



JVA, Incorporated
1319 Spruce Street
Boulder, CO 80302
303.444.1951
info@jvajva.com

September 26, 2018

Ms. Kim Swearingen, Director of Utilities
Pueblo West Metropolitan District
20 Palmer Lake Drive
Pueblo West, CO 81007

www.jvajva.com

Reference: Wastewater Treatment Plant Improvements – Letter Agreement for Engineering Services

Dear Kim:

JVA appreciates the opportunity to submit this letter agreement for engineering services to design process improvements for the Pueblo West Metropolitan District (PWMD, District) Wastewater Treatment Facility (WWTF). JVA visited the PWMD WWTF on August 22, 2018 and discussed the District's goals for process improvements including the addition of an effluent re-use system, process control additions for the activated sludge process, and process control additions for the aerobic digestion process. JVA proposed to work with Browns Hill Electrical and Controls (BHEC) for the electrical and process control design and Jerry Daveline with Systems Engineering Group (SEG) for control system integration. The following scope of work was developed based on the site visit, email correspondence, and our understanding of the District's goals.

SCOPE OF SERVICES

Effluent Reuse System

The WWTF was originally constructed to allow for the addition of an effluent reuse system. There is an existing effluent pipe penetrating the wall from the UV disinfection channel through a common wall to the RAS/WAS pump room. The effluent pipe is capped for future connection to the proposed water reuse system. The intent is to use this connection for the proposed reuse system. JVA proposes the following detailed scope:

1. Design a skid mounted effluent pump system will be designed integral with multiple pumps and controls to pace the delivery and pressure of the effluent equal to the demand. The skid mounted system may have to be dismantled to allow lowering into the WAS / RAS pump room and re-assembled complete with electrical and SCADA / HMI connections and interface. Effluent re-use demand data will be provided by the District.
2. The pump system will include a filtration system automated to initiate backwash based on pressure differential along with a tablet chlorination system to provide a small amount of chlorine residual to mitigate excessive scum build-up in the effluent reuse distribution.
3. Design backflow protection to prevent cross connection of the effluent reuse system with the potable water system. A reduced pressure zone backflow prevention device will be utilized in accordance with the Colorado Primary Drinking Water Regulations.
4. Design connection to the existing effluent reuse stub-out and a plant wide looped distribution system that will include a minimum of four (4) yard hydrants, secondary clarifiers spray water

system, and a drip irrigation system. JVA will work with the District for location of hydrants and drip irrigation.

5. Effluent re-use system will include redundancy in case of failure and / or maintenance. The potable water system will provide back up with the effluent reuse system and will include proper backflow devices to prevent cross connection.
6. Prepare a Site Location Application amendment and Process Design Report in accordance with Regulation 22 and WPC-DR-1 Design Criteria for Wastewater Treatment Works, respectively.
7. Technical specifications for the design of the effluent re-use system
8. A design kick-off meeting and one design review meeting will be conducted at the District office or WWTP

Aerobic Digestion Process Control Improvements

District staff reported that the digestion process in producing H₂S gas with potential health and safety concerns as well as odor and corrosion impacts. Based on an onsite discussion with District Staff, it was determined that implementing process control improvements would allow for the most efficient and cost-effective approach to mitigate H₂S formation, provide a safer environment for operators, reduce corrosion, and improve sludge stabilization. It is not anticipated that a site application amendment and process design report will be required by CDPHE for the digester improvements. JVA will provide the following services:

1. Update the record P&ID drawings to show the new process control and instruments for D.O, temperature, and TSS monitoring and electric valve actuators.
2. Prepare drawings and specifications to detail the addition of D.O. and pH / temperature probes for all three digesters. The probes will be connected to the manufacturer's recommended transmitter device for local monitoring and transmitting signals to SCADA / HMI. The design will include written loop descriptions, user selected set points, and alarm set point for automating the air delivery to the digesters based on D.O. control. A written loop description will also be developed for tracking time and temperature for each digester. The system programming and interface will be included with the construction of the improvements
3. Prepare drawings and specifications for the addition of electric actuators for the existing telescoping valves used for decanting the three digesters. Written loop descriptions, user adjusted set points, and alarm set points will be prepared for programming the new electric actuated telescoping valves with a new in-line TSS probe / analyzer. It is proposed that the telescoping valve operation would be initiated following the settle phase in the digester and would continue to operate until a user selected TSS concentration was detected at which point the valve would close. The system programming and interface will be included with the construction of the improvements.
4. Prepare drawings and specifications to detail the addition of electric actuators for the isolation valves located on the digester blower discharge manifold piping. The valve actuators will be programmed to turn valves on and off depending on the mode (air on, air off, decant) each of

