

# AGENDA

## Warrenton Urban Renewal Agency

September 28, 2021 – 6:00 p.m.

Warrenton City Hall – Commission Chambers  
225 S. Main Ave.  
Warrenton, Or 97146

1. CALL TO ORDER
2. ROLL CALL
3. CONSENT CALENDAR
  - A. Urban Renewal Agency Meeting Minutes – 6.22.21
  - B. Warrenton Urban Renewal Advisory Committee Minutes – 6.02.21
4. BUSINESS
  - A. Consideration of Direct Appointment of PBS Engineering & Construction Management Services – Warrenton Work Pier Rehabilitation Project
  - B. Discussion/Update on Urban Renewal Projects
5. ADJOURN

**Warrenton City Hall is accessible to the disabled. An interpreter for the hearing impaired may be requested under the terms of ORS 192.630 by contacting Dawne Shaw, City Recorder, at 503-861-0823 at least 48 hours in advance of the meeting so appropriate assistance can be provided.**

MINUTES  
 Warrenton Urban Renewal Agency  
 June 22, 2021  
 6:00 p.m.  
 Warrenton City Hall - Commission Chambers  
 225 S. Main  
 Warrenton, OR 97146

Chair Balensifer called the meeting to order at 6:13 p.m.

Commissioners Present: Chair Henry Balensifer, Tom Dyer, Mark Baldwin, Gerald Poe, and Rick Newton

Staff Present: Executive Director Linda Engbretson, Secretary Dawne Shaw, Finance Director April Clark, Deputy City Recorder Rebecca Sprengeler, Public Works Director Collin Stelzig, Police Chief Mathew Workman, Fire Chief Brian Alsbury, and Public Works Operations Manager Kyle Sharpsteen

CONSENT CALENDAR

- A. Urban Renewal Agency Meeting Minutes – 5.25.21
- B. Warrenton Urban Renewal Advisory Committee Minutes – 4.22.21
- C. Warrenton Urban Renewal Advisory Committee/Façade Grant Subcommittee Minutes – 5.10.21

**Commissioner Dyer made the motion to approve the consent calendar as presented. Motion was seconded and passed unanimously.**

**Poe – aye; Newton – aye; Dyer – aye; Balensifer – aye; Baldwin – aye**

PUBLIC HEARINGS

Chair Balensifer opened the Public Hearing on the adoption of the Warrenton Urban Renewal Agency FY 2021-2022 Budget. Formalities followed and no conflicts of interest of ex parte contacts were reported. Executive Director Linda Engbretson reviewed the staff report. She noted the total budget is \$9,753,677. Chair Balensifer asked for public comment. No one spoke in favor or opposition. There being no further comments, Chair Balensifer closed the public hearing.

**Commissioner Baldwin made the motion to adopt the FY 2021-2022 Urban Renewal Agency budget. Motion was seconded and passed unanimously.**

**Newton – aye; Dyer – aye; Poe – aye; Baldwin – aye; Balensifer – aye**

BUSINESS ITEMS – None

DISCUSSION ITEMS – None

There being no further business Chair Balensifer adjourned the agency meeting at 6:15 p.m.

Respectfully prepared and submitted by Rebecca Sprengeler, Deputy City Recorder.

APPROVED:

\_\_\_\_\_  
Henry A. Balensifer III, Chair

ATTEST:

\_\_\_\_\_  
Dawne Shaw, Secretary

MINUTES  
 Warrenton Urban Renewal Advisory Committee  
 June 2, 2021  
 3:30 p.m.  
 Warrenton City Hall – Commissioners Chambers  
 225 S. Main  
 Warrenton, OR 97146

Chair Bridgens called the meeting to order at 3:31 p.m.

Warrenton Urban Renewal Advisory Committee Members Present: Chair Bob Bridgens, Brooke Terry (via Zoom), AmyLeigh Sutton, Tess Chedsey, Mel Jasmin (via Zoom), Dennis Faletti, and Katie Burkhart (via Zoom)

Staff Present: Executive Director Linda Engbretson, Finance Director April Clark, Public Works Director Collin Stelzig, Harbor Master Jane Sweet, and Secretary Rebecca Sprengeler

**CONSENT CALENDAR**

- A. Urban Renewal Advisory Committee Special Meeting Minutes – 4.22.21
- B. Façade Grant Review Subcommittee Meeting Minutes – 5.10.21

**Ms. Chedsey made the motion to approve the consent calendar as presented. Motion was seconded and passed unanimously.**

**Bridgens - aye; Terry – aye; Sutton - aye; Chedsey - aye; Jasmin – aye; Faletti – aye; Burkhart – aye**

**BUSINESS**

Chair Bridgens noted it is time for the election of a chair. Ms. Chedsey nominated Bob Bridgens. Mr. Faletti seconded the nomination. Chair Bridgens stated that it was moved and seconded to vote for himself for chair. There were no other nominations. Bob Bridgens was unanimously reelected as chair.

**Bridgens - aye; Terry – aye; Sutton - aye; Chedsey - aye; Jasmin – aye; Faletti – aye; Burkhart – aye**

Executive Director Linda Engbretson gave a brief update on the fiscal year 2021-22 budget. Ms. Engbretson and Finance Director April Clark noted some of the parking lot improvement funds will come from the downtown improvement budget. Chair Bridgens asked when the Urban Renewal funds end. Ms. Engbretson noted all projects need to be completed and paid for by 2027. The Urban Renewal District ends in 2028. Discussion followed.

Harbor Master Jane Sweet noted moving forward with the pier update. She noted over \$55,000

generated in the last 6 months from pier use. She noted a new live crab market and other recent pier uses. Ms. Engbretson noted the over-the-pier product charge has generated additional income. Ms. Sweet and Ms. Engbretson further discussed the progress on the pier project. Ms. Sweet noted it is just a matter of getting proposals in for engineering fees and going from there. Chair Bridgens asked about the offices and the showers. Ms. Sweet noted they are great; however, the front concrete façade is not staying together. Nobody uses the showers except Marina-users. She would like to put fans in the computer closet and showers. There is a small spot of dry rot under the breeze way that needs to be looked at. It was noted the building is about six or seven years old. Ms. Sweet noted the new fisherman statue from Spruce Up Warrenton.

