



23 Thornbury Way
Windham, ME 04062
(207) 892-0983

May 15, 2017

Joe Turner
Jetstream Construction
162 Jenkins Road
Saco, ME 04072

**Re: Terms and Conditions for Engineering/Consulting Services
110 Mackworth Street, Portland, ME**

This letter proposes that M² Structural Engineering, P.C. will provide certain engineering/consulting services to you. Our standard Terms and Conditions are attached. This letter will become an agreement when fully executed within 60 days.

The scope of work included in this agreement is limited to the structural design and sketch preparation for enclosing an existing porch at 110 Macworth Street in Portland, Maine.

The fee will be based on standard hourly rate of \$110.00 per hour with a minimum fee of \$250.00. We estimate the fee will be this \$250.00.

Customary reimbursable expenses will be billed at cost plus 10% in addition to the hourly fee.

Please feel free to contact me if you have any questions or comments.

Respectfully,

M² Structural Engineering, P.C.

A handwritten signature in black ink, appearing to read 'Matthew J. Miller'.

Matthew J. Miller, P.E.
President

Accepted by:

(Signature)

(Date)

(Printed Name)

TERMS AND CONDITIONS

Risk Allocation / Liability

In recognition of the relative risks and benefits of the project to both the CLIENT and M² Structural Engineering, P.C., the CLIENT agrees, to the fullest extent permitted by law, to limit M² Structural Engineering, P.C.'s total liability to the CLIENT, for any and all damages or claim expenses (including attorneys' fees) arising out of this agreement, from any and all causes, to the total amount of \$25,000 or the amount of M² Structural Engineering, P.C.'s fee (whichever is greater) or other amount agreed upon when added under Special Conditions.

Access to Site

Unless otherwise stated, M² Structural Engineering, P.C. will have access to the site for activities necessary for the performance of the services. M² Structural Engineering, P.C. will take reasonable precautions to minimize damage due to these activities, but has not included in the fee the cost of restoration of any resulting damage.

Fee

The total fee, except stated lump sum, shall be understood to be an estimate, based upon Scope of Services, and shall not be exceeded by more than ten percent, without written approval of the CLIENT. Where the fee arrangement is to be on an hourly basis, the rates shall be those that prevail at the time services are rendered.

Billings/Payments

Invoices for services and reimbursable expenses shall be submitted, at M² Structural Engineering, P.C.'s option, either upon completion of the services or on a monthly basis. Invoices shall be payable within 30 days after the invoice date. A service charge of 1.5% (or the legal rate) per month will be applied to the unpaid balance after 60 days. Retainers shall be credited on the final invoice. The CLIENT agrees to pay all costs of collection, including reasonable attorneys' fees.

Hidden Conditions and Hazardous Materials

A condition is hidden if concealed by existing finishes or is not capable of investigation by reasonable visual observation. If M² Structural Engineering, P.C. has reason to believe that such a condition may exist, the CLIENT shall authorize and pay for all costs associated with the investigation of such a condition. If (1) the CLIENT fails to authorize such investigation after due notification, or (2) M² Structural Engineering, P.C. has no reason to believe that such a condition exists, M² Structural Engineering, P.C. shall not be responsible for the existing condition nor any resulting damages to persons or property. M² Structural Engineering, P.C. shall have no responsibility for the discovery, presence, handling, removal, disposal or exposure of persons to hazardous materials of any form.

Indemnification

M² Structural Engineering, P.C. and the CLIENT mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damage, liability or cost (including reasonable attorneys' fees and defense costs) to the extent caused by their own negligent acts, errors or omissions and those of anyone for whom they are legally liable, and arising from the project that is the subject of this agreement. Neither party is obligated to indemnify the other in any manner whatsoever for the other's own negligence.

Termination of Services

This agreement may be terminated upon 10 days written notice by either party should the other fail to perform his obligations hereunder. In the event of termination, the CLIENT shall pay M² Structural Engineering, P.C. for all services, rendered to the date of termination, all reimbursable expenses, and reasonable termination expenses.

Ownership of Documents

All documents produced by M² Structural Engineering, P.C. under this agreement shall remain the property of M² Structural Engineering, P.C. and may not be used by the CLIENT for any other purpose without the written consent of M² Structural Engineering, P.C.

Dispute Resolution

Any claim or dispute between the Client and M² Structural Engineering, P.C. shall be submitted to non-binding mediation, subject to the parties agreeing to a mediator(s) unless both parties agree otherwise.

Opinions of Probable Construction Cost

In providing opinions of probable construction cost, the CLIENT understands that M² Structural Engineering, P.C. has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that M² Structural Engineering, P.C.'s opinions of probable construction costs are made on the basis of M² Structural Engineering, P.C.'s professional judgment and experience. M² Structural Engineering, P.C. makes no warranty, express or implied, that the bids or the negotiated cost of the Work will not vary from M² Structural Engineering, P.C.'s opinion of probable construction cost.

Scope of Services

The CLIENT and M² Structural Engineering, P.C. have agreed to a list of Basic Services M² Structural Engineering, P.C. will provide to the CLIENT. If agreed to in writing by the CLIENT and M² Structural Engineering, P.C., M² Structural Engineering, P.C. shall provide Additional Services. Additional Services are not included as part of the Basic Scope of Services and shall be paid for by the CLIENT in addition to payment for Basic Services, in accordance with M² Structural Engineering, P.C.'s prevailing fee schedule, Compensation, or as agreed to by the CLIENT and M² Structural Engineering, P.C.

Design without Construction Observation

It is understood and agreed that the Consultant's Basic Services under this Agreement do not include project observation or review of the Contractor's performance or any other construction phase services, and that such services will be provided for by the client. The Client assumes all responsibility for interpretation of the Contract Documents and for construction observation, and the Client waives any claims against the Consultant that may be in any way connected thereto. In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising out of or in any way connected with the performance of such services by other persons or entities and from any and all claims arising from modifications, clarifications, interpretations, adjustments or changes made to the Contract Documents to reflect changed field or other conditions, except for claims arising from the sole negligence or willful misconduct of the Consultant. If the Client requests in writing that the Consultant provide any specific construction phase services and if the Consultant agrees in writing to provide such services, then they shall be compensated for as Additional Services.

Time to Bar Legal Action

All legal actions by either party against the other arising out of or in any way connected with this Agreement or the services to be performed hereunder shall be barred and under no circumstances shall any such legal action be initiated by either party after five years from the date of final invoice.