Members in attendance:

Bruce Angiolillo Chairman
Lile Gibbons Vice Chairman
Mike Van Oss Secretary
Bernard Armstrong
Bill Ingraham
Frank Mazza
Don Carlson

Alternates:

Absent:

Casey McKee
David Noble

Ex-Officio Members in Attendance:

Sue Baker Conservation Commission
Joseph Benoit RTM
Roger Bowgen Shellfish Commission
Brian Kerzner Department of Parks & Recreation
John Toner Board of Selectmen

Absent:

Representative Greenwich Police Department
Katie DeLuca Planning & Zoning Commission
Rick Loh Board of Parks & Recreation
Ian MacMillan Harbormaster
1. **Meeting called to order at 6:01 P.M. by Chairman Bruce Angiolillo**

2. **Approval of Minutes of the June 20, 2018 Regular Meeting**
   
   Motion to approve the Minutes of the June 20, 2018 Meeting by Bernie Armstrong, seconded by Don Carlson. Motion carried (Unanimous).

3. **Chairman’s Report**

   1) As a reminder, as in past years, Chairman Angiolillo noted there will not be a monthly GHMC meeting in August. The next meeting will be on Wednesday, September 19.

   2) Following up on the Chairman’s recent memorandum to the BOS, dated June 10, 2018, a copy of which was included with the Minutes of the GHMC’s June meeting, he sent a follow-up memorandum on July 5, 2018, reporting on the progress made regarding moorings. Chairman Angiolillo reported that there would be a report on the state of affairs in the GHA from the Mooring Committee at tonight’s meeting.

   3) Chairman Angiolillo reported that since the June GHMC meeting, he has participated in several meetings with Frank Mazza and Geoff Steadman regarding the Greenwich Harbor Dredge Project. He reported that there would be an update on the project from them at tonight’s meeting.

   4) On July 12, 2018, the Commission received a letter from an attorney representing John Shaw, a resident of the Town, who has asserted that the Harbormaster has refused “to allow the [his] client’s mooring vendor to place the mooring in its identified position.” Pursuant to the Mooring Regulations, Mr. Shaw has requested a review of the Harbormaster’s decision. Chairman Angiolillo asked the Mooring Committee to mediate this matter to see if this it can be resolved on consent. He invited the participation of the Shellfish Commission in this effort and Roger Bowgen offered their cooperation. Otherwise, Chairman Angiolillo stated that the GHMC will need to undertake the formal review process.

   5) Recently, Chairman Angiolillo requested Geoff Steadman to submit his statement for services since the adoption of the HMP. Last October, the GHMC extended his consulting agreement, authorizing up to 50 hours of additional work at the rate of $75/hour, without additional authorization. Mr.
Steadman has incurred 70 hours of work and Chairman Angiolillo stated he would request the consent of the Commission to allow Mr. Steadman to be compensated for all of the hours he has spent in service to this Commission and our entire Community. Additionally, Mr. Angiolillo noted that Mr. Steadman’s current engagement expires in October 2018 and that Mr. Angiolillo has begun discussions with the Town’s Purchasing Department on the correct process to extend or renew the agreement with Mr. Steadman. The Chairman will report back to the Commission at the September meeting.

4. Greenwich Harbor Dredge Project Planning Update

Frank Mazza provided an update on the status of the proposed dredge of the federal channel in Greenwich Harbor, including matters relating to its projected cost, the sources of funding, the challenges relating to the disposal of dredge material, the consideration of reducing the depth of the proposed dredge of the federal channel from 12’ to 10’, and the associated benefits and ramifications of doing so. He reported that a letter was being prepared to be sent to waterfront property owners regarding the possibility of dredging to a depth of 10’. He reviewed a survey of large vessels that currently use the federal channel and reported that none, except for a 12 meter sailboat, has a draft that approaches 10’. He explained that the authorized 12’ depth of the channel goes back to the late 1800’s when Greenwich Harbor was a commercial port. He reminded the Commission that the recent dredge of the Mianus River was to a 6’ channel depth. He also addressed the matter of the encroachment at the head of the channel and that the matter will be referred to DEEP since the Harbormaster had failed to take any action, despite repeated requests, over several months, to do so.