Public Works Director Collin Stelzig presented an update on the Food Cart Pod. They will keep the licensees updated. Ms. Engbretson noted there are currently two licenses and a third request. Mr. Stelzig noted it will be a couple months before starting work, but the work is simple and will go quickly. Brief discussion followed. Ms. Engbretson noted the “junk” vehicles are no longer on the lot. The armored Humvee must be declassified before it can be surplused. Additionally, Fire Chief Brian Alsbury received \$15,000 for the tanker at auction. Chair Bridgens asked if the budget is \$150,000 for the Food Cart Pod. Mr. Stelzig confirmed the budget and noted the project will be phased and could last several years. Ms. Sutton noted concerns about overflow parking from Arnie’s Cafe and visibility issues leaving the gravel lot. Mr. Stelzig noted that parking will be limited to the street. Parking in the gravel lot will be restricted to fire personnel only. The City is looking at parking alternatives. Ms. Engbretson noted that there are parking issues that need to be addressed for staff as well. Discussion continued.

Mr. Stelzig provided an update on the downtown improvements. He noted after getting Federal Aviation Association (FAA) approval, drone images should be available by the end of summer. There are only five years left on the project. They are hoping to get a project manager soon. He discussed additional feedback from the state asking if the City of Warrenton is still interested in taking over Main Street. Discussion followed. Chair Bridgens asked about working with ODOT (Oregon Department of Transportation) to do grinding and overlay on the highway. Mr. Stelzig discussed ADA (American Disabilities Act) sidewalk updated ODOT is required to make to do substantial grinding and overlay work. Ms. Engbretson noted additional funds for sidewalks. Mr. Stelzig elaborated on the grants for the Safe Routes to Schools project to bring sidewalks from 9<sup>th</sup> Street to the high school. There is possibility for additional funds. Chair Bridgens asked about the Peterson lot becoming a park. Ms. Engbretson noted this came out of the blue and has been given to the Parks Advisory Board. Brief discussion followed. Ms. Chedsey asked if the sidewalks from 9<sup>th</sup> Street to the high school would be built to ADA standards. Mr. Stelzig confirmed. Brief discussion followed. Ms. Engbretson noted it is ODOT’s responsibility to maintain their roads.

Ms. Engbretson noted the planning and design work involved in all these projects.

**OTHER BUSINESS** - None

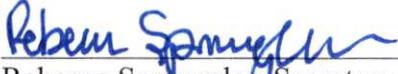
There being no further business, Chair Bridgens adjourned the meeting at 4:08p.m.

Next regular meeting is scheduled for September 1, at 3:30 p.m.

APPROVED:

  
\_\_\_\_\_  
Bob Bridgens, Chair

ATTEST:

  
\_\_\_\_\_  
Rebecca Sprengeler, Secretary



#### AGENDA MEMORANDUM

TO: The Warrenton Urban Renewal Agency  
FROM: Jane Sweet, Harbormaster  
DATE: September 28, 2021  
SUBJ: Direct Appointment of PBS Engineering and Construction Management Services for Warrenton Work Pier Rehabilitation Project

#### SUMMARY

In 2018 the City of Warrenton Marinas, Warrenton Marina, entered a contract with BergerAbam to evaluate the load limits of the Warrenton work pier. This agreement included: Final design of Phase 1, preliminary design of Phases 2 and 3. This contract did not include repair or upgrade details in the event that the inspection and analysis performed produced results that were less than satisfactory given current and future use requirements for the pier. The primary design and structural engineer for this project has since moved to a new firm known as PBS.

The City would like to request an appointment of PBS Engineering with the original design and structural consultant to provide professional engineering and construction management for the Warrenton Work Pier Rehabilitation Project. The City is seeking to directly appoint PBS (pursuant to City ordinance 1076-A and Public Contracting powers and authorities described in ORS Chapter 279C (4)) This agreement would be in the best interest of the City to have PBS complete the design and construction as the original engineer has performed much of the preliminary work including, surveys, investigations, analysis and pre-design and would include the following:

- Phase 1, 2 and 3 of the repair and rehabilitation outline in the condition assessment report previously prepared by BergerAbam Inc. Assist in advertising the project for bid and assist in bid evaluation.
- Provide engineering support services during construction.
- Provide construction management services.

The proposed estimated fees for engineering and construction management fees as follows:

Phase 1 and 2 design and construction services: \$45,000

Phase 3 design and construction: services \$35,000

Phase 3 Joint Permit application: \$14,100

Phase 3 Incidentals Take Authorization: \$22,500

Phase 3 Marine Mammal Monitoring: \$12,000

Total Professional Services: \$128,600.

Further details are attached in the Proposal dated August 4, 2021

#### RECOMMENDATION/SUGGESTED MOTION

Staff recommends the following motions;

"Motion to approve direct appointment of PBS Engineering for the Engineering and Construction Management Services for the Warrenton Work Pier Rehabilitation Project outlined in the PBS proposal dated August 4, 2021 in the amount of \$128, 600".

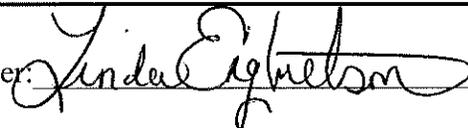
#### ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission
- 2) None recommended

#### FISCAL IMPACT

Project to be funded through the Urban Renewal Agency from funds set aside for the Warrenton Marina Work Pier. Selection of a different Engineer could result in repeated work, increased cost and delayed schedule.

Approved by City Manager:



All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

**WARRENTON URBAN RENEWAL AGENCY  
CONTRACT FOR PROFESSIONAL CONSULTING SERVICES**

CONTRACT:

This Contract made and entered into this 28th day of September, 2021, by and between the Warrenton Urban Renewal Agency, a municipal corporation of the State of Oregon, hereinafter called "AGENCY", and PBS Engineering and Environmental Inc, hereinafter called "CONSULTANT", duly authorized to do business in Oregon.

