

**CITY OF MIDDLEBURG HEIGHTS, OHIO**

Resolution No. 2024- **68**

Introduced By: Mayor Matthew Castelli

**A RESOLUTION  
AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH  
CIVIL & ENVIRONMENTAL CONSULTANTS, INC. (CEC) TO SERVE AS  
OWNER'S REPRESENTATIVE ON THE TRANSFORMATIONAL GRANT-FUNDED  
BROWNFIELD PROJECT AT THE FORMER SEARS PROPERTIES**

WHEREAS, the City desires to retain the services of a competent and qualified contractor to serve as Owner's Representative throughout development of bid documents and the request for proposals for abatement demolition services until the City awards the contract for these services at the site of the former Sears properties, parcel numbers 372-31-006 & 372-31-009; and

WHEREAS, Civil & Environmental Consultants, Inc. is competent and qualified to furnish services to the City and has provided a responsive and responsible proposal, and desires to provide Owner's Representative Services and Grant Administration; and

WHEREAS, CEC understands that the Project includes advising on key decisions, responding to request for information from grantors, directing and reviewing development of bid document specifications, directing and reviewing the request for proposal process, and other agreed upon tasks as assigned; and

WHEREAS, the City of Middleburg Heights intends to public funding sources to conduct this work.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: That the Mayor is hereby authorized to enter into an agreement with Civil & Environmental Consultants, Inc. to provide Owner's Representative Services and Grant Administration to the City related to the asbestos abatement, waste removal, and to support demolition of the property buildings of the former Sears properties, parcel numbers 372-31-006 & 372-31-009, a copy of which is attached hereto and marked "Exhibit A".

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in

compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

[Signature]  
President of Council

[Signature]  
Mayor

Passed: 9/10/24

Presented to Mayor: 9/11/24

Attest: M. Meala  
Clerk of Council

Approved On: 9-11-24

	Yea	Nay
Bortolotto	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ali	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sage	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Meany	<input checked="" type="checkbox"/>	<input type="checkbox"/>
McGregor	ABSENT	
Ference	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Zakel	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I, Mary Ann Meala Clerk of the Council of the City of Middleburg Hts., Ohio, hereby certify that Res. 2024-68 adopted by the Council of the City of Middleburg Hts., on 9/10/24 was posted for a period of fifteen days, beginning 9/12/24 and remained so posted for fifteen days at the two posting places as designated by Charter.

[Signature]  
Clerk

**CERTIFICATE**

I, Mary Ann Meala, Clerk of Council of the City of Middleburg Heights, Ohio, do hereby certify that the foregoing is a true and accurate copy of Res. 2024-68 passed on the 10<sup>th</sup> day of September 2024 by said Council.

[Signature]  
Clerk of Council



September 4, 2024

Charles Bichara  
Director of Economic Development  
City of Middleburg Heights  
15700 Bagley Road  
Middleburg Heights, Ohio 44130

Subject: Proposal for Owner's Representative Services and Grant Administration  
Former Sears and Sears Auto Buildings  
6950 W 130 Street, Middleburg Heights, Ohio  
CEC Project 345-812

Dear Mr. Bichara:

Civil & Environmental Consultants, Inc. (CEC) is pleased to provide The City of Middleburg Heights, Ohio (City) this proposal for professional services to serve as Owner's Representative (Owner's Rep) on the transformational grant-funded brownfield project at the Former Sears and Sears Auto Buildings at 6950 W 130 Street (Property).

## 1.0 PROJECT UNDERSTANDING

The City is the current owner of the approximately 315,818 square foot, vacant two-story former Sears building and the approximately 35,792 square foot, vacant former Sears Auto Center built in 1964. The City has been awarded a United States Environmental Protection Agency (US EPA) Revolving Loan Fund (RLF) through the Northeastern Ohio Areawide Coordinating Agency (NOACA) to abate asbestos in the buildings and remove universal wastes from the Property. The City has also been notified of award of a grant from the Ohio Department of Development (Ohio DOD) Brownfield Remediation Fund to further support asbestos abatement, waste removal, and to support demolition of the Property buildings. It is expected that the City will perform asbestos abatement, universal waste removal and building demolition with these grants to prepare the Property for redevelopment in accordance with the City's master plan for the area.