the digester are in. The primary objective is to always have air flow to the digesters (and primary digester during WAS flow) except when the digester is in decant mode. Loop descriptions will be prepared for valve operation to deliver air to each respective digester along with digester basin DO control with the blower VFDs. The blower operation will be programmed to include only one blower in operation during 1 pm to 7 pm to minimize electrical demand charges in accordance with the utility provider, Black Hills Energy.

5. Prepare drawings and specifications for the addition of a supply and exhaust fan to be located at opposite ends for each digester. The fans would operate continuously to ventilate the air space and minimize the H2S impact to the decant equalization tank.
6. Prepare drawings and specifications for the addition of a permanent digester basin ladder for each digester located at the digester hatch. The ladder will be utilized for digester access to the basin sump pit for maintenance and cleaning.
7. A kick-off meeting and one design review meeting at the District office will be included with the design. The meetings for the effluent reuse system and digester process control improvements will be held the same days.

BASIS OF PAYMENT

The basis of payment for the scope of work described above will be monthly billings based on the percentage of lump sum completed to date, plus reimbursable expenses. This amount will not be exceeded without written authorization of the District.

Basic Civil Engineering Services

Effluent Reuse System	\$ 25,000
Aerobic Digester Process Control Improvements	\$ 34,000
TOTAL LUMP SUM FEE	\$ 59,000


These fees are based upon the above assumptions and discussions to date. Services resulting from significant changes to the project scope will be considered additional services and may require extension of the time schedule for JVA's work. This proposed fee does not include CDPHE review fees, survey, geotechnical investigation, bid phase services or construction administration.

SCHEDULE

Assuming authorization to proceed with the design at the beginning of October 2018, JVA plans to complete the design services by February 2019 for a Spring 2019 implementation / construction schedule. CDPHE may take three to six months for review and approval of the Site Application amendment and Process Design Report. JVA will make all efforts to accelerate the submittal review time with CDPHE and expedite the review and approval process.

We appreciate the opportunity to continue to serve the District in your consulting engineering needs and look forward to another successful project with you and your staff. If you have any questions about this letter or the scope described herein, please do not hesitate to contact me.

Sincerely,
JVA, Incorporated

By: 
Josh J. McGibbon, P.E.
Vice President

Attachments: General Conditions

Accepted by:
PUEBLO WEST METROPOLITAN DISTRICT

By: _____
Director of Utilities

Date: _____

JVA, INC.
GENERAL CONDITIONS
FOR
ENGINEERING SERVICES

These General Conditions are attached to and made a part of the preceding Letter Agreement between the stated CLIENT and JVA, Inc. (JVA). Any specific provision of the Letter Agreement which conflicts with provisions of these General Conditions supersedes the conflicting provisions of these General Conditions.

CLIENT and JVA agree in respect to the performance of professional engineering services by JVA and the payment for those services by CLIENT as set forth in the Letter Agreement and below.

JVA shall provide professional engineering services for CLIENT in all phases of the Project to which the Letter Agreement applies, serve as CLIENT's professional engineering representative for the Project as set forth below, and shall give professional engineering consultation and advice to CLIENT during performance of services hereunder.

SECTION 1 - BASIC SERVICES OF JVA

1.1 Scope of Services

JVA shall perform professional services as defined in the Letter Agreement.

1.2 Copies of Documents

Unless specifically provided for in the Letter Agreement, JVA shall furnish one reproducible set of instruments of services, as appropriate, at the end of each project phase. Additional copies will be supplied at JVA's costs of printing and distribution, plus a reasonable profit. At the end of the project, JVA will provide the CLIENT with an electronic record of the construction drawings.

1.3 Construction Phase.

If the project includes a Construction Phase, JVA shall perform the professional services stated in the Letter Agreement subject to the following:

1.3.1. JVA shall not be required to make exhaustive or continuous on-site observations to check the quality or quantity of contractor's work. JVA shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by Contractor(s) or the safety precautions and programs incident to the work of Contractor(s). JVA shall not be responsible for the failure of Contractor(s) to perform the work in accordance with the Contract Documents.