Geoff Steadman reported on a meeting that he and Mr. Mazza attended with a start-up company called Tipping Point that has developed a pneumatic mixing technology that, if it works, could recycle unsuitable dredge material into a usable fill material. This technology apparently was developed in Japan. Tipping Point is opening a test site in New Haven Harbor. Messrs. Steadman and Mazza underscored that this technology is untested in Connecticut and that it would be cost prohibitive to transport the projected volume of dredge material from Greenwich Harbor to be processed in New Haven and then to transport the material back to Greenwich. For this concept to be a realistic option for Greenwich would likely necessitate Tipping Point having to move its equipment to Greenwich, which, in turn would require a dedicated local site for the processing to take place, and additionally to secure a local project that could utilize the recycled material. The possible expansion of Roger Sherman Baldwin Park was mentioned in that regard. In addition, they noted that the USACE has not completed its own analysis of this technology.
In connection with the foregoing, Commission members asked many questions of Messrs. Mazza and Steadman and there was extensive discussion.

5. Finance Committee Report

Finance Committee Chairman Frank Mazza reported that the new fiscal year commenced on July 1, 2018 and that any funds budgeted, but unspent, during the 2017-18 fiscal year were returned to the dedicated fund on June 30.

Motion to approve the Professional Services Invoice of Geoffrey B. Steadman, dated July 9, 2018 in the amount of $5,250.00 (70 hours x $75/hr.) and the Expense Invoice of Mr. Steadman, dated July 9, 2018 in the amount of $324.03 by Chairman Angiolillo, seconded by Bernie Armstrong. Motion carried (Unanimous).

6. Mooring Committee Report

Mike VanOss reported that payment had been received from more than 600 mooring holders to date in 2018, totaling approximately $48,000. For comparison, at this point in 2017, payments from less than 50 mooring holders had been received, totaling less than $4,000. Bill Ingraham added that inquiries and complaints are now being handled on a daily basis by the Mooring Committee and the administrative team. He believes that things are running smoothly.

Mr. Van Oss confirmed that 2018 mooring permit stickers had been mailed to each of the existing, prior year mooring holders who had properly completed the Town's renewal application, produced the required documentation and paid the $75 fee. Mr. Van Oss also reported that the Harbormaster had failed to assign mooring locations to any of the new mooring applicants in 2018, preventing them from deploying their moorings. He stated that commencing in May, and continuing through June and into July, the Mooring Committee met with the Harbormaster and communicated with him by email regarding his obligation to assign GPS locations for new mooring applicants. Currently, there are approximately 20 new mooring applicants who have completed fully Town of Greenwich applications, but who can not deploy mooring tackle without the assignment of a GPS location. Mr. Van Oss stated that the Greenwich Harbors Area currently has the capacity to absorb these additional moorings.

Chairman Angiolillo invited a discussion on what the Commission should do in the face of the Harbormaster's failure to assign locations on these new mooring applications. There was unanimous consensus that the Commission should
take action and Don Carlson stated that DEEP should be told that the Commission will assign these mooring locations.

Chairman Angiolillo noted that the Harbormaster’s refusal to assign mooring locations constituted a failure to discharge his duties and responsibilities in a manner that is consistent with the Harbor Management Plan and the Mooring Regulations promulgated thereunder, and further, a breach of the January 10, 2018 Agreement the Harbormaster reached with Mr. Brian Thompson of DEEP and the Commission.

Chairman Angiolillo stated that he would consult with DEEP before having the Mooring Committee assign mooring locations, but added that he understood the Commission does not want these mooring applicants, who have completed fully their applications in good faith, to be further delayed in securing a mooring.

7. Application Review Committee Report

Bernie Armstrong delivered the Committee’s monthly report. He noted two new items received since the June 20 Commission meeting: 1) General Permit Registration Form for 9 Gamecock Road, Greenwich to install a concrete landing ramp and float, and 2) Certificate of Permission application for 5 Meadow Place to retain and maintain an existing seawall and pier.

Mr. Armstrong reported that the Harbor Management Commission has no record that a notice of application was ever received by the Town of Greenwich regarding 15 Meadow Place, notwithstanding that the application contains a checked box affirming that such notice had been provided. Geoff Steadman was directed to contact Mr. Jim Bajek, the applicant’s agent, regarding this matter and contact DEEP to inquire if it has any proof of such notice.

