

**Grand Ledge City Council Resolution #\_\_\_\_\_ of 2022**

**A Resolution to Approve a Proposal for Professional Services from Fishbeck for Wellhead Protection Plan Update.**

A resolution adopted by the Grand Ledge City Council, at a regular meeting held on Monday, 11 April 2022, in the Gymnasium, City Hall, 310 Greenwood St., Grand Ledge MI 48837, in compliance with the Open Meetings Act, as amended.

**Whereas**, the City of Grand Ledge, Michigan (“City”) is a municipal corporation organized under the provisions of the Home Rule City Act, Public Act 279 of 1909, as amended, and is governed by the provisions of the Grand Ledge City Charter adopted 07 August 2018, as amended (“Charter”); and

**Whereas**, Charter §13.1A provides:

“The power to make and to authorize the making of contracts on behalf of the City is vested in the City Council and shall be exercised in accordance with the provisions of law”; and

**Whereas**, Fishbeck has provided a proposal for professional services for Wellhead Protection Plan Update; and

**Whereas**, staff have reviewed and recommend approving the proposal for professional services for Wellhead Protection Plan Update;

**Now, Therefore, It Is Resolved:**

1. The City approves the proposal for professional services from Wellhead Protection Plan Update, as attached.
2. The City directs the City Manager and Finance Director / Treasurer to appropriate the funds necessary to implement said proposal
3. The City Manager, or their duly authorized agent or representative, is authorized and directed to implement said proposal on behalf of the City of Grand Ledge; to do any other act(s) or thing(s) which shall be necessary to implement said proposal on behalf of the City of Grand Ledge; to preserve and protect the rights, duties and obligations of the City thereunder; and to do any act or thing required by statute, Charter, ordinance, rule, regulation or other provision of law in order to implement said proposal.

**Motion by**

**Second by**

**Ayes:**

**Nays:**

**Absent:**

Approved:


\_\_\_\_\_  
Thomas J. Sowle, Jr., Mayor

I, Gregory L. Newman, Grand Ledge City Clerk, certify this is Resolution #\_\_\_\_\_ of 2022, adopted by the Grand Ledge City Council at a regular meeting held on Monday, 11 April 2022; in the Gymnasium, City Hall, 310 Greenwood St., Grand Ledge MI 48837, in compliance with the Open Meetings Act, as amended.

\_\_\_\_\_  
Gregory L. Newman, City Clerk

Date: March 23, 2022

To: Grand Ledge City Council

From:  Kurt Ristow, Public Works Superintendent

RE: Fishbeck Engineers Wellhead Protection Program Proposal

The city is seeking to have its Wellhead Protection Program (WHPP) updated. The program manages potential sources of contamination to minimize their threat to drinking water sources; develops a contingency plan to prepare for an emergency well closing and for future water needs.

Additionally, the updated WHPP is necessary in our pursuit of funds through the Drinking Water State Revolving Fund (DWSRF). The competition for funding is very competitive, and the WHPP is worth 100 additional scoring points towards project funding.

It is of City Staff's recommendation that the WHPP proposal is accepted in the amount not to exceed \$37,161.

March 2, 2022

Kurt Ristow  
Public Works Superintendent  
City of Grand Ledge  
Department of Public Service  
13253 Lawson Road  
Grand Ledge, MI 48837-9755

**Proposal for Professional Services  
Wellhead Protection Plan Update**

Dear Kurt:

Fishbeck is pleased to submit this proposal to the City of Grand Ledge for services related to wellhead protection. The City is seeking to renew its existing Wellhead Protection Plan (WHPP) to aid in the pursuit of funds through the Drinking Water State Revolving Fund (DWSRF). Fishbeck is very familiar with the local public works infrastructure having worked with the City on numerous projects over the years, including the existing WHPP and ongoing design of a new water treatment plant.

## Statement of Understanding

In September 2002, Fishbeck prepared a WHPP for the City. As part of its renewal, the WHPP will be updated to reflect new data and information available since the original plan was completed twenty years ago. Per the Michigan Department of Environment, Great Lakes, and Energy (EGLE) Wellhead Protection Program *Checklist for Wellhead Protection Program Renewal*, a WHPP consists of an introduction followed by seven core elements:

1. Roles and Responsibilities
2. Wellhead Protection Area Delineation
3. Contaminant Source Inventory
4. Management Approaches for Local Wellhead Protection
5. Contingency Plan
6. Plan for New Wells
7. Public Participation and Outreach/Education

All the sections of the WHPP will be updated. Some of the revisions will be nominal, while other elements will require significant changes.