W I T N E S S E T H

WHEREAS, the AGENCY requires services which CONSULTANT is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, CONSULTANT is able and prepared to provide such services as AGENCY does hereinafter require, under those terms and conditions set forth; now, therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter, the parties agree as follows:

1. CONSULTANT SERVICES:

A. CONSULTANT's obligations are defined solely by this contract and its attachment and not by any other contract or agreement that may be associated with this project. See Attachment Exhibit A.

2. COMPENSATION

A. The AGENCY agrees to pay CONSULTANT a total not-to-exceed price of \$128,600 for performance of the Warrenton Pier engineering upgrades and construction management;

B. The CONSULTANT will submit a final invoice for all services rendered to: City of Warrenton Urban Renewal Agency, Attention: Accounts Payable, PO Box 250, Warrenton, Oregon 97146, **OR**, CONSULTANT may submit invoice via email to [ap@ci.warrenton.or.us](mailto:ap@ci.warrenton.or.us). City pays net 21 upon receipt of invoice.

C. AGENCY certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract.

3. CONSULTANT IDENTIFICATION

CONSULTANT shall furnish to the AGENCY the CONSULTANT's employer identification number, as designated by the Internal Revenue Service, or CONSULTANT's Social Security number, as AGENCY deems applicable.

4. AGENCY'S REPRESENTATIVE

For purposes hereof, the AGENCY'S authorized representative will be Linda Engbretson, City Manager, City of Warrenton, PO Box 250, Warrenton, Oregon, 97146.

5. CONSULTANT'S REPRESENTATIVE

For purposes hereof, the CONSULTANT's authorized representative will be Howard A. "Hod" Wells.

6. CONSULTANT IS INDEPENDENT CONSULTANT

A. CONSULTANT shall be an independent CONSULTANT for all purposes and shall be entitled to no compensation other than the compensation provided for under Section 2 of this Contract,

B. CONSULTANT acknowledges that for all purposes related to this contract, CONSULTANT is and shall be deemed to be an independent CONSULTANT and not an employee of the AGENCY, shall not be entitled to benefits of any kind to which an employee of the AGENCY is entitled and shall be solely responsible for all payments and taxes required by law; and furthermore in the event that CONSULTANT is found by a court of law or an administrative agency to be an employee of the AGENCY for any purpose, AGENCY shall be entitled to offset compensation due, or, to demand repayment of any amounts paid to CONSULTANT under the terms of the contract, to the full extent of any benefits or other remuneration CONSULTANT receives (from AGENCY or third party) as result of said finding and to the full extent of any payments that AGENCY is required to make (to CONSULTANT or a third party) as a result of said finding.

C. The undersigned CONSULTANT hereby represents that no employee of the City of Warrenton, or any partnership or corporation in which a City of Warrenton employee has an interest, has or will receive any remuneration of any description from the CONSULTANT, either directly or indirectly, in connection with the letting or performance of this contract, except as specifically declared in writing.

7. CANCELLATION FOR CAUSE

AGENCY may cancel all or any part of this Contract if CONSULTANT breaches any of the terms herein or in the event of any of the following: Insolvency of CONSULTANT; voluntary or involuntary petition in bankruptcy by or against CONSULTANT; appointment of a receiver or trustee for CONSULTANT, or any assignment for benefit of creditors of CONSULTANT. Damages for breach shall be those allowed by Oregon law, reasonable and necessary attorney's fees, and other costs of litigation at trial and upon appeal. CONSULTANT may likewise cancel all or any part of this contract if AGENCY breaches any of the terms herein and be therefore entitled to equivalent damages as expressed above for AGENCY.

8. ACCESS TO RECORDS

AGENCY shall have access to such books, documents, papers and records of CONSULTANT as are directly pertinent to this contract for the purposes of making audit, examination, excerpts and transcripts.

9. FORCE MAJEURE

Neither AGENCY nor CONSULTANT shall be considered in default because of any delays in completion of responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the party so disabled provided the party so disabled shall within ten (10) days from the beginning such delay notify the other party in writing of the causes of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation.

10. NONWAIVER

The failure of the AGENCY to insist upon or enforce strict performance by CONSULTANT of any of the terms of this Contract or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.

11. ATTORNEY'S FEES

In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

12. APPLICABLE LAW

The law of the State of Oregon shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it.

13. CONFLICT BETWEEN TERMS

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the proposal of the CONSULTANT, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

14. INDEMNIFICATION

CONSULTANT agrees to indemnify and hold harmless the City of Warrenton Urban Renewal Agency, its Officers, and Employees against and from any and all loss, claims, actions, suits, reasonable defense costs, attorney fees and expenses for or on account of injury, bodily or otherwise to, or death of persons, damage to or destruction of property belonging to AGENCY, CONSULTANT, or others resulting from or arising out of CONSULTANT's negligent acts, errors or omissions in the supply of goods or performance of services pursuant to this Agreement. This agreement to indemnify applies whether such claims are meritorious or not; provided, however, that if any such liability, settlements, loss, defense costs or expenses result from the concurrent negligence of CONSULTANT and The City of Warrenton this indemnification and agreement to assume defense costs applies only to the extent of the negligence or alleged negligence of the CONSULTANT.

With regard to Professional Liability CONSULTANT agrees to indemnify and hold harmless AGENCY, its officers and employees from any and all liability, settlements, loss, reasonable defense costs, attorney's fees and expenses arising out of CONSULTANT's negligent acts, errors, or omissions in service provided pursuant to this Agreement; provided, however, that if any such liability, settlements, loss, defense costs or expenses result from the concurrent negligence of CONSULTANT and the AGENCY, this indemnification and agreement to assume defense costs applies only to the extent of negligence of CONSULTANT.

With respect to Professional Liability, CONSULTANT reserves the right to approve the choice of counsel.