The City intends to contract with TRC Companies, Inc. (TRC) to prepare bid document specifications and to issue a request for proposals from qualified bidders to conduct the asbestos abatement and demolition activities. The City also intends that TRC will manage the bidding process for abatement and demolition work through award of contract for those services. CEC

will serve as owner's representative to guide and review the work conducted by TRC to ensure the City's interests are being met.

## **2.0 SCOPE OF WORK**

### **Task 01: Owner's Representative**

CEC proposes to serve as the Owner's Rep throughout development of bid documents and the request for proposals for abatement demolition services until the City awards the contract for these services. CEC expects the City to award the contracts to qualified bidders on or about January 28, 2025. Owner's Rep services may include:

- Advising on key decisions throughout project execution and at key project milestones;
- Responding to requests for information from grantors;
- Directing and reviewing development of bid document specifications by TRC;
- Directing and review the request for proposal process administered by TRC;
- Attendance at one pre-bid site walk; and
- Consulting on other agreed upon tasks as assigned.

### **Task 02: Grant Administration and Reporting**

CEC proposes to assist the City to satisfy the typical reporting requirements of the Ohio DOD grant, including:

- Quarterly progress report preparation. These reports are typically due on the third Friday of each calendar quarter. These reports include a narrative summary of project activities, project outcomes, milestones achieved, obstacles encountered, and an estimate of gross percentage of project completion.
- Final report preparation. This report summarizes the overall project at completion and is due to Ohio DOD within 15 days of the end of the Agreement with the State.
- Pay request submission. CEC will review all invoices incurred on a monthly basis by the City and submit for reimbursement via the State's electronic system.

CEC will also prepare a close out report for the City of the abatement and demolition activities in all work areas. Close out reporting will include the collection of all pertinent data and reports, such as field notes and daily logs, waste manifests, safety records, and photographs. CEC will prepare some of these documents through the oversight process of

abatement and demolition, as will be established in a forthcoming proposal. CEC may also rely on others to provide these documents to us, for inclusion in our reporting.

### 3.0 COMPENSATION

CEC proposes to provide the above services on a time and materials basis not to exceed a fee of **\$47,800 (Forty-Seven Thousand Eight Hundred Dollars)**, as follows:

Task 01 Owner’s Representative	\$29,000
Task 02 Grant Administration and Reporting	\$18,800
<b>TOTAL</b>	<b>\$47,800</b>

CEC will seek prior authorization from the City to perform any services in excess of this amount.

A Technology and Office Service Fee, equivalent to 3% of professional fees, will be added to each invoice for project expenses associated with software, computer technology, and incidental office expenses. Reimbursable expenses, including subcontracted services, will be invoiced at cost plus a 12% administrative fee. These fees are included in the fee summary above.

### 4.0 ASSUMPTIONS

The following assumptions apply to the proposed scope of work and cost proposal:

1. The period of performance as Owner’s Rep will be from September 10, 2024 through January 28, 2024, at which time the City expects to award the contracts for contractor abatement and demolition services. If the contracts to qualified bidders are not awarded by the City by January 28, 2024, CEC will seek authorization for additional costs.
2. The costs presented for reporting assume the project will be complete and the Ohio DOD grant will be closed by December of 2027 at the latest.
3. The costs presented for reporting assume that CEC will be awarded a contract for oversight of abatement and demolition activities, thus assisting the data acquisition for quarterly, final and close-out reporting.
4. This proposal does not include services to perform oversight of abatement and demolition work done by the contractor. Costs for oversight of abatement and demolition will be provided to the City at a later date.
5. This proposal does not include services to direct and stamp work as an Ohio Voluntary Action Program (VAP) Certified Professional (CP).
6. Assistance in administering the US EPA RLF Grant may be performed by CEC under separate purchase order(s).

Mr. Bichara – City of Middleburg Heights  
CEC Project 345-812  
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September 4, 2024

## 5.0 TERMS & CONDITIONS

All work will be performed in accordance with CEC's attached Terms and Conditions. Any changes to the Terms and Conditions must be agreed to in writing by both parties prior to your authorization to proceed. Your verbal or written authorization to proceed will form a binding contract and indicates your acceptance of the Terms and Conditions.

