

RESOLUTION #14-007

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SADDLE CREEK COMMUNITY SERVICES DISTRICT AUTHORIZING THE ABANDONMENT AND VACATION OF A PORTION OF A DISTRICT OWNED PUBLIC UTILITY EASEMENT

WHEREAS, Robert and Darlene Grant are the owners of property located at 2005 Oak Creek Drive, Lot 98 of Saddle Creek Unit 1 (Tract No. 94-545), Assessor's Parcel No. 055-052-005 and more particularly described as Parcel A on the Legal Description Exhibit A, Lot Line Adjustments and delineated on the Legal Description Exhibit B map attached hereto and part hereof; and

WHEREAS, the Saddle Creek Community Services District (hereinafter known as "District") was formed to maintain certain facilities and provide certain services to residents of Saddle Creek; and

WHEREAS, The District is the owner of a Public Utility Easement, Assessor's Parcel No. 055-082-009 and more particularly described as Parcel B on the Legal Description Exhibit A, Lot Line Adjustments and delineated on the Legal Description Exhibit B map attached hereto and part hereof; and

WHEREAS, the Owners have submitted an appropriate written request and documentation necessary for the abandonment of a 2137 square foot portion of said easement as more particularly described as Legal Description Exhibit A, Easement Vacation and delineated in Legal Description Exhibit B, PUE Vacation; and

WHEREAS, the Owners have further submitted the appropriate District fees and County application necessary to complete the easement abandonment, which shall be filed with this Resolution upon its adoption; and

WHEREAS, District staff has reviewed said documentation submitted by the Owners and investigated the properties to its satisfaction and has determined that it is in the public interest that the easement may be abandoned without impact to the District or community residents; and

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of the Saddle Creek Community Services District directs the following actions:

1. The foregoing recitals are true and correct.
2. The purpose for which these easements were created no longer serves the public interest.
3. There is no foreseeable future public interest served in the District retaining these easements.
4. The District hereby abandons in favor of the Owner the Public Utility Easement described herein.
5. The portion of the easement abandoned in favor of the Owner as described herein is to be restricted in its use to landscaping and the use and maintenance of the landscape walls existing as of the date of this Resolution; which shall be the sole responsibility of the Owner.

6. The Board President is hereby authorized to execute the Grant Deed and all appropriate documentation on behalf of the District.
7. This Resolution shall take effect immediately upon adoption.

THE FOREGOING RESOLUTION was introduced at a regular meeting of the Saddle Creek Community Services District held on September 16, 2014 and was adopted by the following vote:

AYES: 4
NOES: 0
ABSTAIN: 0
ABSENT: 1

ATTEST:


Kent Lazarus, President Board of Directors


Phyllis Richards, Board Secretary

-SEAL-



**APPLICATION
FOR
LOT LINE ADJUSTMENT**

<u>Application No.</u>	<u>Date received</u>
<u>Owner's Name</u> <u>ROBERT GRANT</u>	<u>Owner's Name</u> <u>SADDLE CREEK CSD</u>
<u>Address</u> <u>2005 OAK CREEK DRIVE</u> <u>COPPEROPOLIS, CA 95228</u>	<u>Address</u> <u>1000 SADDLE CREEK DRIVE</u> <u>COPPEROPOLIS, CA 95228</u>
<u>Phone</u> <u>(209) 785-5998</u>	<u>Phone</u> <u>(209) 768-5678</u>
<u>SUBJECT PARCEL</u>	<u>SUBJECT PARCEL</u>
<u>Assessor's Parcel (s)</u> <u>055-052-005</u>	<u>Assessors Parcel (s)</u> <u>055-082-009</u>
<u>Zoning</u> <u>TSR</u>	<u>Zoning</u> <u>RLU</u>
<u>General Plan Designation</u> <u>RESIDENTIAL</u>	<u>General Plan Designation</u> <u>RESIDENTIAL</u>
<u>Minimum Building Setback</u>	<u>Minimum Building Setback</u>

Reason for Application IMPROVEMENTS FOR APN 055-052-005 ARE
ENCROACHING OVER THE LOT LINE ONTO APN 055-082-009.