1.3.2. Insofar as jobsite safety is concerned, JVA is responsible solely for its employees' activities on the jobsite, but this shall not be construed to relieve CLIENT or any construction contractors from their responsibilities for maintaining a safe jobsite. Neither the professional activities of JVA, nor presence of JVA or its employees and subcontractors, shall be construed to imply JVA has any responsibility for methods of work performance, superintendence, sequencing of construction, or safety in, on or about the jobsite. CLIENT agrees that the construction Contractor(s) is solely responsible for jobsite safety, and this intent shall be made evident in CLIENT's agreement with the construction Contractor(s).

1.3.3. CLIENT acknowledges that JVA will not be a party to any construction contract and that all authority and responsibility to reject work or stop work is Owners as a party to the construction contracts. JVA shall not be liable for the results of any interpretations or decisions rendered by it in good faith when acting as an arbitrator or interpreter of the Contract Documents.

1.3.4. By recommending payment to others, JVA will not thereby be deemed to have represented that continuous or exhaustive examinations have been made by JVA to check the quality or quantity of the work or to review the associated means, methods, sequences, techniques or procedures of construction or safety precautions or programs. JVA has made no examination to ascertain how or for what purposes any person(s) has used the moneys paid on account, or that title to any of work, materials or equipment has passed to CLIENT free and clear of any lien, claims, security interests or encumbrances. By recommending payments to others, JVA does not imply that others have completed their work exactly in accordance with the Contract Documents.

1.3.5. The duties and obligations of JVA are expressly conditional upon each Contractor representing the status of the project completions with reasonable accuracy and submitting complete and accurate data. Any observations made as the result of inaccurate representations of project status are beyond JVA's control and shall be compensated as an Additional Service. Additional reviews of data due to any Contractor(s)' failure to submit accurate and complete data are beyond JVA's control and shall be compensated as an Additional Service.

1.3.6. JVA shall not be responsible for the acts or omissions of any Contractor(s), or subcontractor, or any of the Contractor(s)' or subcontractors' agents or employees or any other persons (except JVA's own employees' and agents' negligent acts or omissions) at the site or otherwise performing any of the Contractor(s)' work.

1.3.7. If CLIENT does not authorize the professional services of JVA to extend to or include Construction Administration services, including site observation of the contractor's work or performance, CLIENT acknowledges that JVA has exercised its professional judgment in preparing instruments of service, and that JVA does not warrant a specific result; that the instruments of service are not warranted to be free of error or omission, and that situations may arise during the construction of the Project when interpretations or corrections to the instruments of service will be required.

1.3.8. CLIENT agrees that JVA cannot certify that certain conditions exist when JVA cannot assure they exist. Accordingly, JVA cannot sign any certification, no matter by whom requested, that would result in JVA certifying the existence of conditions whose existence JVA cannot assure.

1.4 Delay

The duties and responsibilities of JVA are expressly conditioned upon the expectation that the project will proceed expeditiously and will not be impeded by the acts or omissions of any Contractor(s) or of CLIENT. Delay of project completion for reasons beyond JVA's control will result in Additional Services, which shall be compensated as provided in Section 2.

SECTION 2 - ADDITIONAL SERVICES OF JVA

2.1 If authorized by CLIENT, JVA shall furnish or obtain from others Additional Services which are outlined but not included in the Letter Agreement; these will be paid for by CLIENT as indicated in Section 5.

2.2 Where maximum or "not-to-exceed" fee amounts are identified in the Letter Agreement, Payments for Additional Services and Reimbursable Expenses associated with the Basic and Additional Services shall not be subject to the maximum payment amounts unless expressly included, but Additional Services may be subject to a separate maximum payment amount, negotiated at the time JVA is directed by CLIENT to provide such Additional Services.

SECTION 3 - CLIENT'S RESPONSIBILITIES

CLIENT shall:

3.1. Designate a person to act as CLIENT's representative with respect to the services to be rendered under this Agreement. Provide 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; all available information pertinent to the Project including previous reports and other data relative to design or construction of the Project; and furnish copies of all design and construction standards which CLIENT will require to be included in the Drawings and Specifications.