To apply the WHPP to the DWSRF scoring, a relatively rigorous schedule will need to be implemented. The approved WHPP will need to be ready by August 2022 to be applied to the DWSRF scoring system. The DWSRF will release its initial scoring in March but will allow appeals of that scoring up until August 2022. Thus, it is imperative to get the WHPP completed quickly to ensure this deadline can be met. The WHPP requires coordination between the City and Fishbeck to create a complete plan. It is believed that Fishbeck can meet the timeline as described with timely input from the City where needed and with a responsive EGLE review process.

The renewal of the City's WHPP will require the involvement and participation of both Fishbeck and City staff. The following Scope of Services includes an initial meeting of the individuals who will be involved as the project commences; the goal of the meeting will be to define roles and responsibilities for updating the 2002 WHPP. This will include the formation of a Wellhead Protection (WHP) Team, to be comprised of City staff identified as being key to the success of this project.

## Scope of Services

Fishbeck's scope of services will be responsive to the EGLE *Checklist for Wellhead Protection Program Renewal*. The seven elements of the program are discussed in greater detail in the following subsections.

### Element 1 – Roles and Responsibilities

This element is intended to identify individuals responsible for the development and implementation of the WHPP and should require minimal updating. It is assumed that the City will provide the names, titles, and responsibilities of the current WHP Team to facilitate updating relevant tables and lists in the original WHPP. The City's original WHP Team consisted of the City Administrator, Oneida Township Supervisor, the City Fire Chief, the City Public Services Director, the City Zoning Administrator, a Science Teacher from Grand Ledge Public Schools, and a Sanitarian from the Barry-Eaton District Health Department.

### Element 2 – Wellhead Protection Area Delineation

The wellhead protection area (WHPA) for the City's well field was delineated in 2002 using a groundwater flow model developed by Fishbeck. The modeling was performed using the U.S. Geological Survey (USGS) groundwater flow model MODFLOW, inclusive of particle tracking for the 10-year time of travel (TOT), which is the basis for the delineation. The 10-year TOT areas represent the areas to be managed by the WHPP. Detail regarding the delineation methodology and results were presented in Fishbeck's 2002 *WHPA Delineation Report*.

Fishbeck understands that municipal and other significant groundwater pumping in the Grand Ledge area has changed only marginally in the past two decades. For the purposes of updating the flow model, Fishbeck will rely on the 2002 WHPA Delineation Report, together with revised modeling that will take into consideration any changes in pumping patterns at City wells. A more comprehensive and recent model developed by the USGS for Clinton, Huron, and Eaton Counties may be used rather than updating the 2002 model for use on the project. A WHPA Delineation Report will be prepared describing the methods and results of the updated WHPA delineation. The WHPA Delineation Report will include details regarding pumping rate updates and any other modifications made to the model; it will also include a new figure showing the updated delineation area. After review and approval by the City, the WHPA Delineation Report will be submitted to EGLE for review and approval prior to updating the associated elements of the WHPP.

### Element 3 – Contaminant Source Inventory

Element 3 involves a Contaminant Source Inventory (CSI) to identify existing and potential sources of contamination to production wells within the 10-year TOT area – that is, within the WHPA. Like the original CSI, this task will include a database records search, followed by a physical inventory of properties identified by the database search, and a review of local health department files.

#### ***Database Records Search and Review***

Fishbeck will contract with a database reporting firm (e.g., Environmental Data Resources, Inc. [EDR]) to search relevant databases for information regarding existing or potential sources of contamination. A single EDR report will be ordered for the City's well field area. The EDR report will include maps with the wellfield, and locations and identification of sources of interest. Once Fishbeck has received the EDR report and we have conducted a review of additional databases that are on the EGLE WHPP checklist but are not covered by the EDR search, the following procedure will be used to update the CSI:

- The sites listed in the new EDR report will be compared to the list of sites in the 2002 CSI tables.
- The new sites will be flagged for review. Fishbeck will assist the City in estimating the level of threat using the information contained in the EDR report.
- Sites that are in the previous CSI, but are not in the new EDR report, will be flagged by the City for follow-up.
- The threat level of each of the sites listed in the updated CSI will also be evaluated and updated by the City.

Note that Appendix 3 of the 2002 CSI identified 15 sites of existing or potential contamination.