We understand that approval of this application by the County of Calaveras will not cause a change in any property boundaries. Such changes will only be effected by conveyance properly executed by the appropriate holders of record title interest in the subject properties. If the property is encumbered by existing beneficial or lien holder's interest, a foreclosure of such interests could result in a reversal of the adjustment.

This application shall include an attached sketch in accordance with the directions.

THIS APPLICATION WILL BE VALID FOR ONE YEAR FROM THE DATE OF APPROVAL

Owner's Signature:
Robert Grant
9/25/14

Owner's Signature:
Kent R. Lazarus 9/25/14
PRESIDENT, CSD Board

FOR APPLICATIONS SUBMITTED BY PEOPLE OTHER THAN THE OWNERS OF RECORD, A COPY OF THE NOTICE OF DETERMINATION AND APPLICATION MAY BE MAILED TO THE RECORD OWNERS AS SHOWN ON THE CURRENT ASSESSMENT ROLL

CSD COPY
ORIGINAL COPY GIVEN BACK TO ME. Grant 5.1.



Project Management • Civil/Structural Engineering • Telecommunications • OSP Engineering • Urban Design
Land Planning • Entitlements • Right-of-Way/Permitting • Surveying • Construction Staking • Graphics

AGREEMENT BETWEEN CLIENT AND CONSULTANT

Project Number: NC14035

This AGREEMENT BETWEEN CLIENT AND CONSULTANT (this "Agreement") is entered into this 17th day of March, 2014, by and between:

Client:		Consultant:	
Name:	Bob Grant	Name:	MVE, Inc., a California Corporation,
Address:	2005 Oak Creek Drive Copperopolis, CA 95228	Address:	1117 L Street Modesto, CA 95354
Phone:		Phone:	(866) 526-4214
Fax:		Fax:	(209) 526-0803

Recital

Client intends to have consulting services performed for the 2005 Oak Creek Drive Located in Copperopolis, California, hereinafter called the "Project." Client desires to employ Consultant to perform the services set forth in this Agreement and to compensate Consultant for such services in accordance with the terms and conditions set forth in this Agreement.

NOW THEREFORE, Client and Consultant agree to the terms and conditions set forth in this Agreement.

Agreement

A. Performance of Services. Consultant agrees to perform the services summarized in Exhibit "A" detailed in Exhibit "B", and rate schedule set forth as Exhibit "C" below.

**BOB GRANT
2005 OAK CREEK DRIVE
ENGINEERING AND SURVEYING SERVICES
LOCATED
ASSESSOR'S PARCEL NUMBERS 055-052-005
COPPEROPOLIS, CALIFORNIA
MARCH, 17, 2014**

mid-valley engineering

1117 L Street, Modesto, CA 95354 • 866.526.4214 • 866.932.9683 • www.mve.net
Northern California • Southern California • Nevada

EXHIBIT "A" – CONTRACT SUMMARY

NC14035.1	SITE VISIT AND SURVEY	L.S.	\$925.00
NC14035.2	LOT LINE ADJUSTMENT (LLA)	L.S.	\$1,390.00
		TOTAL	\$2,315.00

EXHIBIT "B" – SCOPE OF SERVICES

NC14035.1 SITE VISIT AND SURVEY

- A. Perform a site visit with Client to review proposed lot line adjustment.
- B. Perform basic topography tying in building corners and improvements within the adjusted lot line area.
- C. Plot topography based on field survey.

