

## **AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES**

This Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by and between Save the Sound, a 501(c)(3) organization with offices located at 127 Church Street, New Haven, Connecticut 06510 (hereinafter referred to as the “STS”) and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_ and an engineering firm licensed to practice professional engineering in the State of \_\_\_\_\_ with an office and place of business located at \_\_\_\_\_ (hereinafter referred to as the “Engineer”).

NOW THEREFORE, in consideration of the conditions and mutual promises contained in this Agreement, the parties hereto, intending to be legally bound, hereby agree as follows:

### **ARTICLE 1 SCOPE OF WORK**

STS requires professional engineering services for the project known as the removal of the Kinneytown Dam (the “Project”). STS is responsible for procuring professional engineering services for the Project as more fully described herein as a subgrantee to the Naugatuck Valley Council of Governments (“NVCOG”) pursuant to the Financial Assistance Subaward Agreement, which is hereby incorporated by reference as if fully set forth herein. Engineer shall be liable to STS for all the duties and obligations STS has towards NVCOG pursuant to the Financial Assistance Subaward Agreement to the extent that said agreement is applicable to the Engineer’s duties and responsibilities under this Agreement.

In relation to the Project, Engineer will provide consulting, investigation, permitting, and design services in accordance with this Agreement and the following documents which are attached hereto and incorporated herein by reference:

- Exhibit A – Scope of Work
- Exhibit B – Person-Day and Fee Scheduled
- Exhibit C – Applicable Grants

(hereinafter this Agreement and the exhibits referenced above shall be referred to the “Contract Documents.”) In case of conflict between this Agreement and the other Contract Documents, this Agreement shall govern.

Engineer shall assume full and complete responsibility for the accuracy of all items produced under this Agreement. The seal of the Professional Engineer, who is employed by the Engineer and the Engineer designates as the Engineer-of-Record shall be affixed on the title sheet(s) of all plans, specifications and/or other documents prepared pursuant to this Agreement.

In performing the services required under this Agreement, plans, specifications, and other documents prepared by Engineer shall conform to all applicable federal, state, and local laws and regulations, especially those requirements necessary to obtain funding reimbursements and/or approval of the design documents from authorities providing grants for the performance of the work required for the Project.

In providing the services required under this Agreement, Engineer shall meet with STS as often as reasonably necessary and shall also be available upon request to meet and consult with other persons or entities, including federal, state and/or local officials as necessary for the proper performance of the work hereunder, and/or as necessary to assist STS with fulfilling the requirements of its grant(s).

## **ARTICLE 2 SITE INVESTIGATION/INFORMATION NOT GUARANTEED**

STS shall provide the Engineer with all information in its possession regarding Project's requirements. If necessary, STS shall assist the Engineer in obtaining any additional information that the Engineer requires. STS shall not be responsible for and shall not warrant the accuracy or content of any of the information or data set forth in the documents that it provides or assists the Engineer in obtaining. Engineer expressly agrees that it shall make no claim against STS for any alleged damages arising out of the information or data provided or obtained by STS. Engineer shall be responsible at its own expense to make all necessary investigations, field inspections and such other tasks as necessary to obtain needed information and/or to verify all information provided or obtained by STS.

STS shall provide the Engineer with reasonable access to all areas within the Project site (the "Site").

## **ARTICLE 3 RELATIONSHIP OF THE PARTIES**

The relationship between STS and Engineer is characterized by a unique degree of trust and confidence because of Engineer's superior knowledge, skill, and/or expertise. As a result, Engineer is under a duty to act in the best interests of STS. Engineer covenants and agrees that it will perform its services under this Agreement in accordance with the applicable standard of care of a similarly situated engineer.

## **ARTICLE 4 DESIGN SERVICES**

After a thorough assessment of the existing conditions during a comprehensive data collection phase, Engineer shall develop its conceptual design that it will develop into plans sufficient for permitting that will be finalized into complete Construction Documents. During the performance of this Agreement, Engineer shall be immediately responsive to inquiries from STS.

At all times pertinent hereto, Engineer shall act in the best interests of STS. By way of example, but not limitation, Engineer recognizes that one of its most important obligations to STS is to ensure the Project is completed in accordance with the requirements of the Grants. If necessary, Engineer shall "Value Engineer" the drawings and/or specifications in order for the Project to be completed in accordance with STS' budget. According to the U.S. General Services Administration:

Value engineering can be defined as an organized effort directed at analyzing designed building features, systems, equipment, and material selections for the

purpose of achieving essential functions at the lowest life cycle cost consistent with required performance, quality, reliability, and safety.