### ***Reconnaissance Surveys***

After Element 2 and the database records search have been completed, reconnaissance surveys of the WHPAs will be conducted. We assume the City will complete this task and will provide Fishbeck with verification as to source existence, activity and nature, along with other information necessary for the CSI. The surveys will be conducted in the delineation area, with particular attention paid to the sites flagged in the database records search. The surveys will identify activities within well recharge areas that have a potential to result in groundwater contamination. If other sources – or potential sources – are identified during the reconnaissance search, their identity and locations will be considered for possible addition to the CSI.

### ***Salt Storage Structures***

Information regarding salt storage structures in the area will be updated and incorporated into the WHPP.

## **Element 4 – Management Approaches for Local Wellhead Protection**

It is assumed this element will require a lower level of updating. In consultation with City staff, Fishbeck will review the history of use and value of 2002 WHPP management procedures and make changes to the plan text as needed.

## **Element 5 – Contingency Plan**

The Contingency Plan section of the WHPP will be updated to reflect any changes since the previous plan was prepared in 2002. The updates will rely largely on the City's current written contingency plan(s) and other information provided by the City. This Element includes considerable information in the way of emergency contacts and related organizational information to be provided by the City.

The Contingency Plan will consider both short-term and long-term emergency response situations. The City WHP Team will provide Fishbeck with input regarding water supply emergencies that have occurred since 2002.

## **Element 6 – Plan for New Wells**

Updating of this element by Fishbeck will rely heavily upon information on planned new wells to be provided by the City WHP Team.

## **Element 7 – Public Participation and Outreach/Education**

It is assumed that the City WHP Team will identify content and changes that it is willing to own and implement, and that Fishbeck will incorporate this content and changes into the draft WHPP.

## **Other Items**

Several items, in addition to the EGLE-required elements previously discussed, may be included in the updated WHPP. These include, but are not limited to:

- Wellhead protection resources
- List of team members (other than City WHP Team members required by EGLE)
- Most recent Grand Ledge Drinking Water Quality Report
- Meeting minutes
- State Resources for Wellhead Protection
- EGLE acceptance of the updated Delineation Report
- EGLE state and county permits checklist
- Abandoned well guidance
- Local and regional hazardous waste management programs
- Septic tank management programs

## Deliverables

### Meetings

In addition to tasks associated with each element described above, this proposal has budgeted for one virtual project kickoff meeting to review the study scope, objectives, and schedule. At this meeting the responsibilities and assignments for Fishbeck and the City WHP Team will be discussed and finalized. Meeting Minutes will be prepared and distributed by Fishbeck. It is also assumed that there will be one site visit and a final virtual review meeting to discuss the results of the WHPP.

It is assumed that review of the WHPA Delineation Report can be accomplished by email and the finalization of the WHPP for EGLE review can be accomplished through a virtual meeting. Fishbeck staff are available for either in-person or virtual meetings on request, or as deemed necessary for the project. The fee included in this proposal assumes that all meetings – exclusive of the site visit – will be virtual.

### WHPA Delineation Report

An electronic copy of the draft WHPA delineation drawings and report will be submitted to the City for review/comment prior to submittal to EGLE for approval. The City's edits will be incorporated and the final electronic copy of the WHPA Delineation Report will be submitted to EGLE and the City.

### WHPP Document

The remaining elements of the WHPP will be updated and an electronic draft WHPP will be submitted to the City WHP Team for review/comment prior to submittal to EGLE. Upon revision to resolve any potential EGLE comments, the WHPP will be finalized; hard and electronic copies will be prepared for the City and stakeholders in Grand Ledge, surrounding communities, and relevant organizations as well as submitted to EGLE in electronic form only. For cost estimating purposes, we have assumed up to 3 hard copies will be prepared in addition to an electronic copy. Due to the large volume of data anticipated to be developed by the CSI database searches, the CSI data will be summarized in the WHPP document and the database reports will be compiled and provided to the City in electronic format only.

### Schedule

Fishbeck estimates that upon receipt of a signed agreement, it will take 4 weeks to prepare a draft WHPA Delineation Report and draft WHPP for concurrent EGLE review and approval, 30 days for EGLE to review the drafts, and another 2 weeks to finalize the WHPA Delineation Report and WHPP, for a total of 2.5 to 3 months. However, if EGLE will only agree to provide sequential review and approval of the WHPA Delineation Report and then the WHPP, a month will need to be added to this schedule, for a total of 3.5 to 4 months.

## Estimated Fees

The estimated not-to-exceed fee to complete this project is summarized in the following table.

