

CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES

THIS AGREEMENT made this 11th day of April 2022, by and between the Zoning Board of the Township of Barnegat, 900 West Bay Avenue, Barnegat, New Jersey 08005-1298, hereinafter referred to as “**Board**” and CME Associates, 849 West Bay Avenue, Suite 7, Barnegat, New Jersey 08005-1298, hereinafter referred to as “**Zoning Board Engineer**”.

WHEREAS, the Township of Barnegat Zoning Board desires to employ a **Zoning Board Engineer** for a term beginning January 1, 2022 through December 31, 2022, to provide such professional engineering services as required, and

WHEREAS, the Zoning Board Engineer has submitted a proposal for the engineering work aforesaid; the terms and conditions of said proposal, including fees, are satisfactory to the Board, and are set forth herein.

NOW, THEREFORE, WITNESSETH THIS AGREEMENT: That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed that:

I. EXTENT OF SERVICES

The services to be provided by the Zoning Board Engineer encompass those normally provided by a Zoning Board Engineer, and specifically include those services required of a Zoning Board Engineer by Statute and Ordinance, as well as any other unspecified services required by the Zoning Board Engineer throughout the term of the Zoning Board Engineer’s appointment.

II. STATUS OF ENGINEER, HIS ASSOCIATED FIRM AND EMPLOYEES

1. The Zoning Board Engineer, when engaged in the performance of engineering duties and services as **Zoning Board Engineer** related to any duty or responsibility imposed on the Zoning Board Engineer by any government statute, law, regulation or ordinance (including specifically services described in Part IV, 1. hereof), shall be acting as an employee and/or agent of the Board and shall be entitled to all rights, privileges and immunities normally accorded to a **Zoning Board Engineer** by virtue of the Zoning Board Engineer’s status as an official, employee and agent of the Board.

2. The Board, subject to appropriation of funds, authorizes the Zoning Board Engineer to secure all professional, technical, and non-technical staff which may, from time to time, be necessary in the performance of the services required. It is agreed and understood that services will be provided, and certain functions will be performed on behalf of the Board, pursuant to the terms of this Proposal, by employees of the Zoning Board Engineer’s associated firm, CME Associates.

III. ENGINEERING SERVICES TO BE PROVIDED

1. Related to duties and responsibilities imposed on a **Zoning Board Engineer** by Government Statute, Law, Regulations or Ordinance:

a. Direct Personal Service and Advice

Professional services of the Zoning Board Engineer or in the Zoning Board Engineer's absence, the services of a qualified, licensed associate, rendered on a part-time basis, to attend meetings of the Board, and to provide general engineering advice. Such direct service will not include preparation of any drawings or detailed reports, or the services of any office staff in addition to the Zoning Board Engineer, or any service specifically scheduled hereinafter in this Agreement.

b. Review of Subdivision and Site Plan Proposals

When directed, the Zoning Board Engineer shall provide services necessary to review and make recommendations concerning various subdivisions and site plan proposals regarding this conformance to applicable Municipal Ordinances and/or to the general requirements of design practice.

c. Review and Direction Concerning Permits and Certificates

When directed or required, the Zoning Board Engineer shall provide services necessary to review, assess conformity to requirements and take necessary action with respect to issuance of certificates, permits, licenses and similar regulatory documents. When requested, the Zoning Board Engineer shall provide technical advice to other Board members, Township employees, officials and agents concerning their review of such documents.

d. Judicial and Quasi-Judicial Proceedings

When directed by the Board or when subpoenaed in connection with Board business to attend and testify in judicial or quasi-judicial hearings, the Zoning Board Engineer shall provide the services necessary to prepare for and shall submit testimony regarding any items in question.

2. Related to duties and responsibilities other than those included in Subpart 1 above:

a. Preparation of Reports and Studies

The Zoning Board Engineer shall provide services necessary to prepare and provide detailed reports requested by the Board regarding feasibility investigations, economic comparisons, land use, engineering and community development proposals, public works projects and functions, engineering and financing schedules and preparation of reports and recommendations concerning other matters referred to the Zoning Board Engineer by the Board.

b. Miscellaneous Services

The Zoning Board Engineer shall provide professional engineering services not otherwise classified herein when such services are requested by the Board.