3.2. Furnish to JVA, as required for performance of JVA's Basic Services, data prepared by or services of others, including without limitation, field control surveys and establish reference points and base lines; core borings, probings and subsurface explorations, soils report, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all the foregoing; (?); property, boundary, easement, right-of-way, topographic and utility surveys; property descriptions; all available data describing existing facilities; zoning, deed and other land use restriction; and other special data or consultations not covered above. Client shall provide drawings to reasonable scale with data sufficient to allow JVA to understand and analyze the project.

3.3. Arrange for access to and make provisions for JVA to enter upon public and private property as required for JVA to perform its services.

3.4. Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by JVA, and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of JVA. Give prompt written notice to JVA whenever CLIENT observes or otherwise becomes aware of any development that affects the scope or timing of JVA's services,

3.5. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Provide all advertisements, notices, postings required by law or customary usage including, but not limited to, those required by regulatory or other governmental bodies, solicitations, invitations or advertisements for bid, offer or proposal, and advertisement pursuant to project close out, or notification of potential lienholders or claimants. Include in any construction contracts entered into as a part of this project, any and all clauses, terms, conditions or provisions necessary to give this Letter Agreement full force and effect.

SECTION 4 - PERIOD OF SERVICE

4.1. JVA will perform its professional services in a timely manner consistent with customary professional practices. If CLIENT has requested, or the construction process results in, significant modification or changes in the extent of the Project, the time of performance of JVA's services and its various rates of compensation shall be adjusted appropriately.

4.2. If JVA's services for design or during construction are delayed or suspended in whole or in part by CLIENT for more than 90 calendar days for reasons beyond JVA's control, JVA shall on written demand to CLIENT (but without termination of this Agreement) be paid as provided in paragraph 5.3.2. If such delay or suspension extends for more than one year for reasons beyond JVA's control, or if JVA for any reasons is required to render services more than one year after Substantial Completion, the various rates of compensation provided for elsewhere in this Agreement shall be equitably adjusted.

SECTION 5 - PAYMENTS TO JVA

5.1 Methods of Payment for Services and Expenses of JVA

5.1.1. CLIENT shall pay JVA for Basic Services and Additional Services an amount based on the Letter Agreement amounts or JVA's Regular Hourly Rates of the personnel assigned to the Project, plus Reimbursable Expenses at actual cost, times a factor of 1.10.

5.1.2. Cost of Service: Billings will be based on the percentage of services performed, plus Reimbursable Expenses incurred, according to the JVA's current rate schedule, unless noted in the Letter Agreement.

5.2 Times of Payment

5.2.1. JVA shall, prior to the last week of each month, submit monthly invoices for Basic and Additional Services rendered and for Reimbursable Expenses incurred. CLIENT shall make prompt monthly payments in response to JVA's monthly invoices. Payment is due 30 days from the date of the receipt of invoice.

5.3 Other Provisions Concerning Payments

5.3.1. If CLIENT fails to make payments by the due date, the amounts due JVA shall include a late charge at 1.5% per month from said due date; and, in addition, JVA may, after giving seven calendar days' written notice to CLIENT, suspend services under the Letter Agreement until it has been paid in full.

5.3.2. This Agreement shall be terminated upon the Client's written notification of termination of his agreement with the Owner, or upon fourteen days written notice should the other party fail substantially to perform in accordance with the terms of this agreement. If terminated due to the fault of others, JVA shall be paid for services and reimbursable costs incurred.

5.4 Definitions

5.4.1. Regular Hourly Rates includes salaries or wages paid as well as indirect costs and fringe benefits, general overhead, and profit, for all personnel engaged directly on the Project, including, but not limited to, engineers, architects, surveyors, designers, drafters, specification writers, estimators, other technical personnel, stenographers, typists, and clerks and Administrative personnel.

5.4.2. Reimbursable Expenses means the actual expense incurred in connection with the Project for: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); furnishing and maintaining field office facilities; subsistence and transportation of Resident Project Representative and their assistants; toll telephone calls, reproduction of reports, Drawings, Specifications, insurance endorsements procured specifically for the Project, and similar Project-related items in addition to those required under Section 1; and, if authorized in advance by CLIENT, overtime work requiring higher than regular rates. Reimbursable Expenses shall include the amount billed to JVA by special consultants employed by JVA for such consultants' services and Reimbursable Expenses and shall also include expenses incurred for appropriate charge for previously established computer programs, computer usage, computer aided drafting machine usage, and expenses of photographic production techniques.