Task	Description	Labor and Expenses	Subcontractor	Total
1	Meetings and Coordination (assume 2 virtual meetings and 1 site visit)	\$7,016		\$7,016
2	WHPA Delineation Update	\$7,290		\$7,290
3	CSI Update	\$7,116	\$550	7,666
4	Elements 4-7 Update	\$6,364		\$6,364
5	WHPP Development	\$8,825		\$8,825
	Total	\$36,611		\$37,161

Fishbeck proposes to complete the described scope of services on a time-and-materials basis for a fee not-to-exceed Thirty-Seven Thousand One Hundred Sixty-One Dollars (\$37,161). If we find that the scope of services required differs from that proposed, we will notify the City immediately of any appropriate amendment to the scope and fees.

## Assumptions

This proposal has been prepared with the following assumptions:


- The City will assemble its WHP Team, assign a coordinator, who will work with the Fishbeck project manager to arrange for the necessary meetings, WHP Team input, and review so that the WHPP can be updated according to the project schedule.
- Pumping rates and run time data for each well are readily available from the City for use in the groundwater flow model.
- Fishbeck will order the database records searches from EDR.
- The CSI will only involve identification of existing or potential sources of contamination as provided in the EDR reports and will not include a further evaluation of each site. If new potential sources of contamination are identified that are considered a higher threat level, it may be necessary to conduct further evaluation of the site through the Freedom of Information Act (FOIA) of EGLE records and/or a site visit. This level of effort is beyond the scope of this proposal and, should the need arise, the Scope of Services and associated fees will be amended.
- The City will conduct the reconnaissance surveys as part of the CSI Element. Fishbeck can provide assistance upon request.
- Fishbeck will prepare a draft WHPA Delineation Report and WHPP for City and EGLE review and approval, and the City will implement the finalized WHPP.

## Authorization

Attached is our Professional Services Agreement. If you concur with our scope of services, please sign in the space provided and return the executed contract to the attention of Dawn M. Grates ([dgrates@fishbeck.com](mailto:dgrates@fishbeck.com)). This proposal is made subject to the attached Terms and Conditions for Professional Services. Invoices will be submitted every four weeks and payment is due upon receipt.

We appreciate the opportunity to provide this proposal for your approval and look forward to working with the City of this project. If you have any questions or require additional information, please contact Charlie Schlinger at 231.714.9247 ([cschlinger@fishbeck.com](mailto:cschlinger@fishbeck.com)) or Bruce Gillett at 616.464.3760 or ([begillett@fishbeck.com](mailto:begillett@fishbeck.com)).

Sincerely,

  
**Charlie Schlinger, PE, CPG**  
Senior Environmental Engineer/Geologist

  
**Bruce E. Gillett, CPG**  
Senior Hydrogeologist

Attachments

By email

Copy: Colin G. McCorkle, PE – Fishbeck  
John A. Willemin, PE – Fishbeck

## Professional Services Agreement

**PROJECT NAME** Wellhead Protection Plan Update  
**FISHBECK CONTACT** Charlie Schlinger, PE, CPG  
**CLIENT** City of Grand Ledge  
**CLIENT CONTACT** Kurt Ristow  
**ADDRESS** 13253 Lawson Road, Grand Ledge, MI 48837-9755

Client hereby requests and authorizes Fishbeck to perform the following:

**SCOPE OF SERVICES:** Update the Grand Ledge WHPP in accordance with the Fishbeck proposal letter dated March 2, 2022.

**AGREEMENT.** The Agreement consists of this page and the documents that are checked:

- Terms and Conditions for Professional Services, attached.
- Proposal dated March 2, 2022.
- Other:

**METHOD OF COMPENSATION:**

- Lump Sum for Defined Scope of Services
- Hourly Billing Rates plus Reimbursable Expenses
- Other:

