



May 6, 2016
15512

Mr. Christopher G. Parker, AICP
Assistant City Manager: Director of Planning and Strategic Initiatives
City of Dover
288 Central Avenue
Dover, NH 03820-4169

Proposal for Planning and Engineering Services
Route 108 – South Corridor Study – Part 2 (School Elements)

Dear Chris:

Thank you again for your confidence in our Team for the conduct of your Route 108 - South Corridor Study. We appreciate your decision and will not disappoint you in this important evaluation.

Per your direction we have split our scope and fee for this Project into two Parts – 1 and 2. Part 1, under separate cover, are those elements of our work that could be considered non-school related; and Part 2, which is presented herein, are those study elements that are in some way school related. In so doing, we do not mean to suggest that our work will not yield a cohesive assessment of this corridor, but rather this separation is more for billing and accounting purposes.

As we described in our interview we see four fairly independent elements associated with this assignment. These are:

- Congestion Mitigation
- Safety
- Bike/Ped Facilities
- Middle and High School Coordination

Scope of Services – Part 2

A scope has been prepared for each of the above elements followed by a cost, and we have summarized everything at the end.

Item 1 – Kick-Off Meeting (Shared Task between City and School)

- 1.1 We propose to organize a Study Kick-Off meeting with both City and School Staff to introduce the Study Team, review our scope of work, establish expectations to be met, agree on a schedule for performance with interim milestones, and outline clear lines of communications among all Team members throughout the Study effort. The Study limits on Route 108 will be from Central Avenue to Mast Road – not the Town Line.

Item 2 – Public Informational Meeting (Shared Task between City and School)

- 2.1 With the aid of the Planning Department we will organize an Informational Meeting aimed at soliciting public input that could be useful to the Study's objectives – be it identifying current problems that need attention or suggesting potential solutions that would ease current conditions. The Planning Department would select a location and advertise the meeting, and the Sebago Team would provide graphics, orchestrate the discussion, and record the minutes.

Item 3 – Congestion Mitigation (Shared Task between City and School)

As mentioned at our interview, Sebago will be implementing some new traffic signal timings soon for the Route 108 Corridor that we believe will make measurable improvements in traffic operations during peak travel times. This work will be covered under our Traffic Signal Operations Contract and not be part of this Study effort. However, the results of this work may impact the extent to which we need to explore more expensive long-term infrastructure improvements.

- 3.1 We will observe the Route 108 entrances to the High and Middle schools during the morning and afternoon peak arrival and departure times. We understand that the school manually controls traffic at both of these locations with a crossing guard to give the buses the right-of-way. As part of these observations, we will also will collect some driveway entering and exiting volumes during the AM and afternoon peak hours at all three campus entrances (two on Route 108 and one on Bellamy Road) for use in discussing possible alternative circulation strategies. From our observations, we may find that there are some obvious changes in access and circulation that could improve traffic flow on Route 108, such as a dedicated left turn lane for Alumni Drive. Adjustment in school start and end times is another example of minimal cost actions that might prove effective and viable.
- 3.2 Assuming that our new traffic signal timing plans will optimize traffic flow within the current infrastructure, we will then look at the current crash data to see what "low cost" changes in the present lane use and configuration might correct some of the safety deficiencies as well as generate some additional traffic operational benefits. Examples of these sorts of improvements might include closing curb cuts, adding medians to prevent left turns, and adding queue storage on the side streets.
- 3.3 Route 108 is a Wildcat Transit Route. As such, we will contact Wildcat's operations staff to ascertain current ridership and any plans for upgrading this corridor in the future. If there are opportunities to manage travel demand, through increased transit ridership we will highlight this for the City and make it part of the long term recommendations for the Study.
- 3.4 In addition to examining possible low cost improvements, we will also look at some potential "higher cost" alternatives for addressing the safety and congestion needs of the corridor more long term. These might involve widening the bridge on Route 108 between Mill Street and Back River Road to add another lane in each direction, and creating a new school entrance opposite Back River Road through land that is currently for sale so that this intersection could have 4 rather than 3 approaches.

Deliverables:

1. A memo describing TSM and access management strategies that should be considered by the City.
2. A memo describing “low cost” improvement strategies, including their estimated costs.
3. A memo describing Wildcat Transit’s impact on the Route 108 Corridor.
4. A memo describing “higher cost” improvement strategies, including their estimated costs.

