

July 7, 2020

Ms. Edie Twining
Halls Road Improvement Committee
c/o Town of Old Lyme
52 Lyme Street
Old Lyme, CT 06371

655 Winding Brook Drive
Glastonbury, CT 06033

Tel: 860-652-8227

www.bscgroup.com

RE: Proposal for Real Estate and Planning Services
Halls Road Master Plan and Streetscape

Dear Ms. Twining:

BSC Group-Connecticut, Inc. (BSC) is pleased to submit this proposal to the Halls Road Improvement Committee (the “Committee”) for planning/design services in support of improvements to the Halls Road area.

BSC has prepared this proposal based upon the following understanding of your needs and circumstances that have affected the scope of services:

1. BSC’s scope of services will focus on refining the Vision/Master Planning work done by the Town of Old Lyme’s Halls Road Improvement Committee following the development of the “Halls Road Improvements, Concept Development”. This will generally include the development of updated base mapping, a real estate market analysis, and master planning to include new data inputs (e.g. “basis of design”) and refinements (i.e. a Master Plan update)
2. BSC has also included an optional scope of services (refer to Section 1.1 herein) for identifying and developing a conceptual design with a focus on “core” improvements that are achievable (fundable) in the near-term within the Project Corridor. These “core” improvements will focus on developing an overall theme, major building blocks, and individual elements of a streetscape that is in unison with, and complimentary to, planned and future improvements as defined by the final Master Plan.
3. BSC is pleased to be joined by Bartram & Cochran as our real estate subconsultant. Bartram & Cochran will provide a real estate market analysis for the project area and contemplate development and urban design scenarios. Bartram & Cochran’s services will be fully-integrated into BSC’s services.

1.0 SCOPE OF SERVICES

To meet the goals defined above, BSC proposes to provide the following specific services in accordance with the attached Terms and Conditions that are made a part of this Agreement.

Phase 1 - Data Gathering

1. BSC will prepare a “base plan” of the Project Area based on existing data compiled by the Committee, 2016 orthophotography and Light Detection and Ranging (LIDAR) data from the State of Connecticut, available mapping from the Connecticut Department of Transportation (CTDOT), and pertinent data gathered from Town records (Geographic Information Systems, Tax Assessor, etc.). The mapping will be considered a “compilation map” and will be used as the basis for all design work. No actual land surveying will be conducted. In addition to the project area as defined by the “Halls Road Improvements,

Engineers

Environmental
Scientists

GIS Consultants

Landscape
Architects

Planners

Surveyors



Concept Development”. BSC will expand the Project Area to include the intersection of Halls Road and Lyme Street including the former Lyme Fine Arts Academy campus just to the south of the Interstate 95 (I-95) overpass on Lyme Street.

2. BSC will contact utility providers serving the Project Area to gather key information relative to the existing utility infrastructure and planned service upgrades. BSC will also make initial inquiries with Town and State stakeholders such as local zoning, CTDOT, and related entities to obtain feedback and information regarding key elements of the existing Master Plan (e.g. zoning, rights-of-way, ownership of critical properties, etc.).

Phase 2 - Real Estate/Development Analysis

Project Kick-Off, Project Area Review, and Market Area Tour

The BSC team will participate in an “all hands” kick-off meeting where we will meet with the Committee and other stakeholders (as defined by the Committee) to review the data gathered to-date and walk/drive both the Project Area and the market area. The team will prioritize the assets to be studied, breaking the area into 3 to 4 “clusters”. The team will observe existing conditions, design constraints, and other physical features within the Project Area. We also envision that during the meeting, we will discuss the current Master Plan, overall vision, “needs and wants”, and existing conditions. These discussions will inform pertinent issues, layout and design concepts, ideas, benefits/drawbacks of options, concerns, special considerations, and any existing or desired factors that affect the Real Estate/Development Analysis and Master Planning process.