**Budget for Above Scope of Services:** Thirty-Seven Thousand One Hundred Sixty-One Dollars (\$37,161).

**ADDITIONAL PROVISIONS (IF ANY):** None.

**APPROVED FOR:**

City of Grand Ledge

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ACCEPTED FOR:**

Fishbeck

BY:  \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

Senior Vice President

March 2, 2022

1. **METHOD OF AUTHORIZATION.** Client may authorize Fishbeck to proceed with work either by signing a Professional Services Agreement or by issuance of an acknowledgment, confirmation, purchase order, or other communication. Regardless of the method used, these Terms and Conditions shall prevail as the basis of Client's authorization to Fishbeck. Any Client document or communication in addition to or in conflict with these Terms and Conditions is rejected.
2. **CLIENT RESPONSIBILITIES.** Client shall provide all criteria and full information as to requirements for the Project and designate in writing a person with authority to act on Client's behalf on all matters concerning the Project. If Fishbeck's services under this Agreement do not include full-time construction observation or review of Contractor's performance, Client shall assume responsibility for interpretation of contract documents and for construction observation, and shall waive all claims against Fishbeck that may be in any way connected thereto.
3. **HOURLY BILLING RATES.** Unless stipulated otherwise, Client shall compensate Fishbeck at hourly billing rates in effect when services are provided by Fishbeck employees of various classifications.
4. **REIMBURSABLE EXPENSES.** Those costs incurred on or directly for Client's Project. Reimbursement shall be at Fishbeck's current rate for mileage for service vehicles and automobiles, special equipment, and copying, printing, and binding. Reimbursement for commercial transportation, meals, lodging, special fees, licenses, permits, insurances, etc., and outside technical or professional services shall be on the basis of actual charges plus 10 percent.
5. **OPINIONS OF COST.** Any opinions of probable construction cost and/or total project cost provided by Fishbeck will be on a basis of experience and judgment, but since it has no control over market conditions or bidding procedures, Fishbeck cannot warrant that bids or ultimate construction or total project costs will not vary from such estimates.
6. **PROFESSIONAL STANDARDS; WARRANTY.** The standard of care for services performed or furnished by Fishbeck will be the care and skill ordinarily used by members of Fishbeck's profession practicing under similar circumstances at the same time and in the same locality. Fishbeck makes no warranties, express or implied, under this Agreement or otherwise, in connection with Fishbeck's services.
7. **TERMINATION.** Either Client or Fishbeck may terminate this Agreement by giving ten days' written notice to the other party. In such event, Client shall pay Fishbeck in full for all work previously authorized and performed prior to the effective date of termination, plus (at the discretion of Fishbeck) a termination charge to cover finalization work necessary to bring ongoing work to a logical conclusion. Such charge shall not exceed 30 percent of all charges previously incurred. Upon receipt of such payment, Fishbeck will return to Client all documents and information which are the property of Client.
8. **SUBCONTRACTORS.** Fishbeck may engage subcontractors on behalf of Client to perform any portion of the services to be provided by Fishbeck hereunder.
9. **PAYMENT TO FISHBECK.** Invoices will be issued every four weeks, payable upon receipt, unless otherwise agreed. Interest of 1 percent per four-week period will be payable on all amounts not paid within 28 days from date of invoice, payment thereafter to be applied first to accrued interest and then to the principal unpaid amount. Any attorney's fees or other costs incurred in collecting any delinquent amount shall be paid by Client.

Client agrees to pay on a current basis, in addition to any proposal or contract fee understandings, all taxes including, but not limited to, sales taxes on services or related expenses which may be imposed on Fishbeck by any governmental entity.

If Client directs Fishbeck to invoice another, Fishbeck will do so, but Client agrees to be ultimately responsible for Fishbeck's compensation until Client provides Fishbeck with that third party's written acceptance of all terms of this Agreement and until Fishbeck agrees to the substitution.

In addition to any other remedies Fishbeck may have, Fishbeck shall have the absolute right to cease performing any basic or additional services in the event payment has not been made on a current basis.

10. **HAZARDOUS WASTE.** Fishbeck has neither created nor contributed to the creation or existence of any hazardous, radioactive, toxic, irritant, pollutant, or otherwise dangerous substance or condition at any site, and its compensation hereunder is in no way commensurate with the potential risk of injury or loss that may be caused by exposure to such substances or conditions. Fishbeck shall not be responsible for any alleged contamination, whether such contamination occurred in the past, is occurring presently, or will occur in the future, and the performance of services hereunder does not imply risk-sharing on the part of Fishbeck.
11. **LIMITATION OF LIABILITY.** To the fullest extent permitted by law, Fishbeck's total liability to Client for any cause or combination of causes, which arise out of claims based upon professional liability errors or omissions, whether based upon contract, warranty, negligence, strict liability, or otherwise is, in the aggregate, limited to the greater of \$250,000 or the amount of the fee earned under this Agreement.