Item 4 – Safety (City only Task)

- 4.1 We will coordinate with Dover’s Police Department (Sargent Speidel) to get the most recent 3 years of crash history pulled from PD’s files for Route 108 from Central Avenue to, and including Mast Road, and along Bellamy Road from Knox Marsh Road to Route 108.
- 4.2 We will review this material, create a map displaying the crash history, and summarize the findings in terms of problem areas, particular crash patterns that may be correctable, and recommended solutions.

Deliverable:

1. A memo documenting the findings of Task 4.2.

Item 5 – Bike/Ped Facilities (Primarily a School only Task)

- 5.1 We will analyze existing conditions along the Route 108 and Bellamy Road corridors, with an emphasis on walking and bicycling. Using field work, on-line research and based on the comments from City and School staffs and key stakeholders, we will create an Opportunities and Challenges Analysis Map, with accompanying narrative. The map will highlight current facilities and easily-achievable improvements for walking and bicycling (i.e. the “Opportunities”) while also illustrating the various “Challenges” along the corridor that prevent seamless and safe connections for pedestrians and bicyclists along the two corridors. In particular, the map will emphasize the infrastructure gaps that would provide improved connections to the Middle School and High School.
- 5.2 Taking into account previous planning efforts and the existing conditions analysis in Task 5.1, we will generate up to three (3) conceptual design alternatives for pedestrian and bicycle facilities along Route 108 and three (3) alternative along Bellamy Road. The alternatives will primarily feature improvements within the two rights of way, with suggestions for improvements within City-owned properties along the two corridors. The design options will incorporate NHDOT design standards, AASHTO, ADA Standards for Accessible Design and, if relevant, the NACTO Urban Street Design Guide.

The alignment alternatives will incorporate the opportunities and challenges assessment, direct feedback from City and School staffs and tie into project goals developed in an earlier task. The six (6) total alternatives will be concept-level designs and displayed as rendered plan and cross-section views with written text and callouts. For both pedestrian and bicycle facilities, each design alternative will take into account the needs of children walking to school and novice bicyclists and/or families riding with young children.

Special attention will be given to the pedestrians originating from the Birchwood neighborhood and destined for the two school campuses. The need for additional sidewalks and crosswalks will be assessed in this regard.

- 5.3 Based on input from City and School staffs and feedback from any public input scheduled for the Study, a “preferred” conceptual design alternative will be chosen for both Route 108 and Bellamy Road. The conceptual design of the preferred alternative will be described in narrative format and presented in a variety of richly-detailed images including diagrams, plans, cross-sections and one 3-D rendering for each of the two corridors. Recommendations will feature new/improved sidewalks, paths, crosswalks, potential signals, lighting, signs and roadway restriping and stencils.

Deliverables:

1. An Opportunities and Challenges analysis map and narrative.
2. Six (6) total alternative designs presented as diagrammatic, plan, and cross-section graphics. Each option will include a narrative that describes key features.
3. All graphics and narrative related to the “preferred” conceptual design alternative for Route 108 and Bellamy Road.

Item 6 – Middle and High School Coordination (School only Task)

Our general approach with the School District will be one of listening and developing an understanding regarding their policies and procedures with respect to access and circulation at their campus. We will use our knowledge and experience from working with other similar School Districts to probe and suggest alternative actions that may benefit the District and the overall Route 108 corridor in terms of circulation and sense of place within the community. This may involve reviewing bussing diagrams, route software outputs and generation, and various traffic management strategies. It will not be our intent to redesign the District’s facilities, but suggest ways that the City and School District can work together to make this area of the city work better from a traffic operations and safety standpoint.

- 6.1 One of the additional objectives of our initial Kick Off Meeting will be to engage members of City Planning and Engineering Staff and key stakeholders from the School District including but not limited to; Superintendent of Schools, Principals of each building, Business Manager and Design Team to understand their goals and intentions for circulation. At this time we can also form a basis of understanding for key circulation goals for the School District and begin to explore opportunities for reduction of impacts within the Route 108 Corridor.
- 6.2 Once we have had time to digest the information gained at the Kick-Off Meeting, we will meet again with the stakeholders group to explore potential enhancements that will improve circulation for the corridor and any impacts or benefits the improvements will have on the School’s development. During this meeting, it is anticipated that potential non-construction related strategies for traffic management will be reviewed with the School District.
- 6.3 Finally, we will hold a third meeting at the completion of the other three key elements of our Study to review with the School District representatives the recommended infrastructure improvements and best suited traffic management strategies for the School and the City. If consensus is achieved, then we will formulate a strategy for implementation, including what the anticipated performance metrics might be.

