

## Agreement Between Consultant & Client

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**Client:** Parsippany-Troy Hills  
Board of Fire Commissioners – District #1

**Project:** New Firehouse for Mt. Tabor Volunteer.FD  
Parsippany-Troy Hills – District #1

**Address:** P.O. Box 234  
Mt. Tabor, NJ 07878

**Location:** Tabor Road / Tarn Drive  
Parsippany, NJ

**Agreement Date:** July 28, 2016

**Project No.:** 728716-0000068.00

The Consultant shall provide a Feasibility Study / Preliminary Zoning and Environmental Assessment services to the Client consisting of the following scope and in accordance with the terms and conditions set forth herein:

### SCOPE OF SERVICES

In accordance with the attached proposal letter dated July 27, 2016, for a proposed two story firehouse facility, to be situated on the existing site, to preliminarily include at a minimum; 4 - 5 Apparatus Bays / Meeting Hall / Chief's Office / Fitness Room / Associated Support Spaces, Consultant shall, with the Client, develop the Building Program and Needs Assessment; develop conceptual plans and elevations; perform a site constraints analysis; wetlands screening; flood hazard area screening; and a Phase 1 Environmental Assessment including a regulatory records review, historical records review, site reconnaissance and preparation of a Phase 1 ESA report.

### COMPENSATION AND PAYMENT

The lump sum for the above services including all direct labor, overhead, profit and direct expenses is Fifteen Thousand Dollars (\$15,000).

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Consultant shall submit invoices on a monthly basis in accordance with percentage of services rendered during the period being invoiced. Payment shall be due and payable within thirty (30) days of date of invoice. Any such obligation of client not paid within (45) days of date of invoice shall be subject to interest at (1%) one percent per month until paid in full. In the event legal action is necessary to enforce the payment provisions of this Agreement, the Consultant shall be entitled to collect from the Client any judgment or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by the Consultant in connection therewith.

## TERMS AND CONDITIONS

**1.0 Termination:** This agreement can be terminated by either party only upon written notice of seven (7) calendar days. In the event of termination of this contract, the Consultant shall be paid for all services rendered to the effective date of written notice of termination, at contract rates plus other applicable expenses. CLIENT shall be entitled to copies of all design documents, to the extent completed at the effective date of termination.

**2.0 Ownership of Documents:** All documents prepared by the Consultant pursuant to this agreement, including sketches, design reports, drawings, CADD and/or computer design files and specifications are instruments of service in respect to the subject project. As such, the originals of all such documents shall be retained by and remain the property of the CONSULTANT. The CLIENT shall be entitled to copies of all such documents produced by the CONSULTANT for the subject project. It is understood and the parties agree that the CLIENT shall not use or reuse said documents or information contained therein for additions or modifications to the subject project, for other projects, or for completion of this project by another design professional, except by prior written agreement between the parties hereto and with appropriate compensation to the CONSULTANT for such use or reuse. Any such use or reuse by the CLIENT shall be at the CLIENT's sole risk and without liability or legal exposure to the CONSULTANT. Further, the CLIENT shall defend, indemnify and hold harmless the CONSULTANT, its officers, associates, servants, employees, consultants and agents, from and against any and all claims, demands, damages, losses or expenses of whatever kind or nature, including attorney's fees, arising out of or claimed to arise out of any such unauthorized use or reuse of said documents or information.

**3.0 Insurance:** At all times during the terms of this Agreement the CONSULTANT shall maintain, at its own cost and expense, insurance coverage as protection from claims filed against CONSULTANT as follows:

- Workers Compensation (as required by law)
- General Liability (to person or property)
- Automobile Liability (to person or property)
- Professional Liability (errors and omissions)

Insurance shall be written by a company or companies licensed to do business in the State of New Jersey. At the request of the CLIENT, CONSULTANT shall provide appropriate certificates thereof. In the event a claim against the CONSULTANT is brought, alleging errors or omissions by the CONSULTANT and CONSULTANT is found NOT to be legally liable, then CLIENT shall pay all costs incurred by CONSULTANT in defending itself against such claim.

