

July 25, 2017

Mr. Bill Steely
President
Seagulls Condominium Association
200 Wrenn Street
Key Largo, FL 33037

via email: bill@skyad.com

SUBJECT: PROPOSAL/CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES FOR STRUCTURAL INVESTIGATION, REPAIR DETAILS AND SPECIFICATIONS AND CONSTRUCTION/CONTRACT DOCUMENTS FOR CONCRETE RESTORATION AT SEAGULLS CONDOMINIUM, TAVERNIER, FLORIDA 33070-2347 ENGINEER'S PROJECT NO. 17-119-1

Dear Mr. Steely:

At your request, W. F. McCain & Associates, Inc. (WFM) is pleased to submit our proposal to provide professional engineering services for the above-referenced project.

Based on our understanding of your project needs, the rules and regulations of Monroe County, the State of Florida, the latest edition of the Florida Building Code and our preliminary review of the project site and subsequent limited inspection report dated July 7, 2017, our scope of work includes the following services as related to:

Penthouse 702 (east balcony 7th & 6th floors), penthouse 701 (east balcony 7th floor), units 612, 610, 604, 602, 601, 512, 511, 508, 507, 506, 505, 410, 406, 404, 307, 207, 204 and common walkways and columns as identified in the WFM report.

Specifications and Bidding Documents

1. WFM will provide project coordination with Mr. Bill Steely and Gaspar Oddo, condominium manager.
2. WFM will perform onsite detailed quality and scope inspections of all identified critical balconies.
3. The information obtained during our prior and proposed inspection process shall be used to prepare the specifications for the repair of the deteriorated concrete areas identified as critical areas from the July 7th report.
4. WFM will provide standard technical specifications and engineered details for local repair of balcony slabs, columns, edge repairs, surface repairs and stucco work.
5. WFM will provide specifications for waterproofing of the balconies, walkways and wall repairs.

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6. Specifications will be in a format suitable to be used in support of obtaining a building permit for all repair work. Specifications will be in accordance with the latest edition of the Florida Building Code. Specifications will include both the technical specifications for the referenced area and detailed mapping of the problem areas as generally outlined in the WFM inspection report.
7. WFM will provide preparation of full construction contract documents for bidding, permitting and construction purposes.
8. WFM will acquire bids for the described bid work and pre-bid meeting with contractors associated with the project.

The following services are not included:

- a) Inspection of repair work and other construction period services such as review of contractor payment applications are not priced at this time in this proposal and will be billed at the hourly rates listed below plus direct costs under a separate proposal.
- b) Additional engineering services required by you, your representative and/or agencies beyond the normal scope of work outlined in this proposal.
- c) All surveying fees, permit fees, architectural fees, testing laboratory fees, impact fees, and other incidental fees unrelated to the engineering services described above.
- d) Any permitting that would be required through the Florida Dept. of Environmental Protection if any part of the building is seaward of the Coastal Control Line. This is not anticipated because this project is repair work.
- e) Review of the final contract for legal sufficiency shall be the responsibility of the Association.

We propose to provide the above-described services for a total fee of **\$8,750.00** (including administrative costs), excluding direct costs as provided in our Standard Provisions.

This work will be performed in accordance with good commercial, customary, and generally accepted engineering investigation practices for similar work conducted at this time and in this geographic area. No other guarantees or warranties, expressed or implied, are provided. The work will be performed within a reasonable period of time.

Billing will be monthly and will be based on the hourly rates below, plus direct costs as stated in our Standard Provision section. All billing for sub-consultants will be at direct cost in accordance our Standard Provisions. Our above outlined scope of work is predicated on our estimate of normal engineering and design services. Should, at anytime during our evaluation or design process, it become apparent that the described changes and requires additional engineering design work for revisions or redesign required by you or any governmental agency, additional billing will be based on the fee schedule below:

Principal Engineer	\$130.00 per hour
Senior Structural Engineer	\$120.00 per hour
Senior Technician	\$ 90.00 per hour
Administrative	\$ 45.00 per hour

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Professional engineering services provided in support of legal proceedings will be invoiced at a rate of 2.5x the above listed rates.