Deliverables:

1. A narrative of the recommended traffic management strategies that should be employed by the School to improve circulation and safety for all users of the facilities. An implementation strategy with performance measurement metrics.

Item 7 – Final Report (Shared Task between City and School)

At the conclusion of our Study effort, we will summarize all of the findings of the individual Study elements into a single pdf document and present it to the City Council at a workshop session. This process will be a multi-step task beginning with a Draft Report that staff can review and comment on, followed by a presentation to the City Council for their feedback, and finally some field observations in the fall after school resumes to see if traffic operations are any better based on our short term recommendations. At the conclusion of our field observations we will finalize our Report for delivery to the City.

Compensation

The following breakdown outlines the costs we estimate for each of the above-described Study elements:

Kick Off Meeting	15 hrs.	@	\$ 1,400
Congestion Mitigation	78 hrs.	@	\$ 9,300
Safety	0 hrs.	@	\$ 0
Bike/Ped Facilities	78hrs.	@	\$11,250
School Coordination	40 hrs.	@	\$ 5,500
Final Report	<u>20 hrs.</u>	@	<u>\$ 2,550</u>
Total	231 hrs.		\$30,000

Schedule

We understand that time is somewhat of the essence for this Study and as such we are prepared to commence our efforts as soon as we receive an executed PO. Our approach will be to tackle all four elements of the Study concurrently once we have held our kick-off meeting. Under this scenario we are comfortable in producing a Final Report for you within 12 - 13 weeks of our Kick-Off Meeting. We propose to establish a firm schedule at our Kick-Off Meeting, but initially we are thinking the following:

Kick Off Meeting	May 23
Public Informational Meeting	June 1
Present Initial Ped/Bike Findings	June 22
Present Safety Statistics	May 23
Present Initial Congestion Mitigation Options	June 22
Second Meeting with School	June 29
Finalize Ped/Bike Recommendations	July 22
Finalize Congestion Mitigation Options	July 22
Prepare Draft Final Report	August 10
Presentation to City Council and School	August 15
Observe Conditions in the Fall	September
Finalize Report	September 30

Closing

We are pleased to have the opportunity to present this scope, schedule, and fee proposal. Please call if you have any questions or require additional information. We look forward to bringing this project to a successful completion.

Sincerely,

SEBAGO TECHNICS, INC.



Stephen S. Sawyer, Jr., P.E.
Vice President, Transportation Services

SSS:sss/jag

**ACCEPTED and AUTHORIZED
(Sebago Technics' Project No. 15512 Part 2)**

By: _____

Representing: _____

Title: _____

Date: _____

STANDARD TERMS AND CONDITIONS

GENERAL: The following Standard Terms and Conditions, listed in alphabetical order, together with the attached Proposal, Letter Agreement or Contract and Standard Fee Schedule (if included), constitute the Agreement between Sebago Technics, Inc. ("Sebago Technics") and the entity or person to whom the Agreement is addressed ("Client") to perform basic or additional services. As sometimes used herein, the Work performed by Sebago Technics shall include but not be limited to the Scope of Services and Additional Services performed by Sebago Technics and/or its sub-consultants. The headings and titles of the paragraphs of these Terms and Conditions as well as any other part of this Agreement are for convenience purposes only and are not intended to define, limit or construe the contents of the various paragraphs.

1. ACCESS TO SITE

Unless otherwise stated, Client grants Sebago Technics full access to the site for all activities necessary for the performance of the services set out in the Scope of Services. Sebago Technics will take all reasonable precautions to minimize damage due to its activities. Unless otherwise stated, Sebago Technics has not included any costs in its Compensation for any restoration.

2. ADDITIONAL SERVICES

Additional Services are those services not specifically set forth in the Scope of Services. Sebago Technics will notify the Client of any significant change in the Scope of Services which will be considered additional services and costs for which Client agrees to pay on an hourly basis or as incurred in accordance with Sebago Technics latest fee schedule and/or as reported to the Client.