To the fullest extent permitted by law, Fishbeck's total liability to Client for any cause or combination of causes, which arise out of claims for which Fishbeck is covered by insurance other than professional liability errors and omissions, whether based upon contract, warranty, negligence, strict liability, or otherwise is, in the aggregate, limited to the total insurance proceeds paid on behalf of or to Fishbeck by Fishbeck's insurers in settlement or satisfaction of Client's claims under the terms and conditions of Fishbeck's insurance policies applicable thereto.

Higher limits of liability may be considered upon Client's written request, prior to commencement of services, and agreement to pay an additional fee.

12. **DELEGATED DESIGN.** Client recognizes and holds Fishbeck harmless for the performance of certain components of the Project which are traditionally specified to be designed by the Contractor.
13. **INSURANCE.** Client shall cause Fishbeck and Fishbeck’s consultants, employees, and agents to be listed as additional insureds on all commercial general liability and property insurance policies carried by Client which are applicable to the Project. Client shall also provide workers' compensation insurance for Client’s employees. Client agrees to have their insurers endorse these insurance policies to reflect that, in the event of payment of any loss or damages, subrogation rights under this Agreement are hereby waived by the insurer with respect to claims against Fishbeck.

Upon request, Client and Fishbeck shall each deliver to the other certificates of insurance evidencing their coverages.

Client shall require Contractor to purchase and maintain commercial general liability and other insurance as specified in the contract documents and to cause Fishbeck and Fishbeck’s consultants, employees, and agents to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project. Contractor must agree to have their insurers endorse these insurance policies to reflect that, in the event of payment of any loss or damages, subrogation rights under this Agreement are hereby waived by the insurer with respect to claims against Fishbeck.

14. **INDEMNIFICATION.** Fishbeck will defend, indemnify, and hold Client harmless from any claim, liability, or defense cost for injury or loss sustained by any party from exposures to the extent caused by Fishbeck’s negligence or willful misconduct. Client agrees to defend, indemnify, and hold Fishbeck harmless from any claim, liability, or defense cost for injury or loss sustained by any party from exposures allegedly caused by Fishbeck’s performance of services hereunder, except for injury or loss to the extent caused by the negligence or willful misconduct of Fishbeck. These indemnities are subject to specific limitations provided for in this Agreement.
15. **CONSEQUENTIAL DAMAGES.** Client and Fishbeck waive consequential damages for claims, disputes, or other matters in question relating to this Agreement including, but not limited to, loss of business.
16. **LEGAL EXPENSES.** If either Client or Fishbeck makes a claim against the other as to issues arising out of the performance of this Agreement, the prevailing party will be entitled to recover its reasonable expenses of litigation, including reasonable attorney’s fees. If Fishbeck brings a lawsuit against Client to collect invoiced fees and expenses, Client agrees to pay Fishbeck’s reasonable collection expenses including attorney fees.
17. **OWNERSHIP OF WORK PRODUCT.** Fishbeck shall remain the owner of all drawings, reports, and other material provided to Client, whether in hard copy or electronic media form. Client shall be authorized to use the copies provided by Fishbeck only in connection with the Project. Any other use or reuse by Client or others for any purpose whatsoever shall be at Client’s risk and full legal responsibility, without liability to Fishbeck. Client shall defend, indemnify, and hold harmless Fishbeck from all claims, damages, losses, and expenses, including attorney’s fees arising out of or resulting therefrom.
18. **ELECTRONIC MEDIA.** Data, reports, drawings, specifications, and other material and deliverables may be transmitted to Client in either hard copy, digital, or both formats. If transmitted electronically, and a discrepancy or conflict with the electronically transmitted version occurs, the hard copy in Fishbeck’s files used to create the digital version shall govern. If a hard copy does not exist, the version of the material or document residing on Fishbeck’s computer network shall govern. Fishbeck cannot guarantee the longevity of any material transmitted electronically nor can Fishbeck guarantee the ability of the Client to open and use the digital versions of the documents in the future.
19. **GENERAL CONSIDERATIONS.** Client and Fishbeck each are hereby bound and the partners, successors, executors, administrators, and legal representatives of Client and Fishbeck are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

Neither Client nor Fishbeck shall assign this Agreement without the written consent of the other.

Neither Client nor Fishbeck will have any liability for nonperformance caused in whole or in part by causes beyond Fishbeck’s reasonable control. Such causes include, but are not limited to, Acts of God, civil unrest and war, labor unrest and strikes, acts of authorities, and events that could not be reasonably anticipated.

This Agreement shall be governed by the law of the principal place of business of Fishbeck.

This Agreement constitutes the entire agreement between Client and Fishbeck and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

**End of Terms and Conditions for Professional Services**