IV. ZONING BOARD ENGINEER'S RESPONSIBILITIES

1. To provide, with the usual thoroughness and competence of the engineering professional services noted and set forth in Part III above. No other warranty or representation, either expressed or implied, is included or intended.
2. To stand ready to explain and defend, under the terms and for the compensation hereinafter mentioned, all work completed under the terms of this contract.
3. To provide, at the request of the Board, such supplementary proposals as may be requested.
4. To arrange for the Board to examine all payroll and cost records relating to the services provided.
5. To advise the Board of any apparent discrepancies in any plans or documents, or any observed errors in construction or of the Zoning Board Engineer's inability for any reason whatsoever to provide services requested.
6. To obtain the services of other contractors or professionals as required and/or ordered by the Board for the compensation provided herein.
7. To secure and maintain and to assure that his associated firm will secure and maintain Workmen's Compensation Insurance as required by Law and Liability Insurance as required to protect the Township, the Engineer and/or his associated firm and their employees and agents from claims for bodily injury, death or property damage which may arise from the performance of his/their services pursuant to this Proposal. The limits of said Liability Insurance shall not be less than \$2,000,000, with \$9,000,000 excess liability coverage. Automotive liability coverage shall not be less than \$1,000,000 bodily injury and property damage combined. If requested, the Engineer shall provide Certificates of Insurance to the Township. Such certificates shall provide that the Township shall receive (30) days written notice prior to any cancellation or alteration of the policy limits.
8. To provide and maintain Professional Liability (Errors and Omissions) Insurance to protect the Engineer and/or his associated firm for claims which arise from the negligent performance of the Engineer pursuant to this Proposal. Unless higher limits are requested, the limits of said insurance shall be at least \$3,000,000 aggregate. Cost of coverage at a higher limit, if such is so requested by the Township, shall be paid by the Township.

V. BOARD'S RESPONSIBILITIES

1. To provide the Zoning Board Engineer with full information as to the Board's requirements and with full access to the site of the work of any proposed project, including responsibility to provide such legal action as may be required to assure access of the Zoning Board Engineer to the site of the work.
2. To designate a person to act as the "Board" with respect to the work to be performed, such individual to have full authority to act for the Board in regard to directing and supervising the work of the Zoning Board Engineer. Unless otherwise designated by action of the Board, such person shall be the Chairman.

3. To provide the Zoning Board Engineer with (48) hours' notice when the Board will require the Zoning Board Engineer to be present at any meeting or to specifically initiate any of the services outlined in this Proposal.

4. To request any supplementary proposals required.

5. To secure and provide for the Zoning Board Engineer's use, at the expense of the Board, such property, deed and tax map information as may be in the possession of the Municipality and to secure and provide for the Zoning Board Engineer's use such title information, concerning parcels of property to be acquired in connection with any project, as a search of the property, to be conducted by a person designated and paid by the Board, will disclose.

VI. PAYMENT FOR SERVICES

1. All services outlined in Part IV, will be compensated for the actual man-hours expended in accordance with the attached rate schedule. Outside contracted services, including suppliers or sub-consultants, will be invoiced for the direct charges, plus an amount equal to 10%, or 1.10 times the cost of their direct charges. All payments must be made pursuant to the NJ Municipal Land Use Law 40:55D-53.2.

2. Vouchers or invoices may be rendered monthly for services performed. Such billings shall be due when rendered. Any billing incurred to the Board shall be provided to the Board within 90 days from the rendering of services or it shall be deemed that there will be no bills forthcoming and any billing for said services shall be deemed waived.

3. Direct charges include disbursements, which are actual expenses incurred by the Zoning Board Engineer and/or his associated firm in connection with the project, and include, but are not limited to:

- a. Aerial photography or topography.
- b. Payment of permit fees, application fees, review fees and similar charges.
- c. Computer expenses including time and proprietary program charges.
- d. Printing, reproduction, binding, collating, and other graphic services.
- e. Messenger service, postage and handling of drawings and specifications, reports, contracts, and other bulky items.

4. For the purpose of this Agreement, the phrase *personnel employed by the Zoning Board Engineer's associated firm* shall mean all employees of every nature and classification employed directly in providing the services required.