Chairman Angiolillo recognized Mr. Jan Thalheim, an adjoining property owner to 15 Meadow Place, and his brother, Mr. Peter Thalheim. They expressed concerns about the procedural process involved in this matter, as well as their objections to the location of the proposed dock. Chairman Angiolillo stated that this matter was not on the agenda for tonight’s meeting and that it would be inappropriate to consider the merits of the dock application. He stated that the Commission would investigate the apparent failure to provide the Commission any required notice and opportunity to comment, and, if such was the case here, to notify DEEP and the parties of this procedural and substantive defect in the matter.

8. Long Range Planning Committee Report

No report.
9. Harbormaster Liaison Report

No report.

10. Unfinished Business

a. Action on RACE Engineering Study proposal concerning Greenwich Harbor Dredge Project

Frank Mazza explained the scope of work and cost ($9,900.00). He noted that a preliminary feasibility study on how to handle the disposal of dredge material from the project has been requested by the USACE and is a necessary preliminary step. Included in this study is consideration of using material for a potential expansion of Rodger Sherwin Baldwin Park, marsh restoration and coastal resiliency projects. As RACE has an existing service contract with the Town of Greenwich, it is anticipated that the Commission will not have to negotiate and seek approval of a separate contract. A copy of the RACE proposal, dated July 18, 2018, is attached to the Minutes.

After discussion, a motion was made by Bernie Armstrong, seconded by Lile Gibbons to accept the proposal of RACE, dated July 18, 2018, and engage RACE to proceed with the study. Motion carried (Unanimous).

11. New Business

a. Presentation by Shellfish Commission regarding proposed mooring field boundary in Greenwich Cove

Shellfish Commission Chairman Roger Bowgen described current conditions in Greenwich Cove, the state of shell fishing there, the expansion of moorings, and matters of public safety. He suggested consideration of fixing coordinates that would establish boundaries for the areas where the placement of moorings are permitted and areas where they should be avoided. There was a unanimous consensus that this suggestion has merit and Chairman Angiolillo asked the Mooring Committee to work with the Shellfish Commission to come up with a proposed set of coordinates.

12. Public Comment

Bernie Armstrong reported that he had been contacted by Mr. Morgan Mitchell expressing his concerns about mooring-related and boat-rafting activities at Great Captain's Island. He specifically requested the GHMC to consider installing "No Wake" buoys at each entrance to the anchorage area.
Bill Ingraham reported that he has been investigating this matter. He noted that speed signs must be 100 ft. from shore, which may make them less effective. Geoff Steadman explained that the permitting process will require a Town ordinance in addition to obtaining CT State approval. Given the time it will take to accomplish this, it was recognized that this cannot be accomplished before the end of the 2018 boating season.

After discussion, a motion was made by Bruce Angiolillo, seconded by Lile Gibbons to authorize commencement of the process to obtain the necessary permits to place “No Wake” buoys at each entrance to the anchorage at Great Captain’s Island in time for the 2019 boating season. Motion carried (Unanimous).

Penny Monahan assisted the Secretary in the preparation of these minutes.
Memorandum To: Board of Selectmen:

On behalf of my fellow Commission Members and Alternate Members, I write as a brief follow-up to our June 10, 2018 memorandum and to update you on the current status of mooring applications and renewals for the 2018 boating season.

Last year, as of July 3, 2017, the Town of Greenwich had received registration and payment from 44 mooring holders, totaling $3,300. As of the same date this year, the Town has received registration and payment from 609 mooring holders (220 individual + 389 yacht club moorings), totaling $47,325.

We share this information with you to underscore the wisdom of the RTM in creating the Greenwich Harbor Management Commission and in adopting the Town’s Harbor Management Plan. With the Plan and the Mooring Regulations now in full force, and with the new online mooring system implemented, things in the Greenwich Harbors Area are changing. And they are changing for the better.

Notwithstanding this good news, we continue to wait on the Harbormaster, who has yet to approve any mooring locations for new applicants this season. This is unfortunate, but we will not allow it to derail our work.

It goes without saying that our Commission is a volunteer group, serving as so many of our fellow residents do, in so many ways, to give back to our community. With respect to the positive results reported above, they are the direct result of our Mooring Committee Members: Mike Van Oss, Bill Ingraham and Casey McKee. They are being supported by Penny Monahan and Rachel Kulig.

Thank you for your attention and interest in our ongoing work.