3. APPLICABLE LAW

This Agreement shall be governed by the laws of the State for which the project is located.

4. ASSIGNMENT

Neither party shall assign its rights and/or obligations hereunder to any other party without the prior written consent of the other party. Sebago Technics, however, reserves the right to use consultants and or sub-consultants to complete the work described under the Scope of Services as it deems necessary.

5. BILLING/PAYMENTS

Invoices for services and expenses incurred will be submitted monthly and are due upon receipt. An invoice shall be considered PAST DUE if payment is not received within 30 (thirty) days after the invoice date. Should payment not be received, Sebago Technics may, at its sole discretion, without waiving any claim or right against the Client and without any liability to the Client, terminate its performance of services. Interest charges may be applied to all PAST DUE amounts. Sebago Technics also reserves the right to utilize any other methods, processes or procedures available to it, under law, in order to collect charges and fees owed to it. Should Sebago Technics incur expenses to collect its outstanding fees, Client agrees to reimburse Sebago Technics for all such expenses including reasonable attorneys' and paralegal fees, court costs and other related expenses.

6. BURIED UTILITIES

Sebago Technics will conduct research that it deems necessary and will prepare a plan indicating the location intended for subsurface penetrations and/or proposed underground infrastructures with respect to the assumed locations of all existing subsurface utilities. Although such services will be performed by Sebago Technics, or its subcontractor, using its industry's ordinary standard of care, the Client acknowledges that Sebago Technics' research may not identify all existing underground utilities and that the information upon which Sebago Technics relied may contain errors and omissions. The Client therefore agrees, to the fullest extent permitted by law, to indemnify and hold Sebago Technics harmless from any and all claims, liability and costs of defense, including but not limited to its attorneys' and paralegals' fee and costs, whether or not actual litigation is commenced, for all liability, injury or losses arising or allegedly arising from errors or omissions related to buried utilities.

7. COMPENSATION/BUDGET

Unless stated as a lump sum, the total fee set forth shall be understood to be an estimate, based upon the stated Scope of Services, Sebago Technics' understanding of the work being requested by the Client and Sebago Technics' best estimate and understanding of the work that is actually required. The Compensation/Budget shall not be exceeded by more than ten percent (10%) without further authorization from the Client. If the Compensation/Budget is based on an hourly basis, the rates shall be those that prevail at the time the services are rendered. Rates are subject to change without prior notification. Reimbursable expenses shall include, but are not limited to those for travel, survey supplies, equipment use, telephone, photocopies, plan copies including vellum originals, fax, and postage and should overnight travel be required, lodging and per diem for meals and other reasonable expenses.

8. CONFIDENTIALITY

Sebago Technics agrees to keep confidential and will not disclose to any person or entity other than its employees and sub-consultants any data and information furnished to Sebago Technics stated to be or is marked "Confidential" by the Client. Sebago Technics will not disclose such information without Client's prior consent except to the extent required for: 1) performance of services under this Agreement; 2) compliance with professional standards of conduct for preservation of the public safety, health and welfare; 3) compliance with any court order, statute, law, or governmental directive; and/or 4) protection of Sebago Technics from the performance of services under this Agreement. Sebago Technics' obligations hereunder shall not apply to information in the public domain or lawfully obtained on a non-confidential basis from others.

9. CORPORATE PROTECTION

Client agrees that Sebago Technics' services performed pursuant to the Scope of Services and any Additional Services rendered for Client's project shall not subject any of Sebago Technics' individual employees, officers, directors or agents to any personal legal liability. Client agrees that its sole and exclusive remedy for any claim, demand or suit with respect to the Scope of Services and any Additional Services shall be directed and asserted only against Sebago

Technics, which is a Maine corporation. The Client further agrees to extend this limitation to Sebago Technics' corporate sub-consultants.

10. COUNTERPARTS AND DUPLICATE ORIGINALS

This Agreement may be executed in one or more counterparts which, when combined, shall constitute one complete original and may be executed in duplicate originals.

11. DISPUTE RESOLUTION

Sebago Technics and Client agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, effective as of the date of this Agreement.