VII. PERIOD OF SERVICE AND TERMINATION

1. If the Zoning Board Engineer is absent due to vacation or illness or becomes temporarily or permanently unable to fulfill the terms of this Agreement, the services provided for by this Agreement will become the responsibility of a qualified principal or associate of the Zoning Board Engineer's firm. It is understood and agreed by the parties hereto that in the event of the unexpected inability of the Zoning Board Engineer to perform under the term of this Agreement, that a qualified associate or principal of the Zoning Board Engineer's associated firm may, without the specific agreement of the Board, proceed to fulfill the Zoning Board Engineer's responsibility under this Agreement for a period of (30) days during which period the Board may

act to: a) continue such temporary arrangement in force, b) provide for the appointment of the appropriate principal or associate in the Zoning Board Engineer's firm as the Engineer of Record, or c) provide for the appointment of others.

2. Unless terminated by act of law or God, or as provided above, any agreement entered into pursuant to this Proposal shall remain in force and shall be binding upon the Zoning Board Engineer, the Board and their heirs, successors and assigns until the Zoning Board Engineer's term of office expires.

3. Nothing herein shall be construed to prevent the Zoning Board Engineer and Board from agreeing to amend or revise the provisions of this Agreement at any time during the Engineer's term of office.

VIII. OWNERSHIP & REUSE OF DOCUMENTS

1. Ownership of Documents

All plans, specifications, reports, and other documents by the Board and submitted to the Board shall remain the property of the Board for use by the Board in current or future programs. Unless the Board directs otherwise, the Engineer shall provide one (1) reproducible record set of all project drawings and one (1) set of signed and sealed prints. All shall be billed as herein provided. At the completion of work or in the event of termination, all work sheets and internal office communications of the Engineer, including drawings, sketches, calculations, field notes and memoranda are and remain the property of the Engineer, as instruments of his service. The Township, at its expense, may obtain reproducible record prints of any sketches or drawings and copies of all documents. The Engineer will provide the Township, or its representatives, access to his files during normal working hours for the purpose of determining the extent of necessary duplication.

2. Reuse of Documents

All documents, including drawings and specifications prepared by the Engineer pursuant to this Agreement, are instruments of service in respect of the project. They are not intended or represented to be suitable for reuse by Board or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by Engineer for the specific purpose intended will be at Township's sole risk, with no liability or legal exposure to Engineer, and Board shall indemnify and hold harmless Engineer from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting therefrom. Any such verification or adaptation will entitle Engineer to further compensation at rates to be agreed upon by Board and Engineer.

IX. AFFIRMATIVE ACTION

The Engineer will conform to the State of New Jersey Affirmative Action requirements, Items I through IV inclusive, which are marked as Exhibit A and are attached hereto and made a part hereof.

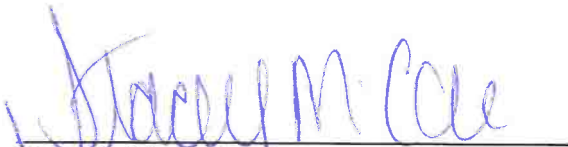
X. BILLING RATES

A copy of the Engineer's current billing rates for various employee titles and classifications, marked as Exhibit B is attached hereto and made a part hereof.

XI. AUTHORIZATION OF CONTRACT

This Contract has been authorized by Resolution of the Township of Barnegat adopted at the reorganization meeting of the Zoning Board held on the 10th day of January 2022.

ATTEST:




Stacey M. Cole
Board Secretary

**MUNICIPALITY:
TOWNSHIP OF BARNEGAT
ZONING BOARD**




John E. Murrin
Chairman

WITNESS:



**ZONING BOARD ENGINEER:
CME ASSOCIATES**



Gregory R. Valesi, PE, PP, CME, CFM
Partner



EXHIBIT A
MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A 10:5-31 et seq (P.L. 1975, C. 127)
N.J.A.C 17:27
GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employ goals established in accordance with N.J.A.C. 17:27-5.2, or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- Letter of Federal Affirmative Action Plan Approval
- Certificate of Employee Information Report
- Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Contract Compliance & EEO as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

CME Associates herein agrees to comply with the mandatory language of the above pursuant to P.L. 1975, c. 127.