Bruce Angiolillo, Chairman
Llue Gibbons, Vice Chairman
Mike Van Oss, Secretary

July 5, 2018

cc: Greenwich Harbor Management Commission Members & Alternate Members
Tom Byrne, RTM Moderator
Jill Oberlander, BET Chairman
John Wayne Fox, Town Attorney
Aamina Ahmad, Assistant Town Attorney
July 18, 2018

Town of Greenwich
Harbor Management Commission
c/o First Selectman's Office
101 Field Point Road
Greenwich, CT 06836-2540

Attention: Mr. Frank Mazza, Chairman
mazza85indian@aol.com

Reference: Proposed Agreement for Design Professional Services
Harbor Dredging Consultation
Greenwich, CT
RACE Proposal No. P2018061

Dear Chairman Mazza:

RACE COASTAL ENGINEERING ("RACE") herein submits to you this proposed consultation related to Greenwich Harbor Dredging in Greenwich, CT. It is understood that the proposed scope of services is intended to assist the Harbor Management Commission with their larger initiative to, in collaboration with the U.S. Army Corps of Engineers, evaluate alternatives for beneficial use of dredged material from the planned Greenwich Harbor maintenance dredging project, including use of dredged material to increase coastal resilience and restore wetlands, as well as, improve waterfront access at Roger Sherman Baldwin Park. Specifically, it is understood that this consultation will be related to review of dredged material relocation to a location adjoining the Roger Sherman Baldwin Park.

The purpose of this Agreement is to provide you with our understanding of RACE’s Scope of Services and estimated fees to perform these services. The services are to be provided to the Town of Greenwich ("Client").

1. SCOPE OF SERVICES:

The following paragraphs identify the specific Scope of Services to be provided. RACE’s Scope of Services will include the following Phases:

   Phase 1: Dredging Consultation

Services specifically included in the Scope of Services are identified as Basic Services. Fees for the Basic Services are listed in Section 3 of this Agreement. During the course of the Work, the Client may authorize services that are not specifically included in the Scope of Services. Such services are identified as Additional Services. The fees for Additional Services are NOT included in the fees for the Basic Services. The fees for Additional Services are in accordance with Section 3 of this Agreement.
Phase 1: Dredging Consultation

As part of this Phase, RACE will perform the following work:

- **RACE** will schedule and attend a meeting with the Client to review the proposed dredging project and relocation alternatives.

- **RACE** will develop a high-level concept for a confined dredged relocation area south of the Roger Sherman Baldwin Park. It is anticipated that this confined relocation area will be constructed from a steel sheet pile bulkhead adjacent to the current seawall at the Park. **RACE** will calculate volume of material that such a relocation area could accommodate. **RACE** will prepare a conceptual level sketch of this relocation area. This purpose of this sketch will be to illustrate the concept prepared as part of this Phase. The sketch will not be suitable for construction.

- **RACE** will prepare an Opinion of Probable Cost (OPC) for the proposed relocation area. Such costs are to be based on high-level concept prepared as part of this Phase. In providing an Opinion of Probable Cost for any construction work, it shall be understood by the Client that **RACE** has no control over the cost or availability of labor, equipment, materials, market conditions, or the Contractors method of pricing. Any Opinion of Probable Cost provided by **RACE** is made on the basis of professional judgment and experience. **RACE** makes no warranty, express or implied, that any bids or negotiated cost of the Work will not vary from the Opinion of Probable Cost provided.

- **RACE** will summarize concept sketch, volume computations, and OPC in a letter report.

- **RACE** will attend a meeting with representatives from the Harbor Management Commission and CT-DEEP to review the proposed concept alternative for dredge material relocation.

The scope above shall be performed at the hourly rates included in this Agreement. A budget of 54 hours is included in the Basic Services.

It shall be understood by the Client that the consultation provided as part of the Basic Services is related to providing a general framework for the proposed alternative. Extensive engineering services including, but not necessarily limited to; sediment sampling; geotechnical investigations; upland and hydrographic surveying; regulatory permitting; structural design; preparation of bid documents; construction administration services; will be necessary to implement this project. Such work is not included in the Basic Services noted herein.
2. EXCLUSIONS AND LIMITATIONS:

The Scope of Services described under Section 1 of this Agreement include specific services that RACE will perform, which are considered as Basic Services. Certain information may be required to be provided by others prior to or during the performance of such services which is not part of the Basic Services. Services to be performed by others or services not specifically listed as Basic Services within the Scope of Services consist of, but are not limited to, the exclusions listed below. The Client may authorize RACE to perform any of the services listed below or other services, and such services shall be considered as Additional Services.