The market area tour would include looking at the senior center and senior housing in downtown Old Saybrook, as well as that Town’s plans for Boston Post Road East’s bike path and sidewalk system.

The team will build-off of previous work completed by both the Town of Old Lyme and AdvanceCT, to identify opportunities and establish the current Grand List for the Project Area.

Meetings: Committee Meeting No. 1.

Review of Market Condition by Use Type

The BSC team will perform a market assessment that will begin with an evaluation of the effective market area associated with each use that may be considered for redevelopment. The market area definitions will be drawn from the demographic data and experience with similar sites and locations within the region. The evaluation will establish assumptions and parameters associated with achievable rents, absorption rates, and scale and type of development and tenancy that may be anticipated. The evaluation will consider several specific sectors including:

- Housing – The housing evaluation will consider market conditions for a wide range of housing types that might be absorbed within the site. In addition to conventional rental and sales, the evaluation will consider senior housing, live-work housing, and other housing types.
- Retail – The retail evaluation will use subscription service data to undertake a demand evaluation using standard leakage analysis. The results be used to assemble a summary of likely opportunities for various retail segments including various types of restaurant- and food-related uses, convenience and specialty retail establishments.



- Commercial – the evaluation of the commercial market is likely to focus on various types of office users including medical offices and related uses that are likely to show positive demand characteristics at this site.

Summary of Market Conditions and Redevelopment Program

The BSC team will prepare a summary letter conveying the market conditions and the demand characteristics for each of the market segments. Descriptions about the projections will be assembled into a matrix of possible redevelopment programs that may be reasonably feasible within a 10-year period. This will include assumptions about absorption rates and will serve as a basis for the subsequent redevelopment scenario (Master Plan update) and for pro forma analysis.

Meetings: Committee Meeting No. 2.

Case Studies

Research - The BSC team will research and prepare 3 to 4 case studies of community redevelopment examples similar to Old Lyme and successful precedents of mixed-use development that retained historic resources and provided opportunities leading to private sector reinvestment. The candidates for the case studies will be assembled based on the team's experience, along with the suggestions from the Committee and other stakeholders. The subjects for the case studies will be chosen for their relevance in terms of the scale, location, market characteristics and development history.

Evaluation and Observations - The team will contribute to evaluations and observations that will be prepared for the 3 to 4 case studies consisting of images, project summaries, and relevant implications regarding special approaches and tools that may be considered for the subject area. The observations will also indicate aspects of the projects that were not successful and describe mistakes or missteps that should be avoided. Links to additional information and contacts will be provided for each project.

Alternative Development Scenarios and Financial Evaluations

The team will assemble composite pro forma financial evaluations for the entire site and the redevelopment component for each of the major components. The pro formas will be based on cost estimate and revenue assumptions provided in previous tasks.

Integral to the program analyses will be identifications of gap funding or financing required to attract private sector redevelopment. The gap evaluations will take into account available programs and incentives including state and federal tax credits and other programs. The mechanisms associated with special tools such as Tax Increment Financing, Special Tax Districts, and other innovative tools will also be considered relative to their potential importance or necessity.

In addition to the illustrative scenarios, information provided by site owners (if available) will be examined using the same pro forma model. This model will provide insight regarding feasibility under current conditions of both the original and revised proposal.

This work will consider the physical constraints, including infrastructure, that affect development. For instance, if the market demand shows that 40 units with 60 total bedrooms



are feasible, but utility capacity analysis shows that a specific site can only support 30 units, that limitation will be incorporated into the analysis.

Meetings: Committee Meeting Nos. 3 and 4.