15. INSURANCE

Prior to starting work hereunder, CONSULTANT, at CONSULTANT's cost, shall secure and continue to carry during the term of this contract, with an insurance company acceptable to AGENCY, the following insurance:

A. Commercial General Liability. CONSULTANT shall obtain, at CONSULTANT's expense and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage with limits of not less than \$1,000,000 per occurrence and the annual aggregate of not less than \$2,000,000. Coverage shall include CONSULTANTS, sub consultants and anyone directly or indirectly employed by either. This insurance will include personal and advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage will be written on an occurrence basis. If written in conjunction with Automobile Liability the combined single limit per occurrence will not be less than \$1,000,000 for each job site or location. Each annual aggregate limit will not be less than \$2,000,000.

B. Professional Liability Insurance. The CONSULTANT shall have in force a policy of Professional Liability Insurance in an amount not less than \$1,000,000 per claim and \$2,000,000 aggregate. The CONSULTANT shall keep such policy in force and current during the term of this Agreement.

C. Automobile Liability. CONSULTANT shall obtain, at CONSULTANT's expense and keep in effect during the term of the resulting Contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence will not be less than \$1,000,000 and annual aggregate not less than \$2,000,000.

D. Additional Insured. The liability insurance coverage shall include AGENCY and its officers and employees as Additional Insured but only with respect to CONSULTANT's activities to be performed under this Contract. Coverage will be primary and non-contributory with any other insurance and self-insurance. Prior to starting work under this Contract, CONSULTANT shall furnish a certificate to AGENCY from each insurance company providing insurance showing that the AGENCY is an additional insured, the required coverage is in force, stating policy numbers, dates of expiration and limits of liability, and further stating that such coverage is primary and not contributory.

E. Notice of Cancellation or Change. There will be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from CONSULTANT or its insurer(s) to AGENCY. Any failure to comply with the reporting provisions of this clause will constitute a material breach of this Contract and will be grounds for immediate termination of this Agreement.

16. LABORERS AND MATERIALMEN, CONTRIBUTIONS TO INDUSTRIAL ACCIDENT FUND, LIENS AND WITHHOLDING TAXES ORS 279B.220

CONSULTANT shall make payment promptly, as due, to all persons supplying CONSULTANT labor or material for the prosecution of the work provided for this contract.

CONSULTANT shall pay all contributions or amounts due the Industrial Accident Fund from CONSULTANT or any sub consultant incurred in the performance of the contract.

CONSULTANT shall not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.

CONSULTANT shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

17. WORKERS COMPENSATION INSURANCE

CONSULTANT, its sub-CONSULTANTS, if any and all employees working under this agreement are either subject to employers under the Oregon Worker's Compensation Law and shall comply with ORS 656.017, which requires them to provide workers compensation coverage for all their subject workers, or are employers that are exempt under ORS 656.126.

18. PAYMENT OF MEDICAL CARE ORS 279B.230

CONSULTANT shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury to the employees of such CONSULTANT, of all sums which the CONSULTANT agrees to pay for such services and all moneys and sums which the CONSULTANT collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

19. OVERTIME ORS 279B.235.

Employees shall be paid for overtime work performed under this contract in accordance with ORS 279B.235(3) unless excluded under ORS 653.010 to 653.261 (29 U.S.C. sections 201 to 209).

20. BUSINESS LICENSE

Prior to commencing work in the City of Warrenton, CONSULTANT shall obtain a city business license.

21. STANDARD OF CARE

The standard of care applicable to CONSULTANT's services will be the degree of skill and diligence normally employed by CONSULTANTS performing the same or similar services at the time CONSULTANT's services are performed. CONSULTANT will re-perform any services not meeting this standard without additional compensation.

22. NO THIRD PARTY BENEFICIARIES

This contract gives no rights or benefits to anyone other than the AGENCY and CONSULTANT and has no third party beneficiaries.

23. SEVERABILITY AND SURVIVAL

If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability shall survive termination of this Agreement for any cause.

24. COMPLETE CONTRACT

This Contract and its referenced attachments constitute the complete contract between AGENCY and CONSULTANT and supersedes all prior written or oral discussions or agreements. CONSULTANT services are defined solely by this Contract and its attachments and not by any other contract or agreement that may be associated with this Contract.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first written above.

Warrenton Urban Renewal Agency, a  
Municipal Corporation

BY: \_\_\_\_\_  
Henry Balensifer III, Agency Chair    Date

ATTEST:

\_\_\_\_\_  
Dawne Shaw, City Recorder                      Date

CONSULTANT:

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Date

Title: \_\_\_\_\_



August 4, 2021

Jane Sweet  
Harbormaster  
City of Warrenton

Via email: jsweet@ci.warrenton.or.us

Regarding: Proposal to Provide Professional Engineering and Construction Management Services  
Work Pier Rehabilitation  
Warrenton Marina  
Warrenton, Oregon  
PBS Proposal 74202.000

Dear Ms. Sweet:

PBS Engineering and Environmental Inc. (PBS) is pleased to submit this proposal to the City of Warrenton (Client or City) to provide professional engineering and construction management services for the Work Pier Rehabilitation project in Warrenton, Oregon.

This proposal outlines the project approach, scope of work, and budget for PBS services based on our understanding of the project, information provided to us to date, and experience with similar projects.

### **PROJECT DESCRIPTION AND BACKGROUND**

The project involves improvements to the City's work pier at the Warrenton Marina, comprising three main tasks:

1. Prepare a construction contract to include the Phase 1, Phase 2, and Phase 3 repairs and rehabilitation outlined in the condition assessment report previously prepared by BergerABAM, Inc., for the City; assist the City with advertising the project for bid; and assist the City with evaluating the bids received for the work.
2. Provide engineering support services during construction.
3. Provide construction management services.

### **SCOPE OF WORK**

PBS proposes to provide marine engineering services to prepare the construction contract using the existing sealed construction drawings as the basis for the work. We may need to provide supplemental drawings to incorporate the Phase 2 improvements. Phase 3 improvements will also be designed and packaged as bid alternates (Phase 3a and Phase 3b) We will also provide engineering support during construction and will serve as the City's construction manager. PBS has prepared the following scope of work, a list of detailed assumptions, work items, and final products that can be expected as part of our services are included herein.