LUMP SUM - \$925.00

NC14035.2 LOT LINE ADJUSTMENT (LLA)

- A. Preparation of Lot Line Adjustment Application to include:
 - 1. Completed Application Form.
 - 2. Two 8½" x 11" drawings, one clearly illustrating the existing parcels and one clearly illustrating the proposed parcels.
 - 3. Application Fee - \$425.00 (to be paid by Client).
 - 4. Preliminary Title Report - (to be provided by Client).
 - 5. Compile and submit package to Calaveras County for processing.
 - 6. Coordination with Calaveras County to obtain the Notice of Determination (NOD).
- B. Upon obtaining the NOD prepare "before" and "after" legal descriptions and exhibits for submittal to the Title Company for New Deed Recordation.

LUMP SUM - \$1,390.00

- NOTES:**
- 1. MVE, Inc. will provide additional services, as requested by Client not outlined in the scope of work above. Additional services shall not be performed or billed without prior written authorization from Client and based on MVE, Inc.'s Current Rate Schedule.
 - 2. If it is determined that the following services are required: Monumentation or Record of Survey, at the Client's request MVE will provide a scope of work and price to perform such services.
 - 3. All Agency fees are the responsibility of the Client.
 - 4. If required, Client shall provide Title Report.

Bob Grant – 2005 Oak Creek Drive LLA
March 17, 2014

**EXHIBIT "C"
2014 RATE SCHEDULE**

<u>DESCRIPTION:</u>	<u>PER HOUR</u>
Principal.....	\$180.00
Associate.....	\$160.00
Senior Professional.....	\$150.00
Professional.....	\$135.00
Assistant Professional.....	\$125.00
Graphic Designer.....	\$105.00
CADD.....	\$90.00
1-Man Survey Crew.....	\$135.00 (Nor CA/NV) / \$150.00 (So CA/NV)
2-Man Survey Crew.....	\$195.00 (Nor CA/NV) / \$210.00 (So CA/NV)
HD-3D Laser Scanning.....	Projects Vary – Contact for Proposal
Administrative Support.....	\$55.00
Clerical.....	\$45.00
Expert Witness.....	\$250.00

The above rate schedule is effective as of December 1, 2013 and is subject to adjustment December 1, 2014.

B. Compensation for Services. Client agrees to compensate Consultant for such services in the amount and in accordance with the terms set forth in Exhibit "A", "B", "C" and "D" above.

C. Special Provisions. Client and Consultant agree that the following special provisions, 1-52 contained herein, shall be made a part of this Agreement:

1. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of Client and Consultant.
2. This Agreement shall not be assigned by either Client or Consultant without the prior written consent of the other.
3. This Agreement contains the entire Agreement between Client and Consultant relating to the Project and the provision of services to the Project. Any prior agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force or effect. Subsequent modifications to this Agreement shall be in writing and signed by both Client and Consultant. However, if after requesting additional services or modifications not specified in the Agreement, Client fails to execute any "additional work authorizations or change orders" submitted to it by Consultant and Consultant does in fact render additional services pursuant to a requested modification, Client shall not be excused from paying for any such additional services. Client agrees to pay all additional costs, fees and expenses invoiced to it by Consultant after any request by Client thereof and after being presented with written modifications to this Agreement. The fact of non-execution of an "additional work authorization or change order" shall not be a defense to the payment of such costs, fees and expenses incurred or generated by Consultant.
4. Consultants waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any other term, condition, or covenant, or the breach of any other term, condition, or covenant.
5. If any term, condition, or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall be valid and binding on Client and Consultant.
6. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Project is located.
7. Consultant shall only act as an advisor in all governmental relations.