## 6.0 SCHEDULE

CEC is prepared to begin support of the City immediately upon authorization to proceed.

The redevelopment of the Former Sears and Sears Auto Buildings is a seminal project in the history of the City of Middleburg Heights. We thank you for the opportunity to support you in this work. Should you have any questions or require additional information, please feel free to call Matt Hammer at 330-414-6666.

Sincerely,

CIVIL & ENVIRONMENTAL CONSULTANTS, INC.



Matthew J. Hammer, P.G., C.P.  
Principal



Lauren Parker, P.E.  
Vice President

Enclosures:

- Attachment A: Hourly Rate Schedule
- Attachment B: Terms & Conditions

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**ATTACHMENT A**

**HOURLY RATE SCHEDULE**

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## 2024 CEC - Cleveland Standard Rates

Title	Rate
Vice President	\$305.00
Senior Principal	\$305.00
Principal	\$280.00
2-Man Survey Crew	\$247.00
Senior Project Manager	\$215.00
Senior Consultant	\$210.00
Project Manager III	\$180.00
Project Manager II	\$165.00
Project Manager I	\$155.00
Assistant Project Manager	\$135.00
Survey Technician IV	\$133.00
Project Consultant	\$123.00
Senior Designer	\$140.00
GIS Analyst I	\$80.00
GIS Analyst II	\$93.00
GIS Analyst III	\$105.00
Senior GIS Analyst	\$155.00
Senior Technician	\$125.00
Staff Consultant	\$115.00
Survey Technician III	\$107.00
Technician III	\$115.00
Designer	\$105.00
Technician II	\$91.00
Survey Technician II	\$91.00
Administrative Assistant	\$80.00
Survey Technician I	\$80.00
Technician I	\$80.00



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**ATTACHMENT B**  
**TERMS AND CONDITIONS**

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**1. AGREEMENT**

The following terms and conditions ("TERMS") shall apply to and are an integral part of the attached proposal ("PROPOSAL") between Civil & Environmental Consultants, Inc. ("CEC") and the client ("CLIENT") named in the attached PROPOSAL. CLIENT's acceptance of the PROPOSAL includes acceptance of these TERMS and acceptance of this PROPOSAL shall form the entire agreement between the parties ("AGREEMENT"). In the event of a conflict or inconsistency between these TERMS and the PROPOSAL, these TERMS shall take precedence. Acceptance of the AGREEMENT by CLIENT will occur when CLIENT directs CEC, orally or in writing, to commence performance of its services.

**2. STANDARD OF CARE**

CEC shall perform its services consistent with the professional skill and care ordinarily provided by professionals, such as CEC, practicing in the same or similar locality under the same or similar circumstances and in effect at the time of performance. CEC provides no warranties or guarantees whether express or implied.

**3. SITE ACCESS, SITE CONDITIONS AND SUBSURFACE FEATURES**

CLIENT will grant or obtain free access to the site for all equipment and personnel for CEC to perform the services set forth in this AGREEMENT. CEC will take reasonable precautions to limit damage to the site, but it is understood by CLIENT that, in the normal course of the services, some damage may occur and the correction of such damage is not part of this AGREEMENT unless so specified in the PROPOSAL.

The CLIENT is responsible for the accuracy of locations for all subsurface structures and utilities. CEC will take reasonable precautions to avoid known subsurface structures, and the CLIENT waives any claim against CEC, and agrees to defend, indemnify, and hold CEC harmless from any claim or liability for injury or loss, including costs of defense, arising from damage done to subsurface structures and utilities not identified or accurately located. In addition, CLIENT agrees to reimburse CEC for time and expenses incurred by CEC in defense of any such claim based upon CEC's current fee schedule and expense reimbursement policy.

CEC may, but is not required to, undertake an investigation to locate any utilities, structures or materials as CEC deems prudent. Such investigation by CEC shall not impose any additional obligation or liabilities on CEC and CLIENT agrees that such investigation, if undertaken, is for CEC's convenience only.