#### **Task 1. Contract Administration, Invoicing, and Progress Reports**

PBS will perform project management services to include the following:

1. Prepare and submit monthly invoices. Each invoice will include date period covered by invoice, number of hours worked during the billing period with billing rates shown, expenses and associated mark-ups, total

cost for labor and expenses for the billing period, and a total amount summarizing labor and expenses. Assumes project set-up and up to eight monthly invoices.

2. Prepare a contract summary report to accompany the monthly invoices. The contract summary report will list each invoice as well as the current invoice with an itemized summary of invoice numbers, dates, and amounts billed for labor and expenses. The contract summary report will also list the total amount billed to date and total amount remaining under contract.

### **Deliverables**

Monthly invoices with progress reports.

### **Task 2. Construction Contract Preparation**

The City has a complete set of repair drawings that comprises the Phase 1 repair schedule. PBS will supplement these plans with additional specifications or details to incorporate the Phase 2 repairs. Phase 3 repairs require design and preparation of contract documents. We will assemble the contract documents into the City's bid format and will assist the City's advertisement for bids.

PBS will deliver draft bidding documents for the City's review. Following City review and comment, PBS will submit final stamped documents to be included in the bid package.

We will support the City through the bidding process by attending a pre-bid conference, if necessary, providing answers to bidder's questions and providing information for addenda to the bidding documents. Upon receipt of bids, we will review the submissions and provide the City with an opinion of the responsiveness of the bids.

### **Deliverables**

Draft and final plans and specifications in PDF format. Memorandum containing bid evaluation comments.

### **Task 3. Engineering Services During Construction**

PBS will provide engineering support services during the construction period on an as-needed basis. This will include a structural observation site visit, review of contractor submittals, and responses to contractor requests for information (RFIs).

Because this is a project that includes repair and rehabilitation of an existing timber structure, during the course of construction there may be additional damage discovered that was not identified previously. It may be necessary to evaluate the damage and prepare additional repair details. If additional work is identified, we will alert the City immediately and discuss options to address or defer the work. If the City wishes to address the work at that time, the additional engineering work may necessitate an adjustment to our fee budget.

### **Deliverables**

Structural observation site visit report; review of contractor submittals (up to 5); response to contractor RFIs (up to 10). Note that these submittals and RFIs are also included in the total numbers of submittals and RFIs noted in Task 4.

### **Task 4. Construction Management**

#### **Subtask 4.1. Construction Project Management**

PBS will serve as the City's construction project manager for the project. The PBS construction project manager will be in Portland or Vancouver and will manage the work remotely. PBS will provide on-site inspection services

as necessary, but no more frequently than two days per week during the on-site construction period, which is assumed to last no longer than ten weeks. The scope for this task includes only the following activities:

- PBS will assist the City with coordination of the preconstruction conference. PBS will schedule the conference, invite attendees, produce an agenda, and take meeting notes.
- PBS will conduct weekly construction coordination meetings, online via Microsoft Teams. Ten of these meetings are assumed.
- Project submittal review support: PBS will review technical submittals and other material submittal documents required by the contract and will provide written responses. The PBS construction team will coordinate with the PBS engineering team and will forward technical submittals to the engineers for review when necessary. Eight total submittals are assumed.
- Review and respond to RFIs: PBS will provide interpretations and clarifications of contract documents. Effort includes services to research, respond, and document each RFI. The PBS construction team will coordinate with the PBS engineering team and will forward technical RFIs to the engineers for review when necessary. Twenty total RFIs are assumed.
- Evaluation of pay requests: PBS will provide evaluation and written response to contractor pay requests.

#### **Deliverables**

Evaluation of pay requests memoranda (up to 8); review of contractor submittals (up to 8); response to contractor RFIs (up to 20). These submittals and RFIs include those that require review by the engineering team.

#### **Subtask 4.2. Construction Inspection**

PBS will provide on-site construction inspection services. The PBS construction inspector will be the City's agent for the project and will act as directed by, and under the supervision of, the city engineer and/or the engineer-of-record for the project. The inspector's oversight pertaining to the contractor's work shall, in general, be with the general contractor only. The inspector's interaction with subcontractors shall only be through, or with, the full knowledge and approval of the general contractor. For budgeting purposes, we assume the inspector will be required on site for a total of ten 10-hour days, including travel time. The inspector's responsibilities will include the following:

- Inspector will serve as the city engineer's liaison with contractor, working principally through contractor's superintendent, and assist in providing information regarding the intent of the contract documents.
- Inspector will assist in obtaining additional details or information when required for proper execution of the work.
- Inspector will conduct on-site observation of the project to ensure work is completed in accordance with the contract documents and advise the City and the PBS engineers if any changed conditions are encountered.
- Inspector will coordinate in advance of scheduled major inspections or special inspections and inform city staff and call for special inspections.
- Inspector will prepare a daily inspector report for days when the inspector is on site recording pertinent information such as: contractor's hours on the site, weather conditions, and data relative to potential change orders, field orders, or changed conditions, site visitors, activities, and decisions.
- Inspector will immediately notify the city staff of any site accidents, emergencies, acts of God endangering the work, or damage to property.

- Inspector will review the contractor's pay estimates to ensure work being paid for has been completed. Inspector will track and process materials-on-hand in accordance with the contract documents.
- Inspector will track bid item quantities weekly.
- Inspector will represent the City when communicating with Warrenton citizens.
- Inspector will attend the weekly coordination meetings in person or online.

### **Deliverables**

Weekly inspection reports; weekly bid item quantity tracking reports.

### **Subtask 4.3. Project Closeout and As-Builts**

PBS will assist the City in compiling project closeout documentation and coordinate with the contractor and to obtain the required documents. PBS' construction project manager, inspector, and city staff will perform final inspections and will support creation of punch list items.

PBS will assemble construction documentation in binders for delivery to the City.

PBS will monitor the assembly of as-built data by the contractor throughout construction and will review and comment on the contractor's marked-up documents.

### **Deliverables**

Punch list; construction documentation binders; as-built drawing review comments.