Phase 3 - Master Plan Update

1. BSC will host a Master Plan meeting (Meeting No. 5) with the Committee to review the “Halls Road Improvements, Concept Development” Master Plan to discuss revisions/updates that are informed by the key information obtained in Phase 1 and 2. gathered, as discussed previously. The meeting will also be used to align the physical aspects of the updated Master Plan with the economic analysis, and to review the draft report prior to the final report being completed. To support this meeting, BSC will develop a Feasibility Matrix of the primary elements that comprise the Committee’s vision as depicted on the current Master Plan, supplemented with the matrix of possible redevelopment programs developed during Phase 2. The Feasibility Matrix will also include the results of reviews of existing infrastructure constraints and potential for expansion of infrastructure within the project area. BSC will also review with the Committee previously-gathered community input to include that feedback into the Master Plan update as applicable.
3. Following review and coordination with the Committee, BSC will seek additional input from Town and State stakeholders to identify constraints and to define which Master Plan elements can be prioritized for implementation.
4. BSC will develop an update of the Master Plan that incorporates applicable revisions based on coordination with the Committee, community feedback, current and anticipated utility infrastructure, regulatory feedback, feedback/requirements of the CTDOT, and community input data. The master plan will also include options that illustrate variable improvements that are dependent on other factors such future infrastructure and/or regulatory revisions. As part of this process, BSC will work with the Committee to provide general design concepts for items such as complete streets, pedestrian bridge and pathways, crosswalks, traffic, infrastructure, density, setbacks, and recommendations regarding mixed-use zoning.
5. BSC will compile a Master Plan report which, in general, will include:
 - Executive Summary
 - Site and Development Context
 - Market Context
 - Redevelopment Scenarios
 - Findings and Recommendations
 - Master Plan
 - Action Plan

BSC will prepare a draft version of the report (to include the Master Plan update), and conduct a review meeting with the Committee (Meeting No. 6). Based on this review meeting, BSC will make one consolidated set of revisions to the Master Plan update and report and submit a final copy to the Committee.

Meetings: Committee Meetings Nos. 5 and 6.



1.1 OPTIONAL SERVICES

Optional Task 1 - Conceptual Design

1. Using the base mapping and data from our initial Project Area visit, we will prepare an initial conceptual design for the Project Area that focuses on roadway corridor enhancements such as a road diet, traffic calming measures, sidewalks, improved crosswalks, street lighting, signage, greenbelt/landscaping, street trees, revised or new curb cuts, pedestrian bridge and other items identified by the Master Plan update as priority projects.
2. Initial Review Meeting - We will meet with the Halls Road Improvements Committee to review the initial iteration of the conceptual design and solicit your feedback. We will then schedule a meeting with CTDOT to solicit their feedback on the proposed improvements.
3. Based on the initial review meetings, BSC will refine the initial conceptual design with desired changes, additional details, refinements, etc. During this refinement, we will also develop an initial 2-dimensional colored rendering to begin the master plan visualization process. We will also compile example colored images of the various elements included in the conceptual design.
4. BSC will prepare an initial conceptual cost estimate based on the revised Master Plan. This estimate will utilize the Unit Quantity Method and will be based on the material types and quantities included. To calculate costs, we will utilize unit pricing applicable to each material type as obtained from CTDOT pricing, recent projects, contractor inquiries, and other industry sources. The estimate will be broken down by applicable Construction Specifications Institute (CSI) numbered divisions.
5. Follow-up Review Meeting - We will meet with the Halls Road Improvements Committee to review the revised conceptual design, rendering, example images, and initial conceptual cost estimate.
6. Based on the follow-up meeting, BSC will continue to refine the conceptual design with desired changes, additional details, etc. During this refinement process, we will update the 2-dimensional colored rendering and develop several 3-dimensional visualizations of a select portion of the Project Area. We will also update the example colored images of the various elements included in the conceptual design and update the cost estimate.
7. We will work with the Halls Road Improvements Committee to revise the conceptual design to a final product. The conceptual design package will include:
 - 2-dimensional black and white key and dimensional plan
 - 2-dimensional colored conceptual plan rendering, including “short-term” (core infrastructure) and “long-term” (Master Plan).
 - 3-dimensional colored rendering (one view).
 - Image board to depict examples of the various elements included in the conceptual design.
 - Master Plan narrative which discusses the concept, approach, permitting, CTDOT process, etc.