If at any time the Project starts to deviate from STS' budget, Engineer shall immediately notify the STS and start taking corrective action, but all design changes shall be subject to final approval by STS.

All of the materials prepared by the Engineer under this Agreement, including any partially completed documents, shall be the sole and exclusive property of STS. Engineer shall label all drawings and documents accordingly and provide native files of same to STS.

## **ARTICLE 5 CONTRACT AMOUNT**

STS shall compensate the Engineer for the satisfactory performance of the professional services set forth herein in a total amount not to exceed \_\_\_\_\_ (\$ \_\_\_\_\_) ("Contract Amount") subject to adjustment based upon the actual time services are provided at the rates specified in Exhibit B. The Engineer's professional services shall not exceed the amounts stated above without the STS' express written authorization. STS shall not be liable for any charges that are incurred in excess of the "not to exceed" amounts listed in Exhibit B without STS's express written authorization. By way of clarification, the "not to exceed" provisions of this Agreement apply to each line item. Thus, Engineer is not entitled to payment for any services that exceed the total allocated in its specific line item even if the total compensation requested by the Engineer is less than the original Contract Amount. Any increases in any individual line item must be approved by STS before the work is performed for the Engineer to be entitled to payment.

Notwithstanding the foregoing, as required by the Financial Assistance Subaward Agreement between NVCOG and STS, no Work under this Agreement is authorized until the "Grant Funds," as that term is defined in the Financial Assistance Subaward Agreement, have been made available. Engineer is not entitled to payment for any Work performed for which Grant Funds have not been received by STS. STS' receipt of Grant Funds is an express condition payment to STS' obligation to make payment to Engineer. Engineer expressly accepts the risk of nonpayment if Grant Funds are not received by STS. Engineer is advised that Grant Funds shall be made available on an annual basis during the term of the Project. Thus, Engineer acknowledges and agrees that the total Contract Amount listed above may not become available in which case the parties agree that STS may terminate this Agreement for convenience.

## **ARTICLE 6 PROGRESS PAYMENTS**

For the services performed under this Agreement, STS shall make payment to the Engineer on the basis of itemized invoices, certified by a principal of the Engineer, setting forth the services performed. Itemized invoices shall include line items for each task performed, which provide a description of the task performed, the date the task was performed, the identity of the person who performed the task, the hourly rate for the person who performed the task, the amount of time expended performing the task for which the Engineer is requesting payment, and the cost of task calculated by multiplying the time charged by the applicable hourly rate. STS may, prior to

making any payment under this Article, require the Engineer to submit such additional information as is reasonably necessary to substantiate the requested payment.

When STS shall have reasonable grounds for believing that:

- (1) Engineer will be unable to perform the services required under this Agreement fully, professionally, and satisfactorily within the time fixed for performance; or
- (2) A meritorious claim exists or may exist against the Engineer or STS arising out of the negligent acts, willful misconduct, wanton acts, or errors or omissions of the Engineer, its agents, servants or employees, or the Engineer's breach of any provision of this Agreement;

Then STS may withhold payment of any amount otherwise due and payable to Engineer hereunder. Any amount so withheld may be retained by STS for such period as it may deem advisable to protect STS against any loss and may, after written notice to Engineer, be applied in satisfaction of any claim herein described. This provision is intended solely for the benefit of STS, and no person shall have any right against STS or claim against STS by reason of STS's failure or refusal to withhold monies. No interest shall be payable by STS on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of STS.

STS' payment obligations under this Agreement are limited to the amount of "Available Funds" as that term is defined in Financial Assistance Subaward Agreement between NVCOG and STS less STS' expected expenditures for the applicable project year.

#### **ARTICLE 7 FINAL PAYMENT**

After completion of the Project, Engineer shall submit its final invoice for the engineering services provided under this Agreement. Compensation previously paid shall be adjusted to reflect additions or deductions based upon final accounting of all invoices for work performed in accordance with this Agreement. Acceptance by the Engineer of final payment for the services performed under this Agreement shall constitute the Engineer's full and complete release of STS and its officers and agents, of all claims, demands and liabilities related to this Agreement.

STS' payment obligations under this Agreement are limited to the amount of "Available Funds" as that term is defined in Financial Assistance Subaward Agreement between NVCOG and STS less STS' expected expenditures for the applicable project year.