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8. All original papers, documents, drawings and other work product of Consultant, and copies thereof, produced by Consultant pursuant to this Agreement shall remain the property of Consultant and may be used by Consultant without the consent of Client. Upon request and payment of the costs involved, Client is entitled to a copy of all papers, documents and drawings provided Client's account is paid current.
9. Document retention. Following the completion of and payment for all contracted work for this project as set forth in Exhibits "A" and "B" above, Consultant will scan and electronically retain file copies of any documents that Consultant, at its sole discretion, elects to retain as part of the electronic file for this project's job history. This electronic digital record will be retained on a permanent basis. Should Client need to obtain a copy of any electronically retained project file information, Consultant will charge Client a reasonable fee for reproduction.
10. Client acknowledges that its right to utilize the services and work product provided pursuant to this Agreement will continue only so long as Client is not in default pursuant to the terms and conditions of this Agreement and Client has performed all obligations under this Agreement. Client further acknowledges that Consultant has the unrestricted right to use the services provided pursuant to this Agreement as well as all work product provided pursuant to this Agreement.
11. Client and Consultant agree to cooperate with each other in every way on the Project.
12. Upon request, Client shall execute and deliver, or cause to be executed and delivered, such additional instruments, documents, governmental fees and charges which are necessary to perform the terms of this Agreement.
13. Consultant makes no representations concerning soil conditions unless specifically included in writing in this Agreement, and he is not responsible for any liability that may arise out of the making or failure to make soil surveys, or sub-surface soil tests, or general soil testing.
14. Client agrees to be liable and responsible for any such use of non-final plans, drawings, or other work product not signed and stamped or sealed by Consultant and waives liability against Consultant for their use.
15. Consultant has a right to complete all services agreed to be rendered pursuant to this contract. In the event this Agreement is terminated before the completion of all services, unless Consultant is responsible for such early termination, Client agrees to release Consultant from all liability for services performed. In the event all or any portion of the services or work product prepared or partially prepared by Consultant be suspended, abandoned, or terminated, Client shall pay Consultant for all fees, charges, and services provided for the Project, not to exceed any contract limit specified herein. Client acknowledges if the Project services are suspended and restarted, there will be additional charges due to suspension of the services which shall be paid for by Client as extra services.
16. If the scope of services to be provided by Consultant pursuant to the terms of this Agreement include an ALTA survey, Consultant agrees to sign the statement on the survey documents. In the event that Consultant is required to sign a statement or certificate which differs from that contained within the survey documents, Client hereby agrees to indemnify and hold Consultant harmless from any and all liability arising from or resulting from the signing of any statement or certificate which differs from said statement.
17. If the scope of services to be provided by Consultant pursuant to the terms of this Agreement include the preparation of grading plans but exclude construction staking service, Client acknowledges that such staking services normally include coordinating civil engineering services and the preparation of as-built drawings pursuant to Uniform Building Code Chapter 70 or local grading ordinances and Client will be required to retain such services from another Consultant or pay Consultant pursuant to this Agreement for such services as extra work in accordance with Provision 26.
18. Consultant shall be entitled to immediately, and without notice, suspend the performance of any and all of its obligations pursuant to this Agreement if Client files a voluntary petition seeking relief under the United States Bankruptcy code or if there is an involuntary bankruptcy petition filed against Client in the United States Bankruptcy Court, and that petition is not dismissed within fifteen (15) days of its filing. Any suspension of services made pursuant to the provisions of this paragraph shall continue until such time as this Agreement has been fully and properly assumed in accordance with the applicable provisions of the United States Bankruptcy Code and in compliance with the final order of judgment issued by the Bankruptcy Court.
19. This Agreement shall not be construed to alter, affect or waive any lien or stop notice right which Consultant may have for the performance of service pursuant to this Agreement. Client agrees to separately provide to Consultant the present name and address of the record owner of the property on which the Project is to be located. Client also agrees to separately provide Consultant with the name and address of any and all lenders who would loan money on the Project and who are entitled to receive a preliminary notice.
20. If payment for Consultant's services is to be made on behalf of Client by a third-party lender, Client agrees that Consultant shall not be required to indemnify the third-party lender, in the form of an endorsement or otherwise, as a condition of receiving payment for services.
21. If Client fails to pay Consultant within thirty (30) days after invoices are rendered, Client agrees Consultant shall have the right to consider such default in payment a material breach of this entire Agreement, and, upon written notice, the duties, obligation, and responsibilities of Consultant under this Agreement are suspended or terminated. In such event, Client shall promptly pay Consultant for all fees, charges, and services provided by Consultant.
22. All fees and other charges will be billed monthly and shall be due at the time of billing unless otherwise specified in this Agreement.
23. Client acknowledges that the Owner's withholding of funds until the completion of Client's scope of work does not excuse Client from its obligation to timely pay Consultant progress payments. Accordingly, Client agrees that payment to Consultant shall be due and payable upon receipt of Consultant's periodic billing statement.
24. Client agrees that the periodic billings from Consultant to Client are correct, conclusive, and binding on Client unless Client, within ten (10) days from the date of receipt of such billing, notifies Consultant in writing of alleged inaccuracies, discrepancies, or errors in billing.
25. Client agrees to pay a monthly late payment charge, which will be the lesser of, one and one-half percent (1½%) per month or a monthly charge not to exceed the maximum legal rate, which will be applied to any unpaid balance commencing thirty (30) days after the date of the original billing.
26. If Consultant, pursuant to this Agreement, produces plans, specifications, or other documents and/or performs field services, and such plans, specifications, and other documents and/or field services are required by one or more governmental agency, and one or more such governmental agency changes ordinances, policies, procedures or requirements after the date of this Agreement, any additional office or field services thereby required shall be paid for by Client as extra services.
27. In the event Consultant's fee schedule changes due to any increase of costs such as the granting of wage increases and/or other employee benefits to field or office employees due to the terms of any labor Agreement, or rise in the cost of living, during the lifetime of this Agreement, a percentage increase shall be applied to all remaining compensation.
28. Client agrees that if Client requests services not specified pursuant to the scope of services description within this Agreement, Client agrees to pay for all such additional services as extra work.
29. In the event that any staking is destroyed, damaged or disturbed by an act of God or parties other than Consultant, the cost of re-staking shall be paid for by Client as extra services.
30. Client acknowledges that the design services performed pursuant to this Agreement are based upon field and other conditions existing at the time these services were performed. Client further acknowledges that field and other conditions may change by the time Project