We will submit the final conceptual design to the Halls Road Improvements Committee in both hard copy (as a 24 - inch by 36-inch colored print) and electronic format (Portable Document Format; .pdf). We will also submit a conceptual cost estimate that represents the improvements depicted on the conceptual design.



2.0 ADDITIONAL SERVICES

The following services are not included as a part of our proposed scope. These services may become necessary based upon the conclusions derived from the performance of the proposed services. If required, these services will be performed for an additional fee in accordance with an approved contract amendment.

1. Land surveying or boundary surveying.
2. Tracing or intrusive investigations related to locating subsurface utilities, test pits, or subsurface conditions.
3. Wetlands delineation or environmental assessments of any kind.
4. Development of detailed property mapping. All property lines will be based on previously-prepared mapping provided by the Committee.
5. Preparation of a Master Plan Report document. Deliverables will include diagrammatic and summary-level information as described in Section 1.0.
6. Public meetings or presentations.
7. Detailed design guidelines. Design guidelines will be included in general terms to match the vision of the Master Plan, whereas the development of detailed design guidelines would be completed at later stages in concert with zoning revisions.
8. Detailed design or specifications. As a master plan and conceptual design effort, the development of detailed designs /specifications would be completed later in the process as specific projects are implemented within the Project Area.

3.0 SCHEDULE FOR SERVICES

BSC is prepared to initiate work immediately upon the Town's authorization to proceed. We will work with you at the outset of the project to develop an overall schedule that meets your needs.

4.0 FEES FOR SERVICES

BSC proposes to provide the services indicated in Section 1.0 for a lump sum labor fee of \$29,000. In addition to labor fees, direct expenses such as mileage, postage, shipping, and printing will be charged "at-cost".

Optional Services

Optional Task 1 - Conceptual Design: Lump sum labor fee of \$10,000

In addition to the labor fee, direct expenses such as mileage, postage, shipping, and printing will be charged "at-cost".

5.0 GENERAL CONSIDERATIONS

1. BSC will perform all services in a timely manner, but it is agreed between the parties that BSC cannot be responsible for delays occasioned by factors or parties beyond its control, nor by factors which could not reasonably have been foreseen at the time this Agreement was prepared and executed. Delays of this nature shall extend the completion date.
2. BSC's submittal will depend on the timely receipt of any required information from other project team members and/or the Client.



3. During the performance of the services described within this Agreement, the Scope of Services, and compensation therefore, may be adjusted by mutually agreed upon Amendments to this Agreement.
4. The attached "Statement of Terms and Conditions" is made a part of this Agreement.
5. This proposal is valid for a period of thirty (30) days.
6. Client understands that BSC's services are labor intensive. BSC typically bills clients monthly. Unless otherwise agreed in writing, payment of each BSC invoice is due within 30 days of receipt and interest will accrue after 30 days. Invoices/payment will not be subject to retainage and payment will not be contingent upon any type of lien waiver, regulatory approval, project financing, etc. Client understands that BSC's services may be put on hold or terminated if invoices are not paid per this Agreement. It is the Client's responsibility to review invoices upon receipt. If there are any items which the Client wishes to discuss with BSC, it is the Client's responsibility to contact BSC to request any needed clarification. In the absence of any such request from the Client within 30 days from the date when rendered, it is agreed that the amount invoiced is correct and shall be paid in full to BSC.
7. The scope of services presented herein for permitting services applies to the preparation and submittal of permit applications only. The review of permit applications and determination as to eligibility for permit approval and/or issuance of permits is solely determined by the applicable regulatory agencies/permitting authorities. BSC does not guarantee that execution of the scope of services presented herein will result in permit approval and/or issuance of permits. Payment for services is not contingent upon permit approvals.