#### **ARTICLE 8 TIME FOR COMPLETION**

Engineer shall not commence performance of any services, nor shall it incur any charges in connection therewith, until such time as it receives STS' written authorization to proceed. Upon receipt of the STS' authorization to proceed, Engineer shall immediately commence work. Engineer shall perform each Task in the time specified in Exhibit B. Time is of the essence for the completion of the Construction Documents and the commencement of the Project. Engineer

shall complete the Tasks \_\_\_\_\_ by no later than \_\_\_\_\_. Engineer shall provide its full attention and diligent performance of all its duties and obligations under this Agreement. There will not be any periods of time after the STS' authorization to proceed during which Engineer is not actively working towards the "deliverables" under this Agreement.

This Agreement shall remain in full force and effect, unless earlier terminated, until the documents prepared under this Agreement have been accepted by STS and Contractor has achieved Final Completion.

## **ARTICLE 9 CHANGES TO THE WORK**

STS may, from time to time, request changes in the scope of services to be performed by the Engineer hereunder. Any such change, including any increase or decrease in the services to be performed and the corresponding amount of compensation to be paid therefor shall be mutually agreed upon by and between STS and the Engineer, and shall be incorporated in a written amendment to this Agreement signed by both parties.

Additional services beyond the scope of this Agreement shall be performed by the Engineer only with the prior written authorization of STS. In the event Engineer does not obtain STS' permission for any additional service, STS shall not be liable to Engineer for the cost of any such service. Because STS is reliant upon its receipt of the Grant Funds, this provision may not be modified by the parties' conduct. Engineer expressly agrees that STS shall not be liable for and will not be required to compensate Engineer for any work Engineer performs without STS' prior written authorization.

Engineer agrees that, should the scope of the services under this Agreement be reduced, such reduction will be reflected in a commensurate reduction of the compensation paid to the Engineer hereunder.

## **ARTICLE 10 DEFECTIVE PLANS AND SPECIFICATIONS**

Engineer acknowledges and agrees that STS guarantees the plans and specifications for the Project to Contractor. Engineer's obligations under this Agreement are to provide Construction Documents that allow STS to fulfill its obligations to Contractor. Any document prepared by Engineer that does not fulfill STS' requirements to Contractor shall be deemed deficient and shall be corrected by Engineer at Engineer's expense. In addition, Engineer shall reimburse STS for all damages for which it is liable to Contractor for any deficient plans and specifications provided by Engineer.

## **ARTICLE 11 TERMINATION**

STS may at any time, and for any reason, direct the discontinuance of the services contemplated under this Agreement for a period of time. Such direction shall be in writing and shall specify the period during which the services shall be discontinued. The services shall be resumed on the dates specified in such direction, or upon such other date as STS may thereafter specify in writing.

The period during which such services shall have been discontinued shall be deemed added to the time for performance. In the event that STS directs the discontinuance of the services hereunder for a period of time in excess of one (1) year, through no fault of Engineer, the parties may negotiate an adjustment in the fees payable hereunder due to a rise in the cost of performance. Discontinuance of services under this Article shall not give rise to any claim against STS.

STS may at any time and for any reason terminate this Agreement for convenience by written notice specifying the termination date, which shall be not less than seven (7) days from the date such notice is given. In the event of such termination, Engineer shall be paid for the services satisfactorily performed prior to termination. Such amount shall be fixed by STS after consultation with the Engineer. Termination under this section shall not give rise to any claim against STS for damages or for compensation in addition to that provided hereunder.

In the event that STS determines that there has been a material breach by Engineer of any of the terms of this Agreement, or that the Engineer refuses or has failed to perform the required services or any part thereof in a timely, professional, and diligent manner, STS has the right, power, and authority to terminate this Agreement for cause upon providing Engineer three (3) days written notice. By the terms of this Agreement, STS may, but is not obligated to, provide the Engineer with the opportunity to cure the breach before the termination becomes effective. In the event STS terminates the Agreement for cause, the Engineer shall be obligated to pay STS for any losses, damages, costs, and expenses, including attorneys' fees, resulting from the Engineer's breach. The attorneys' fees and costs payable hereunder, include, but are not limited to, the STS' re-procurement of services, any litigation with third parties arising out the Project, and/or any litigation directly with the Engineer.