Invoices for our services will be billed monthly with payment due upon 15 days net from invoice date. A service charge of 1½ percent per month will be billed after the due date for late payments. Contested invoices not brought to our attention by the due date are due and payable in full. Invoices past 30 days will result in a disruption of services.

An example copy of W. F. McCain & Associates, Inc. standard invoice format is attached to and made part of this contract; your signature executing this letter agreement acknowledges that you accept this invoicing format and that additional detail will not be required by you for payment of invoices within the allotted 15 days.

We are available to begin work described herein and more specifically upon receipt of your written acceptance of this proposal/contract (retainer waived due to good client relations).

Sincerely,

W. F. McCain & Associates, Inc.

William F. McCain, P.E., LEED AP
President/Principal Engineer

Witness

Accepted this _____ day of _____, 2017.

Bill Steely
President, Seagulls Condominium Association

Witness

WFM:ls

Attachments: Standard Provisions

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STANDARD PROVISIONS

Rate Schedule - *W. F. McCain & Associates, Inc.* reserves the right to make adjustments in rates charged based on factors arising from volume of work necessitated, accumulative time and complexity and other factors, which may contribute to increasing or adjusting hourly rates. The rates quoted in the contract/proposal will apply to actual time devoted by *W. F. McCain & Associates, Inc.* staff to this project and will be computed to the nearest one-quarter hour.

Terms – Invoices will be provided on a monthly basis and will be based upon percentage of completion or actual hours, plus expenses, depending on contract terms. Invoice terms are Net 15 days from date of invoice. Payment is due *W.F. McCain & Associates, Inc.* by the due date shown on the invoice. Billing disputes not brought to our attention by the due date are considered accepted by the client and are due and payable in full without any additional supporting documentation. Past due invoices are subject to a finance charge at the rate of 1.5 % per month. This is an annual percentage rate of 18%. *If, after 30 days, no payment or arrangements to reconcile billing is forthcoming, W. F. McCain & Associates, Inc. reserves the right to cease all work until such time as payment is made.* A re-start charge of 5% of the contract amount will be assessed depending on actual down time due to non-payment or a hold work order by the developer. Owner or engineer may also suspend or terminate work as outlined above as a result of an act of government such as a declaration or national emergency making work progress impossible.

Indemnification Clause - As a separate and distinct consideration for the indemnification agreement hereunder, the consideration of which is \$100.00, the receipt of which is acknowledged by the party with whom, *W.F. McCain and Associates Inc.* is contracting hereunder, that party agrees to indemnify and hold *W.F. McCain and Associates Inc.* harmless from any and all claims, causes of action, arising out of the work of *W.F. McCain and Associates Inc.* performed or to be performed under the contract, or any other concerning parties' agents, affiliates, subsidiaries or assigns, excepting only such actions, claims or lawsuits arising out of the gross negligence or willful misconduct of *W.F. McCain and Associates Inc.*, its affiliates, subsidiaries, officers and employees.

Confidentiality – Technical and pricing information in this proposal is the confidential and proprietary property of *W. F. McCain & Associates, Inc.* and is not to be disclosed or made available to third parties without written consent of *W. F. McCain & Associates, Inc.*

Commitments – Fee and schedule commitments will be subject to re-negotiation for delays caused by the client's failure to provide specified facilities or information, or any other unpredictable occurrences.

Expenses/Direct Costs – Incidental expenses and direct costs are reimbursable as follows:

Copies black & white (8½ x 11 & 8½ x 14) - \$0.12 each, copies color (8½ x 11 & 8½ x 14) - \$0.50 each, copies black & white (11 x 17) - \$0.20 each, copies color (11 x 17) - \$1.18 each, plots black & white in-house (24 x 36) - \$3.75 each, plots black & white in-house (18 x 24) - \$1.99 each, plots black & white in-house (36 x 48) - \$7.79 each, mylars \$11.50 each, vellums \$8.00 each and mileage at 57.5 cents per mile. If it becomes necessary during the course of this project to travel elsewhere, those travel costs such as tolls, parking and mileage will be treated as reimbursable expenses. Direct costs include: permit fees, administrative/office, postage, exhibits, etc. These expenses will be reflected in monthly invoices. Any additional direct costs must be pre-approved by the client. All billing for sub-consultants will be at direct cost plus 5%.

