

CLIENT AUTHORIZATION

New Contract

Project No.: _____

Amendment No.:

Date: May 1, 2023

Project Name: Seabrook Beach Drainage Evaluation; Seabrook, NH

Client: Town of Seabrook
99 Lafayette Road
Seabrook, NH

Fee Proposal	
Estimated Labor	\$42,000.00
Meetings	Included
Estimated Expenses	<u>Included</u>
TOTAL	\$42,000.00

Requested by: William M. Manzi III
Town Manager

Lump Sum Time & Expenses
 Cost + Fixed Fee Other
Estimated Date of Completion:

Scope of Services:

The Town of Seabrook (Client) has retained TEC, Inc. (TEC) to provide engineering services for a drainage infrastructure evaluation at Seabrook Beach. TEC will evaluate existing drainage conditions and infrastructure at the beach, identify any issues and evaluate and recommend possible solutions. Services to be performed are as outlined in the tasks below:

Task 1 – Observation & Preliminary Assessment \$24,000.00

- Observe drainage infrastructure on existing Town roads and along approximately 4.5 miles of roadway over 33 streets at Seabrook Beach from the Hampton town line to the Salisbury town line east of Ocean Blvd (Rt. 1A). (survey not included with this proposal)
- Document the location of existing drainage structures.
- Observe existing grading along all inspected roadways to identify any grading issues and document all observed issues.
- Develop an observation log for all streets, characterizing surface topography and existing drainage structures.

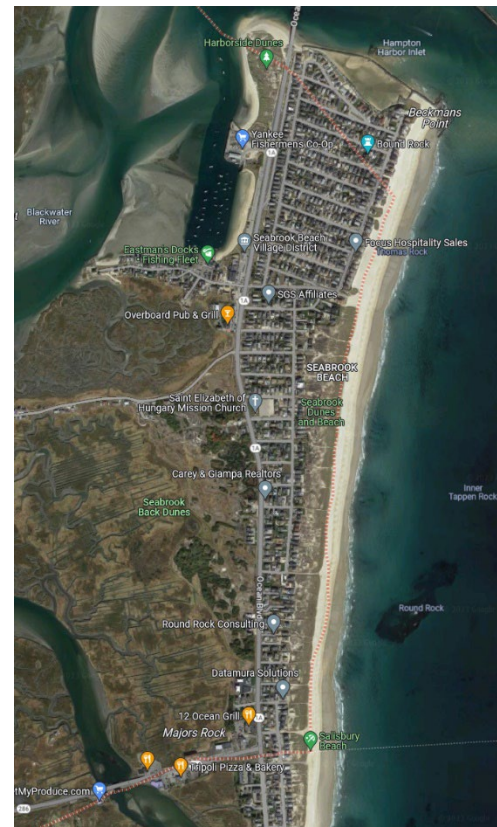
Task 2 – Evaluation & Recommendations Report \$18,000.00

- Develop an evaluation report that includes the inspection log for all existing conditions, highlighting any observed issues.
- Evaluate all issues identified during observation and identify potential solutions.
- Develop a Recommendations Report presenting potential design solutions to mitigate observed drainage issues.

Additional services not listed above may be performed at the request of the Client and will be considered an amendment to this agreement.

Services will begin upon signed authorization of this agreement. TEC will invoice the Client monthly on a percent complete basis for the services performed.

This proposal is valid for a period of 45 days.



Project Manager: CPR

Approver: RJF

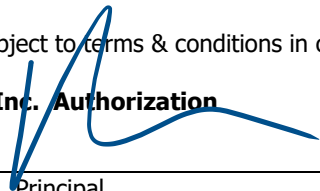
Please execute this Client Authorization for TEC, Inc. to proceed with the above scope of services at the stated estimated costs. No services will be provided until it is signed and returned to TEC.

Subject to attached terms & conditions

Subject to terms & conditions in our original agreement

TEC, Inc. Authorization

By



Client Authorization

(Please sign original & return)

By

Title Principal

Title

Date 5/2/2023

Date

TEC, Inc.
TERMS AND CONDITIONS OF AGREEMENT
 (Numbers 1 thru 25)

The engagement of TEC, Inc. (TEC) by the Client is under the following terms and conditions. These terms and conditions are integral to the collective Agreement between Client and TEC.