SECTION 6 - OPINIONS OF COST

6.1 Opinions of Probable Cost

6.1.1. Since JVA has no control over the cost of labor, materials, equipment or services furnished by others, Contractor(s)' methods of determining prices, or market conditions, its opinions of probable Cost provided for herein are to be made on the basis of its experience and represent its best judgment as a qualified professional engineer, familiar with the construction industry. JVA cannot and does not guarantee that proposals, bids or actual Project or Construction Cost will not vary from opinions of probable cost. If CLIENT wishes greater assurance as to Project or Construction Cost, he shall employ an independent cost estimator.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 Termination

The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

7.2 Instruments of Service

All documents, including Reports, Drawings, Specifications, field data, field notes, laboratory test data, calculations, estimating and other similar documents, in any form whatsoever, prepared by JVA, are instruments of service, and not products, and remain the intellectual property of JVA. Instruments of service include reproducible originals, copies, handwritten materials, electronic computer media files of all kinds. They are not intended or represented to be suitable for reuse by CLIENT or others on any other project. JVA grants CLIENT an irrevocable license to CLIENT to use and reproduce any instruments of service as required for the project, and will provide CLIENT with electronic drawing files in AutoCAD for record purposes. Any reuse of these instruments not for the specific purpose intended, and any errors introduced by CLIENT's reproduction or translation of instruments of service from one form to another will be at CLIENT's sole risk and without liability or legal exposure to JVA. CLIENT shall indemnify and hold harmless JVA from all claims arising out of or resulting therefrom. Any adaptation to other projects will entitle JVA to further compensation at rates to be agreed upon by CLIENT and JVA. JVA retains the rights of ownership of any patentable or copy-rightable concepts arising from its services.

7.3 Controlling Law

This Agreement is to be governed by the law of the State of Colorado, jurisdiction and venue proper in the Colorado District Courts.

7.4 Professional Responsibility

7.4.1. JVA will exercise its professional judgment in performing services under this Agreement. Services performed by JVA will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. CLIENT recognizes that JVA does not warrant a specific result. Reports, Drawings, Project Manual, and other instruments of service are not products and are not warranted to be free of error or omission, and situations may arise requiring interpretations or corrections to the Drawings, Project Manual, and other instruments of service.

7.4.2. CLIENT acknowledges that JVA is a corporation and agrees that any claim made by CLIENT arising out of any act or omission of any director, officer or employee of JVA in the execution or performance of this Agreement, shall be made against JVA and not against such director, officer or employee.

7.4.3. Design and construction techniques are continually evolving. The standards and regulations imposed by various government entities relative to design and other issues likewise are subject to continuing change. Given this dynamic situation, JVA may select acceptable, effective design approaches that, through no fault of its own, are obsolete and unacceptable by the time its design or design recommendations are ready for execution. CLIENT agrees to pay JVA's additional reasonable fees and expenses made necessary by JVA being required to abide by new regulations or technologies.

7.4.4. CLIENT and JVA recognize that JVA is providing a professional service and that CLIENT's project is a unique undertaking involving many factors which cannot be projected with exactitude. CLIENT and JVA acknowledge that the factors developing or discovered during the contract term and the uniqueness of CLIENT's project may require engineering services which cannot be anticipated at the time of contracting. JVA will advise CLIENT if the need for such services becomes apparent, and CLIENT and JVA shall negotiate an amendment to this Agreement to include said additional services.

7.5. Asbestos or Hazardous Materials

7.5.1. The professional service contracted for hereunder were contracted for with the expectation by CLIENT and JVA that no asbestos or hazardous materials, as defined by the U.S. Environmental Protection Agency, will be encountered.

7.5.2. Asbestos or hazardous material may exist where there is no reason to believe they could or should be present. JVA and CLIENT agree that the discovery of these unanticipated materials constitutes a changed condition mandating a renegotiation of the scope of work. JVA and CLIENT also agree that the discovery of these unanticipated materials may make it necessary for JVA to take immediate measures to protect human health and safety, and the environment. JVA agrees to notify CLIENT as soon as practically possible should unanticipated asbestos or hazardous materials or suspected asbestos or hazardous materials be encountered. CLIENT encourages JVA to take any and all measures that in JVA's professional opinion are justified to preserve and protect the health and safety of JVA's personnel and the public, and environment.