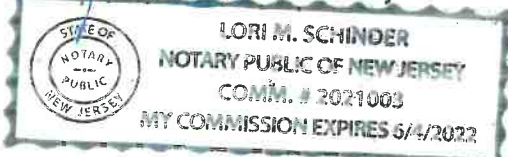
Sworn on this

day of

3rd
JANUARY, 20*22*

Notary Public, State of New Jersey

[Signature]
Gregory R. Valeri, P.E., P.P., C.M.E.
Partner, CME Associates



Certification 1818

**CERTIFICATE OF EMPLOYEE INFORMATION REPORT
RENEWAL**

This is to certify that the contractor listed below has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et. seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of ~~15-FEB-2020~~ to ~~15-FEB-2023~~

CME ASSOCIATES
1460 ROUTE 9, SOUTH
HOWELL NJ 07731 1194



Elizabeth Maher Muoio
ELIZABETH MAHER MUOIO
State Treasurer



**MUNICIPAL ENGINEERING SERVICES
GENERAL CONDITIONS AND HOURLY RATE SCHEDULE TO JANUARY 1, 2023**

Senior Project Manager	\$182.00 Per Hour
Project Manager	\$181.00 Per Hour
Project Leader	\$180.00 Per Hour
Professional Engineer	\$179.00 Per Hour
Senior Project Engineer.....	\$174.00 Per Hour
Project Engineer	\$153.00 Per Hour
Senior Design Engineer.....	\$140.00 Per Hour
Design Engineer	\$133.00 Per Hour
Drone Pilot.....	\$139.00 Per Hour
Senior Engineering Technician.....	\$125.00 Per Hour
Engineering Technician/Management Information Systems Technician.....	\$118.00 Per Hour
Drone Technician	\$ 77.00 Per Hour
Professional Land Surveyor	\$176.00 Per Hour
Land Surveyor	\$157.00 Per Hour
Robotic Total Station	\$ 77.00 Per Hour
Party Chief.....	\$133.00 Per Hour
Survey Technician.....	\$103.00 Per Hour
Resident Engineer	\$159.00 Per Hour
Chief Construction Engineer.....	\$150.00 Per Hour
Senior Construction Engineer.....	\$125.00 Per Hour
Construction Engineer	\$119.00 Per Hour
Chief Construction Technician.....	\$103.00 Per Hour
Senior Construction Technician.....	\$ 92.00 Per Hour
Construction Technician	\$ 86.00 Per Hour
Technical Assistant.....	\$ 99.00 Per Hour
Senior CAD Technician	\$131.00 Per Hour
Licensed Landscape Architect.....	\$177.00 Per Hour
Senior Landscape Designer.....	\$159.00 Per Hour
Certified Tree Expert	\$141.00 Per Hour
Landscape Designer.....	\$126.00 Per Hour
Director of Planning	\$182.00 Per Hour
Professional Planner	\$181.00 Per Hour
Project Planner	\$151.00 Per Hour
Planning Technician	\$129.00 Per Hour
Partner.....	\$185.00 Per Hour
Principal.....	\$184.00 Per Hour
Managing Partner/Administrative Partner.....	\$195.00 Per Hour

Environmental services will be billed in accordance with CME's Environmental Rate Schedule

Invoices - CME Associates (CME) will submit invoices to Client monthly and a final invoice upon completion of services. Payment is due upon presentation of invoice and is past due thirty days from invoice date. Client agrees to pay a finance charge of one and one-half percent per month, or the maximum rate allowed by law, on past due accounts. In the event that the invoice is not paid voluntarily and promptly, and must therefore be referred to an attorney or agency for collection, the Client agrees to pay a collection fee equal to the actual attorney or agency collection fee incurred by CME. Overtime rates are applicable after eight hours Monday through Friday, and all day Saturday and Sunday, and charged at one and one-half times the quoted rate. Holidays are charged at two times the quoted rate. Expenses incurred for reproduction, postage handling, photographs and for services including subconsultants equipment and facilities not furnished by CME are charged to the Client at cost plus fifteen percent. Automobile travel may be charged at the current rate per mile allowed by the Internal Revenue Service.

Standard of Care - Services performed by CME under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. NO OTHER WARRANTY, EXPRESSED OR IMPLIED, IS MADE.

Contaminated Material - It is understood that CME is not, and has no responsibility as a handler, generator, operator, treater or storer, transporter or disposer of hazardous or toxic substances found or identified at any site. Client shall undertake or arrange for, either directly or indirectly through other contractors, the handling, removal, treatment, storage, transportation and disposal of hazardous substances or constituents found or identified at any site.

Utilities - In the execution of the work, CME will take all reasonable precautions to avoid damage or injury to subterranean structures or utilities. The Client agrees to hold CME harmless for any damages to subterranean structures which are not called to CME's attention and/or not correctly shown on the plans furnished.