For the purpose of completing the Project, STS may take possession of and use or cause to be used any and all documents, plans and specifications or other items that may have been used or prepared in connection with the performance of this Agreement. This right is in addition to any other right or remedy STS may otherwise have.

In the event of a termination for cause, all costs, expenses, losses, damages, attorneys' fees, and any and all other charges incurred by STS under this Agreement shall be charged to the Engineer and deducted and/or paid by STS out of any monies due or payable or to become due or payable under this Agreement to the Engineer. If any such costs shall exceed the sum due or to become due to the Engineer, the Engineer shall pay the excess amount to STS. In computing the amounts chargeable to the Engineer, STS shall not be held to a basis of the lowest prices for the completion of the services or any part thereof, but it shall charge to the Engineer, and Engineer shall be liable for all sums actually paid, or expenses actually incurred in affecting prompt completion of the subject project hereunder. STS' rights described herein are in addition to any other rights and remedies provided by law.

Termination under this section shall not give rise to any claim against STS for damages or compensation in addition to that provided hereunder.

## **ARTICLE 12 DISPUTE RESOLUTION**

The parties recognize that claims are a part of the construction process and that disagreements may arise. The parties further recognize that it is preferable for them to reach an amicable resolution of same without the need to resort to formal dispute resolution procedures. In light of the foregoing, STS and Engineer hereby agree that, after either party provides notice of a claim, they will participate in good faith negotiations in an attempt to reach an agreement.

In the event that such disputes are not resolved by good faith negotiations, the matter may be submitted to non-binding mediation before a third party neutral if both parties agree to same and are willing to share the costs. Any disputes that are not resolved by negotiation and/or mediation shall be resolved in the Connecticut Superior Court for the Judicial District of New Haven at New Haven.

## **ARTICLE 13 SUBCONTRACTING**

Engineer shall not subcontract any of the services to be performed by it under this Agreement unless specified in the Scope of Work, Exhibit A, or without the express prior written approval of STS, which approval shall not be unreasonably withheld.

In the event that STS approves of the hiring of subconsultants, Engineer shall be as fully responsible to STS for the acts and omissions of the subconsultants as it is for the acts and omissions of its direct employees and shall require any subconsultants approved by STS to agree in its contract to observe and be bound by all obligations and conditions of this Agreement to which Engineer is bound.

## **ARTICLE 14 OWNERSHIP OF INSTRUMENTS OF SERVICE**

The Design Documents and other documents that Engineer creates under this Agreement shall be considered works for hire. Thus, ownership of the copyright to the Design Documents and other documents created under this Agreement shall belong to STS. At the completion of the project and upon request at any time during the project, Engineer shall provide STS with all computer files created in the performance of the services required hereunder, including, but not limited to, all CAD, Excel, Word, scheduling, modeling, graphical, and/or budgeting files in native editable format. In addition, Engineer grants to STS an unlimited license to use any document created under this Agreement for the completion of the Project and/or similar projects. Engineer agrees to defend, indemnify, and hold harmless STS from any and all claims from third parties and/or damages, including attorneys' fees, arising from STS' use of the documents created hereunder.

## **ARTICLE 15 DOCUMENT RETENTION**

Engineer agrees that it shall preserve all of its records and accounts concerning the performance and implementation of this Agreement for a period of eight (8) years after final payment is made under this Agreement. If any litigation, claim or audit, directly or indirectly pertaining to the subject project or the Engineer's services in connection therewith, is started before the expiration

of the eight (8) year period, the records shall be retained until all litigations, claims or audit findings involving the records have been finally resolved.

## **ARTICLE 16 INDEMNIFICATION**

To the fullest extent permitted by law, Engineer shall indemnify, defend and hold harmless STS, NVCOG and their officers, agents, servants and employees, from and against any and all claims, demands, suits, proceedings, liabilities, judgments, losses, costs or damages, including reasonable attorneys' fees that may be related to or due in any way to the acts or omissions of the Engineer, its employees, representatives, agents, or subconsultants, in connection with the performance of or the failure to perform the services under this Agreement including any amendments and supplements hereto regardless of whether the Engineer was negligent or not. Notwithstanding the foregoing, Engineer shall not be required to indemnify STS, NVCOG and/or any indemnified party from its sole negligence. The provisions of this paragraph shall survive the expiration or early termination of this Agreement; shall be separate and independent of any other term or provision of this Agreement; and shall not be limited by reason of any insurance coverage.