The CLIENT recognizes that subsurface conditions may vary from those observed at locations where borings, surveys, or explorations are made, and that site conditions may change with time. Data, interpretation, and recommendations by CEC will be based solely on information available to CEC. CEC is responsible for the data, interpretations, and recommendations based on its services, but will not be responsible for other parties' interpretations or use of the information developed.

**4. BIOLOGICAL POLLUTANTS, HAZARDOUS MATERIALS AND HAZARDOUS CONDITIONS**

CLIENT warrants that a reasonable effort to investigate and inform CEC of known or suspected Biological Pollutants, Hazardous Materials and hazardous conditions on or near the site has been made by the CLIENT. The term "Biological Pollutants" includes, but is not limited to, molds, fungi, spores, bacteria, and viruses, and the by-product of any such biological organisms. The term "Hazardous Materials" shall mean any toxic substances, chemicals, pollutants, or other materials, in whatever form or state, including but not limited to smoke, vapors, soot, fumes, acids, alkalis, minerals, toxic chemicals, liquids, gases or any other material, irritant, contaminant or pollutant, that is known or suspected to adversely affect the health and safety of humans or of animal or plant organisms, or which are known or suspected to impair the environment in any way whatsoever. Hazardous Materials shall also include, but not be limited to, those substances defined, designated, or listed in Section 404 of the Solid Waste Disposal Act (42 USC Subsection 6903); Section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act (42 USC Subsection 9601(14)); as listed or designated under Sections 1317 and 1321(b)(2)(a) of the Title 33 (33 USC Subsections 1317 and 1321(b)(2)(a)); or as defined, designated, or listed under any other federal, state, or local law, regulation or ordinance concerning hazardous wastes, toxic substances, or pollutants.

CEC and CLIENT agree that when unanticipated or suspected Biological Pollutants, Hazardous Materials and/or hazardous conditions are encountered it may be necessary for CEC to take immediate measures to protect health and safety. CEC agrees to immediately notify CLIENT when unanticipated or suspected Biological Pollutants, Hazardous Materials and/or hazardous conditions are encountered. CLIENT agrees to make any disclosures required by law to the appropriate governing agencies. In the event the site is not owned by CLIENT, CLIENT recognizes that it is the CLIENT's responsibility to inform the property owner of the discovery of unanticipated or suspected Biological Pollutants, Hazardous Materials and/or hazardous conditions.

Notwithstanding any other provision of the AGREEMENT, CLIENT waives any claim against CEC, and to the maximum extent permitted by law, agrees to defend, indemnify, and hold CEC harmless from any claim, liability, and/or defense costs for injury or loss arising from CEC's discovery of unanticipated or suspected Biological Pollutants, Hazardous Materials and/or hazardous conditions. CLIENT will be responsible for ultimate disposal of any samples secured by CEC which are found to be contaminated with Biological Pollutants and/or Hazardous Materials.

Nothing contained in this AGREEMENT shall be construed or interpreted as requiring CEC to assume liability for the generation, transportation, treatment, storage and/or disposal of hazardous waste within the meaning of the Resource Conservation and Recovery Act of 1976, as amended, or within the meaning of any similar federal, state, or local regulation or law.

If during remediation and/or construction activities waste manifests are required, CLIENT shall provide an authorized person to sign manifests or will provide CEC with a written limited power of attorney or agency agreement to sign manifests on CLIENT'S behalf.

**5. EVOLVING TECHNOLOGIES**

Services such as those provided by CEC may involve technologies which are new or emerging and these technologies may supersede current techniques. In addition, standards for our services, including statutes and regulations, may change with time. CLIENT understands that CEC's recommendations and/or services must be based upon the current Standard of Care utilizing established technologies and standards excluding new or emerging technologies unless agreed to by both parties in writing.

**6. SAMPLE DISPOSAL**

CEC will provide storage for samples collected for sixty (60) days. Further storage or transfer of samples can be made at CLIENT's expense and upon prior written request.

**7. SAFETY/CONSTRUCTION OBSERVATION**

CLIENT, its contractor or other representatives shall be solely responsible for working conditions on the site, including compliance with OSHA regulations and safety of all persons and property during the performance of the work. CEC will not be responsible for means, methods, techniques, sequences or procedures of construction including, but not limited to safety.

