

Client Name: Town of ledyard
Project/Proposal #: P2678.00
Date: September 13, 2010
Project Director: Mark Zarrillo

SMMA Standard Terms and Conditions, 2010

CONTRACT FORM: Services are provided under a an accepted letter Proposal.

These Standard Terms and Conditions and the accompanying Proposal constitute the full and complete Agreement of the parties and may be amended, added to, superseded, or waived only if both parties agree in writing.

FEE:

Fixed Fee including Expenses.

Compensation for Basic Services will be computed as a Fixed Fee in the Amount of: Sixty thousand Dollars (\$60,000) which includes project expenses.

Additional Services:

Compensation for authorized Additional Services will be computed on a Time and Expenses Basis at a multiple of two and five tenths (2.5) times the Employee's Direct Personnel Expense.

REIMBURSABLE EXPENSES FOR ADDITIONAL SERVICES: The following items of direct non-salary expenses will be billed at our cost plus fifteen percent (15%):

1. Transportation and living expenses incurred in connection with the project.
2. Automobile expenses per allowable rates per mile plus toll charges, or use of rental cars.
3. Telephone calls plus outgoing fax transmissions which are reimbursed at \$1.25 for outgoing transmissions.
4. Purchase of specialized supplies in connection with the project.
5. Photographs and processing for project records.
6. Reproduction and plotting of drawings, specifications and reports.
7. Postage, handling, and delivery costs.

SERVICES OF OTHERS: On occasion, we engage the specialized services of individual consultants or other companies to participate in a project. When considered necessary, these firms or other consultants will be used with your approval. The cost of such services will be billed at our cost plus fifteen percent (15%).

BILLING & PAYMENT: Invoices will be submitted monthly for services performed during the previous month. Payment is due upon receipt of the invoice. Interest will be added to accounts in arrears (30 days) at the rate of one percent (1.0%) per month (12% per annum) or the maximum rate allowed by law, whichever is less. For the collection of any delinquent account, SMMA will be reimbursed for all court costs and reasonable attorneys' fees incurred.

DOCUMENTS: All reports, notes, drawings, specifications, data, calculations, and other documents prepared by SMMA ("Documents") are instruments of SMMA's services that shall remain SMMA's property. The Client agrees not to use the Documents for future additions or alterations to this Project or for other projects without SMMA's express written consent. Any unauthorized use of the Documents will be at the Client's sole risk and without liability to SMMA or its subconsultants. Accordingly, Client shall defend, indemnify, and hold harmless SMMA from and against any and all losses, claims, demands, liabilities, suits, actions, and damages whatsoever arising out of or resulting from such unauthorized use.

CONSTRUCTION PHASE SERVICES: When construction-phase services are included in the Agreement, SMMA will provide personnel to determine in general whether construction is proceeding in a manner consistent with the Documents. SMMA is not responsible for construction means, methods, techniques, sequencing or procedures, or for safety precautions or programs in connection with the Project.

STANDARD OF CARE: SMMA and its subconsultants will exercise that degree of care and skill ordinarily exercised by similarly situated architects and engineers practicing under similar circumstances. Client agrees that services provided will be rendered without any warranty, express or implied. SMMA shall exercise usual and customary professional care in its efforts to comply with codes, regulations, laws, rules, ordinances, and such other requirements in effect as of the date of execution of this Agreement.

OPINION OF PROBABLE COSTS: When required as part of our services, SMMA will furnish opinions of probable cost but does not guarantee, warrant or represent the accuracy of such estimates. Opinions of probable cost prepared by SMMA hereunder will be made on the basis of SMMA's experience and qualifications and will represent SMMA's judgment as an experienced and qualified design professional. However, users of the probable cost opinions must recognize that SMMA does not have control over the cost of labor, material, equipment, or services furnished by others or over market conditions or contractors' methods of determining prices for performing the work.

SUSPENSION/TERMINATION OF WORK: The Client may, upon seven (7) days written notice, suspend or terminate further work by SMMA. The Client shall remain liable for, and shall promptly pay SMMA for all services rendered to the date of suspension or termination.

SMMA may suspend or terminate this Agreement upon seven (7) days written notice if the Client fails to substantially perform in accordance with this Agreement. Failure to make payments in accordance herewith shall constitute substantial nonperformance. This Agreement shall automatically terminate if payment is not brought current within seven (7) days of notice of suspension. SMMA shall have no liability to the Client for delay or damage caused by the Client because of such suspension of services.

CONSEQUENTIAL DAMAGES: SMMA and the Client waive consequential damages, including but not limited to damages for loss of profits, loss of revenues and loss of business opportunities, for claims, disputes or other matters in question arising out of or relating to this Agreement.

HAZARDOUS MATERIALS: If SMMA encounters, or reasonably suspects that it has encountered, hazardous materials in the project, SMMA shall cease activity on the project and promptly notify the Client. The Client shall initiate action, where appropriate, to identify and investigate the nature and extent of the hazardous materials in the project and abate and/or remove the same as may be required by federal, state or local statute, ordinances, code, rule, or regulation now existing or hereinafter enacted or amended. Unless otherwise specifically provided in writing, the services to be provided by SMMA do not include identification of hazardous materials, and SMMA has no duty to identify the same within the area of the project.

MISCELLANEOUS:

Governing Law: The substantive laws of Massachusetts shall govern any disputes between SMMA and the Client arising out of the interpretation and performance of this Agreement.

Mediation: SMMA and the Client agree that any disputes arising under this Agreement and the performance thereof shall be subject to nonbinding mediation as a prerequisite to further legal proceedings.

Reliance: Unless otherwise specifically indicated in writing, SMMA shall be entitled to rely, without liability, on the accuracy and completeness of information provided by Client, Client's consultants and contractors, and information from public records, without the need for independent verification.

Certifications: SMMA shall not be required to sign any documents, no matter by whom requested, that would result in SMMA's having to certify, guaranty, or warrant the existence of conditions that would require knowledge, services or responsibilities beyond the scope of this Agreement.

Third Parties: Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Client or SMMA. SMMA's services hereunder are being performed solely for the benefit of the Client, and no other entity shall have any claim against SMMA because of this Agreement or SMMA's performance of services hereunder.

LIMITATION OF LIABILITY: It is agreed that SMMA's liability to you for any nature of damages arising out of or caused by any error, omission, negligence, strict liability, breach of contract or breach of any other obligation in connection with this Agreement shall be limited to the amount of A/E fees received pursuant to this Agreement, and that you will accept this limited amount as full satisfaction of all claims you may assert for damages arising from SMMA's services.

If you desire to increase the limit of SMMA's liability for damages, SMMA will waive or increase this limitation of liability upon your written request within thirty (30) days, provided you agree to pay the premium for additional insurance coverage for the increased liability limits you request.

SMMA SYMMES MAINI & MCKEE ASSOCIATES

ACCEPTED BY:

Signature

Date