1. The fee estimate for the proposed Scope of Services is valid for 45 days from the date of Proposal.
2. Payment to TEC is the sole responsibility of signatory of this Agreement and is not subject to third party agreements.
3. All schedules in the Scope of Services commence upon receipt of a signed Agreement and, if requested, a retainer. All retainer amounts will be applied to the last invoice.
4. Invoices will be rendered monthly and become due upon receipt. Any invoice outstanding for more than 30 days after date of invoice will be subject to a financing charge of 1-1/2 percent per month.
5. Should it become necessary to utilize legal or other resources to collect any monies rightfully due for services rendered under this Agreement, TEC shall be entitled to full reimbursement of all such costs.
6. Invoice payments must be kept current for services to continue. If the Client fails to pay any invoice due to TEC within 30 days of the date of invoice, TEC may, without waiving any other claim or right against Client, suspend services under this Agreement until TEC has received all amounts due TEC and its Consultants and Subcontractors.

If TEC is performing services for the Client under multiple projects, invoice payments must be kept current on all projects. Client acknowledges TEC's right to suspend services and withhold plans and documents, as provided above, if payments are not current on all projects. If services are suspended for 30 days or longer, upon resuming services TEC shall be entitled to expenses incurred in the interruption and resumption of its services. If services are suspended for 90 days, TEC shall be entitled to expenses incurred in the interruption and resumption of its services and fees for remaining services shall be equitably adjusted.

7. TEC agrees to carry the following insurance during the term of this Agreement:
 - Workmen's Compensation and Employer's Liability Insurance in compliance with statutory limits.
 - Comprehensive General Liability Insurance including Products Completed, Contractual, Property, and Personal Injury coverage with combined single limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
 - Excess Umbrella Coverage for Personal Injury, Bodily Injury, and Property Damage with a limit of \$1,000,000 per claim and in the aggregate.
 - Professional Liability Insurance with a limit of \$1,000,000 per claim and in the aggregate.
 - Automobile Liability Insurance including non-owned and hired automobiles with the following limits:
 - Bodily Injury \$500,000 each person, \$500,000 each occurrence
 - Property Damage \$100,000 each occurrence

Certificates of insurance will be furnished upon request. If the Client requires additional insurance coverage, and it is available, Client agrees to reimburse TEC for such additional expense.

8. The Client and TEC shall at all times indemnify and save harmless each other and their officers, and employees on account of any claims, damages, losses, litigation, expenses, counsel fees, and compensation arising out of any claims, damages, personal injuries and/or property losses sustained by or alleged to have been sustained by any person or entity, to the extent caused by the negligent acts, errors or omissions of the indemnifying party, its employees, or subcontractors in connection with the Project, and/or under this Agreement.
9. TEC shall not be responsible for failure to perform or for delays in the performance of services which arise out of causes beyond the control and/or without the fault or negligence of TEC.
10. TEC shall be entitled to rely on the accuracy and completeness of data, reports, surveys, requirements and other information required to be provided by Client under this Agreement.
11. Client agrees to the fullest extent permitted by law, to indemnify and hold harmless TEC, its officers, employees and subconsultants from and against any and all claims, suits, demands, liabilities costs, including reasonable attorneys fees and defense costs caused by, 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 material that exist on, about or adjacent to the job site.
12. TEC's services will be performed on behalf of and solely for the benefit and exclusive use of Client for the limited purposes set forth in the Agreement. Client acknowledges that TEC's services require decisions which are not based upon science, but rather upon judgmental considerations. Client may not delegate, assign, sublet or transfer its duties or interest in this Agreement without the written consent of TEC.
13. In the performance or furnishing of professional services hereunder, TEC, and those it is responsible for, shall exercise the degree of skill and care customarily accepted as good professional practices and procedures by members of the same profession currently practicing under similar conditions in the same locality ("Standard of Care").

