied for as a part of the services requested and/or performed will be obtained, or that such permits or approvals will be obtained without administrative delay.

Unless otherwise stated in the Proposal hereon, it shall be the Client's responsibility to provide an accurate description of the property, scope, and project details to TCEC. TCEC will accept no liability arising from incorrect information furnished by the Client.



TERMS & CONDITIONS (CONTINUED)

In recognition of the relative risks and benefits of the Project to both the Owner and TCEC, the risks have been allocated such that the Owner agrees, to the fullest extent permitted by law, to limit the liability of TCEC and TCEC officers, directors, partners, employees, shareholders, owners and subconsultants for any and all acts, errors, or omissions committed, or alleged to have been committed, claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of TCEC and TCEC officer's, directors, partners, employees, shareholders, owners and subconsultants shall not exceed TCEC Proposal or Agreement amount for services rendered on this Project. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

TCEC and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Proposal or Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.

If, as a result of the performance of the services described in the Proposal, TCEC is joined as a party defendant in any litigation brought against the Client for loss of damages not directly and solely caused by the negligent acts, errors or omissions of TCEC. Client agrees to defend, indemnify and hold TCEC harmless from any and all liability, damages or costs related thereto.

No legal services, or consultation are covered or offered under this proposal or agreement, nor is any compensation for legal services contained herein.

No dues, bonds or retainage shall be withheld on any professional services performed by TCEC.

TCEC shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the construction work on any project, nor shall TCEC be responsible for the contractor's failure to perform the construction work in accordance with the requirements of the plans and specifications prepared by TCEC. TCEC shall not have control over or charge of, and shall not be responsible for, acts or omissions of the contractor or of any other persons or entities performing portions of the construction work.

If requested, TCEC shall review the contractor's submittals such as shop drawings, product data and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the plan and specifications issued by TCEC. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the contractor's responsibility. TCEC review shall not constitute approval of safety precautions or, unless otherwise specifically stated by TCEC, of any construction means, methods, techniques, sequences or procedures. TCEC approval of a specific item shall not indicate approval of an assembly of which the item is a component.

If requested, TCEC shall visit the project construction site to generally observe the construction work and answer any questions that the Owner may have. However, TCEC shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the construction work, or to determine whether the construction work is being constructed in accordance with the Contract Documents. If the Owner desires TCEC to perform more frequent or comprehensive observations of the construction work, this Agreement shall be amended to specifically state the additional scope of service, along with the additional compensation to be paid to TCEC for performing such service.

Neither the professional activities of TCEC, nor the presence of TCEC or its employees and subconsultants at a construction/project site, shall impose any duty on TCEC, nor relieve the General Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the Work in accordance with the Contract Documents and any health or safety precautions required by any regulatory agencies. TCEC and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. The Owner agrees that the General Contractor shall be solely responsible for jobsite and worker safety and warrants that this intent shall be carried out in the Owner's contract with the General Contractor. The Owner agrees that the General Contractor shall defend and indemnify the Owner, TCEC and TCEC subconsultants. The Owner also agrees that the Owner, TCEC and the TCEC subconsultants shall be made additional insureds under the General Contractor's policies of general liability insurance. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or TCEC. TCEC services under this Agreement are being performed solely for the Client's benefit, and no other party or entity shall have any claim against TCEC because of this Agreement or the performance or nonperformance of services hereunder. The Client and TCEC agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this Project to carry out the intent of this provision.