12. ELECTRONIC MEDIA

Client recognizes that data, plans, specifications, reports, documents, or other information recorded on or transmitted as electronic media are subject to undetectable alteration, either intentional or unintentional. Accordingly, documents provided to Client in electronic media form are for informational purposes only and are not an end product. Making electronic information available to the Client in no way implies that the recipient is required by Sebago Technics to use it. Use of electronic information supplied by Sebago Technics in this format is at the sole risk and liability of the user. Client agrees to defend, indemnify, and hold harmless Sebago Technics from any claims, liabilities, losses or damages arising out of the use, reuse or alteration of electronic media. Sebago Technics makes no warranties or representations, either expressed or implied, regarding the fitness or suitability of the electronic media.

All clients shall be required to sign Sebago Technics' *Electronic File Confidentiality and Transfer Disclaimer* form. Any electronic files submitted by Sebago Technics to the Client have an acceptance deadline of forty-five (45) days. During this period, any defects reported by the Client to Sebago Technics will be corrected pursuant to its original Scope of Services. However, upon the expiration of this acceptance period, any defects claimed by the Client and reported to Sebago Technics shall be addressed by Sebago Technics, which shall be compensated therefore as Additional Services.

13. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Client and Sebago Technics with respect to the subject matters stated herein and this Agreement supersedes all previous negotiations, discussions and agreements between the Client and Sebago Technics as to the subject matter of this Agreement. These conditions shall survive the completion of Sebago Technics' services under this Agreement and the termination of any services for cause.

14. ENVIRONMENTAL SITE ASSESSMENTS (ESAs)

Should Sebago Technics be hired to perform any ESA services, the Client agrees to the fullest extent permitted by law to indemnify and hold Sebago Technics harmless from any and all claims, liability and costs of defense, including but not limited to its attorneys' and paralegals' fees and costs, whether or not actual litigation is commenced, for all liability, injury or losses arising or allegedly arising or related in any way to the existence, release or disposal of toxic or hazardous substances as they may now or in the future be determined under any and all local, state or federal laws except and unless Sebago Technics is found to have engaged in any willful misconduct related thereto.

15. FORCE MAJEURE

Except for Client's obligation to pay for services rendered, no liability will attach to either party from delay in performance or nonperformance caused by circumstances beyond the reasonable control of the party affected, including, but not limited to, acts of God, fire, flood, unanticipated site or subsurface conditions, explosion, war, request or intervention of a governmental authority, court order, labor relations, accidents, delay or inability to obtain materials, equipment, fuel or transportation.

16. HIDDEN CONDITIONS

A condition is hidden if concealed by existing conditions or is not capable of investigation by reasonable visual observation. If Sebago Technics has reason to believe that such a condition may exist, the Client agrees to authorize and pay for all costs associated with the reasonable investigation of such condition and, if necessary, all costs to correct the condition. If the Client either fails to authorize such investigation or correction after due notification or should Sebago Technics have reasonable belief no such condition exists, the Client agrees to be solely responsible for all risks associated with the condition and agrees that Sebago Technics shall not be responsible for the condition nor shall it have any liability with respect thereto as to the Client and all third parties.

17. INDEMNIFICATION

The Client agrees to indemnify and hold harmless Sebago Technics, its officers, directors, employees and agents from and against any and all claims, damages, losses and expenses (including reasonable attorneys' and paralegals' fees and costs whether or not formal litigation is commenced) arising out of or resulting from performance of Sebago Technics work provided that any such claims, damages, losses and expenses are caused in whole or in part by the negligent act or omission or strict liability of the Client or anyone directly or indirectly engaged by the Client (other than Sebago Technics) or anyone for whose acts any of them may be liable.

18. INFORMATION PROVIDED BY OTHERS

After Sebago Technics has advised the Client about the information required for Sebago Technics to adequately perform its Scope of Services and any Additional Services, Client shall provide Sebago Technics with all requested information available to the Client and its consultants, agents and contractors and Sebago Technics shall be entitled to rely upon the accuracy and completeness of such information. Because it is impossible to assure the accuracy, completeness and sufficiency of information due to errors or omissions which may have occurred in assembling the information the Client and/or its agents are providing to Sebago Technics, the Client agrees, to the fullest extent permitted by law, to indemnify and

hold Sebago Technics and its sub-consultants harmless from any and all claims, liability and costs of defense, including but not limited to its attorneys' and paralegals' fees and costs, whether or not actual litigation is commenced, for all liability, injury or losses arising or allegedly arising from all errors, omissions or inaccuracies in all documents, specifications and information provided to Sebago Technics by the Client and/or its agents.