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construction occurs and clarification, adjustments, modifications and other changes may be necessary to reflect changed field or other conditions. If the scope of services pursuant to this Agreement does not include construction staking services by Consultant for this Project, or if subsequent to this Agreement Client retains other persons or entities to provide such staking services, Client acknowledges that such staking services will be performed by others and that Client will defend, indemnify, and hold Consultant harmless from any and all claims arising from or resulting from the performance of such staking services by other persons or entities except claims caused by the sole negligence or willful misconduct of Consultant; and from any and all claims arising from or resulting from clarifications, adjustments, modifications or other changes which may be necessary to reflect changed field or other conditions except claims caused by the sole negligence or willful misconduct of Consultant.

31. Client shall pay the costs of checking and inspection fees, zoning and annexation application fees, assessment fees, soils engineering fees, soils testing fees, aerial topography fees, and all other fees, permits, bond premiums, title company charges, blueprints and reproductions, and all other charges not specifically covered by the terms of this Agreement.

32. Client acknowledges and agrees that if Consultant provides surveying services, which services require the filing of a Record of Survey in accordance with California's Business and Professions Code Section 8762, Arizona's Board of Technical Registration Boundary Survey Minimum Standards, or Nevada's Revised Statutes 625.340 and 625.380 that all of the costs of preparation, examination and filing for the Record of Survey will be paid by Client as extra work in accordance with Provision 26.

33. Consultant is not responsible for delay caused by activities or factors beyond Consultant's reasonable control, including but not limited to, delays by reason of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of Client to furnish timely information or approve or disapprove of Consultant's services or work product promptly, faulty performance by Client or other contractors or governmental agencies. When such delays beyond Consultant's reasonable control occur, Client agrees Consultant is not responsible in damages nor shall Consultant be deemed to be in default of this Agreement.