**4.0 Standard of Care:** The Services shall be performed in a manner consistent with the level of care and skill ordinarily exercised by members of Consultant's profession currently practicing under similar conditions and in the same locality as the Project. Data, interpretations and recommendations by Consultant will be based solely on information discovered by, or made available to, consultant during the course of the engagement. In connection with such information, Consultant shall not be responsible for the use or interpretation of such information by

non-parties to this Agreement. Consultant shall not be held liable for problems that may occur if Consultant's recommendations are not followed.

**4.1** It is understood and agreed that the CONSULTANT shall not be held responsible for any inaccuracies in any materials, data or records as provided to the CONSULTANT by the CLIENT, which have been prepared by any other person, firm or agency and on which CONSULTANT in its professional judgement has relied and/or utilized in the performance of the CONSULTANT's services. Client agrees that Consultant shall not be responsible for the means, methods, procedures performance, site safety of the construction contractors or subcontractors, or for their errors or omissions. Client agrees that the work created pursuant to this Agreement is for the sole and exclusive use of Client and is not for the benefit of any third parties. This Agreement and the Services to be performed hereunder shall in no way be construed as a guarantee of deficient-free construction.

**5.0 Accuracy:** The Consultant shall be entitled to rely upon the accuracy of information, documents and survey supplied by the Owner.

**6.0 Intellectual Property:** All designs remain the intellectual property of the Consultant with license granted to Client for use under this Agreement and Project. All documents produced by the Consultant under this agreement shall remain the property of the Consultant and may not be used by this Client for any endeavor without the written consent of the Consultant.

**7.0 Billing and Payment:** Client shall pay Consultant in accordance with the schedule of fees or charges as shown in the Proposal or fee schedule. Backup data on billing will not be available unless prior arrangements have been made. Prior to initiation of the Services, Client is required to remit any retainer specified in the Proposal. Thereafter, Consultant will submit to Client invoices for the balance due, which shall be due and payable immediately upon submission. If Client objects to all or any portion of any invoice, Client will so notify Consultant in writing within ten (10) calendar days of the invoice date, identify the cause of disagreement, and immediately pay that portion of the invoice not in dispute. In the absence of written notification described above, the balance as stated on the invoice shall be deemed accepted. Invoices are delinquent if payment has not been received within thirty (30) days from date of invoice. In such event, Client shall pay an additional charge of one and one-half (1.5) percent per month (or the maximum percentage allowed by law, whichever is lower) on any delinquent amount. Payment thereafter will first be applied to accrued interest and then to the principal unpaid amount. Consultant shall be entitled to recover for all costs and expenses incurred (including any attorney's fees) in connection with collection of any delinquent amount. Fee schedules are periodically revised. Unless otherwise agreed, new rates apply to ongoing work as such rates are issued.

**8.0 Limitation of Liability.** To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of the Consultant, and its officers, directors, partners, employees, agents and sub-consultants, and

any of them, to the Client and anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages of any nature whatsoever arising out of, resulting from or in any way related to the Project or the agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract or warranty, express or implied, of the Consultant, and its officers, directors, employees, agents or sub-consultants, or any of them, shall not exceed the total compensation received by the Consultant, for Services provided under this Agreement or \$50,000 whichever is more.

**9.0 Dispute Resolution:** Disagreement(s) between the parties to this Agreement concerning disputes, questions, or other matters relating to and resulting from the terms and conditions of this Agreement shall be submitted to nonbinding mediation if both parties consent. In the event the parties do not consent to mediation, they may pursue a resolution of the disagreement(s) through any available legal recourse. A written request for mediation shall be made to the other party within a reasonable time after the occurrence causing the disagreement(s) between the parties.

**10.0 Delay:** The CONSULTANT shall not be liable for any delay in the performance of its obligations hereunder or of any damages suffered by reason of such delay, when such delay is directly or indirectly caused by, or in any manner arises from fires, floods, accidents, riots, acts of God, war, governmental interferences or embargoes, strikes, labor difficulties, shortage of labor, fuel, power, materials or supplies, transportation delays, or any other causes beyond its control.