7.6. Successors and Assigns

7.6.1. Neither CLIENT nor JVA shall assign, sublet or transfer any rights under or interest in this agreement (including, but without limitation, moneys that may become due or moneys that are due) and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge assignor from any duty or responsibility under this Agreement. Nothing contained in this Agreement shall prevent JVA from employing such independent consultants, associates and subcontractors as he may deem appropriate to assist it in performing the services hereunder.

7.6.2. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than CLIENT and JVA.

7.7. Default

7.7.1. In the event of default of any of the obligations herein by either party which requires the party not in default to commence legal or equitable action against the defaulting party, the defaulting party shall be liable for the non-defaulting party's reasonable attorney's fees, expert witness fees and costs and other expenses incurred because of the default, including the costs of collection, in the event of a judgment or other resolution in the non-defaulting party's favor.

7.7.2. JVA shall not be liable to CLIENT for any consequential damages incurred by either due to the fault of the other, regardless of the nature of this fault, or whether it was committed by CLIENT or JVA, their employees, agents or subcontractors. Consequential damages include, but are not limited to, loss of use or rent, loss of profit, lost market value and associated attorney's fees.

7.8. Dispute Resolution

7.8.1. The Client and JVA agree that all disputes shall be discussed for immediate resolution between the individuals involved. Disputes shall include unsettled claims, counterclaims, disputes, and other matters in questions arising out of or relating to this Agreement or breach thereof. All disputes shall be brought to the attention of the other party within reasonable time period after the dispute has arisen.

7.8.2. Should these parties fail to resolve the conflict, then the dispute shall be raised to the next level of management within the structure of each party. Should these efforts fail to resolve the dispute, then the parties hereto agree to settle the dispute through voluntary mediation. Only if mediation is attempted, will binding arbitration be considered.

7.8.3. This process will involve the selection of an arbitrator. If the parties cannot agree on the selection of a single arbitrator, each party to the dispute will select one arbitrator and the two arbitrators selected individually shall select a third arbitrator who will then become the sole arbitrator. All costs involved in this process shall be borne by each party equally unless the arbitrator awards the costs to the prevailing party.

7.8.4. In the matter of disputes arising that involve the work of a contractor, subcontractor, or consultant to either the Client or JVA (joinable party) then either the Client or JVA may join each joinable party as a party to the mediation. This can only occur if specifically set forth in the individual contracts with each joinable party of the Client and JVA.

7.9 Independent Consultant Status

Except as may otherwise be noted herein, JVA shall serve as an independent consultant to CLIENT and shall have control over and be responsible for the means and methods for providing services under this Agreement. It is specifically understood that, irrespective of any assignability provision, JVA may retain subcontractors to perform services.

7.10 Severability

Any element of this Agreement later held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force. However, CLIENT and JVA will in good faith attempt to replace an invalid or unenforceable provision with one that is valid and enforceable, and which comes as close as possible to expressing or achieving the intent of the original provision.

7.11 Titles

The titles used in this Agreement are for general reference only and are not part of the Agreement.

7.12 Survival

All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between CLIENT and JVA shall survive the completion of the services hereunder and the termination of this Agreement.

7.13 Excluded Services

7.13.1. Services available from JVA are limited to those specified in the Letter Agreement. Other services that are available and applicable to CLIENT's project have been made known and explained to CLIENT.

7.13.2. In that it would be unfair for JVA to be exposed to liability for its failure to perform a service CLIENT has instructed JVA not to perform, due to CLIENT's preference or desire to obtain such service from another source, CLIENT hereby waives any claim against JVA and agrees to defend, indemnify and hold JVA harmless from any claim or liability for injury or loss allegedly arising from JVA's failure to perform a service CLIENT has instructed JVA to not perform. CLIENT further agrees to compensate JVA for any time spent or expenses incurred by JVA in defense of any such claim, in accordance with JVA's prevailing fee schedule and expense reimbursement policy.

SECTION 8 - INTEGRATION

8.1 Integration

The Letter Agreement and these General Conditions (consisting of pages **1 through 5**, inclusive), constitute the entire Agreement between CLIENT and JVA and supersede all prior written or oral understandings. This Agreement may only be amended, supplemented, modified or cancelled by a duly executed written instrument.

**END OF GENERAL
CONDITIONS**