

AGREEMENT FOR TRANSFER AND USE OF ELECTRONIC FILES

You (hereinafter "User") are requesting that K.E. McCartney & Associates, Inc.(hereinafter "KEM") provide electronic files, which may include BIM files, (hereinafter "Electronic Files") for User's convenience and use in the preparation of a competitive bid. KEM is willing to accommodate this request subject to the following terms and conditions.

KEM and User fully understand that the data contained in these Electronic Files are part of KEM's Instruments of Service. KEM shall be deemed the author of the drawings and data and shall retain all common law, statutory law, and other rights. Modifications to the Electronic Files are to be made only by KEM or its sub-consultants through the RFI process. User shall not transfer the Electronic Files to any other party without the express written authorization of KEM. These files are not a product and shall not be used by User or anyone else receiving this data through or from User for any other purpose other than as a convenience as described above. KEM makes no warranties, either express or implied, of merchantability and fitness for any particular purpose.

User understands and accepts that Electronic Files deteriorate or can be modified inadvertently or otherwise without authorization by KEM. Therefore, KEM may remove all indication of its ownership or involvement from these Electronic Files. Furthermore, KEM makes no representations as to compatibility, usability, or readability of the files resulting from the use of software, application packages, operating systems, or computer hardware differing from those of KEM. User understands that these Electronic Files are for competitive bidding purposes only and are not to be used for construction. Significant differences may exist between these Electronic Files and corresponding hard copy documents due to addenda, change orders, revisions, layer visibility, or other reasons. KEM makes no representations as to the accuracy or completeness of these Electronic Files. User understands and agrees that in the event of a conflict, printed hard copy drawings and specifications issued by KEM shall take precedence over Electronic Files. User understands and agrees that User alone is completely responsible, without limitation, to check and otherwise confirm the accuracy of all data on these Electronic Files.

User agrees to make no claims and hereby waives, to the fullest extent permitted by law, any claims or causes of action of any nature whatsoever, including claims for consequential damages, against KEM, its officers, directors, employees, agents, or sub-consultants, which may arise out of or in connection with the use of the Electronic Files. Furthermore, User shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless KEM, its officers, directors, employees, agents, or sub-consultants from and against any and all claims, damages, losses, and expenses, including attorney fees, arising out of or related to User's, or anyone else receiving this data through or from User, use of the Electronic Files. If User reproduces the Electronic Files or creates a derivative work based upon them, User shall remove or completely obliterate the original professional seals, logos, and other indications on the documents of the identity of KEM, its officers, directors, employees, agents, or sub-consultants.

Neither this Agreement nor use of these files shall alter the contractor's Contract for Construction in any way.