1. Land surveying
2. Hydrographic Surveying
3. Underwater Investigations
4. Dredge material sediment sampling and testing
5. Soil test boring operations
6. Sampling and/or testing (destructive or non-destructive) of materials
7. Wetland delineation
8. Review for submerged aquatic vegetation (SAV), wildlife resources and habitat, benthic habitat, and indigenous aquatic life
9. Permitting services
10. Participation in presentations and public hearings
11. Regulatory application and other fees that may be required by federal, state, or local agencies
12. Attendance to meetings except as noted herein
13. Geotechnical investigations and geotechnical engineering
14. Structural analysis and design
15. Water and sanitary service
16. Design of storm-water management infrastructure
17. Preparation of drainage calculations, drainage reports, and associated forms required for storm-water management
18. Performance of HEC-RAS analysis
19. Preparation of Contract Documents or Construction Contracts
20. Preparation of Technical or Performance Specifications
21. Bid Solicitation
22. Engineering services during construction
23. Reproduction, mailing and courier costs

Basic Services to be provided in this Agreement are based on information provided by the Client. It shall be understood by the Client that conditions may be revealed during the course of the project that were unknown during preparation of this Agreement. Such conditions may require Additional Services to be performed.
3. **ESTIMATED FEES:**

**Basic Services**

The Scope of Services identified in Section 1 includes the *Basic Services* of this Agreement. The estimated fees for the *Basic Services* are broken down by Phase on the following Fee Schedule. A Retainer Fee in the amount of $5,000 shall be paid by the Client to RACE as a condition to commence service. The retainer shall be applied against the final invoice.

**FEE SCHEDULE**

<table>
<thead>
<tr>
<th>Summary Phase Description</th>
<th>Budgeted Hours</th>
<th>Basic Services Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase 1: Dredging Consultation</td>
<td>54</td>
<td>$9,900</td>
</tr>
</tbody>
</table>

**Additional Services**

During the course of the Work, the Client may authorize services that are not specifically included in the Scope of Services. Such services are identified as *Additional Services*. The fees for *Additional Services* are NOT included in the fees for the *Basic Services*. All time and materials invoices and all *Additional Services* which may be required or requested by the Client during the performance of the *Basic Services* shall be invoiced per the following Rate Schedule for the professional services indicated. These rates are subject to change at the beginning of each calendar year.

**2018 RATE SCHEDULE**

<table>
<thead>
<tr>
<th>POSITION</th>
<th>HOURLY RATE</th>
<th>POSITION</th>
<th>HOURLY RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>$225.00</td>
<td>Project Engineer</td>
<td>$140.00</td>
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<tr>
<td>Manager of Coastal Engineering</td>
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<td>Engineer</td>
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<tr>
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<td>Field Technician</td>
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<tr>
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<td>CAD Operator</td>
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<tr>
<td>Coastal Engineer</td>
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<td>Administrative</td>
<td>$75.00</td>
</tr>
</tbody>
</table>
4. GENERAL TERMS AND CONDITIONS:

This Agreement shall be governed by the laws of the State of Connecticut.

Payment Terms All reimbursable expenses shall be invoiced at direct cost plus 10% overhead expense. Reimbursable expenses shall include such expenses as: overnight deliveries; courier services; reproduction of documents; shipping and mailing expenses, and any other disbursements, including, without limitation, application fees made on behalf of the Client. The total fee payable, projected prior to commencement of services, if stated, shall be a reasonable estimate subject to change. The final fee shall not exceed by more than 10% of such estimate, exclusive of reimbursable expenses, without prior written approval of the Client. Where the fee arrangement is to be on an hourly basis, the rates shall be those included as a part of this Agreement.

Invoices for professional services shall be submitted, at the option of the Engineer, either upon completion of such services or on a monthly basis. Invoices shall be payable within thirty (30) days after the date of the invoice. All billings over thirty (30) days past due will be subject to interest charges of 1.0% per month on the unpaid balance. In the event that part or all of the account remains unpaid in full, ninety (90) days after initial billing, the Client shall be responsible for all costs of collection including, without limitation, reasonable attorney's fees. This Agreement is notice, where required, that the Engineer shall file a lien whenever necessary to collect past due amounts. Failure to make payment within thirty (30) days of invoice shall constitute a release of RACE from any and all claims which client may have, either in tort or contract, and whether known or unknown at the time.