Consistent with this Standard of Care, the services shall conform to applicable laws, codes, ordinances and regulations of any governmental agency having jurisdiction over the project, at the time services are rendered. TEC shall perform its services as expeditiously as is consistent with the Standard of Care and with the orderly progress of the Work.
14. TEC shall not be required to sign any documents, no matter by whom requested, that would result in TEC's having to certify, guaranty or warrant the existence of conditions that TEC cannot ascertain. Any certification provided by TEC shall be provided based on TEC's knowledge, information and belief subject to the preceding sentence, and shall be given in TEC's professional opinion consistent with the Standard of Care. TEC shall be compensated for any work necessary to verify project compliance with regulatory standards for purposes of such certification.

TEC, Inc. Terms and Conditions of Agreement (Continued)

15. Client hereby agrees that to the fullest extent permitted by law, TEC's total liability to Client and any persons or entities claiming by, through or under the Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to the Project and/or this Agreement from any cause or causes including, but not limited to TEC's negligence, errors, omissions, strict liability, statutory liability, indemnity obligation, breach of contract or breach of warranty shall not exceed the lesser of \$50,000 (fifty thousand dollars) or contract value.

16. All documents including Drawings and Specifications (whether in hard or electronic form) prepared by TEC pursuant to the Agreement are instruments of service with respect to the Project. They are not intended or represented to be suitable for reuse by the Client or others on extensions of the Project or on any other Project. Any reuse by Client or a third person or entity authorized by Client without written verification or adaptation by TEC for the specific purpose intended will be at the Client's sole risk and without liability or legal exposure to TEC; and the Client, shall release, indemnify and hold harmless TEC from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle TEC to additional compensation at rates to be agreed upon by TEC and the third person or entity seeking to reuse said documents.

If any information hereunder is provided in electronic format, Client recognizes that such plans, documents or other information recorded on or transmitted as electronic media, including CADD documents ("Electronic Documents") are subject to undetectable alteration, either intentional or unintentional, due to, among other causes, transmission, conversion, media degradation, software error, or human alteration. Electronic Documents are provided to Client for informational purposes only and not as record documents.

17. To the extent permitted by law, TEC retains the copyright in all written work products, including plans, specifications, calculations, computer programs, and computer generated materials in any form, produced in connection with the work under this agreement, unless otherwise agreed to in writing by an authorized TEC representative. Subject to Term No. 16 above, TEC licenses to Client the use of all written work products, including plans, specifications, calculations, and computer generated materials in any form, produced in connection with the work under this agreement on a non-exclusive basis.

18. All questions in dispute under this Agreement shall be submitted to non-binding mediation. On the written notice of either party to the other of the election to submit any dispute under this Agreement to mediation, each party shall designate their representative and shall meet within ten (10) days after the service of the notice. The parties themselves shall then attempt to resolve the dispute within ten (10) days of meeting. Should the parties themselves be unable to agree on a resolution of the dispute, then the parties shall proceed with mediation in accordance with the mediation rules of the American Arbitration Association. The cost of mediation shall be borne equally by both parties. This process shall be considered as a condition precedent to moving to a more formal or judicial process.

19. Notwithstanding any other provision of this Agreement, neither party shall be liable to the other for any incidental, special, indirect or other consequential damages incurred due to the fault of the other party regardless of the nature of the fault or whether it was committed by the Client or TEC, or their employees, subconsultants, or subcontractors. Consequential damages include, without limitation, liability for loss of use of the Project or existing property, loss of profits, loss of production or business interruption.

20. In entering into this Agreement, Client has relied only upon the representations set forth in this Agreement. No verbal warranties, representations or statements shall be considered a part of this Agreement or a basis upon which the Client relied in entering into this Agreement. No statements, representations, warranties or understandings, unless contained herein, exist between Client and TEC.

21. 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 TEC. TEC's services under this Agreement are being performed solely for the benefit of the Client and no person or other entity shall have any claim against TEC because of this Agreement. In addition, nothing herein shall be construed as creating a contractual relationship between the Client and any TEC employee, representative or consultant. The Client agrees that in the event of a dispute regarding this Agreement or the services rendered by TEC hereunder, the Client shall only seek recourse against TEC and waives any right to pursue a claim against TEC's individual directors, officers or employees.

22. Any taxes or fees, enacted by local, state or federal government and based on gross receipts or revenues, will be invoiced to and payable by Client as an additional amount due under this Agreement.