## **Task 5. Environmental Permitting**

### **Subtask 5.1. Joint Permit Application**

PBS will prepare a joint permit application (JPA) for submittal to the Oregon Department of Environmental Quality (DEQ), Oregon Department of State Lands (DSL), and US Army Corps of Engineers (USACE). The JPA will include a detailed project description and indicate how the project complies with the design criteria of the Standard Local Operating Procedures for Endangered Species (SLOPES). PBS will complete the other required elements of the application and also conduct a functions and values assessment using best professional judgment. PBS will communicate with all agencies before and after submitting the JPA and track review of the JPA until permits are issued.

### **Deliverables**

- Draft JPA in electronic format for client review.
- Final JPA in electronic format for client and submittal to agencies.

### **Assumptions**

- No pre-filing meeting with DEQ will be required.
- No pre-application meeting with agencies will be required.
- The project can be designed to meet the design criteria of SLOPES.
- The project will not trigger the stormwater management requirements of SLOPES.
- A post-construction stormwater management plan will not be required by DEQ.
- No wetlands will be affected by the project.
- Preparation of a mitigation plan is not included.
- No cultural resource survey will be required.

- Signature of the Land Use Compatibility Statement by the City of Warrenton can be requested online.
- Review or permit fees are included.

#### **Subtask 5.2. Incidental Take Authorization**

PBS will prepare an application to obtain an Incidental Take Authorization (ITA) from the National Marine Fisheries Service (NMFS) as required by the Marine Mammal Protection Act (MMPA) and its implementing regulations. The application will include the 14 specific pieces of information as required by regulation (50 CFR § 216.104[a]). As necessary, PBS will contact representatives with the NMFS and Oregon Department of Fish and Wildlife to obtain information regarding marine mammal presence in the vicinity of the project and other information necessary to complete the application. In addition, PBS will respond to questions from NMFS and track approval of the ITA.

#### **Deliverables**

- Draft ITA application in electronic format for client review.
- Final ITA application electronic format for client and submittal to NMFS.

#### **Assumptions**

- Marine mammals may be affected by the project, and therefore, an Incidental Take Authorization will be required from the NMFS.
- A Letter of Authorization from NMFS will not be required.
- Cost does not include renewal of the ITA if needed.

#### **Subtask 5.3. Marine Mammal Monitoring**

PBS will provide an observer for monitoring marine mammal presence during pile removal and installation. The observer will be on site full time during these construction activities. The observer will record the number, species, and life stages of marine mammals observed, behavioral habits, location, and animals' reaction to construction activities. Work will begin 30 minutes prior to in-water activities and end 30 minutes after in-water activities have been completed. A report will be prepared documenting results of the monitoring activities. A draft report will be submitted to the NMFS for review. If comments are received, a final report will be submitted within 30 days of receiving comments, otherwise the draft report will be considered the final report.

#### **Deliverables**

- Internal draft marine mammal monitoring report in electronic format for client review.
- Draft marine mammal monitoring report in electronic format for submittal to NMFS.
- Final marine mammal monitoring report electronic format for client and submittal to NMFS.

#### **Assumptions**

- Pile removal and installation will take three days.
- Full-time monitoring will be required during pile removal and installation.
- No environmental monitoring of other construction activities will be required.

### **ASSUMPTIONS**

In preparing this scope of work, PBS has made the following assumptions to develop the scope of services, exclusions, and fees for this project:

1. The City will hire a third-party special inspection company (such as Carlson Testing or Terracon) to provide special inspection services for the project.

2. Record drawings will be required of the contractor, and PBS will not produce CADD as-built drawings.
3. Reimbursable expenses include mileage, meals, and lodging for work that requires travel from the Portland/Vancouver metro area.
4. This scope does not include any city or land-use permitting, or geotechnical services. It is our understanding that the project does not require local construction permits of any kind. State and federal permits may be required for the installation of fender piles.
5. This scope does not include any utilities engineering. We assume that any utilities that serve the work pier can be easily incorporated into the work. Any utility design will be by others.
6. No stormwater collection, conveyance, or treatment design is included in this scope. None is expected to be required.

### **CONTRACT PRICE**

PBS will provide the proposed engineering and construction management services, as outlined above, for a fee estimated as follows:

Phases 1 and 2 design and construction services: \$45,000

Phase 3 design and construction services: \$35,000

Phase 3 Joint Permit Application: \$14,100

Phase 3 Incidental Take Authorization: \$22,500

Phase 3 Marine Mammal Monitoring: \$12,000

Total Professional Services: \$128,600

As noted above, the nature of this project (existing aging timber waterfront structure repair) is such that additional services may be required. This fee includes all labor, expenses, materials, transportation, and equipment required to complete the work described.

Services provided outside of the scope of work will be considered additional services and charged on a time and materials basis in accordance with PBS' current fee schedule. We will not commence with any additional services without prior written authorization from the City.

This proposal is valid for 60 days from the date of the proposal.

### **TERMS AND CONDITIONS**

The fees and terms under which these services are provided will be in accordance with the attached PBS General Terms and Conditions for Professional Services (Rev. 10/2018). The Terms and Conditions and this proposal constitute the entire agreement (Agreement) between the parties and may not be changed without prior written consent of the parties.

The pricing and other information contained in this proposal document are proprietary and shall not be duplicated, used, or disclosed, in whole or in part, to other parties without the permission of PBS.

### **JOBSITE SAFETY DURING COVID-19**

At PBS, we are committed to keeping our employees, clients, contractors, and communities healthy. We are following federal, state, and local guidelines and recommendations in response to COVID-19 as we strive to

balance public health concerns and delivery of our projects. For the foreseeable future, these precautions will include continuing to observe social distancing and other engineering controls to minimize risk. Our staff will be wearing face coverings and personal protective equipment (PPE) in situations where other controls cannot be applied.

**APPROVAL**

Please indicate acceptance of this Agreement by returning a signed copy of this Agreement or a purchase order incorporating the terms and conditions of this Agreement.

Please feel free to contact me at 503.417.7723 or hod.wells@pbsusa.com with any questions or comments.

Sincerely,



Howard A. "Hod" Wells, PE, LEED AP, ENV SP  
Structural Engineering Manager  
PBS Engineering and Environmental Inc.