Unconditional Payment Payment to RACE is expressly not conditioned upon the Client receiving any payment from third parties who are not a party to this Agreement, such as property owners, developers, funding agencies.

Risk Allowance The parties to this Agreement agree that the risks of the proposed project shall be allocated such the total liability of RACE to the Client for any and all claims, injuries, losses, expenses, damages or claim expenses arising out of this Agreement from any cause or causes shall not exceed ten (10) times the total fee for services of RACE at the time such claims or causes arise or $50,000.00, whichever is less. Such claims or causes include, without limitation, negligence, errors, omissions, strict liability, breach of contract and breach of warranty.

Standard of Care The Standard of Care as defined under this Agreement shall mean the rendering of services with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline under similar circumstances, and do so in a reasonably careful and prudent manner. Services requested by the Client, which are in the opinion of RACE, beyond the normal Standard of Care, are considered as Additional Services.

Flow of Work Fees assume a steady progression of the work from start to finish. A start-up fee will be charged to resume work delayed for more than 30 days for any reason. This Agreement for engineering services is based upon the assumption that the Client will provide all required information in a timely manner. RACE will not be expected to proceed with portions of his work until necessary information to be provided by the Client and requested in writing by RACE has been provided. If the Client requests RACE to perform work out of sequence or based upon preliminary information, then additional time required to perform work under these circumstances or to revise work based on revised project data or criteria supplied by the Client will be billable as Additional Services.

Opinion of Probable Costs In providing an Opinion of Probable Cost for any construction work, it shall be understood by the Client that RACE has no control over the cost or availability of labor, equipment, materials, market conditions, or the Contractor's method of pricing. Any Opinion of Probable Cost provided by RACE is made on the basis of professional judgment and experience. RACE makes no warranty, express or implied, that any bids or negotiated cost of the Work will not vary from the Opinion of Probable Cost provided.

Ownership of Documents All documents produced by RACE under this Agreement, such as drawings, specifications, and computer files, are instruments of service and shall remain the property of RACE and may not be altered or used by the Client for any other endeavor without the written consent of RACE.

Concealed Conditions It is understood by the parties to this Agreement that the evaluation, reconstruction or rehabilitation of an existing structure requires that certain assumptions be made regarding existing conditions which are concealed or otherwise not visible. Some of these assumptions may not be verifiable without significant cost or destroying otherwise adequate and serviceable portions of the structure. Where it is impractical to verify assumptions concerning hidden conditions, RACE assumes no responsibility for any additional costs or liabilities associated with existing conditions which deviate from that assumed.

Existing Conditions Information on the existing structures have been obtained from existing drawings, preliminary site visits, and other documents. This Agreement is based upon the assumption that the construction of the existing structures was done in strict accordance with these drawings or with common construction standards and that the existing structural elements are, unless noted herein, in sound condition and are fully permitted with all required regulatory agencies. No attempt has been made to verify the integrity of the existing structures other than what will be explicitly shown on our drawings, and we assume no responsibility for its condition if it should turn out not to be adequate. It shall be the responsibility of the contractor for the construction of the
new structure to report to RACE immediately any
discrepancies and any evidence of impairment of structural
strength found during the course of construction.

**Client Provided Information**

RACE shall be
entitled to generally rely on the accuracy and completeness of information and documents furnished by Client and by other consultants such as surveys, soil boring logs, geotechnical reports, and working drawings of existing structures. Any substantial inaccuracies in the quality or completeness of information provided which requires a substantial effort to change or correct our work which is based on Client provided information shall constitute a change in the Scope of Services and be subject to the provisions which pertain to Additional Services.

**Jobsite Safety**

Neither the professional activities of RACE, nor the presence of RACE or its sub-consultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequences, techniques, or procedures necessary for performing, supervising, or coordinating all portions of the work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies.

**Time Period for Accepting Contract**

This Agreement is valid for a period of 30 days, after which the Consultant reserves the right to review and revise the estimated fee, time schedule, and other terms specified herein.