The failure of the plans, designs, or documents to conform to applicable laws, regulations and professional standards shall be considered negligence on the part of and a breach by the Engineer for purposes of this Agreement.

## **ARTICLE 17 INSURANCE**

Prior to commencing any services hereunder, Engineer shall secure at its own cost and expense, insurance coverage in the amounts and of the types listed below. Such insurance coverage shall be maintained continuously as is commercially available until the completion of the Engineer's services hereunder, except in the case of Errors and Omissions coverage which shall be maintained for eight (8) years after final completion.

**Liability Insurance.** Engineer shall, with respect to the operations the Engineer performs under the terms of this Agreement and also those performed for it by subconsultants and subcontractors, carry for the duration of this Agreement and any supplements thereto, general liability insurance coverage naming STS, NVCOG, and their agents, representatives, affiliates, indemnitees, and all other entities that STS may require as an additional insured party with the following minimum liability insurance coverage. All additional insured coverage shall be primary and non-contributory with any other insurance and self-insurance. Said coverage is to be provided by an insurance company or companies satisfactory to STS. Each insurance policy shall state that the insuring company shall agree to investigate and defend all insureds against claims for damages, even if groundless.

- (a) Liability insurance shall include policy limits of not less than \$2,000,000.00 per occurrence and \$4,000,000.00 in the aggregate for all damages arising out of bodily injury to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of tangible or intangible property in any one accident or occurrence.



- (b) The operation of all motor vehicles, including those hired or borrowed, used in connection with this Agreement shall be covered by Automobile Liability Insurance in the following amounts: Insurance providing for a total limit of One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence.

Engineer agrees to waive claims and rights against STS to the extent that the claim is covered by insurance provided hereunder. Engineer further agrees that its insurers shall have no right of subrogation against STS because of this waiver. All such policies required hereunder shall contain the required waiver of subrogation.

**Valuable Papers Insurance.** Engineer shall secure and maintain until the complete design has been accepted by STS, and until all original tracings, design computations, survey data, and other documents or data have been returned by STS, a Valuable Papers insurance policy to assure STS that all records, papers, maps, statistics, survey notes, all tracings, design and other data or documents related to the subject project will be reestablished, recreated or restored if made unavailable by fire, theft, or any other cause. When survey data is furnished by STS, the Engineer shall retain in its possession duplications of all survey plans and field notes.

Engineer shall retain in its possession duplications of all products of its services under this Agreement if and when it is necessary for the originals to be removed from its possession during the time that this policy is in force. This policy shall provide coverage in the amount of Seventy-five Thousand Dollars (\$75,000.00) when the insured items are in the Engineer's possession and in the amount of Twenty Thousand Dollars (\$20,000.00) regardless of the physical location of the insured items.

**Errors and Omissions.** The Engineer shall carry Errors and Omissions Insurance (Professional Liability Insurance) protecting against liability for work performed during the course of this Agreement in the minimum sum of Two Million Dollars (\$2,000,000.00). Said policy shall remain in full force and effect from the date of this Agreement for a period of eight (8) years after the work has been accepted by STS or, if this Agreement is amended to include additional work to be performed by the Engineer, for eight (8) years following the acceptance of the completed design or any other work called for by such Amendment, subject to the continued commercial availability of such insurance. It is understood that the amount of coverage and period of coverage for this Project under such insurance policy may not be changed, except upon the prior written approval of STS.

Said coverage shall not contain any pollution, environmental, product or services exclusions or limitations.

**Umbrella Excess Liability:** If the contract amount is in excess of \$100,000.00, then umbrella and/or excess liability insurance shall contain limits of not less than \$5,000,000.00 each occurrence, offense, or event.

All insurance shall be taken out and maintained at no cost or expense to STS and the Engineer shall be responsible for the full amount of any deductible or any self-insurance that may exist.

It is understood that the above insurance may not include standard liability coverage for pollution and/or environmental impairment. However, the Engineer agrees to acquire and maintain pollution and environmental impairment coverage as part of this Professional Liability Insurance if such insurance is applicable to the services to be performed by the Engineer under this Agreement as soon as such coverage is available.

Failure of the Engineer to maintain insurance coverage in accordance with the terms of the Agreement shall not relieve the Engineer of its obligation to defend and indemnify STS from any and all claims arising out of any act or omission of the Engineer.