Please execute two (2) copies of this Agreement and initial the attached Terms and Conditions and return one (1) copy with an original signature for our records. BSC welcomes the opportunity to provide professional services for this project.

We appreciate the opportunity to be considered by the Town for these services. Please contact me at 860-652-8227 (extension 4558) if you have any questions.

Sincerely,

BSC Group – Connecticut, Inc.

Michael Kluchman, ASLA, LEED AP
Landscape Architecture Manager

Attachments: 1) Terms and Conditions



AGREED AND ACCEPTED BY:
The Town of Old Lyme

APPROVED BY:
BSC Group – Connecticut, Inc.

Authorized Signature

Kurt A. Prochorena, P.E., LEED AP
Principal

Printed Name

7-7-2020
Date

Date

STATEMENT OF TERMS AND CONDITIONS

The terms and conditions set forth herein are incorporated, by reference, in the Proposal for Services, dated July 7, 2020, directed to Town of Old Lyme ("Client"). This Proposal contains clauses that limit Company's liability to Client and require Client to indemnify Company for some claims and damages. The Proposal should be reviewed carefully, and Client may choose to consult with an attorney. BSC Group, Inc., ("Company") and Client agree as follows:

Section 1. Services

Company shall provide Client with the "Services" set forth in the Proposal for Services ("Proposal") with respect to the property identified in the Proposal (the "Site"), under the terms and conditions set forth herein. Company's Services will be performed on behalf of and solely for the exclusive use of Client for the purposes set forth in the Proposal and for no other purpose. Client acknowledges that Company's Services require decisions which are based upon judgmental considerations stemming from limited data and time and budgetary constraints imposed by Client rather than upon scientific certainties. Client, in accepting Company's Proposal, acknowledges the inherent risks to Client and its property associated with the work described in the Proposal and with underground work in general. Company shall perform Services in accordance with generally accepted practices of like professionals undertaking similar services on behalf of any project or on behalf of similar projects in the same region.

Limitation of Services. Client agrees that such Services shall be rendered without any other warranty, express or implied, and, subject to all other limitations herein contained. Company shall be responsible only for such injury, loss or damage to the extent caused by the negligent acts, errors, omissions or willful misconduct of Company, its employees, or those for whom it is legally responsible.

- a) **Confidentiality of Services Rendered.** Company will not disclose information regarding the Proposal, Company's Services or its Report, except 1) to Client, or 2) parties designated by Client. Information which is in the public domain or which is provided to the Company by third parties is excepted from the foregoing undertaking.

Section 2. Billing and Payment

- a) Client will pay Company for Services performed in accordance with the rates and charges set forth in the Proposal. Invoices for Company's Services will be submitted on a periodic basis, or upon completion of Services, as Company shall elect. All invoices will be due and payable on receipt. Invoice balances remaining unpaid for thirty (30) days after invoice date will bear interest from invoice date at 1.5 percent per month or at the maximum lawful interest rate, if such lawful rate is less than 1.5 percent per month. If Client fails to pay any invoice in full within thirty (30) days after invoice date, Company may, at any time and without waiving any other rights or claims against Client and without thereby incurring any liability to Client, elect to terminate performance of Services upon ten (10) days prior written notice by Company to Client. Notwithstanding any termination of Services by Company for non-payment of invoices, or for reasons set forth in Section 9, Client shall pay Company in full for all Services rendered by Company to the date of termination of Services plus all interest, termination costs and expenses incurred by Company and related to such termination. Client shall be liable to reimburse Company for all costs and expenses of collection, including reasonable attorneys' fees. Company's non-exercise of any rights or remedies, whether specified herein or otherwise provided by law, shall not be deemed a waiver of any such rights or remedies, nor preclude Company from the exercise under this instrument, or at law.
- b) If the above described Services are discontinued for any reason other than those described in 2(a), all Services performed to date shall be compensated at the rates set forth in the Fee Schedule of the Proposal for Services.