If CEC is retained by the CLIENT to provide a site representative for the purpose of observing specific portions of any construction work as set forth in the PROPOSAL, CEC will report observations and professional opinions. CEC's presence on the site does not in any way guarantee the completion or quality of the performance of the work by any party retained by the CLIENT to provide construction related services. CEC does not have the duty to reject or stop work of CLIENT or its agents unless contractually obligated.

**8. BILLING AND PAYMENTS**

8.1. General: Invoices will be submitted in accordance with the provisions outlined in the PROPOSAL. Payment is due from CLIENT thirty (30) days from the invoice date. If a retainer or pre-payment is required by the PROPOSAL, payment must be received by CEC prior to commencement of services. Payment shall be made as follows:

Electronic Payment:  
 PNC Bank, Pittsburgh, PA 15222  
 PNC Bank Routing #043000096  
 CEC Account #2272405  
 SWIFT & BIC Code: PNCCUS33  
 Remittance Detail: accountsreceivable@cecinc.com

Lockbox (regular mail):

Civil & Environmental Consultants, Inc.  
P.O. Box 644246  
Pittsburgh, PA 15264-4246

Any retainer shall be applied to the final invoice and unused funds, if any, returned to CLIENT. In the event CLIENT fails to pay CEC within thirty (30) days of invoice, CLIENT agrees that CEC will have the right to suspend performance of services after written notice to CLIENT. CEC will be entitled to interest of one and one half percent (1.5%) per month for past due amounts. CEC will be entitled to collect for time and expenses (per CEC's current fee schedules), attorneys' fees and other costs incurred by CEC for collection of past due amounts.

Our PROPOSAL does not include gross receipts taxes, business or occupation taxes or assessments that the municipality where the project is located may assess upon CEC or its subcontractors. If such taxes are or become a liability of CEC, the CLIENT agrees to reimburse CEC at cost.

8.2. Reimbursable Expenses: Direct non-salary expenses (e.g. Travel, Equipment, Subcontractors/Vendors) will be billed according to the terms of our PROPOSAL.

8.3. Litigation Services: If litigation services are not part of the PROPOSAL to which these TERMS are attached and are requested by CLIENT, the scope and fee schedule for the requested litigation services will be identified in a separate PROPOSAL. CLIENT shall reimburse CEC for costs incurred in responding to subpoenas or other legal requests related to the services provided by CEC under this AGREEMENT.

8.4. Design Build: If CLIENT requests CEC to perform design-build services, such services will be performed in accordance with separate TERMS and a PROPOSAL for such design-build services.

## 9. CHANGES

9.1. Changes: Upon a change in CEC's scope of services or discovery of unforeseen conditions, or any direction or instruction outside of the PROPOSAL, CEC will provide CLIENT with the estimated cost of performing the change and any change in the AGREEMENT schedule. Prior to CEC being required to implement the change, CLIENT shall authorize the requested change either verbally or in writing amending the AGREEMENT price and schedule.

9.2. Unauthorized Changes: If changes are made in CEC work products by CLIENT or persons other than CEC, any and all liability against CEC arising out of such changes is waived and CLIENT assumes full responsibility for such changes unless CLIENT has given us prior notice and has received written consent from CEC for such changes.

## 10. DELAYS

Delays not due to CEC shall result in an extension of the schedule equivalent to the length of delay. If such delays result in additional costs to CEC, the AGREEMENT price shall be equitably adjusted by the amount of such additional costs.

## 11. INSURANCE

CEC will maintain Workmen's Compensation Insurance as required by state law, General Liability Insurance for bodily injury and property damage with a limit of \$1,000,000 per occurrence and an aggregate limit of \$2,000,000 and Automobile Liability with a limit of \$1,000,000. Professional liability will be provided with a limit of \$1,000,000 per claim and \$1,000,000 in the aggregate, if applicable. CLIENT and/or the property owner will be listed as additional insured for General Liability Insurance upon CLIENT's written request.