The signators below hereby certify that they are duly authorized to bind their respective firms to the terms hereof.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as the day and year first above written.  
Agreed and Accepted:

Parsippany-Troy Hills Board of Fire Commissioners-District #1  
"Client"

By: 

Print Name: Jeff Berry

Title: President


**11.0 Successors and Assigns:** Each party to this Agreement binds themselves, their partners, successors, heirs and assigns to the terms of this Agreement. This Agreement cannot be assigned by either party without the prior written consent of the other party.

**12.0 No Third Party Beneficiaries:** The Agreement gives no rights or benefits to anyone other than Client and Consultant and does not create any third party beneficiaries to the Agreement.

**13.0 Mutual Negotiation:** Client expressly agrees that all provisions of the Agreement, including the clause limiting the liability of Consultant, were mutually negotiated. But for the inclusion of the limitation of liability clause in the Agreement, the Consultant's compensation for services would otherwise be greater and/or the Consultant would not have entered into the Agreement.

**14.0 The Agreement:** This Agreement constitutes the entire Agreement between CONSULTANT and CLIENT and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument. The failure of either party to insist upon strict adherence to any term of this Agreement on any occasion shall not operate or be construed as a waiver of the right to insist upon strict adherence to that term or any other term of this Agreement on any other occasion. This Agreement shall be governed and construed and obligations of the parties hereto shall be determined in accordance with the Laws of the State of New Jersey.

RBA Group—Architecture, PC  
"Consultant"

By: 

Print Name: James Brighton, AIA, LEED AP

Title: Vice President



July 27, 2016

Mr. James Masker, Treasurer  
Board of Fire Commissioners  
Township of Parsippany-Troy Hills  
c/o Mt. Tabor Volunteer Fire Department District #1  
PO Box 73  
Mount Tabor, NJ 07878

Re: Feasibility Study / Zoning and Environmental Analysis  
For a New Firehouse for MTVFD, District #1

Dear Mr. Masker:

RBA Group – Architecture, P.C. (RBA) is pleased to submit this proposal to provide the Mt. Tabor Volunteer Fire Department (MTVFD) and the Township of Parsippany - Troy Hills Board of Fire Commissioners, a Feasibility Study and Preliminary Zoning and Environmental Assessment for a new Firehouse for the Mount Tabor Volunteer Fire Department – District 1 at the District's Tabor Road / Tarn Drive location. The Study will examine the existing site, as well as the adjacent lot (on Tarn Drive, behind existing lot) for future parking.

Brief Description of Proposed Facility:

The proposed two story facility, to be situated on the existing site, to preliminarily include at a minimum;

- 4 – 5 Apparatus Bays
  - Physical separation of one bay to be explored for the possibility of a satellite EMS station
- Meeting Hall
  - Including associated kitchen and bar areas
- Chief's Office
- Fitness Room
- Associated Support Spaces

Scope of Services:

This proposal includes the following tasks associated with this scope of work;

- With the Client, develop the Building Program and Needs Assessment
- Develop the following drawings;
  - Conceptual Site Layout plan, indicating required setbacks
    - To be completed utilizing site survey provided by the Client
  - Conceptual Floor Plan(s)
  - Conceptual Building Elevations
- Meetings with MTVFD and Board of Fire Commissioner Representatives
  - Maximum of four (4) meetings anticipated
- Site Constraints Analysis
  - Identification of potential required permits and related issues

- Wetlands Screening
- Flood Hazard Area Screening
- Phase 1 Environmental Site Assessment, including;
  - Regulatory Records Review
  - Historical Records Review
  - Site Reconnaissance
  - Phase 1 ESA Report

Fee Proposal:

RBA will perform the above noted scope of services for a lump sum fee of **\$15,000.00**.

Additional Services that can be provided (fee proposal to be submitted if deemed required):

- Property Survey(s) (one or both proposed lots)
- Professional independent (third party) cost estimate
- Hazardous Building Material Assessment

We appreciate the opportunity to submit this proposal and work with you on this very important project. Should you have any additional questions, please do not hesitate to contact us.

Very truly yours,



James Brighton, AIA LEED AP  
Vice President

JB/mw (14048\_MTVFD\_FesibilityProp Fee/H)