Section 3. Insurance

Company represents that its staff is protected by Worker's Compensation insurance within statutory limits and that company has coverage under Public Liability and Property Damage insurance policies. Certificates for any such policies shall be provided to Client upon written request. In no event shall Company be liable or responsible for any loss, damage, or liability, including but not limited to fire and explosion beyond the amounts, limits, or conditions of such insurance. In addition, Company shall in no event be liable or responsible for any such loss, damage or liability excluded from coverage of insurance.

Section 4. Right of Entry

Client hereby grants to Company or represents and warrants (if the Site is not owned by Client) that permission has been duly granted for a Right of Entry from time to time, by Company, its agents, staff, consultants, and contractors or subcontractors, upon the Site for purpose of performing and with the right to perform all acts, studies, and research, including without limitation the making of test boring and other soil compilings, pursuant to the Scope of Services. Should Client not own the Site, Client warrants and represents by acceptance of the Proposal that it has authority and permission of Site Owner and any site occupant to grant Company this right of entry. Company may require evidence of such authority in a form reasonably satisfactory to Company.

Section 5. Subsurface Explorations

- a) Normal Disturbance – Client acknowledges that the use of exploration equipment may affect, alter or damage the terrain, vegetation and buildings, structures, improvements and equipment at, in or upon the Site. Client accepts the fact that this is inherent to Company's work and will not hold Company liable or responsible for any such reasonable effect, alteration, or damage, and will defend the Company and indemnify it against damage claimed by any party on account thereof. The costs of restoration of the Site because of any such damage has not been calculated nor included in Company's fees.
- b) Subterranean Structures – Company will exercise a reasonable degree of care in seeking to locate subterranean structures in the vicinity of proposed subsurface explorations at the Site. Company will contact public utilities and review plans, if any, provided by public utilities and public agencies and plans and information about the Site provided by Client. So long as Company observes such standard of care, Company will not be responsible for any damage, injury or interference with any subterranean structure, pipe, tank, telephone cables etc. or any other element or condition if not called to Company's attention prior to commencement of work or which is not shown, or accurately located, on any plans furnished to Company by Client or by any other party, public or private.

Section 6. Samples

Company will dispose of all soil, rock, water and other samples thirty (30) days after submission of Company's initial report. Client may request, in writing, that any such samples be retained beyond such date, and in such case Company will ship such samples to the location designated by Client, at Client's expense. Company may upon written request arrange for storage of samples at one of Company's offices, at mutually agreed storage charges. Company will not give Client prior notice of intention to dispose of samples.

Section 7. Construction Observation Services; Duties

- a) Construction Site Safety – Company, by entering into this Contract with Client does not undertake any liability or responsibility for the development, supervision, or enforcement of any job or site safety requirements; nor for any failure of any contractor, subcontractor, or other third person or entity, present on the Site to comply with the Occupational Safety and Health Act of 1970 (Federal OSHA), or with any regulations or standards promulgated thereunder, or with any state, county, or municipal law, regulations, or ordinance of similar import or intent.
- b) Company will not be responsible for any contractor's or subcontractor's compliance with the provisions of any contract nor for the observation or supervision of any contractor's or subcontractor's use of personnel, machinery, equipment, safety precautions or procedures.

Section 8. Documents

All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates and other documents, data or information prepared by Company as instruments of Services, shall remain the sole property of Company. All reports and other work preparation by Company for Client shall be utilized solely for the intended purposes and Site described in the Proposal. Company will retain all pertinent documents for a period of three (3) years following the submission of Company's final report to Client. Such documents will be available to Client upon request at Company's office during office hours on reasonable notice, and copies will be furnished by Company to Client for the total cost of reproduction of the same.