## 12. ALLOCATION OF RISK

12.1. Limitation of Remedies: CLIENT agrees to limit CEC's liability for any claim arising from, or alleged to arise from any acts, errors or omissions in the performance of services under this AGREEMENT, whether such claim is based in negligence, breach of contract, or other legal theory to an aggregate limit of the amount of fees paid to CEC under this AGREEMENT, or \$50,000, whichever is greater, except for CEC's willful misconduct or gross negligence.

12.2. Waiver of Consequential Damages: CEC and CLIENT agree to waive any claim against each other for consequential, incidental, special or punitive damages.

12.3. Indemnification: CEC shall indemnify and hold harmless CLIENT from and against any and all claims, damages, or liability to the extent caused by the negligent performance of services under this AGREEMENT by CEC, including injuries to employees of CEC.

## 13. TERMINATION

This AGREEMENT may be terminated by either party seven (7) days after written notice: i) in the event of breach of any provision of this AGREEMENT; ii) if the CLIENT suspends the work for more than three (3) months in the aggregate; or iii) for CLIENT or CEC's convenience. In the event of termination for suspension or convenience, CEC will be paid for services performed prior to the date of termination plus reasonable termination and demobilization expenses, including, but not limited to the cost of completing analyses, records and reports necessary to document job status at the time of termination.

## 14. GOVERNING LAW

The law of the Commonwealth of Pennsylvania will govern the validity of these TERMS and the AGREEMENT, their interpretation and performance. If any of the provisions contained in these TERMS and the AGREEMENT are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired.

## 15. DISPUTE RESOLUTION

15.1. Notice of Dispute: Within fifteen (15) days of the occurrence of any incident, act, or omission upon which a claim for relief may be based, the party seeking relief shall serve the other party with a written notice specifying the nature of the relief sought, the amount of relief sought, a description of the reason relief should be granted, and the provisions of this AGREEMENT that authorize the relief requested.

15.2. Meet and Confer: Within ten (10) days of receipt of the Notice of Dispute, the parties shall meet and confer in a good faith attempt to resolve the dispute. Participants in the meet and confer must have the authority to enter into a binding resolution on behalf of each party.

15.3. Jurisdiction and Venue: After completion of the meet and confer, either party may proceed to litigation. CEC and CLIENT agree that any court of record in Allegheny County, Pennsylvania, shall have the exclusive jurisdiction and venue over any claims relating to or arising under this AGREEMENT.

15.4. Waiver of Jury Trial: THE PARTIES AGREE AND IRREVOCABLY WAIVE THEIR RIGHT TO TRIAL BY JURY IN ANY ACTION, DISPUTE, PROCEEDING OR SUIT RELATING DIRECTLY OR INDIRECTLY TO THIS AGREEMENT OR THE PROJECT.

## 16. ASSIGNMENT

CLIENT and CEC each binds itself and its successors and assigns to the other and its successors and assigns with respect to all covenants of this AGREEMENT. Neither CLIENT nor CEC shall assign, sublet or transfer any rights under or interest in this AGREEMENT without the prior written consent of the other party. This section shall not, however, apply to subrogation rights (if any) of any insurer of either party.

## 17. OWNERSHIP

CEC shall have title to all drawings, specifications or other documents ("WORK PRODUCT") furnished to CLIENT and intended for use in connection with projects under this AGREEMENT. CLIENT is granted a limited license to use and reproduce the WORK PRODUCT prepared by CEC for use in the execution of the project(s) under this AGREEMENT. The WORK PRODUCT is not to be used by CLIENT or other contractors, subcontractors, or material suppliers on other projects without the express written consent of CEC.

## 18. FILE RETENTION

Upon conclusion of the project, CEC's file on the project will be closed and may be sent offsite for storage. Unless CLIENT requests a longer retention period in writing, CEC reserves the right to destroy all file information seven (7) years after the project is closed.

## 19. SURVIVAL

In the event of termination, cancellation or avoidance of this AGREEMENT, the terms and conditions of Articles 3 (Site Access, Site Conditions and Subsurface Features), 4 (Biological Pollutants, Hazardous Materials and Hazardous Conditions), 5 (Evolving Technologies), 11 (Insurance), 12 (Allocation of Risk), 14 (Governing Law), and 15 (Dispute Resolution) shall survive termination of the AGREEMENT.

## END OF TERMS