**Certificate of Insurance:** As evidence of the insurance coverage required by this contract, Engineer shall furnish Certificate(s) of Insurance to STS prior to commencement of services under this Agreement. The Certificate(s) will specify all parties who are endorsed on the policy as Additional Insureds (or Loss Payees). The Certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. Renewals of expiring Certificates shall be filed thirty (30) days prior to expiration. STS reserves the right to require complete, certified copies of all required policies at any time.

Notwithstanding the foregoing, in case of conflict between this Agreement and the insurance requirements of the Financial Assistance Subaward Agreement between NVCOG and STS the requirements of the Financial Assistance Subaward Agreement between NVCOG and STS shall govern the insurance to be provided by Engineer.

#### **ARTICLE 18 THIRD PARTY BENEFICIARY**

STS enters into this Agreement in furtherance of its duties and obligations pursuant to the Financial Assistance Subaward Agreement between NVCOG and STS. The Financial Assistance Subaward Agreement between NVCOG and STS provides that, in case of any claim arising out of a default, act, or omission by Engineer, NVCOG shall proceed against Engineer directly. Thus, Engineer expressly acknowledges and agrees that NVCOG is a third-party beneficiary of this Agreement and that NVCOG may proceed directly against Engineer for any default of this Agreement. STS and Engineer intended that Engineer should assume a direct obligation to NVCOG. Thus, NVCOG may enforce this Agreement and/or bring any claim against Engineer arising out of the Work and/or the Project in its own name as if NVCOG were a party to this Agreement and as if it were in privity with Engineer. Engineer agrees that NVCOG is entitled to rely upon this provision and Engineer expressly recognizes NVCOG's status as a third-party beneficiary of this Agreement. Thus, Engineer agrees that it shall not assert any technical defenses to any claim brought by NVCOG, and any and all such claims shall be heard and decided on the merits.

## **ARTICLE 19 LIMITATION OF LIABILITY**

STS' liability to Engineer under this Agreement is limited in the same manner as NVCOG's liability to STS is limited under Financial Assistance Subaward Agreement. Thus, under no circumstances shall STS be liable to Engineer for any amounts that NVCOG is not liable to STS.

## **ARTICLE 20 SEVERABILITY**

In the event that any provision of any part of a provision of this Agreement shall be determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to applicable law by an authority having jurisdiction, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provisions or parts of provisions of this Agreement, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

## **ARTICLE 21 ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties hereto. No oral representations or other agreements have been made by STS except as stated in the Agreement. This Agreement may not be changed in any way except as herein provided, and no term or provision hereof may be waived by STS except in writing signed by its duly authorized officer or agent.

## **ARTICLE 22 NOTICES**

All notices of any nature referred to in this Agreement shall be in writing and sent by registered or certified mail, postage prepaid, to the respective addresses set forth above or to such other addresses as the respective parties hereto may designate in writing.

## **ARTICLE 23 PROVISIONS REQUIRED BY LAW**

Each and every provision and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though such provisions and clauses were included herein. If, through mistake or otherwise, any such provision is not inserted or is not correctly inserted, then upon the written consent of the parties, this Agreement shall forthwith be physically amended to make such insertion. This Agreement shall be construed in accordance with the laws of the State of Connecticut and the parties agree to use the Courts of the State of Connecticut as exclusive remedy for litigated disputes.

## **ARTICLE 24 CORPORATE RESOLUTION**

Engineer represents to STS as follows:

That the Engineer is a legally existing business entity under the laws of its respective states of recording and has not previously filed, nor is presently contemplating filing, nor has received

notice of a petition of, nor contemplates receiving notice of a petition of, bankruptcy, liquidation, receivership, or any other action for the protection of creditors or debtors;

That the Engineer has the financial resources to complete the work required by this Agreement;

That the Engineer has, and has exercised, the required power and authority and has complied with all applicable legal requirements necessary to adopt, execute and deliver this Agreement and to assume the responsibilities and obligations created hereunder; and

That this Agreement is duly executed and delivered by an authorized individual, in accordance with such individual's powers to bind the organization hereunder, and constitutes a valid and binding obligation enforceable in accordance with its terms, conditions and provisions.

**IN WITNESS WHEREOF**, the STS and the Engineer have duly executed this Agreement on the day and year first above written.

Signed, Sealed and Delivered  
in the Presence of:

**Save the Sound**

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

Its  
Duly Authorized

(Affix corporate seal of Engineer if a  
corporation)