19. INSOLVENCY/AVOIDANCE OF PAYMENTS

In the event of a filing under the Federal Bankruptcy Code of a case by or against Client or in the event of the commencement by or against the Client of any state law proceeding for the liquidation of its assets or for the reorganization of its debts, Sebago Technics obligations under this Agreement are immediately relieved. To the extent that the Client makes a payment or payments to Sebago Technics which are in whole or in part subsequently invalidated or are declared to be a preference and are set aside and/or required to be repaid to any party under any bankruptcy or insolvency law, state or federal law, common law or equitable cause, then to the extent such payments are set aside or are repaid, they shall be reinstated and included in what Client owes Sebago Technics.

20. INSURANCE

During the term of this Agreement, Sebago Technics agrees to provide insurance coverage for Professional Liability, Commercial General Liability, Worker's Compensation and Employer's Liability and Automobile Liability for all of its employees. Evidence of this coverage can be provided upon request.

21. LEGAL ACTION, FEES AND COSTS

All legal actions by either party against the other for any cause or causes, including, but not limited to, breach of this Agreement, negligence, misrepresentations, breach of warranty or failure to perform in accordance with the standard of care, however expressed, shall be barred two (2) years from the day after the completion of Sebago Technics' services. In the event the Client institutes a suit against Sebago Technics, and if such suit is not successfully prosecuted, or if it is dismissed, or if a verdict is rendered for Sebago Technics, Client agrees to pay Sebago Technics any and all costs of defense, including attorney's fees, expert witnesses' fees, and court costs and any and all other expenses of defense which may be reasonably necessary, immediately following dismissal of the case or immediately upon judgment being rendered in favor of Sebago Technics. In the event Sebago Technics utilizes an attorney to collect what it is owed under this Agreement with the Client, the Client agrees to pay all of Sebago Technics reasonable attorneys' and paralegals' fees, whether or not formal litigation is commenced, as well as all Court costs and other related expenses. The Client acknowledges that Sebago Technics may pursue remedies provided to it by law; however the Client agrees that it will first attempt to resolve any disputes arising under this Agreement by non-binding mediation.

22. LENDER'S OR OTHER PARTY'S REQUIREMENTS

Sebago Technics shall not be required to execute any documents subsequent to the execution of this Agreement that in any way in Sebago Technics' sole judgment may increase Sebago Technics' contractual or legal obligations or risks or the availability or cost of Sebago Technics professional or general liability insurance.

23. NOTICE

In the event that any notice is required to or may be given under this Agreement, then notwithstanding any other term or provision to the contrary, it shall be deemed given (a) two (2) business days after deposit in the United States mail, first class, postage prepaid; (b) one (1) business day after placement with an overnight courier service which provides proof of delivery; or (c) if by any facsimile transmission or email of such notice the times in either (a) or (b) above; it being required that notice shall also be given by mail or overnight courier, addressed to the recipients as follows:

To: Sebago Technics, Inc.
75 John Roberts Road, Suite 1A
South Portland, ME 04106

To Client: Client Notice Sent to Same Address as Proposal/
Contract, unless otherwise noted

24. OWNERSHIP OF INSTRUMENTS OF PROFESSIONAL SERVICE

All field data, notes, reports, plans, specifications and all other related information and documents, including CADD documents, no matter in what form they may be fixed, that are prepared by Sebago Technics are considered to be Instruments of Professional Service which shall remain the sole property of Sebago Technics. Sebago Technics, however, acknowledges that the final plans and specifications generated on behalf of the Client shall become the property of the Client upon completion of the work and receipt of full payment therefore.

The Client agrees that it will not reuse or modify the plans and specifications in any way without first receiving written authorization from Sebago Technics. The Client agrees, to the fullest extent permitted by law, to indemnify and hold Sebago Technics harmless from any and all claims, liability and costs of defense including but not limited to its attorneys' and paralegals' fees, whether or not actual litigation is commenced, arising or allegedly arising out of any unauthorized reuse or modification by the Client, its agents or any person or entity that acquires or obtains the plans and specifications from or through the Client and reuses or modifies them. In no event shall Sebago Technics be liable for any damages, including any claim of lost profits by the Client or any third party.