Attorney's Fees - In connection with any litigation arising from the terms of this agreement, the prevailing party shall be entitled to all costs including reasonable attorney's fees at both the trial and appellate levels.

Liability- The liability of *W.F. McCain and Associates Inc.* for damages arising out of its performance for any mistake, omission, interruption, delay, error or defects, in the providing of its services set forth herein or any portion of its services, occurring in the course of performing this agreement, shall in no event exceed the amount of the contract for services.

Hazardous Substances and Conditions-

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(a.) Unless stated in the scope of services, it is agreed that the Client does not request the Consultant or perform any services or to make any determinations involving hazardous substances or conditions, as defined by federal or state law. If such services are agreed to, Consultant shall not be a custodian, transporter, handler, arranger, contractor, or remediation expert with respect to hazardous substances and conditions. Consultant's services will be limited to professional analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation.

(b.) The Consultant shall notify the Client of hazardous substances or conditions not contemplated on the scope of services of which the Consultant actually becomes aware. Upon such notice by the Consultant, the Consultant will stop affected portions of its services. The parties shall decide if Consultant is to proceed with testing and evaluation and may enter into further agreements as to the additional scope, fee and terms for such services.

(c.) If the Consultant's services cannot be performed because of the actual or suspected existence of a hazardous substance or condition different from that contemplated in the scope of services, the Client shall be deemed to have substantially failed to perform in accordance with the terms of this Agreement for the purpose of termination.

(d.) Except to the extent of negligence, if any, on the part of the Consultant in performing services expressly undertaken in connection with hazardous substances and conditions, the Client agrees to hold harmless, indemnify, and defend the Consultant from and against any and all claims, losses, damages, liability and cost in any way arising out or connected with the presence, discharge, release or escape of hazardous substances or conditions of any kind, or environmental liability of any nature, in any manner related to services of the Consultant.

Construction Phase Services - If the Consultant's services include the preparation of documents to be used for construction, the Consultant shall not be responsible for any interpretation of the intent of its documents if it is not retained and paid for full construction observation services. The Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any failure to perform its work in accordance with the contract documents. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and for its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job sites accidents; and that the Client and the Consultant shall be made additional insured under the contractor's general liability insurance policy.

Ownership and Use of Documents- All original drawings and information are to remain the property of *W.F. McCain & Associates, Inc.* The client will be provided with paper copies of final drawings and /or reports for information and reference purposes.

Insurance - *W.F. McCain & Associates, Inc.* will maintain, at its own expense, comprehensive general liability and professional liability insurance (errors and omissions) in an amount not less than \$500,000.00, and upon request will furnish the client a certificate to verify same.

Application Fees – Any and all permitting agency fees will be paid directly by the Client.

Termination of Cause -*W.F. McCain and Associates Inc.* has the right to terminate the contract, which includes any of the following events:

(a.) The failure to make timely payments.

(b.) The failure to respond to W.F. McCain and Associates Inc.'s written request for information or decisions.

(c.) If W.F. McCain and Associates Inc. verily believes that the work requested will result in a structure or design that is not viable or it not in accordance with all code requirements.

(d.) In the event of the above one or more grounds for termination of cause, W.F. McCain and Associates Inc. shall give a written notice, and if the grounds for termination are not cured within 30 days, W.F. McCain and Associates Inc. has the right to terminate the contract.

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Termination – This agreement may be terminated by the authorized client’s representative effective immediately upon receipt of written notice. Payment will be due for services rendered through the date of written notice receipt. This agreement may be terminated by *W. F. McCain & Associates, Inc.* If *W. F. McCain & Associates, Inc.* is unable to complete the work for reasons beyond their control, in such case, all materials and work product to date shall be relinquished to the client upon full payment of services to date of termination.

No Third Party Beneficiary - This agreement is entered into for the exclusive benefit of the parties and the parties expressly disclaim any intent to benefit anyone not a party.

Governing Law And Venue -This agreement is to be governed by the laws of the State of Florida and the venue in the event of any litigation shall be Monroe County, FL.

Time Limit – this proposal is valid for 30 days.

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