Right of Entry/Worksite - Client will provide for right of entry for CME personnel and equipment necessary to complete the work. While CME will take all reasonable precautions to minimize any damage to the property it is understood by Client that in the normal course of some damage may occur, the correction of which is not part of this agreement.

Client shall furnish or cause to be furnished to CME all documents and information known to Client that relate to the identity, location, quantity, nature or characteristics of any hazardous or toxic substances at, on or under the site. In addition, Client will furnish or cause to be furnished such other information on surface and subsurface site conditions required by CME for proper performance of its services. CME shall be entitled to rely on Client provided documents and information in performing the services required under this Agreement; however, CME assumes no responsibility or liability for their accuracy or completeness.

CME will not direct, supervise or control the work of contractors or their subcontractors. CME services will not include a review or evaluation of the contractor's (or subcontractor's) safety measures.

CME shall be responsible only for its activities and that of its employees on any site. Neither the professional activities nor the presence of CME or its employees or subcontractors on a site shall imply that CME controls the operations of others, nor shall this be construed to be an acceptance by CME of any responsibility for jobsite safety.

Indemnification - To the full extent permitted by law, Client shall indemnify, defend and hold harmless CME and its subcontractors, consultants, agents, officers, directors and employees (herein collectively referred to as Engineer) from and against all claims, damages, losses and expenses, whether direct, indirect or consequential, including but not limited to fees and charges of attorneys and court and arbitration costs, arising out of or resulting from the services of work of Engineer or any claims against Engineer arising from the acts, omissions of work of others, unless it is proven in a court of competent jurisdiction that the Engineer is guilty of negligence or willful misconduct in connection with the services and such negligence or willful misconduct was the sole cause of the damages, claims and liabilities.

Client agrees to indemnify and hold harmless Engineer from and against all claims, damages, losses and expenses, direct or indirect, and consequential damages, including but not limited to fees and charges of attorneys and court and arbitration costs, brought by any person or entity, or claims against Engineer which arise out of, are related to, or are based upon, the actual or threatened dispersal, discharge, escape, release or saturation or smoke, vapors, soot, fumes, acids, alkalis, toxic chemical, radioactive materials, liquids, gases or any other material, upon, in or into the surface or subsurface soil, water or watercourse, objects, or any tangible or intangible matter.

To the fullest extent permitted by law, such indemnification shall apply regardless of the fault, negligence, breach of warranty or contract or strict liability of Engineer. This indemnification shall not apply to claims, damages, losses or expenses which are determined by a court of competent jurisdiction to be the sole result of negligence or willful misconduct by the Engineer of obligations under this Agreement.

Limitations of Liability - CME's total liability to Client for any and all injuries, claims, losses, expenses or damages whatsoever arising out of, or in any way related to, this Agreement from any cause or causes, including but not limited to CME's negligence, errors, omissions, strict liability, breach of contract or breach of warranty, shall not exceed the total contract amount for the services provided by CME or \$50,000, whichever is less.

In no event shall CME be liable for consequential damages, including, without limitation, loss of use or loss of profits, incurred by Client or their subsidiaries or successors, regardless of whether such claim is based upon alleged breach of contract, willful misconduct, or negligent act or omission.

Professional services rendered for a Client shall be provided for that Client. The Client is responsible for the proper operation and use of the subject facilities and/or report and nothing herein shall provide any rights to any third party. The Client, in authorizing CME to proceed, acknowledges that the professional responsibility is limited.

Termination - This Agreement may be terminated by either party upon fourteen (14) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination shall not be effective if that substantial failure has been remedied before expiration of the period specified in the written notice. In the event of termination, CME shall be paid for services performed to the termination notice date plus reasonable termination expenses.

In the event of termination, or suspension for more than three (3) months, prior to completion of all work contemplated by this Agreement, CME may complete such analyses and records as are necessary to complete its files and may also complete a report on the services performed to the date of notice of termination or suspension. The expenses of termination or suspension shall include all direct costs of CME in completing such analyses, records and reports.

Assigns - The Client may not delegate, assign, sublet or transfer his duties or interests in this Agreement without the written consent of CME.

This agreement shall not create any rights or benefits to parties other than the Client and CME, except such other rights as may be specifically called for herein.