25. RECORD DOCUMENTS

Upon completion of the Client's project and/or Sebago Technics' work, Sebago Technics may be asked to compile and deliver to the Client a reproducible set of Record Documents that conform to the marked up prints, drawings and data provided to the Client and/or its agents. This set of Record Documents will show the reported locations of work performed and significant changes that were made while the project progressed. Because these Record Documents may be based in whole or in part on information provided by others, not

independently verified by Sebago Technics but assumed to be true and accurate, Sebago Technics does not warrant in any way that they are accurate.

26. REPRESENTATIONS

The Client hereby represents and warrants that all of its agreements, representations, recitals and acknowledgements made in this Agreement are true and correct and that it is duly authorized to enter into and execute and deliver this Agreement and all related documents and to perform all acts contemplated hereby and that this Agreement and all related documents are its legally valid and binding obligations as well as its respective successors and assigns and are enforceable in accordance with their terms.

27. RISK ALLOCATIONS

In recognition of the relative risks, rewards and benefits of the Client's project both to itself and to Sebago Technics, the Client hereby agrees, to the fullest extent permitted by law, to limit Sebago Technics total liability to the Client and all third parties for all claims, losses, injuries, expenses and damages due to Sebago Technics' performance of its work, including that of its sub-consultants to the greater of Sebago Technics fees or \$50,000.00.

28. SCOPE OF SERVICES

The services and work set forth in the document to which these Terms and Conditions are attached. These services are based upon the requests of Sebago Technics' client and Sebago Technics' best estimate of what services are being recommended or required based upon those requests.

29. SEVERABILITY OF PROVISIONS

In the event any one or more provisions contained in this Agreement should be found to be invalid, illegal or unenforceable in any respect by any Court having valid jurisdiction, the validity, legality and enforceability of the remaining provisions of the Agreement shall not in any way be affected or impaired and to this end, the provisions of this Agreement shall be deemed severable.

30. SITE and SUBSURFACE INVESTIGATIONS

Client agrees to furnish right of entry and permission for Sebago Technics, its employees and/or subcontractors, to perform surveys, borings, and other investigations, including subsurface explorations, pursuant to the scope of services. Sebago Technics will take reasonable precautions to minimize damage to the property. If Sebago Technics is required to restore the property or subsurface conditions or structures to its former condition, the cost plus fifteen (15) percent will be added to the fee. Client shall indemnify, defend, and hold harmless Sebago Technics, its employees and subcontractors from any and all claims, damages, losses, and expenses (including attorney's fees), arising out of or resulting from any such damage, except to the extent caused by Sebago Technics' negligence.

31. STANDARD OF CARE

The Services provided by Sebago Technics will be performed in accordance with generally accepted practices of engineers, surveyors, landscape architects and/or scientists (as applicable) providing similar services at the same time, in the same locale, and under like circumstances.

32. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the Client and Sebago Technics and their respective successors and assigns, including without limitation, any trustee in bankruptcy or any receiver or trustee or similar entity appointed on behalf of the Client or its respective properties or estates. However, nothing in this agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or Sebago Technics.

33. SUSPENSION/TERMINATION OF SERVICES

The Agreement between the Client and Sebago Technics may be terminated upon ten (10) days written notice received by either party from the other, should either party fail to perform its obligations under the Agreement. In the event of termination by either party, Client shall pay Sebago Technics for all services rendered and costs incurred up to and including the date of termination plus any post termination work that in Sebago Technics' sole discretion may be required.

If Client fails to make payment when due for services and reimbursable expenses, Sebago Technics may, upon seven (7) days written notice to Client, suspend performance of services under this Agreement. Unless payment in full is received by Sebago Technics within seven (7) days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, Sebago Technics shall have no liability to Client for delay or damage to Client or others because of such suspension of services.

34. WAIVER

No failure to exercise and no delay in exercising any right, power or remedy hereunder shall impair any right, power or remedy which Sebago Technics may have, nor shall any such delay be construed to be a waiver of any such rights, powers or remedies or an acquiescence to any breach or default under this Agreement, nor shall any such act or failure to act by Sebago Technics constitute a waiver of any subsequently occurring default or breach by Client.

35. WAIVER OF CONSEQUENTIAL DAMAGES:

Client and Sebago Technics waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation to all claims for consequential damages due to either party's termination in accordance with the provisions set forth in the terms and conditions of the Agreement.