Section 9. Unforeseen and Unanticipated Occurrences

If during performance of Services, any unforeseen conditions or occurrences are encountered which, in the judgment of Company, significantly affect or may affect the Services or the recommended scope of Services, Company will promptly notify Client thereof. Subsequent to that notification Client and Company agree to pursue one of the following options:

- a) The original scope of Services may be modified to the mutual satisfaction of the parties, and the estimate of charges, including budget estimates and fees, revised to include study of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein;
- b) Company shall have the right to suspend its work immediately and terminate the work described in the Proposal, effective on the date specified by Company in writing. Client shall remain liable for and shall pay all fees and charges incurred under the provisions of the Proposal through the date of termination, notwithstanding Client and Company not having reached a new, mutually satisfactory, revision of their agreement.

Section 10. Public Responsibility

Client acknowledges that the Client or the Site owner as the case may be, is now and shall remain in control of the Site for all purposes at all times. Company does not undertake to report to any Federal, State, county or local public agencies having jurisdiction over the subject matter any conditions existing at the Site from time to time which may present a potential danger to public health, safety or the environment. Client, by acceptance of the Proposal, agrees that Client will timely notify each appropriate Federal, state, county and local public agency, as required by law, of the existence of any condition at the Site, which may present a potential danger to public health, safety or the environment.

Section 11. Hazardous Materials

Client agrees that Company has neither created nor contributed to the creation of any hazardous materials, pollutants, asbestos, or other potentially dangerous substance that is now or may be in the future discovered or introduced at the Site. Company hereby states, and Client acknowledges by acceptance of the Proposal, that Company may not have any professional liability or other coverage insuring Company for acts, errors and omissions, and Company may be unable to obtain such insurance at reasonable cost, for claims arising out of the performance of Services, including but not limited to, investigation, assessment or evaluation of hazardous materials or pollutants or the detection, abatement, removal or replacement or products, materials, or processes containing asbestos.

Section 12. Limitation of Professional Liability

- a) **Company Obligation for Successful Claim.** In recognition of the risks, rewards and benefits of the subject project available to the Client and the risks and total fee of the Company, the Company and the Client have agreed that the Company's total liability to the Client for any and all injuries, claims, losses, expenses or claims expenses, including claims by Client against Company for indemnification and/or contribution due to third party claims against Client, arising out of this agreement from any cause or causes shall not exceed the aggregate sum of \$50,000 or Company's aggregate fee for Services rendered on the subject project, whichever is lesser. Such causes include but are not limited to Company's alleged breach of contract, breach of warranty, strict liability, or negligent acts, errors or omissions.
- b) **Consequential Damages.** Under no circumstances shall Company be liable to Client for any consequential damages, including but not limited to loss of use or rental, loss of profit or cost of any financing however caused including Company's fault or negligence.
- c) **Client Obligation for Unsuccessful Claim.** In the event that Client makes a claim against Company, at law or otherwise for any alleged error, omission or act arising out of the performance of Company's Services, and Client fails to prove such claim upon final adjudication, then Client shall pay all costs incurred by Company in defending itself against the claim, including, without limitation, court costs, and other claim-related expenses, including, without limitation, costs, fees, and expenses of experts.

Section 13. Delays

In providing the referenced Services and absent any fault on the part of the Company, its employees or agents, the Company shall not be responsible for delays.

Section 14. Amendment of Agreement

These printed terms and conditions cannot be modified orally or by any course of conduct. Any modification must be acknowledged in writing by Company. These conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document issued by Client. Client shall not assign any aspect of the agreement between Client and Company except upon the prior written consent of Company.

Section 15. Choice of Laws/Jurisdiction

The agreement between Company and Client as set forth in the Proposal and in these Terms and Conditions shall be governed by and enforceable in accordance with the laws of the State of Connecticut. Any dispute resulting in legal action shall be adjudicated within the jurisdiction of the State of Connecticut.

Section 16. Severability

In the event that any provisions of this agreement shall be deemed invalid or unenforceable, the other provisions herein shall remain in force and effect and binding upon the parties hereto.