34. Consultant shall not be liable for damages resulting from the actions or inactions of governmental agencies including, but not limited to, permit processing, environmental impact reports, dedications, general plans and amendments thereto, zoning matters, annexations or consolidations, use or conditional use permits, Project or plan approvals, and building permits. The Client agrees that it is the responsibility of the Client to maintain in good standing all government approvals and permits and to apply for any extensions thereof.

35. All disputes arising out of or relating to this Agreement shall be subject to mediation prior to any party's right to file a complaint in court or to demand arbitration, unless the parties mutually agree otherwise. The request for mediation shall be made in writing and delivered to the other party. Mediation shall be held in Stanislaus County, unless another location is agreed upon by the parties. The mediation fee shall be divided equally among the parties involved.

36. In the event that Client institutes a suit against Consultant, either directly by complaint or by way of cross-complaint, including a cross-complaint for indemnity, for alleged negligence, error, omission, or other failure to perform, and if Client fails to obtain a judgment in Client's favor, the lawsuit is dismissed, or if judgment is rendered for Consultant, Client agrees to pay Consultant all costs of defense, including attorneys' fees, expert witness fees, court costs, and any and all other expenses of defense. Client agrees such payments shall be made immediately following dismissal of the case or upon entry of judgment.

37. If any action at law or equity, including but not limited to an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, which fees may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which he may be entitled.

38. Client agrees that in the event Client institutes litigation to enforce or interpret the provisions of this Agreement, such litigation is to be brought and adjudicated in the appropriate court in Stanislaus County in which Consultant's principal place of business is located, and Client waives the right to bring, try or remove such litigation to any other county or judicial district.

39. Consultant makes no representation concerning the estimated quantities and probable costs made in connection with maps, plans, specifications, reports or drawings other than that all such costs are estimates only and actual costs will vary. It is the responsibility of Client to verify costs.

40. Client acknowledges that Consultant is not responsible for the performance of work by third parties including, but not limited to, the construction contractor and its subcontractors.

41. Consultant makes no warranty, either expressed or implied, as to his findings, recommendations, plans, specifications, or professional advice except that the services or work product were performed pursuant to generally accepted standards of practice in effect at the time of performance.

42. Estimates of land areas provided under this Agreement are not to be considered precise unless Consultant specifically agrees to provide the precise determination of such areas.

43. In the event the Client agrees to, permits, authorizes, constructs or permits construction of changes in the plans, specifications, and documents or does not follow recommendations or reports prepared by Consultant pursuant to this Agreement, which changes are not consented to in writing by Consultant, Client acknowledges that the changes and their effects are not the responsibility of Consultant and Client agrees to release Consultant from all liability arising from the use of such changes and further agrees to defend, indemnify and hold harmless Consultant, its officers, directors, principals, agents and employees from and against all claims, demands, damages or costs arising from the changes and their effects.

44. Client acknowledges that the design services performed pursuant to this Agreement are based upon field and other conditions existing at the time of preparation of Consultant's services. Client further acknowledges that field and other conditions may change by the time Project construction occurs and clarifications, adjustments, modifications, discrepancies or other changes may be necessary to reflect changed field or other conditions. If the scope of services pursuant to this Agreement does not include In-Tract/On-Site construction review, construction management, supervision of construction of engineering structures, or other construction supervision for this Project, or if subsequent to this Agreement Client retains other persons or entities to provide such services, Client acknowledges that such services will be performed by others and Client will defend, indemnify and hold Consultant harmless from any and all claims arising from or resulting from the performance of such services by other persons or entities except claims caused by the sole negligence or willful misconduct of Consultant; and from any and all claims arising from or resulting from clarifications, adjustments, modifications, discrepancies or other changes necessary to reflect changed field or other conditions, except claims caused by the sole negligence or willful misconduct of Consultant.

45. Client agrees that in accordance with generally accepted construction practices, construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the Project, including safety of all persons and property; that this requirement shall be made to apply continuously and not be limited to normal working hours, and Client further agrees to defend, indemnify and hold Consultant harmless from any and all liability, real or alleged, in connection with the performance of services on this Project, excepting liability arising from the sole negligence of the Consultant.