ACCEPTED BY:  
City of Warrenton

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Attachment: PBS General Terms and Conditions for Professional Services (Rev. 10/2018)

HW:mo



## GENERAL TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

These General Terms and Conditions for Professional Services ("Terms and Conditions") are attached to and made part of the letter proposal and scope of work (collectively, the "SOW") from PBS Engineering and Environmental Inc. ("PBS") to Client (as defined in the letter proposal). The Terms and Conditions and the SOW (collectively, the "Agreement") represent the entire and integrated agreement between Client and PBS. This Agreement supersedes all prior negotiations, representations, or agreements, written or oral. If there are any inconsistencies between the SOW and the Terms and Conditions, the SOW shall control. Any services outside the SOW will be considered an "extra" and billed directly to the Client, outside of the contract amount, on a "Time and Materials" basis in accordance with PBS's currently established bill rates and these Terms and Conditions.

The Agreement memorializes the contractual obligations of PBS and Client with respect to PBS' delivery of professional consulting services to Client as an engineer, consultant, or owner representative.

- 1. PROFESSIONAL LIABILITY AND STANDARD OF CARE:** PBS will perform the professional services described in the SOW in accordance with the standard of care and skill ordinarily recognized under similar circumstances by members of its profession in the state and region at the time the services are performed. PBS makes no other warranty, express or implied, in connection with its performance of its professional services. If PBS' services under this Agreement do not include observation or review of contractor performance during construction phase, PBS services are deemed complete on the date the design is completed or if applicable, the date when the approving authority approves the design. Client assumes all responsibility for the application and interpretation of the construction phase review of design.
- 2. TERM AND TERMINATION:** This Agreement will remain in full force and effect until all work described in the SOW has been completed and Client has paid for the work in full. Client may terminate this Agreement at any time and for any reason by providing written notice to PBS of its decision to terminate. Client is responsible for payment of all fees for any work performed by PBS through the date and time PBS receives the written termination notice. The amount of fees owed will be established by the SOW and PBS' then current rate schedule. PBS may elect to suspend or terminate this Agreement for nonpayment of its fees. If PBS elects to suspend services, PBS will give Client seven days' written notice to cure the nonpayment before suspending services. In the event of a suspension of services, PBS shall have no liability to Client because of the suspension and Client shall indemnify, defend, and hold PBS harmless from and against any claims arising out of or in any way related to such suspension. If Client fails to cure a nonpayment after a suspension that lasts thirty (30) days, PBS may terminate this Agreement and recover its fees as provided in this Agreement and by law.
- 3. INDEPENDENT CONTRACTOR:** Client has retained PBS, including its subconsultants and subcontractors, to perform the services and to prepare any deliverables described in the SOW as an independent contractor. Accordingly, PBS is not responsible for the following: (a) the health and safety of Client's personnel or other persons present on the Property (as defined in paragraph 8 below) at the time PBS performs its field services; (b) the overall status of Client's project; (c) any damage to any real or personal property of Client unless it results from an intentional or negligent act of PBS; (d) the interpretation of any PBS report, design drawings, or results by others; (e) any use of PBS reports, design drawings, or results by Client or others except as specifically set forth herein; or (f) any other matter not encompassed in the SOW.
- 4. INSURANCE AND LIMITATION OF PBS' LIABILITY:** PBS carries the following insurance: Worker's Compensation and/or Employer's Liability as required by law; Commercial General Liability (\$1,000,000 per occurrence/\$2,000,000 aggregate); Employer's Liability (\$1,000,000); Business Automobile Liability (\$1,000,000); and Professional Liability (\$1,000,000), including pollution liability coverage. PBS makes no representations or warranties concerning the effect, applicability, or scope of such insurance. Client acknowledges and agrees that PBS' maximum liability to Client for any breach of this Agreement or for any PBS act or omission affecting client, including negligence, shall not exceed the policy limits for any policy of insurance that applies to the breach, act, or omission. Under no circumstances shall PBS be liable to Client for any indirect, incidental, special, punitive, or consequential damages, including any loss of use, profit or revenue.
- 5. RATE SCHEDULE:** Fees for services are based on the number of hours spent working on Client's project by PBS personnel, including travel, plus all reimbursable expenses. PBS hourly rates will be billed as stated in the SOW or at its current hourly rates as applicable (current rates are available upon request). Invoices will include sales tax when required.
- 6. REIMBURSABLE EXPENSES:**
  - A. Outside Services.** Services performed by any subconsultants or subcontractors will be invoiced at cost plus 15 percent (15%). Examples of services that may be subcontracted include other professional disciplines, soil boring, well installation, heavy and specialty equipment operators, geophysical surveys, commercial data base search providers, and computer programming. Remediation, Abatement, General Construction and Software services will be invoiced as quoted.
  - B. Supplies and Equipment.** Charges for items not ordinarily furnished by PBS such as expendable equipment, rental equipment, subsistence, travel expenses, tolls, special fees, reproduction, permits, licenses, priority mail fees, and deposits will be invoiced at cost plus 10 percent (10%). Certain PBS-owned equipment (for sampling, testing, personal protective equipment, surveying, mapping, vehicle mileage, photocopying, etc.) may be required to complete Client's project. These will be invoiced at PBS standard rates without markup (rates available upon request).
  - C. Laboratory.** PBS utilizes both in-house and outside laboratories for sample analysis. PBS maintains a list of standard rates for sample analyses commonly utilized in conjunction with PBS services (available upon request).
- 7. PAYMENTS TO PBS AND LIEN RIGHTS:** Invoices for services performed will be submitted periodically, but no more frequently than monthly. Invoices will describe the work PBS has performed and hours worked, reimbursable expenses incurred, and the total amount due to PBS in accordance with this Agreement. All invoices are due net thirty (30) days and an account will become delinquent 30 days after the invoice date. Delinquent accounts shall bear interest at the rate of eighteen percent (18%) per annum; provided, however, that if 18% per annum exceeds the maximum rate allowable by law, the maximum rate allowable by law will apply instead. If Client contests an invoice, Client may withhold only that portion contested and must pay the undisputed portion. Client acknowledges and agrees that if PBS may assert a lien against Client's project to secure payment for its services to the extent permitted by law.