**Alternate Dispute Resolution**

All claims, counterclaims, disputes and other matters in question between the parties hereinafter arising out of or relating to this Agreement or breach thereof (except claims by RACE or its associates for fees and costs for professional services) will be presented to non-binding mediation, subject to the parties agreeing to a mediator(s).

**Contract Signatures**

The individual executing this Agreement, acting on behalf of a partnership, corporation, or lending agency, represents that he has the authority to do so.

**Discovery of Unanticipated Hazardous Materials**

Hazardous materials or certain types of hazardous materials may exist where there is no reason to believe they could or should be present. RACE and the Client agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work. The Client and RACE also agree that the discovery of unanticipated hazardous materials may make it necessary for RACE to take immediate measures to protect human health and safety, and/or the environment. RACE agrees to notify the Client as soon as practicably possible should unanticipated hazardous materials or suspected hazardous materials be encountered. The Client encourages RACE to take any and all measures that in RACE's professional opinion are justified to preserve and protect the health and safety of RACE's personnel and the public, and/or the environment, and the Client agrees to compensate RACE for the additional cost of such work. In addition, the Client waives any claims against RACE and agrees to indemnify for injury or loss arising from RACE's encountering unanticipated hazardous materials or suspected hazardous materials. The Client also agrees to compensate RACE for any time spent and any expenses incurred by RACE in defense of any such claim, with such compensation to be based upon RACE's prevailing fee schedule and expense reimbursement policy.

**Indemnification**

The Client agrees to hold harmless and indemnify RACE for and against all claims, damages, awards and costs of defense arising out of delays in or failures of RACE's performance resulting from events beyond the control of RACE. The Client agrees to stipulate within the contract documents between the Contractor and the Client, that the Contractor or Client shall purchase and maintain, during the course of construction "all-risk" builder's risk insurance in a reasonable amount of coverage which names RACE, the Contractor, the Client, and the Client's agents as additional insureds.

**Delivery of Electronic Files**

In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by RACE, the Client agrees that all such electronic files are instruments of service of RACE, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights. The Client agrees not to reuse these electronic files, in whole or in part for any purpose other than for the Project. The Client agrees not to transfer these electronic files to others without the prior written consent of RACE. The Client further agrees to waive all claims against RACE resulting in any way from any unauthorized changes to or reuse of the electronic files for any other project by anyone other than RACE. The Client and RACE shall agree upon the format for any electronic files furnished by either party prior to the initiation of work. Any changes to the electronic specifications by either the Client or RACE are subject to review and acceptance by the other party. Additional services by RACE made necessary by changes to the electronic file specifications shall be compensated for as Additional Services. Electronic files furnished by either party shall be subject to an acceptance period of thirty (30) days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files.

The Client is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by RACE and electronic files, the signed or scaled hard-copy construction documents shall govern. In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless RACE, its officers, directors, employees and sub-consultants against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than RACE or his designate from any reuse of the electronic files without the prior written consent of RACE. Under no circumstances shall delivery of electronic files for use by the Client be deemed a sale by RACE, and RACE makes no warranties, either express or implied, of
merchantability and fitness for any particular purpose. In no event shall RACE be liable for indirect or consequential damages as a result of the Client's use or reuse of the electronic files, unless those damages are a result of an error or omission which is shown on both the hard copy documents and the electronic files.

Termination

(1) This Agreement between the Client and RACE may be terminated by either party and shall be deemed effective upon receipt of seven (7) days prior written notice.

(2) If this Agreement is terminated during the course of performance of the work, RACE shall be paid within seven (7) days of such termination the reasonable value of the services performed during the period prior to the effective date of termination.

(3) If, prior to termination of this Agreement, any work by RACE during any phase of the work is suspended in whole or in part for more than three (3) months or abandoned after written notice from the Client, RACE shall be paid for such services performed prior to receipt of such notice.

5. AUTHORIZATION

We are prepared to undertake this project upon receipt of your written authorization to proceed. Please sign this Agreement and return one fully executed copy and the requested retainer fee to this office. We recommend that you retain a copy for your records. If you have any questions, please do not hesitate to contact the undersigned. We are looking forward to working with you on this project.

OFFERED BY: RACE COASTAL ENGINEERING, LLC

AUTHORIZED BY: Town of Greenwich

Devin J. Santa, P.E.
President

(authorized signatory)

(Date)

(printed name: title)

For (Client Name)