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46. In the event Client discovers or becomes aware of changed field or other conditions which necessitate clarification, adjustments, modifications or other changes during the construction phase of the Project, Client agrees to notify Consultant and engage Consultant to prepare the necessary clarifications, adjustments, modifications or other changes to Consultant's services or work product before construction activities commence or further activity proceeds. Further, Client agrees to have a provision in its construction contracts for the Project which requires the contractor to notify Client of any changed field or other conditions so that Client may in turn notify Consultant pursuant to the provisions of this paragraph.

47. CLIENT AGREES TO LIMIT THE LIABILITY OF CONSULTANT, ITS PRINCIPALS AND EMPLOYEES, TO CLIENT AND TO ALL CONTRACTORS AND SUBCONTRACTORS ON THE PROJECT, FOR ANY CLAIM OR ACTION ARISING IN TORT OR CONTRACT, INCLUDING ATTORNEYS' FEES AND COSTS AND EXPERT WITNESS FEES AND COSTS, TO THE SUM OF \$50,000 OR CONSULTANT'S FEE, WHICHEVER IS GREATER. HOWEVER, IF CONSULTANT'S FEE EXCEEDS \$250,000, LIABILITY TO CLIENT AND TO ALL CONTRACTORS AND SUBCONTRACTORS, INCLUDING ATTORNEYS' FEES AND COSTS AND EXPERT WITNESS FEES AND COSTS, SHALL NOT EXCEED \$250,000.

48. Client agrees to purchase and maintain, during the course of construction, builder's risk "all risk" insurance which will name Consultant as an additional insured as their interest may appear.

49. Consultant hereby states and Client hereby acknowledges that, except as otherwise specifically provided for in this Agreement, Consultant shall not perform any service related to the investigation, detection, abatement, replacement, use or specification, or removal of products, materials or processes containing asbestos, asbestos cement pipe, and/or hazardous waste materials. Accordingly, the Client hereby agrees to bring no claim for negligence, breach of contract, indemnity or otherwise against the Consultant, its principals, employees, and agents if such claim, in any way, would involve the Consultant's services for the investigation, detection, abatement, replacement, use of specification, or removal of products, materials or processes containing asbestos, asbestos cement pipe, and/or hazardous waste materials. Client further agrees to defend, indemnify and hold harmless Consultant, its officers, directors, principals, employees and agents from any asbestos and/or hazardous waste material related claims that may be brought by third parties as a result of the services provided by the Consultant pursuant to this Agreement except claims determined by a court or other form of competent jurisdiction to have been caused by the sole negligence or willful misconduct of the Consultant.

50. Consultant hereby states and Client hereby acknowledges that, except as otherwise specifically provided for in this Agreement, Consultant's scope of services for this Project does not include any services related in any way to asbestos and/or hazardous wastes. Should Consultant or any other party encounter such materials on the job site, or should it in any other way become known that such materials are present or may be present on the job site or any adjacent or nearby areas which may affect Consultant's services, Consultant may, at its option, terminate work on the Project until such time as Client retains a specialist contractor to abate and/or remove the asbestos and/or hazardous waste materials and warrant that the job site is free from any hazard which may result from the existence of such materials.

51. If Client withholds retention from Consultant's progress payments, Client agrees to release the retained amount within 45 days after Consultant's scope of work is complete.

52. Prior to any correction efforts being made, Consultant shall have the right to examine any back charge claim within forty-eight (48) hours from written notification of the claim.

IN WITNESS WHEREOF, the parties execute this agreement upon the terms and conditions stated above and as of the dates set forth below.

Client: Bob Grant

Consultant: MVE, Inc., a California Corporation

By: Robert Grant

By: 

Name/Title: Robert Grant

Name/Title: Kirk DeLaMare, President/CEO

Date Signed: 3/19/2014

Date Signed: 3/21/14

Project Number: NC 14035

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