8. **RIGHT OF ENTRY:** Unless otherwise agreed in writing, Client will furnish PBS with a legal right-of-entry to any real property PBS is required to access in order to perform its services (the "Property") and that Client will be responsible for securing appropriate conditions concerning the time, place, and manner of PBS' entry upon the Property to perform its services. PBS will take reasonable precautions to minimize damage to the Property in the performance of its services. Restoration of the Property to its approximate condition prior to performance of PBS' services is not provided unless it is expressly included in the SOW. If the Client desires PBS to restore the Property to its approximate former condition, PBS will accomplish this and add the cost plus 15 percent (15%) to its fee.
9. **BURIED UTILITIES:** PBS field personnel are trained in the public utility notification process and the risk of subsurface work encountering buried utilities. PBS personnel will avoid observable hazards or utilities at the Property and will take reasonable precautions to avoid damage to subsurface structures and utilities. PBS is not responsible for damage or loss due to undisclosed or unknown surface or subsurface conditions. Client will hold PBS and PBS subcontractors harmless from any loss resulting from inaccuracy of markings, of plans, or lack of plans, relating to the location of utilities. Note: Utility locates typically require two full working days' advance notice.
10. **RETENTION OF RECORDS AND SAMPLES:** Client may make and retain copies of documents provided to Client for reference with the understanding that such documents may not be relied upon unless signed by PBS or its consultants. PBS has a Records Retention policy (available upon request), and pursuant thereto, client acknowledges that PBS has the right to destroy copies of documents without seeking further approval from Client. Samples retained by PBS and not subject to the recipient laboratory retention policy will be discarded 30 days after submission of PBS' final report unless other arrangements are made.
11. **EMPLOYEE AND SERVICES SOLICITATION:** Client agrees not to solicit or tender any employment offer of/to any PBS employee, or consulting services offer to any PBS subcontractor assigned to perform work for Client under this Agreement within six (6) months of completion of their part of the work without PBS' prior written approval. Client agrees that any breach of this provision resulting in the Client hiring any PBS employee for employment or any PBS subcontractor for consulting services will cause damage to PBS and obligate the Client to reimburse PBS for recruitment and service fees incurred in connection with the breach upon demand by PBS.
12. **OWNERSHIP OF INTELLECTUAL PROPERTY:** All concepts, plans, drawings, specifications, designs, models, reports, photographs, computer software, surveys, calculations, construction and other data, documents, and processes produced by PBS pursuant to this Agreement, including all copyright and other intellectual property therein (collectively, the "Instruments of Service"), are and shall at all times remain PBS' property. Any Client use of any Instruments of Service is permitted only if authorized by a written agreement executed by PBS and Client. Any unauthorized use or distribution of any Instruments of Service is a violation of this Agreement, will cause damage to PBS, and shall be at Client and recipient's sole risk. Accordingly, Client agrees to indemnify, defend, and hold PBS, its officers and employees, and its subconsultants and subcontractors harmless from and against any and all claims, damages, costs, losses, and expenses, including but not limited to attorney fees and costs of arbitrations, mediations, trials, proceedings in bankruptcy, or appeals, arising out of or in any way related to Client's unauthorized use, sale, or delivery to any third party of any Instrument of Service.
13. **TIME FOR COMPLETION:** If, through no fault of PBS, the schedule to provide our services is changed, then the time for completion of PBS's services, and the rates and amounts of PBS' compensation shall be adjusted equitably via contract amendment. PBS shall not be responsible for delays in completing its services that cannot be reasonably foreseen at the time of entering into this agreement, or for delays caused by factors beyond PBS's control.
14. **MISCELLANEOUS:** Neither party shall hold the other responsible for delay in performance caused by Acts of God, strikes, lockouts, weather, accidents, or other events beyond the control of the other or the other's employees and agents.

Any waiver of any provision, term, or condition, in this Agreement must be in writing and any such waiver will not be construed as a waiver of any subsequent breach of the same provision, term, or condition.

PBS may rely upon the accuracy and completeness of all information furnished by Client and may use such information in performing or furnishing services under this Agreement.

An opinion of construction, remediation, and restoration costs prepared by PBS represents its judgment as a professional. PBS has no control over the cost of labor and material, or over competitive bidding or market conditions.

If the SOW includes the investigation, remediation, or disposal of solid or hazardous wastes or substances, then the following terms shall apply:

(a) PBS will assist Client with its legal obligation to make a hazardous waste determination and then act as an arranger with respect to solid and hazardous waste management only. Client acknowledges its full and sole responsibility to otherwise manage its solid and hazardous wastes and its ultimate liability for final disposal of all the solid and hazardous wastes it generates; (b) Should any release of hazardous substances or any other matter requiring notification to governmental authorities arise while PBS performs the services under this Agreement, Client acknowledges its responsibility to make such notification and agrees to do as required by applicable law; and, (c) Client agrees that PBS and its subconsultants and subcontractors are not responsible for any known or unknown pre-existing hazardous substance condition(s) PBS is being asked to investigate at the Property (collectively, "pre-existing conditions"). Accordingly, Client agrees to defend, indemnify, and hold PBS and its subconsultants and subcontractors harmless from liability for injury to person or property or loss arising from any pre-existing conditions, the unintentional exacerbation of any pre-existing conditions by PBS, and the exacerbation of pre-existing conditions by any third parties.

PBS does not provide legal opinions or advice. Client should consult with an attorney for advice on any legal issues related to this Agreement including efforts to minimize legal liability, the reportability of a condition to a public agency, potential cost recovery from responsible parties, and the possibility of protecting PBS' services under the attorney-client and attorney work product privileges.

In the event there is a dispute between PBS and the Client concerning the performance of any provision in this Agreement, the losing party shall pay the prevailing party's reasonable attorney's fees and costs in mediation, arbitration, trial, any proceeding in bankruptcy, and in any appeal or review. In addition, Client agrees to pay PBS for all employee time, costs, and witness costs incurred for collection activity. All disputes between Client and PBS shall be settled by arbitration in accordance with the rules of JAMS Mediators and Arbitrators.